

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-76410; File No. SR-NASDAQ-2015-138)

November 10, 2015

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories and to Retire Other Registration Categories

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 4, 2015, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, 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

The Exchange proposes to a proposal [sic] to retire the Limited Representative —Equity Trader, Limited Representative - Proprietary Trader and Limited Principal – Proprietary Trader registration categories and to establish the Securities Trader and Securities Trader Principal registration categories. The Exchange is also amending its rules to establish the Series 57 examination as the appropriate qualification examination for Securities Traders and deleting the rule referring to the S501 continuing education program currently applicable to Proprietary Traders.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

The Exchange is proposing herein to replace the Series 56 with the Series 57 examination, and to make additional changes to its registration rules. Specifically, in response to the FINRA Amendments (defined below), the Exchange is proposing to retire the Limited Representative – Equity Trader (“Equity Trader”)<sup>3</sup> and the Limited Representative - Proprietary Trader (“Proprietary Trader”)<sup>4</sup> registration categories from its own registration rules relating to securities trading activity. It is also therefore retiring its Limited Principal - Proprietary Trader (“Proprietary Trader Principal”)<sup>5</sup> registration category. To take the place of the retired registration categories, Nasdaq is establishing new Securities Trader and Securities Trader Principal registration categories. This filing is, in all material respects, based upon SR-FINRA-2015-017, which was recently approved by the Commission.<sup>6</sup>

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<sup>3</sup> Rule 1032(f).

<sup>4</sup> Rule 1032 (c).

<sup>5</sup> Rule 1022(h).

<sup>6</sup> See Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (approving SR-FINRA-2015-017) referred to herein as the “FINRA Amendments”. According to the release, FINRA’s expected effective date for the FINRA Amendments is January 4, 2016.

I. New Nasdaq Securities Trader Registration Category.

Currently, under Nasdaq Rule 1032(a)(1), each person associated with a member who is included within the definition of a “representative”<sup>7</sup> in Rule 1011 is required to register with Nasdaq as a General Securities Representative and to pass an appropriate qualification examination before such registration may become effective, unless his or her activities are so limited as to qualify him for one or more limited categories of representative registration also set forth in Rule 1032. The appropriate qualification examination for General Securities Representative is the Series 7 examination.

Nasdaq Rule 1032(f) currently also requires each person associated with a member who is included within the definition of a representative to register with Nasdaq as an Equity Trader if, with respect to transactions in equity, preferred or convertible debt securities on Nasdaq, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities (collectively, “Nasdaq equities trading”), other than any person associated with (A) a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act of 1940 and that controls, is controlled by or is under common control, with the member (an “investment company firm”), or (B) a proprietary trading firm. Therefore, under current Nasdaq rules, a representative engaged in Nasdaq equities trading who is not associated with a proprietary trading firm or an investment company firm must register as an Equity Trader, after passing the appropriate qualification examination (the Series 55 examination). Additionally, before such registration may become effective, the individual must be registered either as a General Securities Representative (after passing the Series 7

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<sup>7</sup> The term “representative” is defined in Exchange Rule 1011.

examination) or as a Limited Representative – Corporate Securities Representative (after passing the Series 62 examination).

Additionally, Nasdaq Rule 1032(c) currently provides that each person associated with a member who is included within the definition of a representative may register with Nasdaq as a Proprietary Trader if (A) his activities in the investment banking or securities business are limited solely to proprietary trading, (B) he passes an appropriate qualification examination (the Series 56) and (C) he is an associated person of a proprietary trading firm.<sup>8</sup> Therefore, pursuant to Nasdaq Rules 1032(a) and (c), a representative associated with a proprietary trading firm who limits his trading activity to proprietary trading as specified in Rule 1032(c) has the opportunity to register in the Proprietary Trader category after passing the Series 56 examination rather than as a General Securities Representative after passing the Series 7 examination.

