



8011-01P

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84214; File No. SR-NASDAQ-2018-072)

September 19, 2018

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Conform the Exchange's By-Law Provisions Regarding the Chief Regulatory Officer to Those of Its Affiliate, Nasdaq PHLX LLC

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 September 6, 2018, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 a proposal [sic] to conform the Exchange's By-Law provisions regarding the Chief Regulatory Officer to those of its affiliate, Nasdaq PHLX LLC ("Phlx").

The text of the proposed rule change is available on the Exchange's Website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, 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

¹ 15 U.S.C. 78s(b)(1).

² 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

The Exchange proposes to amend its By-Laws at Article IV, Section 7 to conform its provisions regarding the Exchange's Chief Regulatory Officer ("CRO") to those of its affiliate, Nasdaq PHLX LLC ("Phlx").³ By-Law Article IV, Section 7 presently requires that an officer of the Exchange⁴ with the position of Executive Vice President or Senior Vice President be designated as the CRO of the Exchange. The Exchange now proposes to remove the requirement that the CRO be an Executive Vice President or Senior Vice President of the Exchange. The Exchange believes that this requirement is unnecessary and notes that there may be officers of the Exchange who are well qualified to serve in the CRO role, but who may not hold the position of an Executive Vice President or Senior Vice President.⁵ The Exchange does not seek to amend any of the current responsibilities of the CRO as set forth in Section 7;⁶ rather, the proposed changes are intended to give the Exchange more flexibility to attract and retain well qualified

³ See Phlx By-Law Article IV, Section 4-7 (Chief Regulatory Officer).

⁴ In Exhibit 5, the references to "Company" mean the Exchange.

⁵ The Exchange notes that Phlx's CRO currently holds the position of Vice President.

⁶ The CRO's responsibilities include general supervision of the regulatory operations of the Exchange, including responsibility for overseeing the Exchange's surveillance, examination, and enforcement functions and for administering any regulatory services agreements with another SRO to which the Exchange is a party. In addition, the CRO shall meet with the Regulatory Oversight Committee of the Exchange in executive session at regularly scheduled meetings of such committee, and at any time upon request of the CRO or any member of the Regulatory Oversight Committee. Unlike Phlx, the Exchange's By-Laws provide that the CRO may also serve as the General Counsel of the Exchange. See By-Law Article IV, Section 7.

officers to the role of CRO that are not designated as an Executive Vice President or Senior Vice President of the Exchange. As noted above, the Exchange desires to conform the requirements to become CRO in its By-Laws to those in the By-Laws of Phlx, which do not contain a similar restriction in Article IV, Section 4-7 of its By-Laws that its CRO be an Executive Vice President or Senior Vice President of Phlx.⁷

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(1) of the Act,⁹ in particular, in that it enables the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this proposal furthers the objectives of Section 6(b)(5) of the Act,¹⁰ 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. The proposed changes will remove the requirement currently in Article IV, Section 7 of the Exchange's By-Laws that the CRO be an Executive Vice President or Senior Vice President of the Exchange. As discussed above, the current responsibilities of the CRO as provided in Article IV, Section 7 remain unchanged under this proposal, and the CRO will continue to have general oversight of the regulatory operations of the Exchange and be obligated to meet regularly with the Regulatory

⁷ See note 5 above.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(1).

¹⁰ 15 U.S.C. 78f(b)(5).

Oversight Committee. The proposed rule change is intended to provide the Exchange with greater flexibility to attract and retain capable individuals who are well qualified to serve in the CRO role. In addition, the proposed amendments will have the additional benefit of bringing the Exchange's requirements on the CRO role into greater conformity with those of its affiliate, Phlx, thereby creating equivalent standards among the affiliated exchanges owned by Nasdaq, Inc. ("HoldCo").¹¹ As such, the Exchange believes that its proposal will bring greater consistency to its rules, which is beneficial to both investors and the public interest.

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. The proposed rule change does not address competitive issues but relates to the administration and functioning of the Exchange by allowing the Exchange greater flexibility in attracting and retaining well qualified officers to the role of CRO that are not designated as an Executive Vice President or Senior Vice President.

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 from the date on which it was filed, or such shorter time

¹¹ Nasdaq BX, Inc. ("BX"), Nasdaq ISE, LLC ("ISE"), Nasdaq GEMX, LLC ("GEMX"), and Nasdaq MRX, LLC ("MRX") will file similar proposals to conform their By-Laws with Phlx's By-Laws. ISE, GEMX, MRX, NSM, BX, and Phlx will hereinafter be referred to collectively as "Affiliated Exchanges."

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and subparagraph (f)(6) of Rule 19b-4 thereunder.¹³

A proposed rule change filed under Rule 19b-4(f)(6)¹⁴ normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)¹⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Exchange notes that waiver of the operative delay will allow it to amend its By-Laws by September 26, 2018. The Exchange states that the boards of the Affiliated Exchanges will collectively meet on that date to address, among other matters, certain annual corporate “housekeeping items,” which the Exchange states has historically included Exchange officer appointments. As such, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.¹⁶

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give 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, 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.

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

¹⁶ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-2018-072 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NASDAQ-2018-072. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2018-072 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.¹⁷

Brent J. Fields
Secretary

¹⁷ 17 CFR 200.30-3(a)(12).

