This document is scheduled to be published in the
Federal Register on 04/10/2019 and available online at
https://federalregister.gov/d/2019-07050, and on **govinfo.gov**

8011-01
SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-85513; File No. SR-NASDAQ-2019-022]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend and Restate the Exchange's Membership Rules

April 4, 2019

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 27, 2019, 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 amend and restate the Exchange's membership rules, as discussed below.

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 proposed rule change. The text of these statements may be examined at the places specified in

---

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

2 17 CFR 240.19b-4.

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 has adopted Rules, as set forth in the Rule 1000 Series, which prescribe the qualifications for and the procedures for applying for membership on the Exchange. The Exchange now proposes to update, reorganize and clarify these Rules, as described below.

As a general matter, the proposal makes several categories of changes to the Exchange's membership rules. First, the proposal reorganizes the rules so that they are arranged in a more logical order. Second, the proposal removes duplicative provisions, eliminates unnecessary complexity in the membership process, and otherwise streamlines the membership rules and their associated procedures. Third, the proposal relaxes needlessly rigid deadlines that the rules prescribe for taking certain actions with respect to membership applications. Fourth and finally, the proposal makes technical corrections and updates to the Rules, including by updating obsolete references to the National Association of Securities Dealers ("NASD," now known as "FINRA"), correcting the capitalization of defined terms (e.g., "Member"), and generalizing references to the Exchange so as to facilitate harmonization of the Exchange's membership rules with those of its sister exchanges.

The Exchange does not believe that any of the proposed changes will adversely impact the existing rights of prospective or existing Members or Associated Persons. Likewise, the Exchange does not believe that the proposed changes will compromise the ability of the Exchange or its Membership Department to scrutinize prospective or existing Members or Associated Persons.

A summary of specific proposed changes follows.

Rule 1002

The proposal amends Rule 1002 in several respects. First, it deletes existing paragraph (c), which pertains to the payment by Members and Associated Persons of dues, fees, assessments and other charges, because the requirement of Members and Associated Persons to make such payments is set forth elsewhere in the Rules, such that existing paragraph (c) is unnecessary.[3] The Exchange also proposes to move existing paragraph (d), which governs the reinstatement of membership and registration, to a new Rule 1018 that will consolidate all provisions of the Rules relating to transfer, resignation, termination, and reinstatement of membership. Additionally, the Exchange proposes to consolidate and move to this Rule, as newly-renumbered paragraph (d), largely duplicative provisions relating to the registration of branch offices and the designation of offices of supervisory jurisdiction, which presently reside in Rule 1012(j) and IM-1002-4, respectively.[4] Within the new paragraph (d), the Exchange proposes to delete language from existing Rule 1012(j)(1) that requires a Member to pay dues, fees, and charges associated with a branch office – as that provision is superfluous for reasons discussed above. Under renumbered paragraph (d)(3)(A), the Exchange also proposes to simplify the existing rules for determining compliance with branch office registration and supervisory office designation requirements. Whereas the existing processes – as set forth in

---

3 See Rule 9553.

4 In proposed subparagraph (d)(3)(B), the Exchange proposes to clarify the existing rule text in Rule 1012(j) and IM-1002-4, which provide that Members that are not FINRA members shall designate offices of supervisory jurisdiction and branch offices by submitting to the Exchange a "written filing" to the Exchange "in such form as [the Exchange] may prescribe." The proposed change clarifies that this written filing is the "Branch Office Disclosure Form." The Branch Office Disclosure Form is presently in use for this purpose and it is not a new form. Nevertheless, the Exchange believes that it will be helpful in the Rule to identify the specific form that must be filed rather than refer vaguely to a filing in such form as the Exchange may prescribe.

