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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67738; File No. SR-NASDAQ-2012-100)

August 28, 2012

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Direct Registration Requirements under Rule 5210(c)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on August 24, 2012, The NASDAQ Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I and II below, which items have been prepared primarily by Nasdaq. Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder so that the proposed rule change was effective upon filing with the Commission.² The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

Nasdaq proposes to modify Rule 5210(c) related to the Direct Registration System (“DRS”) to reconcile a discrepancy between the initial and continued listing requirements. Nasdaq will implement the proposed change immediately. The text of the proposed rule change is available on Nasdaq’s website at <http://www.nasdaq.cchwallstreet.com>, at <http://www.sec.gov>, at the principal office of Nasdaq, 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b-4(f)(6).

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 these statements.³

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

(1) Purpose

Nasdaq proposes to modify Rule 5210(c) related to DRS to reconcile a discrepancy between the initial and continued listing requirements. As currently drafted, Rule 5210(c) provides that the DRS requirement does not apply to additional classes of securities of companies which already have securities listed on Nasdaq and companies which immediately prior to such listing had securities listed on another registered securities exchange in the U.S.

This language is now outdated. Specifically, when Nasdaq introduced the DRS, it applied the rule to most new listings, but created a phase-in period for already listed companies, including companies listing additional classes of securities and companies switching from other exchanges.⁴ This phase-in period has now ended⁵ and all listed companies are required by Rule 5255 to comply with the DRS requirement, however, the language allowing an exemption from the DRS initial listing requirement for these companies remains in Rule 5210(c). Thus, as

³ The Commission has modified the text of the summaries prepared by Nasdaq.

⁴ Securities Exchange Act Release No. 54288 (August 8, 2006), 71 FR 47276 (August 16, 2006) (Order Granting Approval of SR-NASDAQ-2006-008).

⁵ The phase in period ended on March 31, 2008. See Securities Exchange Act Release No. 57062 (December 28, 2007), 73 FR 900 (January 4, 2008) (Order Granting Approval of SR-NASDAQ-2007-101).

currently written, a company could qualify to list on Nasdaq pursuant to one of these exceptions in Rule 5210(c), but immediately be out of compliance with the continued listing requirements in Rule 5255. The purpose of the proposed rule change is to remove these exceptions from the initial listing requirement, and thereby clarify and conform to these rules.

Additionally, the proposed rule change corrects a second inconsistency between the initial listings rules and continued listings rules regarding securities which are book-entry-only. The continued listing requirement in Rule 5255 excludes securities that are book-entry-only because ownership of such securities is already recorded only on the books and records of the company and is not held in certificated form. As such, these securities already enjoy many of the advantages that DRS is designed to promote. The comparable exception in the initial listing requirement contained in Rule 5210(c), however, only excludes “non-equity securities that are book-entry-only.” While similar language previously existed limiting the exception from the continued listing requirement to non-equity securities, Nasdaq expanded that exception to include all securities that are book-entry-only.⁶ As with the other correction herein, this creates an inconsistency between the initial and continued listings requirements. Nasdaq now proposes to expand the exception in Rule 5210(c) relating to initial listings to exclude all securities that are book-entry-only to clarify and conform these rules. If a security ceases to be book-entry-only, that security would then be required to be eligible to participate in DRS.

(2) Statutory Basis

⁶ See Securities Exchange Act Release No. 58125 (July 9, 2008), 73 FR 42389 (July 21, 2008) (Order Granting Approval of SR-NASDAQ-2008-31).

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁷ in general, and with section 6(b)(5) of the Act,⁸ 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 in 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. The proposed rule change will remove inconsistent rule language, thereby clarifying Nasdaq's rules, and help assure that the benefits of DRS are available for securities that do not otherwise enjoy those benefits, which should in turn help promote the public interest.

(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 purposed 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 relating to the proposed rule change have not been solicited Nasdaq. Nasdaq will notify the Commission of any written comments received by Nasdaq.

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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(6) of Rule 19b-4 thereunder, in that the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any

⁷ 15 U.S.C 78f.

⁸ 15 U.S.C 78f(b)(5).

significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. On August 10, 2012, Nasdaq gave the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change.

Nasdaq believes that the proposed rule change does not significantly affect the protection of investors or the public interest because it conforms the initial listing standard contained in Rule 5210 to the existing continued listing standard contained in Rule 5255 by eliminating exceptions to the rule that are no longer applicable and providing that the rule is not applicable to any security which is book-entry only, since such securities already enjoy the benefits of a direct registration program.

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. Nasdaq has provided the Commission of its 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.

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-2012-100 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 submission should refer to File Number SR-NASDAQ-2012-100. 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 Section, 100 F Street, N.E., Washington, D.C. 20549-1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of Nasdaq and on Nasdaq's website at <http://www.nasdaq.cchwallstreet.com>.

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-2012-100 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

[FR Doc. 2012-21677 Filed 08/31/2012 at 8:45 am; Publication Date: 09/04/2012]

⁹ 17 CFR 200.30-3(a)(12).