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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66699; File No. SR-NASDAQ-2012-041)

March 30, 2012

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Non-Display of Primary Pegged Orders with an Offset Amount

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 March 23, 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 Exchange. The Exchange has designated the proposed rule change as constituting a rule change under Rule 19b-4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. 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 provide that Primary Pegged Orders with an offset amount will never be displayed. 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.

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 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, 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

NASDAQ proposes to amend Rule 4751(f)(4) to provide that Primary Pegged Orders with an offset amount will be non-displayed, a change that will improve system and inter-market price stability. Pegged Orders are orders that, once entered, adjust in price automatically, in response to changes in the inside bids or offers of the Nasdaq Market Center or the national market system, depending upon the type of Pegged Order. A Primary Pegged Order specifies that its price will equal the inside quote on the same side of the market; a Market Pegged Order will equal the inside quote on the opposite side of the market. A Midpoint Peg Order will equal the midpoint of the national best bid and offer ("NBBO"), excluding the effect that the Midpoint Peg Order itself has on the inside bid or inside offer. As the bids and offers change, so move the Pegged Orders. A Pegged Order may have a limit price beyond which the order shall not be executed. Primary Peg and Market Peg Orders may establish their pricing relative to the appropriate bids or offers by selecting one or more offset amounts that will adjust the price of the order by the offset amount selected.

Under the Exchange's current rule, Midpoint Pegged Orders are not displayed, while Primary and Market Pegged Orders may be displayed or not displayed, at the option of the

person placing the order. The display of Primary Pegs with an offset amount can potentially result in excessive messaging when multiple venues display Pegged non-marketable Orders. In these scenarios, it is possible for the Primary Pegged Orders on each venue to react to and change in relation to each other, resulting in excessive messaging and "quote flickering". A rule change to eliminate display of Primary Pegged Orders with an offset amount will prevent this feedback loop, adding to system stability and improving market quality.

Market participants retain the ability to display orders through other order options available under the Exchange rules, including by using Primary Pegged Orders without an offset amount or Market Pegged Orders. Because Primary Pegged Orders without an offset amount are priced at the inside quote, they do not present the same messaging problem. Rapid updates to displayed Primary Pegged Orders may still occur, but are more likely to be the result of rapid trading. Market Pegged Orders, in contrast to Primary Pegs with an offset amount, are typically priced to execute and rarely post, and thus also do not present the excessive messaging problem.

The Commission approved the non-display of Pegged Orders when it approved the application of BATS Exchange, Inc. ("BATS"), for registration as a national securities exchange and found BATS' proposed rules consistent with Section 6 of the Act.[4] BATS Rule 11.9(c)(8) provides that Pegged Orders "are not displayed on the Exchange."[5]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and

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4 See Securities Exchange Act Release No. 58375 (August 18, 2008) 73 FR 49498 (August 21, 2008) (File No. 10-182); see also Securities Exchange Act Release No. 57322 (February 13, 2008), 73 FR 9370 (February 20, 2008) (File No. 10-182).

5 BATS Rule 11.9(c)(8).

6 15 U.S.C. 78f(b).

furthers the objectives of Section 6(b)(5),[7] in particular, in that it 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Non-display of Primary Pegged Orders with an offset amount will minimize excess messaging that distracts from, rather than improves transparency and stability. Market participants can elect to display orders by using other available order types. The Exchange believes that the proposed change to Rule 4751(f)(4) meets the requirements of Section 6(b)(5) of the Act[8] in that it will improve the stability, quality and transparency of the national market system.

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

NASDAQ does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the Exchange believes that providing for non-display of Primary Pegged Orders will not burden competition since at least one other exchange currently offers the same attribute for pegged orders.

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.

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7 15 U.S.C. 78f(b)(5).

8 Id.

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[9] and Rule 19b-4(f)(6)[10] 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 significant burden on competition; and (iii) by its terms, 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. NASDAQ believes that the proposed rule change does not significantly affect the protection of investors or the public interest because it adopts a provision that is already in effect on another market; will operate to minimize excessive messaging and therefore maximize system and inter-market stability; and is an order type that participants may elect to use but are not mandated to use.

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:

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9 15 U.S.C. 78s(b)(3)(A).

10 17 CFR 240.19b-4(f)(6).

- 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-2012-041 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-2012-041. 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; 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-2012-041 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.[11]

Kevin M. O'Neill
Deputy Secretary

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[11] 17 CFR 200.30-3(a)(12).