Rule 1012(j) and IM-1002-4 – provide that Exchange Members that are also FINRA members are deemed to comply with the branch office and designated supervisory office requirements to the extent that they comply with NASD-1000-4 and Article IV, Section 8 of the NASD's By-Laws, the proposal provides that such Exchange Members are deemed to comply to the extent that they keep current Form BR, which contains the requisite information and which is accessible electronically to the Exchange. Members that are not FINRA members shall continue to submit to the Exchange a Branch Office Disclosure Form, as they have done previously.[5] Lastly, the Exchange proposes to move IM-1002-1, which prohibits a Member or an Associated Person from filing with the Exchange misleading information in connection with membership or registration, and requires misleading information to be corrected, to proposed amended Rule 1012 (General Application Provisions), where the Exchange believes it more logically fits.[6]

Rule 1011

In Rule 1011, which includes definitions for the Rule 1000 Series, the Exchange proposes to revise the defined term "Investment banking or securities business" to eliminate the reference to "investment banking" because the Exchange does not accept applications from firms that are engaged in the investment banking business but are not otherwise brokers or dealers in securities. The Exchange believes that references to the investment banking business in this provision and elsewhere in the Exchange's membership rules are unintended errors.

---

5 The existing Rule states that Members that are not FINRA members shall designate offices of supervisory jurisdiction and branch offices by submitting to the Exchange "a written filing in such form as [the Exchange] may prescribe." The form that the Exchange presently prescribes for this purpose is the Branch Office Disclosure Form. To improve clarity, the Exchange proposes to identify this form by name in the Rule. The Exchange proposes no substantive changes to this Form.

6 The Exchange also amends the definition of a "Proprietary Trading Firm" in paragraph (o) to make clear that such entities may be both Applicants and Members of the Exchange for purposes of the Rules.

In Rule 1011(g), the Exchange also proposes to delete the defined term "material change in business operations" and, as discussed below, to incorporate it into Rule 1017(a)(5), which is the only context in which it applies.

Rule 1012

The Exchange proposes to revise Rule 1012, which is presently entitled "General Provisions," in several ways. Principally, the Exchange proposes to limit the scope of this Rule to include only general provisions relating to applications, and it proposes to amend the title of the Rule to reflect that narrowed scope ("General Application Provisions"). It also proposes to remove several existing provisions that are outside of this scope, including existing paragraphs (b) (lapses in applications), (c) (ex parte communications), (d) (recusals and disqualifications from membership appeal proceedings), (g) (resignation of Exchange Members), (i) (transfer and termination of Exchange membership), and (j) (registration of branch offices). As is discussed in further detail below, the Exchange proposes to move these provisions to other Rules to which they more logically relate. The Exchange does not believe that moving these provisions as described will have any substantive effect.

In Rule 1012(a), which is presently entitled "Filing by Applicant or Service by Nasdaq," the Exchange proposes to retitle the paragraph for clarity purposes as "Instructions for Filing Application Materials with the Exchange and Requirements for Service of Documents by the Exchange." In subparagraph (a)(1), which presently permits an Applicant to file an application only by first-class mail, overnight courier, or hand delivery, the Exchange proposes to modernize the provision by allowing for electronic filing as well. In a new subparagraph (a)(3)(E), the Exchange proposes to state that service by electronic filing shall be deemed complete on the day of transmission, except that service or filing will not be deemed to have occurred if, subsequent

to transmission, the serving or filing party receives notice that its attempted transmission was unsuccessful.

Furthermore, the Exchange proposes to eliminate existing paragraph (f) (similarity of membership names) because the Exchange believes that it is unnecessary for it to monitor for similarities in the names of prospective Members given that FINRA, through WebCRD, and the SEC monitor this.

