

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-67997; File No. SR-NASDAQ-2012-112)

October 5, 2012

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Inbound Routing from an Affiliated Exchange

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on September 28, 2012, The NASDAQ Stock Market LLC (the “NASDAQ” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to continue to accept inbound orders routed by Nasdaq Execution Services LLC (“NES”) from both the NASDAQ OMX PSX facility (“PSX”) of NASDAQ OMX PHLX LLC (“PHLX”) as well as from the NASDAQ OMX BX Equities Market of NASDAQ OMX BX, Inc. (“BX”), as described further below, for an additional six month period. The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com>, at the Exchange’s principal office, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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

Currently, NES is the approved outbound routing facility of BX and PSX, providing outbound routing to other market centers.<sup>3</sup> The Exchange, BX and PSX have previously adopted rules to permit NASDAQ to receive inbound routes of certain orders by NES in its capacity as an order routing facility of BX and PSX.<sup>4</sup> The Exchange specifically has adopted a rule to prevent potential informational advantages resulting from the affiliation between NASDAQ and NES, as related to NES's authority to route certain orders from BX and PSX to NASDAQ.<sup>5</sup> NES's authority to route these orders to NASDAQ is subject to a pilot period ending October 6, 2012.<sup>6</sup> The Exchange hereby seeks to extend the previously approved pilot period (with the attendant obligations and conditions) for an additional six months, through March 30, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of

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<sup>3</sup> BX Rule 4758(b) and PHLX Rule 3315(b).

<sup>4</sup> See Securities Exchange Act Release Nos. 65554 (October 13, 2011), 76 FR 65311 (October 20, 2011) (SR-NASDAQ-2011-142); 65470 (October 3, 2011), 76 FR 62489 (October 7, 2011) (SR-BX-2011-048); and 65469 (October 3, 2011), 76 FR 62486 (October 7, 2011) (SR-Phlx-2011-108).

<sup>5</sup> See NASDAQ Rule 2160(c).

<sup>6</sup> See Securities Exchange Act Release No. 65554 (October 13, 2011), 76 FR 65311 (October 20, 2011) (SR-NASDAQ-2011-142).

Section 6 of the Act,<sup>7</sup> in general, and with Sections 6(b)(5) of the Act,<sup>8</sup> 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.

Specifically, the proposed rule change will allow NASDAQ to continue to receive inbound routes of equities orders from NES, acting in its capacity as a facility of PHLX or BX, in a manner consistent with prior approvals and established protections. The Exchange believes that extending the previously approved pilot period for six months is a sufficient length of time to permit both the Exchange and the Commission to assess the impact of the Exchange's authority to permit it to receive inbound routes of certain orders via NES (including the attendant obligations and conditions).

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

The Exchange 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.

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<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

The Exchange 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 because such waiver would allow the pilot period to be extended without undue delay through March 30, 2013.<sup>11</sup> Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.<sup>12</sup>

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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>11</sup> See SR-NASDAQ-2012-112, Item 7.

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2012-112 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2012-112. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the 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-2012-112 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Kevin M. O'Neill  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).