

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53769; File No. SR-NASD-2006-041)

May 8, 2006

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Amendment No. 1 thereto, to Eliminate from The Nasdaq Stock Market Inc.'s Corporate Organizational Documents Certain Series of Preferred Stock

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 31, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On April 24, 2006, Nasdaq filed Amendment No. 1 to the proposed rule change.³ Nasdaq filed this proposal pursuant to Section 19(b)(3)(A) of the Act⁴ and Rule 19b-4(f)(3) thereunder⁵ as concerned solely with the administration of the self-regulatory organization, and, therefore, this proposal is effective immediately upon filing. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, Nasdaq made clarifying changes to the proposal and attached as Exhibit 5 to the filing a copy of the Certificate of Elimination of the Series A Cumulative Preferred Stock, Series B Preferred Stock and Series C Cumulative Preferred Stock of The Nasdaq Stock Market, Inc.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(3).

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to proposal to eliminate from Nasdaq's corporate organizational documents references to Series A Cumulative Preferred Stock, Series B Preferred Stock, and Series C Cumulative Preferred Stock, as there are no shares of any such series outstanding.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change, as amended, 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. Nasdaq 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

Nasdaq wishes to eliminate its Certificate of Designations, Preferences and Rights of Series A Cumulative Preferred Stock, its Certificate of Designations, Preferences and Rights of Series B Preferred Stock, its Certificate of Designations, Preferences and Rights of Series C Cumulative Preferred Stock, and all matters set forth therein. Nasdaq's Series A and Series B preferred stock were both created in 2002; the Series C preferred stock was created in 2004. In 2004, all outstanding shares of the Series A preferred were exchanged for the shares of Series C preferred. In 2005, the sole outstanding share of

Series B preferred was exchanged for a share of Nasdaq's Series D preferred stock.⁶ Finally, in 2006, Nasdaq acquired all outstanding shares of the Series C preferred stock. As a result, today there remains only one share of Nasdaq's preferred stock outstanding – a share of Series D preferred.

Under Delaware law, both a certificate of designations (designating a series of preferred stock) and a certificate of elimination (eliminating a previously adopted designation) are deemed to be amendments to Nasdaq's Restated Certificate of Incorporation. Therefore, Nasdaq is making this filing with the Commission. Nasdaq is not, at this time, restating its Restated Certificate of Incorporation.⁷

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,⁸ in general and with Section 15A(b)(6) of the Act,⁹ in particular. The proposal is ministerial in nature and will not affect the rights of market participants.

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

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

⁶ See Securities Exchange Act Release No. 53022 (December 23, 2005); 70 FR 77433 (December 30, 2005).

⁷ See Amendment No. 1.

⁸ 15 U.S.C. 78o-3.

⁹ 15 U.S.C. 78o-3(b)(6).

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposal, as amended, has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and subparagraph (f)(3) of Rule 19b-4 thereunder¹¹ because the proposal is concerned solely with the administration of the self-regulatory organization.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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. Please include File Number SR-NASD-2006-041 on the subject line.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(3).

Paper comments:

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

All submissions should refer to File Number SR-NASD-2006-041. 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>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, 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 inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. 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-NASD-2006-041 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Nancy M. Morris
Secretary

¹² 17 CFR 200.30-3(a)(12).