Finally, the Exchange proposes to relocate and restate IM-1002-1 (regarding misleading information as to membership or registration) and the last paragraph of Rule 1013(a)(1) (requiring Members and Applicants to keep application materials current) to Rule 1012(c). Rather than state, as does IM-1002-1, that Applicants, Members, and Associated Persons shall not file false or misleading membership information with the Exchange, the Exchange proposes to state in paragraph (c)(1) that they shall have an affirmative duty to ensure that their membership information is accurate, complete, and current at the time of filing. The Exchange believes that the proposed formulation is more comprehensive than the existing one.[7] Likewise, rather than merely require, as does existing Rule 1013(a)(1), that Applicants shall keep current their application materials after filing them, the Exchange proposes more broadly, in paragraph (c)(2), to require Applicants, Members, and Associated Persons to ensure that their membership applications and supporting materials remain accurate, complete, and current at all times, by filing supplementary amendments with the Department, as is necessary. (The Exchange proposes to remove the language in existing Rule 1013(a)(1) that specifies that supplementary amendments shall be filed by electronic means insofar as Rule 1012(a) will now specify the acceptable methods by which membership materials shall be filed with the Department.)

---

[7] The reformatted text also removes the references in IM-1002-1 to registration decisions (which are now covered elsewhere in the Exchange's Rules).

Rule 1013

The Exchange proposes to substantially restate Rule 1013, which sets forth procedures for filing applications for new membership on the Exchange.

In paragraph (a) of Rule 1013, which describes the contents of new membership applications and procedures for filing, the Exchange proposes to amend subparagraphs (a)(1)(A) and (B), which require an Applicant to file a copy of its current Form BD as well as an Exchange-approved fingerprint card for each Associated Person who will be subject to SEC Rule 17f-2,[8] to provide that the Applicant must do so only if the Exchange is not able to access the Form itself or the fingerprints through the Central Registration Depository ("CRD" or "WebCRD") or a similar source. The Exchange proposes this amendment to relieve Applicants of the burden of filing a Form or fingerprint cards that the Exchange can readily retrieve itself.

In subparagraph (a)(1)(C), which presently requires an Applicant to provide a "check" for such fees as it may be required to pay under the Exchange's Rules, the Exchange proposes to delete the word "check" and replace it with a more general term, "payment," so as to afford an Applicant flexibility to pay the fee through additional means, such as wire transfer.

In subparagraph (a)(1)(G), which requires disclosure of the Applicant's principal place of business and "all other offices, if any, whether or not such offices would be required to be registered under the Nasdaq Rules," the Exchange proposes to clarify the provision by specifying that it applies to "branch" offices. The Exchange also proposes to delete the phrase "whether or not such offices would be required to be registered under the Nasdaq Rules," as the Exchange deems it unnecessary for the Applicant to list offices other than those that must be registered. Finally, the Exchange again proposes to state that an Applicant need not separately provide this

---

[8] The existing provision exempts Applicants from filing fingerprint cards if it has already filed them with another self-regulatory organization.

branch office information to the Exchange to the extent that the information is otherwise available to the Exchange electronically through WebCRD or a similar source.

Next, the Exchange proposes to consolidate subparagraphs (a)(1)(J) and (a)(1)(K). In subparagraph (a)(1)(J), where the Exchange presently requires the Applicant to state whether it is currently or has been in the prior ten years the subject of certain investigations or disciplinary proceedings that have not been reported to the CRD, the Exchange proposes to add language – currently in subparagraph (a)(1)(K) – which states that the obligation to disclose the Applicant's disciplinary history pertains, not only to the Applicant itself, but also "any person listed on Schedule A of the Applicant's Form BD."[9] With this amendment, subparagraph (a)(1)(K) is duplicative of (a)(1)(J), such that the Exchange proposes to delete it.

In subparagraph (a)(1)(N), which requires an Applicant to disclose how it complies with Rule 3011, the Exchange proposes to clarify that Rule 3011 requires Members to have anti-money laundering compliance programs.

In subparagraph (a)(1)(P), the Exchange proposes to delete language that presently permits an Applicant to submit a Form U-4 for each person conducting and supervising the conduct of the Applicant's market making and other trading activities. The Exchange proposes to delete the requirement that an Applicant submit a Form U-4 because the information that the Form contains is otherwise accessible to the Exchange through WebCRD, such that submission of the Form itself is unnecessary.

