

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69631; File No. SR-NASDAQ-2013-078)

May 23, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a New Routing Option, MOPB, under Rule 4758(a)(1)(A)

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 15, 2013, The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II and III 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

NASDAQ proposes to adopt a new routing option, MOPB, under Rule 4758(a)(1)(A). NASDAQ plans to offer the proposed routing option on June 3, 2013. Proposed deletions are in brackets; new language is underlined.

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4758. Order Routing
(a) Order Routing Process

(1) The Order Routing Process shall be available to Participants from 4:00 a.m. until 8:00 p.m. Eastern Time, and shall route orders as described below. All routing of orders shall comply with Rule 611 of Regulation NMS under the Exchange Act.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(A) The System provides a variety of routing options. Routing options may be combined with all available order types and times-in-force, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option. The System will consider the quotations only of accessible markets. The term “System routing table” refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. Nasdaq reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. The System routing options are:

(i) – (xiii) No change.

(xiv) MOPB is a routing option under which orders route only to Protected Quotations and only for displayed size. If shares remain unexecuted after routing, they will be immediately cancelled. The entire MOPB order will be cancelled immediately if, at the time of entry, there is an insufficient share quantity in the MOPB order to fulfill the displayed size of all Protected Quotations.

Orders that do not check the System for available shares prior to routing may not be sent to a facility of an exchange that is an affiliate of Nasdaq, except for orders that are sent to the NASDAQ OMX BX Equities Market or to the NASDAQ OMX PSX facility of NASDAQ OMX PHLX.

(B) No change.

(b) – (d) 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 those 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 parts of such statements.

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

1. Purpose

NASDAQ is amending Rule 4758, which describes its order routing processes, to add the new MOPB routing option. The proposed MOPB routing option is very similar to the MOPP routing option, in that both order types require the member firm to enter the size and limit price of the order, which then routes only to protected quotations ("Protected Quotes"),³ including the NASDAQ Market Center, but only for displayed size. Unlike MOPP orders, the MOPB orders will not route if, at the time of entry, the MOPB order's quantity is insufficient to clear the entire size of Protected Quotes, which are better than or equal to the order's limit price. In such a case, a MOPB order will instead cancel back immediately thus avoiding any execution. Also unlike MOPP orders, if shares of a MOPB order remain un-executed after routing they will be immediately cancelled back to the member rather than posting to the NASDAQ book.

Member firms often use the MOPP routing option to sweep all Protected Quotes, and then print an internalized crossed execution to the FINRA/NASDAQ Trade Reporting Facility, which occurs subsequent to the execution of the MOPP order and that would otherwise, but for

³ As defined by Rule 600(b)(58) of Regulation NMS.

the execution of the MOPP order, violate Rule 611 of Regulation NMS. Such member firms will enter the size of the MOPP order based on their perception of what the current size of the protected quote is on each of the markets. In some cases member firms may have incorrect information, which would result in an order that is not of sufficient size to sweep all Protected Quotes and would lead to a trade through violation⁴ pursuant to Regulation NMS if the internal cross occurs. The MOPB routing option is designed to cancel any order that does not meet the size necessary to sweep the Protected Quotes on the various markets, thus allowing the member firm to avoid the trade through violation of an internally-crossed trade and reenter a MOPB order with adequate Protected Quote size information. Accordingly, the MOPB routing option provides member firms with an additional check to avoid a trade through violation of Regulation NMS.

NASDAQ notes that the proposed MOPB routing option is very similar to the SWPB routing option of the EDGX Exchange, Inc.⁵ The SWPB routing option checks the market's order book and then is sent to Protected Quotations, only for displayed size. Like the proposed MOPB, an SWPB order must be of sufficient size to execute against all Protected Quotations or the entire SWPB order will be immediately cancelled back to the member firm.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,⁶ 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

⁴ Rule 611 of Regulation NMS.

⁵ See EDGX Rule 11.9(b)(2)(p); see also Securities Exchange Act Release No. 63779 (January 26, 2011), 76 FR 5636 (February 1, 2011) (SR-EDGX-2011-01).

⁶ 15 U.S.C. 78f(b)(5).

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. The proposed rule change to introduce the MOPB routing option will provide market participants with a useful order type that will help member firms avoid inadvertent violation of Rule 611 of Regulation NMS in an internally-crossed trade by cancelling an order that, although intended to fully sweep Protected Quotes, will not do so. As noted, the proposed routing option is very similar to the SWPB routing option of the EDGX Exchange, Inc., and therefore raises no novel issues.

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. The proposed change is designed to provide a new routing option that will serve as an additional safeguard to prevent the execution of an internally-crossed order that would violate Rule 611 of Regulation NMS. As such, NASDAQ does not believe the proposed change will have any impact whatsoever on competition, but does believe that it is entirely appropriate in furtherance of the purposes of the Act.

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) 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)(ii) of the Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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-2013-078 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-2013-078. This file number should be included on the subject line if e-mail is used.

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240.19b-4(f)(6).

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 such filing also will be available for inspection and copying at the principal offices of NASDAQ. 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-2013-078, 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.⁹

Kevin M. O'Neill
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).