

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63425; File No. SR-NASDAQ-2010-156)

December 3, 2010

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend NASDAQ Rules 2270 and 2910 To Reflect Changes to Corresponding FINRA Rule

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 December 1, The NASDAQ Stock Market LLC (the “Exchange” or “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 the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b-4(f)(6) under the Act,³ 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

The Exchange is filing this proposed rule change to amend NASDAQ Rules 2270 and 2910 to reflect recent changes to a corresponding rule of the Financial Industry Regulatory Authority (“FINRA”). NASDAQ proposes to implement the proposed rule change immediately. [sic] The text of the proposed rule change is available at <http://nasdaqomx.cchwallstreet.com>, at the Exchange’s principal office, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

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

In its filing with the Commission, the Exchange 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. The Exchange 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

Many of NASDAQ's rules are based on rules of FINRA (formerly the National Association of Securities Dealers ("NASD")). During 2008, FINRA embarked on an extended process of moving rules formerly designated as "NASD Rules" into a consolidated FINRA rulebook. In most cases, FINRA has renumbered these rules, and in some cases has substantively amended them. Accordingly, NASDAQ initiated a process of modifying its rulebook to ensure that NASDAQ rules corresponding to FINRA/NASD rules continue to mirror them as closely as practicable. NASDAQ proposes to update its rules to reflect changes [sic] NASDAQ Rules 2270 and 2910 which corresponds to FINRA Rule 2261.

NASDAQ Rule 2270 (Disclosure of Financial Condition to Customers) and NASDAQ Rule 2910 (Disclosure of Financial Condition to Other Members) formerly corresponded to NASD Rule 2270 (Disclosure of Financial Condition to Customers) and NASD Rule 2910 (Disclosure of Financial Condition to Other Members). In SR-FINRA-

2009-081,⁴ FINRA re-designated NASD Rules 2270 and 2910 as FINRA Rule 2261 and made substantive amendments to strengthen and simplify the rules.

More specifically, the current NASDAQ Rule 2270, which incorporates NASD Rule 2270 by reference, requires that the members make information relative to a member's financial condition, as disclosed in its most recent balance sheet, available for inspection by any bona fide regular customer upon request. In FINRA SR-2009-081, [sic] FINRA provided members the option of delivering their balance sheet, in paper or electronic form, to customers who request it. Additionally, if the delivery is electronic, the requesting customer must provide consent to receive the balance sheet in electronic form to ensure that such information is accessible to the customer.

This proposed filing also addresses NASDAQ Rule 2910, which compares to the former NASD Rule 2910. NASDAQ Rule 2910 requires that any member that is a party to an open transaction or who has on deposit cash or securities of another member to furnish, upon the written request of the other member, a statement of its financial condition as disclosed in its most recently prepared balance sheet. In SR-FINRA-2009-081, FINRA amended NASD Rule 2910 and consolidated it within FINRA Rule 2261 to require that members provide to other members the balance sheet that was prepared in accordance with the member's usual practice or as required by state or federal securities laws or any corresponding rule or regulation. Also, FINRA amended the provision to require that members be permitted to provide their balance sheet to other members in paper or electronic form; however, this does not require obtaining consent of the other members for delivery.

⁴ Securities Exchange Act Release No. 61540 (February 18, 2010), 75 FR 8771 (February 25, 2010) (SR-FINRA-2008-081).

NASDAQ believes that NASDAQ Rule 2270 and 2910 should be consolidated and amended to reflect the provisions in the new FINRA 2261. For clarification, this results in deleting NASDAQ Rules 2270 and 2910. This will allow customers and other members to continue to have access to a copy of the member's most recent balance sheet at any time upon request while simplifying the provisions. NASDAQ is adopting the new FINRA rule in full by incorporating by reference FINRA Rule 2261 into the proposed NASDAQ Rule 2261.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Sections 6(b)(5) of the Act,⁶ 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 changes will conform NASDAQ Rules 2270 and 2910 to recent changes made to corresponding FINRA Rule 2261 to promote application of consistent regulatory standards.

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

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

The Exchange 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 Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

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

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

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-2010-156 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-2010-156. 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 website (<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 website viewing and printing in the Commission's Public Reference Room. 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-2010-156 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.⁹

Florence E. Harmon
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).