

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56294; File No. SR-NASDAQ-2007-024)

August 21, 2007

Self-Regulatory Organization; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change and Amendment No. 1 Thereto to Provide Additional Transparency to How Nasdaq Applies Its Public Interest Authority

On March 16, 2007, The NASDAQ Stock Market LLC (“Nasdaq”) 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 clarify how Nasdaq applies its public interest authority. On June 26, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on July 17, 2007.³ The Commission received no comments regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁵ which requires that the rules of the an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national securities system, and, in general, to protect investors and the public interest.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56044 (July 11, 2007), 72 FR 39108.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

Nasdaq IM-4300 states that Nasdaq may use its authority under Nasdaq Rule 4300 to deny initial or continued listing when an individual with a history of regulatory misconduct is associated with an issuer. Nasdaq proposes to amend Nasdaq IM-4300 to provide additional transparency to how Nasdaq may use this authority pursuant to Nasdaq Rule 4300. Specifically, Nasdaq proposes to provide additional guidance to issuers by clarifying existing factors in Nasdaq IM-4300 that it will consider in applying such authority. Nasdaq also proposes to add new language highlighting Nasdaq staff's willingness to discuss remedial measures with issuers. The Commission believes that this proposal is reasonably designed to enhance the transparency and integrity of the Nasdaq's initial or continued listing denial process.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-NASDAQ-2007-024), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Florence E. Harmon
Deputy Secretary

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).