

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64259; File No. SR-NASDAQ-2010-134)

April 8, 2011

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of Longer Time Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Change to Adopt Additional Criteria for Listing Commodity Stockpiling Companies That Have Indicated That Their Business Plan is to Buy and Hold Commodities

On October 15, 2010, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt additional criteria for listing commodity stockpiling companies (“CSCs”) that have indicated that their business plan is to buy and hold commodities. The proposed rule change was published for comment in the Federal Register on November 3, 2010.³ The Commission received no comments on the proposal. The Commission subsequently extended the time period in which to either approve the proposed rule change, disapprove the proposed rule change, or to institute proceedings to determine whether to disapprove the proposed rule change, to February 1, 2011.⁴ The Commission received one comment letter on the proposal.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 63207 (October 28, 2010), 75 FR 67788.

⁴ See Securities Exchange Act Release No. 63508 (December 9, 2010), 75 FR 78300 (December 15, 2010).

⁵ See Letter from Edward H. Smith, Jr. to Florence E. Harmon, Deputy Secretary, Commission, dated January 18, 2011.

On January 31, 2011, the Commission issued an order instituting proceedings to determine whether to disapprove the proposed rule change.⁶

Section 19(b)(2) of the Act⁷ provides that not later than 180 days after the date of publication of notice of the filing of a proposed rule change, the Commission shall issue an order approving or disapproving the proposed rule change. Section 19(b)(2) of the Act⁸ further provides that the Commission may extend the period for issuance of the order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination, or the self-regulatory organization that filed the proposed rule change consents to the longer period.

The Commission is extending the 180-day time period for the issuance of an order approving or disapproving the proposed rule change for an additional 60 days.⁹ The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that the Commission has sufficient time to consider the Exchange's proposal and whether it is consistent with the Act. The proposal would establish, for the first time, standards for listing securities of companies whose business plan is to buy and hold commodities.

⁶ See Securities Exchange Act Release No. 63804 (January 31, 2011), 76 FR 6506 (February 4, 2011).

⁷ 15 U.S.C. 78s(b)(2)(B)(ii)(I).

⁸ 15 U.S.C. 78s(b)(2)(B)(ii)(II).

⁹ The proposed rule change was published for notice and comment in the Federal Register on November 3, 2010. See supra note 2. The 180th date from publication in the Federal Register is May 2, 2011 and an additional 60-days from that date would extend the time period to July 1, 2011.

Accordingly, pursuant to Section 19(b)(2) of the Act,¹⁰ the Commission designates July 1, 2011 as the date by which the Commission shall issue an order either approving or disapproving the proposed rule change (File Number SR-NASDAQ-2010-134).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Cathy H. Ahn
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(31).