



Joan C. Conley
Senior Vice President and Corporate Secretary

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Nancy M. Morris
Secretary
Securities and Exchange Commission
Station Place, 100 F Street, NE
Washington, DC 20549-1090

**Re: Proposed National Market System Plans for the Selection and
Reservation of Securities Symbols - File Numbers 4-533 and 4-534**

Dear Ms. Morris:

The NASDAQ Stock Market LLC (“Nasdaq”) welcomes the opportunity to submit comments in connection with the above captioned proposals to create a neutral and consistent National Market System Plan for the Selection and Reservation of Securities Symbols.¹ As the Commission noted in its comments accompanying the publication of the symbology plans for comment, securities symbols are a key element in the operation of a national market system and essential to the dissemination of trade information. Given their importance, securities symbols can no longer be managed by one or another listing market merely to meet its own needs. If instead, stock symbols for all equity securities were managed according to a single plan in a neutral, consistent, and transparent manner, competition among markets would be enhanced and would reflect the highly integrated trading environment for securities that exists today. As a sponsor of what the Commission has termed the “Five-Character Plan,” Nasdaq strongly believes that this plan best achieves those goals, and urges the Commission to approve it in its entirety as the sole method for all markets to reserve or use a trading symbol of any length from one to five characters.

Background

The Commission’s release seeking comments on the symbology plans discussed the history of securities symbols and current symbology practices in great detail, Nasdaq believes it would also be useful to consider the historical and ongoing anticompetitive practices of the

¹ Recently, the Commission approved SR-NASDAQ-2007-031, a rule proposal related to the portability of three character trading symbols. Comments on that proposal, and Nasdaq’s response to them, contained extensive discussion related to symbology generally as well as the proposed national market system symbology plans. As such, Nasdaq respectfully requests that the record of that rule-making be incorporated and formally considered as part of the Commission’s notice and comment process for these proposed plans.

national securities exchanges that today use the vast majority of one to three character trading symbols for equity issues. As the Commission is well aware, for years the New York Stock Exchange ("NYSE") held certain trading symbols in reserve as incentives to encourage Nasdaq issuers to switch their listings to the NYSE. The NYSE has, and continues to, "reserve" a number of trading symbols totally out of proportion to its actual need for them. Most tellingly, the NYSE facilitated the transfer of hundreds of AMEX companies to the NYSE without symbology changes; changes that its own past practices and proposed plan would mandate for issuers leaving the NYSE. This history is essential for understanding the true nature and goals of what the Commission has termed the "Three-Character Plan." As outlined in more detail below, the Three-Character Plan is intended to perpetuate anticompetitive practices and ensure continued privileged access to symbols by its sponsors and should be rejected in its entirety

Commission Requests for Comment on Specific Plan Provisions

The Commission has requested specific comments on numerous facets of the competing symbology plans. As a sponsor of the Five-Character Plan, Nasdaq believes that this plan represents a reasonable unified approach to trading symbol assignment that, while retaining certain established symbol management practices, enhances competition among markets and protects the interests of issuers and investors by eliminating or reducing the ability of markets to use symbology in an anti-competitive manner. As such, Nasdaq will limit its comments to facets of the Five-Character Plan that enhance fairness and competition, and those of the Three-Character Plan that do not. Also attached to this letter is a side-by side summary of key competing provisions of each plan that clearly demonstrate the pro-competitive aspects of the Five-Character Plan.

The Three-Character Plan

The exclusive and self-serving nature of the Three-Character Plan is evident immediately by its proposed scope. By seeking to limit its national market symbol assignment plan to Network A and Network B securities, the Three-Character Plan seeks to preclude Nasdaq and its issuers, other exchanges, as well as new listing market entrants, from meaningful participation in the plan to ensure that the NYSE's and AMEX's traditional preferential access to symbols of one to three characters in length remains undiminished. While the Three-Character Plan's undercurrent of entitlement is obvious, a compelling or legally justifiable reason under the Exchange Act for its myriad self-dealing provisions is not.