In subparagraph (a)(1)(Q), the Exchange proposes to delete the requirement that the Applicant provide to the Exchange a FINRA Entitlement Program agreement and Terms of Use

---

[9] Such persons listed on Form BD include the Applicant's direct owners (as that term is defined on Form BD), and certain partners, trusts and trustees, and limited liability company members, and executive officers of the Applicant.

and an Account Administration Entitlement Form, if not previously provided to FINRA. The Exchange proposes to delete this requirement because the Exchange has determined that the requirement is unnecessary. Any Applicant for membership will have already completed and submitted this agreement and form prior to applying to the Exchange. The completion and submission of the agreement and form will be evident to the Exchange from the fact that FINRA has granted the Applicant access to WebCRD. The Exchange understands that completion of the Account Administration Entitlement Form is a prerequisite to the creation of a registered BD and receiving WebCRD access.

The Exchange proposes to amend subparagraphs (a)(1)(T), (U), and (V) of the Rule, which presently require an Applicant to submit to the Exchange an agreement to comply with the federal securities laws, the rules and regulations thereunder, the Exchange's Rules, and all rulings, orders, directions, decisions, and sanctions thereunder, as well as an agreement to pay such dues, assessments, and other charges in the manner and in the amount as the Exchange prescribes. The Exchange proposes to preface these requirements with a more general requirement that an Applicant submit a duly executed copy of the Exchange's Membership Agreement. The Membership Agreement comprises the foregoing commitments, among others, and Applicants presently submit an executed copy of the Membership Agreement to satisfy existing subparagraphs (a)(1)(T) and (U). The Exchange proposes to insert the new language in subparagraph (a)(1)(T) and move the language in existing subparagraphs (a)(1)(T) and (U) to new subparagraphs (a)(1)(T)(1) and (2). The Exchange proposes to renumber existing subparagraph (a)(1)(V) as subparagraph (a)(1)(U).

The Exchange proposes to delete existing subparagraph (a)(2) of the Rule, which presently requires an Applicant to submit uniform registration forms, due to the fact that the information that these forms contain is readily accessible to the Exchange through WebCRD.

Next, the Exchange proposes to restate its requirements and procedures for deeming applications to be filed, for dealing with incomplete applications, and for requesting additional information from an Applicant or a third party in connection with a pending application. The Exchange is restating these requirements and procedures to improve their clarity, to relax certain procedural deadlines that are needlessly rigid, and to provide additional due process to Applicants.

First, in lieu of the deleted text in subparagraph (a)(2), the Exchange proposes to insert a new provision, entitled "When an Application is Deemed to be Filed," which states what is now only implied in Rule 1013 – that the Department will deem an application to be filed on the date when it is "substantially complete," meaning the date on which the Department receives from the Applicant all material documentation and information required under Rule 1013. The Exchange believes that Applicants will benefit from this clarification, particularly because it affords the Department discretion to deem an application to be filed when it obtains sufficent information or documentation from the Applicant to enable the Department to commence processing the application. The new provision also would require the Department to inform the Applicant in writing when the Exchange deems an application to be substantially complete so that there will be no ambiguity as to when the Department will begin to process the application.

Second, the Exchange proposes to delete existing subparagraph (a)(3), which presently governs the rejection of applications that are not substantially complete, and it proposes to replace the deleted text with two new provisions that deal with lapses in applications that are not

substantially complete, and the rejection of filed applications that remain or become incomplete after filing.

New subparagraph (a)(3)(A), which will govern lapses of applications, will also replace existing Rule 1012(b). The new provision states that if the Department does not deem an application to be substantially complete (and thereby filed, in accordance with proposed subparagraph (a)(2)) within 90 calendar days after an Applicant initiates it, then absent a showing of good cause by the Applicant, the Department may, at its discretion, deem the application to have lapsed without filing, such the Department will take no action in furtherance of the application. The proposal is conceptually different from existing Rule 1012(b). The proposal conceives of a lapsed application as one that an Applicant initiates but does not substantially complete even after a prolonged period of time, such that the Department treats it as having been abandoned prior to filing. Under existing Rule 1012(b), by contrast, the Exchange treats lapses more broadly as any unexcused failure of an Applicant to complete an application, to respond to the Department's requests for information or documents, to participate in a membership interview, or to file with the Exchange an executed membership agreement. As is discussed below, the proposal will treat an Applicant's post-filing non-responsiveness to the Department's requirements as a basis for rejection of an application, not a lapse of an application, because once an application is deemed filed, the Department will begin to take action in furtherance of the application. Also unlike the existing Rule, the proposal provides that the Department merely has discretion to, but need not deem an application to have lapsed once it meets the requirements of the subparagraph. Moreover, the proposal requires that once the Department deems an application to have lapsed, then the Department must serve a written notice of that determination on the Applicant and refund any application fees that the Applicant