In consultation with FINRA and other exchanges, and in order to harmonize for individuals engaged in trading activities, the Exchange is now proposing to retire the Proprietary Trader registration category. Accordingly, it is deleting all rule text in section (c) of Rule 1032 and replacing it with the word “Reserved”. Similarly, the Exchange is retiring the Equity Trader registration category in Rule 1032(f) and revising that rule to adopt a new Securities Trader registration category.

Under Rule 1032(f), as revised, each person associated with a member who is included within the definition of a representative will be required to register as a Securities Trader if engaged in Nasdaq equities trading or foreign currency options trading on Nasdaq other than any person associated with an investment company firm. There is no exclusion from the new Securities Trader registration requirement for representatives of proprietary trading firms.

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<sup>8</sup> The term “proprietary trading firm” is defined in Rule 1011(o).

Therefore, representatives who previously would have been required to register as Equity Traders, as well as those who previously qualified for Proprietary Trader registration, will be required to register as Securities Traders. In order to register as a Securities Trader, an applicant would be required to pass the new Securities Trader qualification examination (Series 57). However, unlike today's Equity Trader registrants, an applicant would be able to register as a Securities Trader without first registering as a General Securities Representative or a Limited Representative – Corporate Securities.<sup>9</sup> New Nasdaq Rule 1032(f)(3) will prohibit a person registered as a Securities Trader from functioning in any other registration category, unless he or she is also qualified and registered in such other registration category.<sup>10</sup>

A person registered as an Equity Trader or a Proprietary Trader in the Central Registration Depository (CRD®) system on the effective date of the proposed rule change will be grandfathered as a Securities Trader without having to take any additional examinations and without having to take any other actions. In addition, individuals who were registered as an Equity Trader or a Proprietary Trader in the CRD system prior to the effective date of the proposed rule change will be eligible to register as Securities Traders without having to take any additional examinations, provided that no more than two years have passed between the date they were last registered as a representative and the date they register as a Securities Trader.

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<sup>9</sup> FINRA has stated in its filing proposing the FINRA amendments that the Series 57 examination will include the core knowledge portion of the General Securities Representative examination (Series 7).

<sup>10</sup> For instance, a person registered as a Securities Trader will not be able to engage in any retail or institutional sales activities, unless he or she is qualified and registered in the appropriate registration category, such as a General Securities Representative. See NASDAQ Rule 1032(a) which requires each representative associated with a member to register with Nasdaq as a General Securities Representative unless his or her activities are so limited as to qualify him for one or more of the limited categories of representative registration specified in Rule 1032. Like the Proprietary Trader category that is being retired (but unlike the Equity Trader category which is also being retired) the Securities Trader registration category is a limited category of representative registration.

Persons registered in the new category would be subject to the continuing education requirements of Rule 1120. The Exchange proposes to amend Rule 1120(a) by removing the option for Series 56 registered persons to participate in the S501 Series 56 Proprietary Trader continuing education program in order to satisfy the Regulatory Element. The S501 Series 56 Proprietary Trader continuing education program is being phased out along with the Series 56 Proprietary Trader qualification examination. As a result, effective January 4, 2016, the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons will cease to exist. In place of the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons, the Exchange proposes that Series 57 registered persons be required to take the S101 General Program for Series 7 and all other registered persons.

II. New NASDAQ Securities Trader Principal Registration Category.

Currently, under NASDAQ Rule 1022(a), each person associated with a member who is included within the definition of “principal”<sup>11</sup> and each person designated as a Chief Compliance Officer on Schedule A of Form BD must register with Nasdaq as a General Securities Principal and pass an appropriate qualification examination before such registration may become effective, unless such person's activities are so limited as to qualify such person for one or more of the limited categories of principal registration specified in Rule 1022.<sup>12</sup> Currently, under Nasdaq Rule 1032(f)(1), an associated person with direct supervisory responsibility over the securities trading activities set forth in Nasdaq Rule 1032(f) is required to qualify and register as an Equity Trader. However, Nasdaq rules do not expressly require such persons to register in a specific

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<sup>11</sup> “Principal” is defined in Rule 1021.

