

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



In The Matter Of:

The Application of SECURITIES INDUSTRY
AND FINANCIAL MARKETS
ASSOCIATION

Admin. Proc. File No. 3-16320

For Review of Action Taken by Certain Self-
Regulatory Organizations

NOTICE OF APPEARANCE OF THE NASDAQ STOCK MARKET LLC

1. Pursuant to Rule 102 of the SEC Rules of Practice and Procedure, 17 C.F.R. § 102, please enter the appearance of Eugene Scalia, Amir C. Tayrani, and Thomas M. Johnson, Jr. of Gibson, Dunn & Crutcher LLP, as counsel for The Nasdaq Stock Market LLC ("Nasdaq") in the above-captioned matter, which was filed by the Securities Industry and Financial Markets Association ("SIFMA") on December 12, 2014.

2. SIFMA's Application should be dismissed for the reasons previously identified in the briefs of Nasdaq and NASDAQ OMX PHLX LLC submitted on August 30, 2013, September 20, 2013, and August 18, 2014. *See Brief of The Nasdaq Stock Market LLC; NASDAQ OMX PHLX; and EDGX Exchange, Inc. In Response To Commission's Order Regarding Procedures To Be Adopted In Proceedings, In re Application of SIFMA*, Admin. Proc. File No. 3-15351 (Aug. 30, 2013); *Brief of The Nasdaq Stock Market LLC; NASDAQ OMX PHLX; and EDGX Exchange, Inc. In Response To Brief of Applicant SIFMA, In re Application of SIFMA*, Admin.

Proc. File No. 3-15351 (Sept. 20, 2013); *Brief of The Nasdaq Stock Market LLC In Response To SIFMA's Opening Brief Regarding Satisfaction of Jurisdictional Requirements, In re Application of SIFMA*, Admin. Proc. File No. 3-15350 (Aug. 18, 2014).

3. Nasdaq is familiar with 17 C.F.R. § 201.420(e), which requires that “[f]ourteen days after receipt of an application for review . . . , the self-regulatory organization shall certify and file with the Commission one copy of the record upon which the action complained of was taken, and shall file with the Commission three copies of an index to such record, and shall serve upon each party one copy of the index.” This case concerns immediately-effective rule changes that Nasdaq and other exchanges filed with the Commission pursuant to the Dodd-Frank Act. There has been neither a request for, nor denial of, access within the meaning of 15 U.S.C. § 78s(d)(1). *Cf. NetCoalition v. SEC*, 715 F.3d 342, 353 (D.C. Cir. 2013) (reserving question whether allegedly “unreasonable fees constitute a denial of ‘access to services’ under section 19(d)”). Accordingly, Nasdaq has not filed a notice pursuant to 15 U.S.C. § 78s(d)(1), there is no “record before the self-regulatory organization” within the meaning of 15 U.S.C. § 78s(f), and there is no “record upon which the action complained of was taken” as contemplated by 17 C.F.R. § 201.420(e).

Nasdaq notes, however, that its rule change was published in the Federal Register and is available at <http://www.sec.gov/rules/sro/nasdaq/2014/34-73807.pdf>.

4. Finally, in paragraph 6 of its Application, SIFMA requests that the Application be held in abeyance pending a decision in the proceeding currently before an administrative law judge. *See* Admin. Proc. File No. 3-15350. Nasdaq does not object to holding this challenge in abeyance until that proceeding is resolved.

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Dated: December 19, 2014

Respectfully submitted,

A handwritten signature in blue ink that reads "Eugene Scalia" followed by a stylized flourish.

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CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2014, I caused a copy of the foregoing Notice of Appearance of The Nasdaq Stock Market LLC to be served on the parties listed below via First Class Mail. Service was accomplished on SIFMA and the Exchanges via First Class Mail because of the large service list.

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