paid to the Exchange (provided that the Exchange did not, in fact, take action in furtherance of the lapsed application). Finally, the proposal states that an Applicant that still wishes to apply for membership on the Exchange after receiving notice of a lapse in its application must submit a new application pursuant to these Rules and pay a new application fee for doing so, if applicable.

Proposed subparagraph (a)(3)(B) will govern the circumstances in which the Department may reject an application that it already has deemed to be "substantially complete" and thus filed. Specifically, the Exchange proposes that if a pending application remains incomplete after filing, or becomes incomplete after filing due to the fact that the Applicant has not timely responded to the Department's request for supplemental information or documents, then the Department will serve notice on the Applicant of the nature of the incompleteness and afford the Applicant a reasonable time period in which to address it. If the Applicant fails to address the incompleteness within the time period that the Department prescribes in the notice, then, absent a showing of good cause by the Applicant, the Department may – but again it is not required to – deem the application to be rejected and it must serve written notice of any such determination upon the Applicant. The proposal states, moreover, that if the Department deems an application to be rejected, then the Applicant shall not be entitled to a refund of any fees that the Applicant may have paid in connection with its application so that the Exchange can recover its costs associated with processing the filed application prior to rejecting it. Finally, the proposal states that if an Applicant chooses to continue to pursue membership following a rejection of its application, then it must submit a new application and pay any associated fees that are required under the Rule.

Third, the Exchange proposes to restate subparagraph (a)(4), which governs requests made by the Department for additional information or documents during its consideration of an

application. The Exchange also proposes to restate and consolidate into subparagraph (a)(4) the provision of Rule 1013 that governs membership interviews and information pertinent to the application that the Department gathers from third party sources other than the Applicant (existing paragraph (b)). The Exchange believes that rules governing supplemental information and document requests, membership interviews, and third party information are related and should be consolidated into a single provision. Moreover, the Exchange notes that it does not, as a practical matter, opt to conduct formal membership interviews because it is more efficient and less onerous for all parties to instead engage in informal discussions when questions and concerns arise. Because the Exchange does not exercise its discretion to conduct formal interviews the Exchange believes that it is reasonable to eliminate the concept and the procedures that govern such interviews in the new subparagraph.

In particular, the proposed restated subparagraph provides that at any time before the Department serves its decision on a membership application,[10] it may issue a request for additional information or documents – either from the Applicant or from a third party – if the Department deems such information or documentation to be necessary to clarify, verify, or supplement the application materials. The proposal states that the Department may request that the information or documentation be provided in writing or through an in-person or telephonic interview. The proposal furthermore states that the Department shall serve its request in writing. The proposal states that the Department must afford the recipient a reasonable amount of time

---

[10] The restated provision eliminates the requirement in the existing Rule that the Department must serve an initial supplemental request for information or documents within 15 business days after an application is deemed to be filed. The Exchange finds no good reason to distinguish in the rule between an "initial" and a subsequent supplemental Departmental request or to impose a specific deadline for the Department to issue any such requests; the Department has a shared interest with the Applicant in issuing supplemental requests expeditiously such that no artificial deadline is necessary.

within which to respond to the request[11] and that the failure of an Applicant to respond within the allotted time may serve as a basis for the Department to reject an application under subparagraph (a)(3)(B), described above. Finally, the proposal for the first time affords the Applicant due process in the event that the Department obtains information or documentation about the Applicant from a third party that the Department reasonably believes could adversely impact its decision on an application.[12] In such a circumstance, the proposal requires the Department to promptly inform the Applicant in writing and describe the third party information or documentation that the Department obtained. The Department must also afford the Applicant a reasonable opportunity to discuss with it or object to the Department's use of the third party information or documentation in its application decision prior to the Department rendering the decision.

