

price determined by the Nasdaq Closing Cross. All MOC orders must be available for automatic execution.

(5) "Nasdaq Closing Cross" shall mean the process for determining the price at which orders shall be executed at the close and for executing those orders.

(6) "Order Imbalance Indicator" shall mean a message disseminated by electronic means containing information about MOC, LOC, and IO orders and the price at which those orders would execute at the time of dissemination.

(b) Order Imbalance Indicator. Beginning at 3:50 p.m., Nasdaq shall disseminate by electronic means an Order Imbalance Indicator every 30 seconds until 3:55, and then every 15 seconds until 3:58, and then every 5 seconds until 3:59, and then every second until market close. The Order Imbalance Indicator shall contain the following real time information:

(1) The number of shares represented by MOC, LOC, and IO orders that are paired at the current SuperMontage inside;

(2) The MOC and LOC imbalance at the current SuperMontage best bid or offer, depending on the direction of the imbalance;

(3) The buy/sell direction of any imbalance at the current SuperMontage inside; and

(4) An indicative price range at which the Nasdaq Closing Cross would occur if the Nasdaq Closing Cross were to occur at that time and the percent by which that range varies from the then current SuperMontage inside. The indicative price range contains the following values:

(A) The price at which the MOC, LOC, and IO orders in the Nasdaq Closing Book would execute, and

(B) The price at which both the MOC, LOC, and IO orders and all executable orders in SuperMontage (excluding volume that is available only by order delivery) would execute.

(C) If no price satisfies subparagraph (A) or (B) above, Nasdaq will disseminate the phrase "market buy" or "market sell".

(c) Processing of Nasdaq Closing Cross.

(1) The Nasdaq Closing Cross will begin at 4:00:00, and after hours trading will commence when the Nasdaq Closing Cross concludes.

(2) The Nasdaq Closing Cross will occur at the price that:

(A) Maximizes the number of shares executed. If more than one such price exists, the Nasdaq Closing Cross shall occur at the price that:

(B) Minimizes the imbalance of on-close orders. If more than one such price exists, the Nasdaq Closing Cross shall occur at the price that:

(C) Minimizes the distance from the 4:00:00 SuperMontage bid-ask midpoint.

(D) If the Nasdaq Closing Cross price established by subparagraphs (A) through (C) above is outside the benchmarks established by Nasdaq by a threshold amount, the Nasdaq Closing Cross will occur at a price within the threshold amounts that best satisfies the conditions of subparagraphs (A) through (C) above. Nasdaq management shall set and modify such benchmarks and thresholds from time to time upon prior notice to market participants.

(3) If the Nasdaq Closing Cross price is selected and fewer than all MOC, LOC and IO orders and fewer than all continuous orders that are available for automatic execution in SuperMontage would be executed, orders will be executed at the Nasdaq Closing Cross price in the following priority:

(A) MOC orders, with time as the secondary priority;

(B) LOC orders, limit orders, IO orders, displayed quotes and reserve interest priced more aggressively than the Nasdaq Closing Cross price;

(C) LOC orders, displayed interest of limit orders, and displayed interest of quotes at the Nasdaq Closing Cross price with time as the secondary priority;

(D) Reserve interest and IO orders at the Nasdaq Closing Cross price with time as the secondary priority; and

(E) Unexecuted MOC, LOC, and IO orders will be canceled.

(4) All orders executed in the Nasdaq Closing Cross will be executed at the Nasdaq Closing Cross price and reported to the consolidated tape with SIZE as the contra party. The Nasdaq Closing Cross price will be the Nasdaq Official Closing Price for stocks that participate in the Nasdaq Closing Cross.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to establish the Nasdaq Closing Cross, a new process for determining the Nasdaq Official Closing Price ("NOCP") for the most liquid Nasdaq stocks. Nasdaq represents that the proposed Nasdaq Closing Cross is designed to create a more robust close that would allow for price discovery, and an execution that would result in an accurate, tradable closing price. SuperMontage would operate as it does today up until the close. Nasdaq would create two new on-close orders types ("Nasdaq Closing Orders") that would be executable only during the SuperMontage closing cross. Information about the contents and likely market clearing price of the Nasdaq Closing Orders would be disseminated. In the closing process, the Nasdaq Closing Orders and SuperMontage continuous orders would be brought together to create a single Nasdaq Closing Cross. To be executable, all orders and quotes would be required to be subject to automatic execution to avoid the uncertainty and delay associated with order delivery trading interest. Following the Nasdaq Closing Cross, after hours trading would proceed as it does today.

There would be three components of the Nasdaq Closing Cross: (1) The creation of On Close and Imbalance Only order types; (2) the dissemination of an order imbalance indicator via a Nasdaq proprietary data feed; and (3) closing cross processing in SuperMontage at 4:00:00 that would execute the maximum number of shares at a single, representative price that would be the Nasdaq Official Closing Price. Each component is described in detail below.

On Close and Imbalance Only Orders In The Closing Book. The closing process would begin with market participants entering On-Close and Imbalance Only order types in SuperMontage. On-Close orders would be able to be un-priced and entered as market-on-close ("MOC"), or priced and entered as limit-on-close ("LOC"). On-Close orders would be able to be entered, cancelled, and corrected between 9:30:01 a.m. EST and 3:50:00 p.m. but they would not be displayed in the Nasdaq Order Display Facility or disseminated via any data feed. On-Close orders, both MOC and LOC, would execute only at the price determined by the closing Nasdaq cross. Thus, LOC orders would be subject to