

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54477; File No. SR-NASDAQ-2006-034)

September 20, 2006

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Practice of Using a Fifth Character Identifier with the Symbol of Foreign Securities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 28, 2006, The NASDAQ Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(1) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is filing with the Commission a proposed rule change to clarify the non-applicability of the record-keeping fee in Nasdaq Rule 4510(e) and Nasdaq Rule 4520(d) when a non-U.S. issuer requests to eliminate the fifth character identifier affixed to the symbol of its securities.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(1).

⁵ This proposal does not require changes to Nasdaq’s rule text. Telephone conversation between Jonathan F. Cayne, Associate General Counsel, The Nasdaq Stock Market, Inc.,

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Prior to 1999, Nasdaq required an "F" or "Y" be affixed to the symbol of all non-U.S. securities and American Depositary Receipts that traded on the Nasdaq Stock Market. In 1999, Nasdaq ceased this practice for new listings and allowed existing non-U.S. listed companies to remove the fifth character identifier upon request.⁶ For those non-U.S. issuers that have not so requested, Nasdaq continues to include the fifth character identifier on the symbol of their securities. Nasdaq is making this filing to clarify that the record-keeping fee in Rule 4510(e) and Rule 4520(d) is not applicable to a non-U.S. issuer that requests that Nasdaq eliminate the fifth character identifier.

The \$2,500 record-keeping fee set forth in Nasdaq Rule 4510(e) and Nasdaq Rule 4520(d) is used to address the costs associated with revising Nasdaq's records when issuers engage in certain actions, including a voluntary change in trading symbol. However, Nasdaq

and Nataliya Cowen, Special Counsel, Division of Market Regulation, Commission, on September 19, 2006.

⁶ See Securities Exchange Act Release No. 41076 (Feb. 19, 1999); 64 FR 9552 (Feb. 26, 1999).

notes that these non-U.S. issuers did not choose to have the fifth character identifier, as before 1999 it was mandatory. Further, these issuers are not requesting any change to their “root” four letter symbol. Accordingly, Nasdaq believes that these changes should not be treated as a voluntary symbol change and, therefore, it is inappropriate to charge the \$2,500 record-keeping fee when a non-U.S. issuer drops the fifth character identifier.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 6(b) of the Act⁷ in general and furthers the objectives of Section 6(b)(5)⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization’s Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act⁹ and subparagraph (f)(1) of Rule 19b-4 thereunder¹⁰ in that it constitutes a stated policy,

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A)(i).

¹⁰ 17 CFR 240.19b-4(f)(1).

practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule. As such, this proposed rule change is effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2006-034 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2006-034. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications

relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2006-034 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris
Secretary

¹¹ 17 CFR 200.30-3(a)(12).