



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68528; File No. SR-NASDAQ-2012-140)

December 21, 2012

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Retire the Automated Quote Management Functionality Described Under Rules 4613(a)(2)(F) and (G), and Make Conforming Changes to Rule 4751(f)(15)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 17, 2012, The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 retire the automated quote management functionality described under Rules 4613(a)(2)(F) and (G) on January 16, 2013, and make conforming changes to Rule 4751(f)(15). The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com>, at NASDAQ’s principal office, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 2, 2012, the Commission approved the Exchange's new Market Maker Peg Order, which was designed to replace the automated quotation refresh functionality ("AQR") provided to Exchange market makers under Rules 4613(a)(2)(F) and (G).⁵ The Exchange committed to sunset AQR three months after fully implementing the Market Maker Peg Order.⁶ On October 15, 2012, the Exchange completed the implementation of the Market Maker Peg Order and, accordingly, is proposing to delete the text under Rule 4613(a)(2)(F) and (G) from the NASDAQ rulebook, effective January 16, 2013, thereby retiring AQR.⁷

The Exchange is also proposing to amend Rule 4751(f)(15) to include language from Rule 4613(a)(2)(F), which is currently referenced only by citation in the rule. The proposed

⁵ Securities Exchange Act Release No. 67584 (August 2, 2012), 77 FR 47472 (August 8, 2012) (SR-NASDAQ-2012-066).

⁶ Id. at 47473 n 4.

⁷ On October 9, 2012, NASDAQ announced that the Market Maker Peg Order was available and that it would retire AQR by the end of 2012. See Equity Technical Update # 2012-31 (<http://www.nasdaqtrader.com/TraderNews.aspx?id=ETU2012-31>). Because the Market Maker Peg Order was not made available to QIX protocol users until October 15, 2012 and therefore not fully implemented, NASDAQ is retiring AQR effective January 16, 2013, three months from the full implementation of the Market Maker Peg Order.

language taken from Rule 4613(a)(2)(F) merely provides the percentage move necessary to trigger a repricing of a Market Maker Peg Order, and in no way changes how the Market Maker Peg Order operates.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,⁸ which requires the rules of an exchange 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. The Exchange believes that the proposed rule meets these requirements in that it eliminates a duplicative function, AQR, which has been replaced with a new order type that allows member firms to better meet their minimum market maker quotation requirements and also comply with the regulatory requirements of the Market Access Rule and Regulation SHO. In seeking approval of the Market Maker Peg Order,⁹ the Exchange committed to retiring AQR at the conclusion of a three-month transition period and this proposed change merely effectuates that change.

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 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.

⁸ 15 U.S.C. 78f(b)(5).

⁹ See, supra note 7.

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 Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6)¹¹ thereunder.

At any time within 60 days of the filing of such 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.

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-2012-140 on the subject line.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 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.

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-2012-140. 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 such 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-2012-140 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.¹²

Kevin M. O'Neill
Deputy Secretary

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¹² 17 C.F.R. 200.30-3(a)(12).