<sup>12</sup> Rule 1022 lists the categories of principal registration. In addition to “General Securities Principal,” which is the broadest category, there are a number of limited categories of principal registration including Financial and Operations, General Securities Sales Supervisor, and Limited Principal – Proprietary Trader.

principal registration category.<sup>13</sup> Under Rule 1022(h) a principal may register under the Proprietary Trader Principal category if, among other things, he or she is registered as a Proprietary Trader and passes the Series 24 examination.

Like the Proprietary Trader category discussed above, the Proprietary Trader Principal registration category is being retired. The Exchange is therefore deleting Rule 1022(h). The Exchange is establishing a Securities Trader Principal category in new Rule 1022(a)(5). Nasdaq has been working with other exchanges and FINRA to develop this new principal registration category and believes that it is an appropriate corollary to the new Securities Trader representative registration category. The new rule requires each principal who will have supervisory responsibility over the securities trading activities described in Rule 1032(f)(1) to become qualified and registered as a Securities Trader Principal. To qualify for registration as a Securities Trader Principal, an applicant must become qualified and registered as a Securities Trader under Rule 1032(f) and pass the General Securities Principal qualification examination (Series 24). A person who is qualified and registered as a Securities Trader Principal would only be permitted to have supervisory responsibility over the activities specified in Rule 1032(f)(1), unless such person were separately qualified and registered in another appropriate principal registration category, such as the General Securities Principal registration category. A person who registers as a General Securities Principal would not be qualified to supervise the trading activities described in Rule 1032(f)(1), unless such person also qualified and registered as a Securities Trader under Rule 1032(f) by passing the Securities Trader qualification examination, and became registered as a Securities Trader Principal. This aspect of the proposed rule change

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<sup>13</sup> In general, a General Securities Principal with supervisory responsibility over securities trading activities is currently required to qualify and register as an Equity Trader.

will also allow Nasdaq to more easily track principals with supervisory responsibility over securities trading activities.

A person registered as a General Securities Principal and an Equity Trader or as a Proprietary Trader Principal in the CRD system on the effective date of the proposed rule change will be eligible to register as a Securities Trader Principal without having to take any additional examinations. An individual who was registered as a General Securities Principal and an Equity Trader, or as a Proprietary Trader Principal in the CRD system prior to the effective date of the proposed rule change will also be eligible to register as a Securities Trader Principal without having to take any additional examinations, provided that no more than two years have passed between the date they [sic] were last registered as a principal and the date they [sic] register as a Securities Trader Principal. Members, however, will be required to affirmatively register persons transitioning to the proposed registration category as Securities Trader Principals on or after the effective date of the proposed rule change.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</sup> in particular, in that it is designed 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. The Exchange believes that the requirements of the Securities Trader and Securities Trader Principal registration categories, as well as the new Securities Trader qualification examination, should help ensure that proprietary traders and the principals who supervise proprietary traders and proprietary trading are, and will continue to be, properly

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<sup>14</sup> 15 U.S.C. 78f(b).

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



trained and qualified to perform their functions which should protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Implementation of the proposed changes to Nasdaq's registration rules in coordination with the FINRA Amendments does not present any competitive issues, but rather is designed to provide less burdensome and more efficient regulatory compliance for members and enhance the ability of the Exchange to fairly and efficiently regulate members, which will further enhance competition. Additionally, the proposed rule change should not affect intramarket competition because all similarly situated representatives and principals will be required to complete the same qualification examinations and maintain the same registrations.

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

No written comments were either solicited or 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)(iii) of the Act<sup>16</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>17</sup>

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(a)(iii).

<sup>17</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change,

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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:

- 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-2015-138 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2015-138. 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>).

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or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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, 100 F Street, NE, Washington, DC 20549, 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-2015-138 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>18</sup>

Robert W. Errett  
Deputy Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).