Throughout the Three-Character Plan, material advantages are given to the NYSE and AMEX that are not generally available to other potential plan participants. From having five times as many perpetual reservations as other plan participants, to veto rights over the transfer of one character symbols, and every place in between, the drafters of the Three-Character Plan never miss an opportunity to give themselves an unfair advantage. In addition, the Three-Character Plan provides for the reservation and control of an enormous number of symbols by the NYSE and AMEX, a number totally out of proportion to historic usage of one to three character symbols, that will guarantee that later entrants will start and remain at a significant competitive disadvantage in the symbology choices they may offer to their potential issuers. The final anticompetitive slap – new entrants will be expected to advance an equal portion of the Three-Character Plan's costs while receiving an obviously unequal portion of the plan's benefits. In

short, it is hard for Nasdaq to imagine a plan that is more inconsistent with the equal regulation and pro-competition mandates of the Exchange Act.

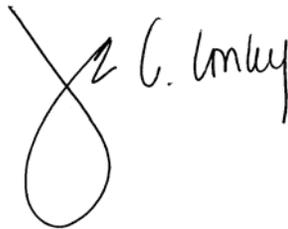
The Five-Character Plan

In contrast, the Five-Character Plan creates a unitary and efficient single symbol assignment plan that treats all markets equally with regard to access to available symbols of all lengths. While containing the same concepts of perpetual, limited-time and legacy reservations as the Three-Character Plan, the Five-Character Plan provides an equal opportunity for all participants to reserve the same number of symbols. To ensure overall availability of symbols, the Five-Character Plan limits perpetual reservations per participant to a number only $1/10^{\text{th}}$ as large as the number of perpetual reservations proposed to be granted to the NYSE and AMEX under the Three-Character Plan, and requires that all other symbol reservations be made only with the reasonable belief of the reserving party that they will be used within a finite period of time, and all under a cost-assessment structure linked to the total number of symbols reserved. To enhance fair competition for listings and reduce the potential for investor confusion, the Five-Character Plan also allows issuers moving to another market to take their current trading symbol with them regardless of its length.

By more appropriately and closely aligning symbols with companies and the avoidance of investor confusion, and not listing markets, the Five-Character Plan ensures that trading symbols are treated as a common resource and not as the private brand for a particular market.² Such an approach is completely in keeping with the Commission's obligations under the Exchange Act to ensure equal regulation and competitive opportunities for all exchanges. In short, having created a fully integrated multiple-exchange environment for trading securities, there is every reason for the Commission to mandate that all SROs participate in a single, fair plan for assigning trading symbols used in that environment. The Five-Character Plan is it.

We thank the Commission for providing this opportunity to submit our views on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Linsky". The signature is stylized, with a large loop at the bottom and a long, sweeping stroke that crosses over itself.

² Indeed, it is Nasdaq's view that discussions related to "brand" are more appropriately directed to the United States Patent and Trademark Office, not the Securities and Exchange Commission.

SYMBOLGY PLAN COMPARISON

| | Five-Character Plan | Three-Character Plan |
|---------------------|---|--|
| Scope | The Five-Character Plan covers trading symbols of 1 through 5 characters in length. | The Three-Character Plan covers only trading symbols of 1 to 3 characters in length, and its combined provisions provide the NYSE an absolute veto right over the use or transfer of 1 character symbols. |
| Equality | The Five-Character Plan treats all exchanges equally as to the number of symbols that may be reserved. | The Three-Character Plan discriminates among participants. The NYSE and AMEX have the ability to reserve five times as many symbols in perpetuity, and three times as many symbols temporarily, as other plan participants. |
| Portability | The Five-Character Plan provides full portability of all trading symbols of issuers moving to another market. | The Three-Character plan would give the exchange losing a listing of company using a 1 or 2 character symbol a veto right over the issuer's taking the symbol to a new market. |
| Cost | The Five-Character Plan assigns costs based on the number of symbols reserved. | The Three-Character Plan allocates costs equally among the all participants regardless of their symbol reservation activity. In effect, other plan participants subsidize the NYSE's and AMEX's excessive symbol control. |
| Conservation | <p>The Five-Character Plan requires that participants have a reasonable basis to believe that they will use a symbol before they reserve one.</p> <p>The Five-Character Plan allows each participant only 20 perpetual reservations for symbols of 1 to 3 characters in length.</p> | <p>The Three-Character Plan requires no belief that a symbol will actually be used before it may be reserved.</p> <p>Under the Three-Character Plan, the NYSE and AMEX are allowed 200 perpetual reservations each, and all other proposed participants are allowed perpetual reservations numbers at least twice as large as those permitted under the Five-Character Plan.</p> |