

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55924; File No. SR-NASDAQ-2007-050)

June 19, 2007

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to Modify the Minimum Shareholder Requirement for Initial Listing on the Nasdaq Global Select Market

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 May 10, 2007, The NASDAQ Stock Market LLC ('Nasdaq') filed with the Securities and Exchange Commission ('Commission') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Nasdaq. On June 19, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change.³ Nasdaq has filed this proposal pursuant to Section 19(b)(3)(A) of the Act⁴ and Rule 19b-4(f)(6) thereunder,⁵ which renders it effective upon filing with the Commission. The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

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

Nasdaq proposes to modify the minimum shareholder requirement for initial listing on the Nasdaq Global Select Market.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Partial Amendment No. 1 replaced a footnote in the original filing. See infra note 8.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 C.F.R. 240.19b-4(f)(6).

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.⁶

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4426. Nasdaq Global Select Market Listing Requirements

(a) No change.

(b) Liquidity Requirements

(1) The security must demonstrate either:

(A)–(B) No change.

(C) a minimum of 450 beneficial round lot shareholders[, in the case of:

(i) an issuer listing in connection with a court-approved reorganization under the federal bankruptcy laws or comparable foreign laws; or

(ii) an issuer that is affiliated with another company listed on the Global Select Market].

(2)–(3) No change.

(c)–(f) No change.

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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 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.

⁶ Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at www.complinet.com/nasdaq.

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

1. Purpose

Rule 4426(b) sets forth the liquidity requirements for the Nasdaq Global Select Market. Among the requirements set out in that rule is the requirement that for initial listing on the Global Select Market, a security must have either (i) 2,200 beneficial shareholders or (ii) 550 beneficial shareholders and a minimum trading volume of at least 1.1 million shares per month over the prior year. In addition, companies listing in connection with a court-approved reorganization and companies affiliated with other Global Select Market companies can list on the Global Select Market if their security has a minimum of 450 beneficial shareholders.

These requirements for the Global Select Market were adopted to be similar to, but higher than, the requirements for initial listing on the New York Stock Exchange ('NYSE'). In August 2006, the NYSE revised its listing standards to reduce the required number of round lot holders for initial listing from 2,000 to 400.⁷ The NYSE stated that it made this change based on changes in the composition of the investor population in the time since it adopted the 2,000 holder requirement, such that fewer shareholders are necessary to provide liquidity in a security.

Given the change to the NYSE requirements, Nasdaq now proposes to modify the liquidity requirement for the Global Select Market to permit a security to list if the security has a minimum of 450 beneficial round lot shareholders and satisfies the other requirements for initial listing.⁸ Nasdaq notes that this requirement remains higher than the revised NYSE requirement

⁷ See Securities Exchange Act Release No. 54350 (August 22, 2006), 71 FR 51259 (August 29, 2006) (SR-NYSE-2006-64).

⁸ In addition to the proposed criteria described above, Nasdaq would maintain the existing alternative criteria to permit listing a security that has either: (i) 2,200 beneficial shareholders; or (ii) 550 beneficial shareholders and a minimum trading volume of at least 1.1 million shares per month over the prior year. Nasdaq proposes to eliminate the

and the requirement for listing on the Nasdaq Global Market. Given Nasdaq's experience with the 400 round lot holder requirement for initial and continued listing on the Nasdaq Global Market, Nasdaq does not believe that this change would result in any adverse impact on liquidity or on investors. Further, Nasdaq notes that the revised requirements exceed the requirements set forth in Rule 3a51-1(a)(2) under the Act.⁹

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁰ in general, and with Section 6(b)(5) of the Act,¹¹ in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Nasdaq believes the proposed change would continue to maintain appropriate minimum liquidity requirements for companies seeking to list on the Nasdaq Global Select Market, while also recognizing changes in the market that allow such liquidity with fewer shareholders.

alternative requirement for companies emerging from bankruptcy or affiliated with another listed company. Thus, as proposed, all companies, including companies emerging from bankruptcy and companies affiliated with another listed company, would be required to meet one of the three alternative standards.

⁹ 17 CFR 240.3a51-1(a)(2) (excluding from the term "penny stock" certain securities).

¹⁰ 15 U.S.C. 78f.

¹¹ 15 U.S.C. 78f(b)(5).

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

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

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

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) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)¹⁴ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Nasdaq has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Specifically, the Commission believes that the proposal would allow Nasdaq to have similar holder requirements as other

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

exchanges and the Nasdaq Global Market.¹⁵ Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁶

At any time within 60 days of the filing of the amended proposed rule change, the Commission may summarily abrogate such proposed 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.¹⁷

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. Please include File Number SR-NASDAQ-2007-050 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2007-050. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

¹⁵ See note 7 *supra* and accompanying text.

¹⁶ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁷ 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on June 19, 2007, the date on which Nasdaq submitted Amendment No. 1.

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 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-NASDAQ-2007-050 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.¹⁸

Florence E. Harmon
Deputy Secretary

¹⁸ 17 CFR 200.30-3(a)(12).