

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-85987; File No. SR-NASDAQ-2019-046)

May 31, 2019

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Relocate the Order Audit Trail System Rules

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 May 23, 2019, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“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

The Exchange proposes to (a) rename the title of Equity 5 “Order Audit Trail Services” under the Exchange’s rulebook (“Rulebook”) shell structure<sup>3</sup> to Equity 5 “Order Audit Trail System”; (b) relocate its current Rule 7000A Series concerning the Order Audit Trail System (“OATS”) to Equity 5 “Order Audit Trail System” (as renamed by this proposal); and (c) make conforming cross-reference changes in Rules 5320A and IM-9216.

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

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

<sup>3</sup> In 2017, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, Nasdaq BX, Inc. (“BX”); Nasdaq PHLX LLC (“Phlx”); Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (“Affiliated Exchanges”). See Securities Exchange Act Release No. 82175 (November 29, 2017), 82 FR 57494 (December 5, 2017) (SR-NASDAQ-2017-125). This proposed change is the first of a total of three, which will move the OATS rules of Nasdaq, BX, and Phlx to their respective shell structures.

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.

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 proposes to (a) rename the title of Equity 5 "Order Audit Trail Services" under the Rulebook shell structure to Equity 5 "Order Audit Trail System"; (b) relocate its current Rule 7000A Series concerning OATS to Equity 5 "Order Audit Trail System" (as renamed by this proposal); and (c) make conforming cross-reference changes in Rules 5320A and IM-9216, as detailed below.

1. Rename the title of Equity 5

The title of Equity 5 is currently "Order Audit Trail Services." The word "Services" was erroneously inserted when adopting the shell. The accurate word is "System," which reflects the name of the FINRA Order Audit Trail System to which the rules thereunder apply. Consequently, the Exchange is making a corrective change to the name of the rule.

## 2. Relocation of the OATS Rules

The Exchange, as part of its continued effort to promote efficiency and the conformity of its rule structure with those of the Affiliated Exchanges,<sup>4</sup> and the goal of harmonizing and making its rule structure uniform, proposes to relocate the OATS rules, currently under the Rule 7000A Series, into Equity 5 “Order Audit Trail System” of the shell structure. Specifically, the Exchange will add the word “Section” and renumber the Rule 7000A Series as detailed in the table below:

<b>7000A Series</b>	<b>Equity 5</b>
7000A	Deleted
7400A	Equity 5
7410A	Section 1
7420A	Section 2
7430A	Section 3
7440A	Section 4
7450A	Section 5
7460A	Section 6
7470A	Deleted

The Exchange believes that the relocation of the OATS rules will facilitate the use of the Rulebook by Members<sup>5</sup> of the Exchange, including BX and Phlx members, and other market participants. Moreover, the proposed changes are of a non-substantive nature and they will not amend the relocated rules, other than to update their numbers as previously detailed.

## 3. Cross-Reference Updates

In connection with the changes described above, the Exchange proposes to update all internal and external cross-references in the Rulebook that direct the reader to the current placement of the OATS rules and/or any of their subsections. Specifically, the Exchange will

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<sup>4</sup> See footnote 3.

<sup>5</sup> Exchange Rule 0120(i).

update a cross-reference in Nasdaq Rule 5320A to OATS Rule 7440A, which will be renumbered Equity 5, Section 4. Similarly, the Exchange proposes to update the cross-reference in IM-9216 (Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d-1(c)(2)) that currently points to “Rules 6954 and 6955.” Rules 6954 and 6955 were respectively renumbered as OATS Rules 7440A and 7450A in 2012.<sup>6</sup> This cross-reference will be updated as Equity 5, Sections 4 and 5.

The Exchange also proposes to correct a cross-reference in current OATS Rule 7460A (to be renumbered Equity 5, Section 6) that points to Nasdaq Rule 2110. Rule 2110 (Standards of Commercial Honor and Principles of Trade) was renumbered as Nasdaq Rule 2010A and, therefore, its cross-reference in the Equity 5, Section 6 will be updated accordingly.<sup>7</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</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, by promoting efficiency and structural conformity of the Exchange’s rules with those of the Affiliated Exchanges and to make the Exchange’s Rulebook, in the present case, the OATS rules, easier to read and more accessible to its Members, including BX and Phlx members, and market participants. The Exchange believes that the correction to

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<sup>6</sup> See Securities Exchange Act Release No. 68153 (November 5, 2012), 77 FR 67409 (November 9, 2012) (SR-NASDAQ-2012-124).

<sup>7</sup> Id.

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

Equity 5's title, relocation of the OATS rules, and cross-reference updates are of a non-substantive nature.

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. The proposed changes do not impose a burden on competition because, as previously stated, they (i) are of a non-substantive nature, (ii) are intended to harmonize the structure of the Exchange's rules with those of its Affiliated Exchanges, and (iii) are intended to organize the Rulebook in a way that it will ease the Members', including BX and Phlx members, and market participants' navigation and reading of the rules.

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) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>12</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>13</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to promptly relocate the OATS rules and continue to reorganize its Rulebook to promote efficiency and structural consistency between the Exchange's rules and those of BX and Phlx. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>14</sup>

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 change should be approved or disapproved.

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<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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-2019-046 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2019-046. 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, 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.

Persons submitting comments are cautioned that we do not redact or edit personal identifying

information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2019-046 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>15</sup>

Eduardo A. Aleman  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).