

FIA PTG

PRINCIPAL TRADERS GROUP

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March 8, 2023

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change to Amend Rule 4702 to Establish New “Contra Midpoint Only” and “Contra Midpoint Only with Post-Only” Order Types
Release No. 34-96601; File No. SR-NASDAQ-2022-077

Dear Ms. Countryman:

The FIA Principal Traders Group (“FIA PTG”)¹ appreciates the opportunity to submit this letter to the Securities and Exchange Commission (“SEC” or the “Commission”) in response to the Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) proposed rule change to amend Rule 4702 to establish new “Contra Midpoint Only” and “Contra Midpoint Only with Post-Only” order types (the “Proposal”).²

Under the proposal, Nasdaq will cancel a resting Contra Midpoint Only (“CMO”) order automatically if the exchange receives an opposing order that is priced through the CMO and meets any of these criteria:

- An incoming order is displayed and its size is greater than that of the resting CMO;
- An incoming order is non-displayed and is priced at the far side of the NBBO with size greater than that of the resting CMO; or
- An incoming order is an Intermarket Sweep Order.

¹ FIA PTG is an association of firms, many of whom are broker-dealers, who trade their own capital on exchanges in futures, options and equities markets worldwide. FIA PTG members engage in manual, automated and hybrid methods of trading, and they are active in a wide variety of asset classes, including equities, fixed income, foreign exchange and commodities. FIA PTG member firms serve as a critical source of liquidity, allowing those who use the markets, including individual investors, to manage their risks and invest effectively. The presence of competitive professional traders contributing to price discovery and the provision of liquidity is a hallmark of well-functioning markets. FIA PTG advocates for open access to markets, transparency and data-driven policy.

² <https://www.sec.gov/rules/sro/nasdaq/2023/34-96601.pdf>

FIA PTG is concerned by the information leakage provided to the CMO order sender when the CMO order is canceled. The cancel message is presumably only sent to the originator of the CMO order. The CMO order sender necessarily gains information that may not be available to any other market participant. The CMO order sender could discern that the opposing, unexecuted order exists and profit from that information without the need to trade with it.

This asymmetric advantage may be of further significance since the three types of opposing orders that trigger the CMO cancellation are the types of orders that Nasdaq states are “indicative of pending price movements” in the market; such orders have a high information value for traders. Therefore, the CMO order sender has a “Heads I win, Tails you lose” proposition. If the CMO order is executed, it is likely paired with an order that is not indicative of a price movement. If the CMO order is canceled by the exchange, the originator gets advance notice of a potential price move signaled by the opposing order.

This is not a positive development for our marketplace, does not further the objectives of Section 6(b) of the Act, and may impose a burden on competition for the reasons stated in this letter.

Asymmetric information does not result in better markets, and for this reason, FIA PTG recommends the Commission disapprove this Proposal. If you have any questions, please do not hesitate to contact Joanna Mallers at jmallers@fia.org.

Respectfully,

FIA Principal Traders Group

A handwritten signature in blue ink that reads "Joanna Mallers". The signature is written in a cursive, flowing style.

Joanna Mallers
Secretary

cc: Gary Gensler, Chair
Hester M. Peirce, Commissioner
Caroline A. Crenshaw, Commissioner
Mark T. Uyeda, Commissioner
Jaime Lizárraga, Commissioner