

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-67721; File No. SR-NASDAQ-2012-097)

August 23, 2012

Self-Regulatory Organizations; NASDAQ Stock Market, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Membership in The NASDAQ Stock Market LLC

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on August 21, 2012. The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") 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 the NASDAQ. 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 NASDAQ Stock Market LLC proposes to amend NASDAQ Rule 1013, titled "New Member Application" to provide that an applicant that is approved by NASDAQ OMX BX, Inc. ("BX") shall have the option to apply to become a NASDAQ member through an expedited process.

The text of the proposed rule change is available on the Exchange's website at <http://www.nasdaq.cchwallstreet.com>, at <http://www.sec.gov>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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. 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

The Exchange desires to streamline the process of becoming a NASDAQ member for current BX members. Today, Rule 1013 permits applicants that are an approved Financial Industry Regulatory Authority (“FINRA”) member to have the option to apply to become a NASDAQ member and to register with NASDAQ all associated persons of the firm whose registrations with the firm are approved by FINRA in categories recognized by NASDAQ Rules through an expedited process by submitting a Waive-In Membership Application Form and a NASDAQ Membership Agreement. The Exchange proposes to also permit a current BX member to have the same options as a FINRA member in applying to NASDAQ for membership.

The membership application rules of NASDAQ and BX are substantially similar to each other as are the rules of FINRA with both NASDAQ and BX Rules. BX Rule 1013(a)(5) provides that an approved member of FINRA or NASDAQ may apply to become a BX member and register with the Exchange all associated persons whose registrations are approved with FINRA or NASDAQ (as applicable) in categories of registration recognized by the Exchange

through an expedited process by submitting a Short Form Membership Application and Agreement.<sup>3</sup>

The process by which an applicant may register and become a member of NASDAQ, FINRA or BX is substantially similar. The Exchange requests the same information from applicants applying to be members of NASDAQ or BX.<sup>4</sup> The steps and procedures undertaken by Exchange staff of NASDAQ and BX, pursuant to membership rules, are the same for reviewing new member applications.<sup>5</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>7</sup> in particular, in that it is 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 market system, and, in general to protect investors and the public interest, by streamlining the process by which applicants may apply to

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<sup>3</sup> See Securities Exchange Act Release No. 58927 (November 10, 2008), 73 FR 69685 (November 19, 2008) (SR-BSE-2008-48). See also BX Rule 1013(a)(5).

<sup>4</sup> See NASDAQ Rule 1013 and BX Rule 1013. See Securities Exchange Act Release No. 58927 (November 10, 2008), 73 FR 69685 (November 19, 2008) (SR-BSE-2008-48). See also BX Rule 1013(a)(5). BX Rule 1013 (a)(5)(C) [sic] today provides that a FINRA or NASDAQ member shall have the option to apply to become a member of the Exchange and to register with the Exchange all associated persons of the firm whose registrations with the firm are approved with FINRA or NASDAQ in categories recognized by the Rules of the Exchange through an expedited process by submitting a Short Form Membership Application Form and a Membership Agreement. The Short Form Membership Application Form shall contain information sufficient to establish the identity of the applicant as an approved FINRA or NASDAQ member, its proposed activity on the Exchange, and certain contact personnel, and shall be available on a website maintained by the Exchange. The proposal would create a similar rule for NASDAQ to provide BX members the same reciprocity that the BX rule provides today.

<sup>5</sup> See NASDAQ Rules 1013 and 1014 and BX Rules 1013 and 1014.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

become a member of NASDAQ. Today, an applicant seeking membership at BX has the option of applying through an expedited process if that applicant is a NASDAQ member. The Exchange believes that same reciprocity should be granted to BX members desiring to become NASDAQ members. The rules and process are substantially similar with nearly identical rules for each market. The Exchange believes that permitting an expedited review similar to the process which exists today for FINRA members would allow BX members to forego unnecessary paperwork that was already obtained at the time they applied to become a BX member.

Additionally, Exchange staff expends considerable time in reviewing applications. The Exchange believes that the streamlined process would not only avoid duplicative processes for BX members, but also assist Exchange staff in conserving resources by focusing on the pertinent information that would be required by a BX member seeking membership at NASDAQ rather than obtaining paperwork that was already provided at the time the BX member applied for membership with BX.

While the Exchange is streamlining the process to create a more efficient review of applications and more appropriately allocate resources, the Exchange will continue to review member applications to ensure that all applications comply with its Rules. BX members have a continuing obligation to comply with Exchange Rules, which are substantially similar to those of NASDAQ. FINRA would initially review the application for membership on NASDAQ's behalf for compliance with those rules and there would also be a requirement for continued compliance as exists for BX today. The Exchange would continue to ensure that all applicants comply with Exchange rules despite a shortened form of application. The Exchange also believes that its proposal will not have a negative impact on the protection of investors or the public interest

because the Exchange will continue to review member applications to ensure that all applications comply with its Rules.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or 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

No written comments were either solicited or 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6)<sup>9</sup> thereunder.

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.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

#### 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 No. SR-NASDAQ-2012-097 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 No. SR-NASDAQ-2012-097. 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 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 office 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 No. SR-NASDAQ-2012-097 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>10</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).