

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72987; File No. SR-NASDAQ-2014-020)

September 4, 2014

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change Relating to Listing and Trading of Exchange-Traded Managed Fund Shares

On February 26, 2014, 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 Nasdaq Rule 5745, which would govern the listing and trading of Exchange-Traded Managed Fund Shares (“ETMF Shares”), and to amend related references under Nasdaq Rules 4120, 5615, IM-5615-4, and 5940. The proposed rule change was published for comment in the Federal Register on March 12, 2014.³ The Commission received four comment letters on the proposal.⁴ On April 23, 2014, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁶ On June 9, 2014, the Commission instituted proceedings

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 71657 (Mar. 6, 2014), 79 FR 14092.

⁴ See Letters to the Commission from Christopher Davis, President, Money Management Institute, dated March 27, 2014; Robert Tull, President, Robert Tull & Co., dated March 31, 2014; Avi Nachmany, Co-Founder, Director of Research, E.V.P, Strategic Insight, dated April 1, 2014; and Eric Noll, President and Chief Executive Officer, ConvergEx Group, LLC, dated April 1, 2014.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 72007, 79 FR 24045 (Apr. 29, 2014). The Commission determined that it was appropriate to designate a longer period within which

under Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change.⁸ In response to the Order Instituting Proceedings, the Commission received one additional comment letter on the proposal.⁹

Section 19(b)(2) of the Act¹⁰ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on March 12, 2014.¹¹ The 180th day after publication of the notice of the filing of the proposed rule change in the Federal Register is September 8, 2014, and the 240th day after publication of the notice of the filing of the proposed rule change in the Federal Register is November 7, 2014.

The Commission finds it appropriate to designate a longer period within which to issue

to take action on the proposed rule change so that it had sufficient time to consider the proposed rule change. Accordingly, the Commission designated June 10, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ See Securities Exchange Act Release No. 72350, 79 FR 33959 (Jun. 13, 2014) (“Order Instituting Proceedings”). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change’s consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be “designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,” and “to protect investors and the public interest.” See id.

⁹ See Letter to the Commission from Thomas E. Faust, Jr., Chairman and Chief Executive Officer, Eaton Vance Corporation, dated July 3, 2014.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ See supra note 3 and accompanying text.

an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, including the matters raised in the comment letters to the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹² designates November 7, 2014 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NASDAQ-2014-020).

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

Kevin M. O'Neill
Deputy Secretary

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(57).