

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-63063; File No. SR-NASDAQ-2010-126)

October 7, 2010

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make a Conforming Change to NASDAQ Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 1, 2010, The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 proposes to make a conforming change to Rule 4758 to reflect prior effectiveness of filings allowing routing of orders to a facility of an exchange that is an affiliate of NASDAQ. NASDAQ proposes to implement the rule change concurrent with the launch of cash equity trading on NASDAQ OMX PSX, which is currently scheduled to occur on October 8, 2010. The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at NASDAQ’s principal office, and at the Commission’s Public Reference Room.

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. The text of these statements may be examined at the

---

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

places specified in Item III below, and is set forth in Sections A, B, and C below.

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

1. Purpose

The NASDAQ OMX Group, Inc. (“NASDAQ OMX”) owns three U.S. registered securities exchanges – NASDAQ, NASDAQ OMX PHLX, Inc. (“PHLX”) and NASDAQ OMX BX, Inc. (“BX”). In addition, NASDAQ OMX currently indirectly owns Nasdaq Execution Services, LLC (“NES”), a registered broker-dealer and a member of PHLX. Thus, NES is an affiliate of each of NASDAQ, PHLX and BX.

PHLX has received approval to launch NASDAQ OMX PSX (“PSX”)<sup>3</sup> as a new platform for trading NMS stocks (as defined in Rule 600 under Regulation NMS).<sup>4</sup> Although PSX will not route to other market centers, PSX will receive orders routed to it by other market centers, including NASDAQ.

In SR-NASDAQ-2010-100,<sup>5</sup> NASDAQ submitted a proposed rule change that authorized it to route orders to PSX through NES without checking the NASDAQ book. In addition, in SR-PHLX-2010-79, PHLX received approval, on a pilot basis, to receive orders routed to it by NES that did not check the NASDAQ book prior to routing.<sup>6</sup> The change to NASDAQ rules was reflected in an amendment to Rule 4751, but should have also been reflected in an amendment to Rule 4758. Accordingly, NASDAQ is submitting this rule change to make the conforming change.

---

<sup>3</sup> Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR-PHLX-2010-79).

<sup>4</sup> 17 CFR 242.600.

<sup>5</sup> Securities Exchange Act Release No. 62736 (August 17, 2010), 75 FR 51861 (August 23, 2010) (SR-NASDAQ-2010-100).

<sup>6</sup> Supra n.3.

## 2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general, and with Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. The proposed rule change would make a conforming change to NASDAQ rules to reflect previously adopted rule changes.

### 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, as amended.

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the

---

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> NASDAQ requests that the Commission waive the 30-day pre-operative delay contained in Exchange Act Rule 19b-4(f)(6)(iii).<sup>11</sup> NASDAQ requests such a waiver because the proposed rule change merely conforms the text of Rule 4758 to rule changes made by SR-NASDAQ-2010-100 and SR-PHLX-2010-79 that have already become effective, and such waivers will allow the proposed rule change to be in effect on October 8, 2010, the date on which trading will commence on PSX. The Commission believes that waiving the 30-day operative delay<sup>12</sup> is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposal operative upon filing

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### 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:

---

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2010-126 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2010-126. 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 Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2010-126 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Florence E. Harmon  
Deputy Secretary

---

<sup>13</sup> 17 CFR 200.30-3(a)(12).