Fourth, the Exchange proposes to establish a new Rule 1013(b), entitled "Special Application Procedures," which restates and expands upon the existing special application procedures set forth in subparagraph (a)(5). Presently, subparagraph (a)(5)(A) states that when an Applicant is applying for FINRA membership and Exchange membership at the same time, then the Exchange will wait to process the application until the applicant becomes a FINRA

---

11 Rather than impose a minimum time period for a response, the Exchange proposes to require only that the Department prescribe a reasonable deadline for a response. The Exchange believes that the appropriate response period will vary depending upon the nature of the information or documentation requested. Moreover, the Exchange again believes that the Department and the Applicant have a shared interest in ensuring that the Applicant has adequate time to respond to a request.

12 The Department may consult third parties, such as other SROs of which an Applicant is or was a member previously, to obtain additional information about or to confirm aspects of an application or the Applicant's character or history. The Department might also consult third party services to investigate or verify the Applicant's financial condition or history.

member.[13] Presently, subparagraph (a)(5)(C) states that expedited application procedures will apply to Applicants that are already members of FINRA and Nasdaq BX, Inc. or Nasdaq PHLX LLC. The Exchange proposes to delete subparagraph (a)(5)(A) and (B) because the Exchange, upon review, believes that these provision add little value, especially in light of other changes that the Exchange now proposes to adopt. Likewise, the Exchange proposes to delete (a)(5)(C) because it has become outdated in that it does not provide expedited application procedures for Applicants that are members of the Exchange's other affiliates; this provision also does not explain what an "expedited" application process entails.

In lieu of the existing subparagraph (a)(5), the Exchange proposes to adopt two types of special applications in new Rule 1013(b). First, proposed Rule 1013(b)(1) prescribes a special application process for Applicants that are already FINRA members. Specifically, the proposal states that such an Applicant will have the option to "waive-in" to become an Exchange Member and to register with the Exchange all persons associated with it whose registrations FINRA has approved (in categories recognized by the Exchange's rules). The proposal defines the term "waive-in" to mean that the Department will rely substantially upon FINRA's prior determination to approve the Applicant for FINRA membership when the Department evaluates the Applicant for Exchange membership. That is, the Department will normally permit a FINRA member to waive-into Exchange membership without conducting an independent examination of the Applicant's qualifications for membership on the Exchange, provided that the Department is not otherwise aware of any basis set forth in Rule 1014 to deny or condition approval of the application.

---

[13] Existing subparagraph (a)(5)(B) also specifies that Applicants that are already members of another registered securities association or exchange must submit a regular application form.

Procedurally, the proposal states that a FINRA member that wishes to waive-into Exchange membership must do so by submitting to the Department an application form (the standard application form contains an option to select waive-in membership) and an executed Exchange Membership Agreement. The Department, in turn, will act upon a duly submitted waive-in application within a reasonable time frame not to exceed 20 days from submission of the application, unless the Department and the Applicant agree to a longer time frame for issuing a decision.[14] If the Department fails to issue a decision on a waive-in application within the prescribed time frame, then the Applicant may petition the Exchange's Board of Directors to force the Department to act, as set forth in Rule 1014(c)(3). Finally, the proposal states that a decision issued under this provision shall have the same effectiveness as set forth in Rule 1014 and shall be subject to review as set forth in Rules 1015 and 1016.

The second proposed special application process, to be set forth in Rule 1013(b)(2), will permit Applicants for Exchange membership that are already approved members of one or more of the Exchange's affiliated exchanges[15] to waive-into the Exchange membership. In this context, "waive-in" means that the Department will rely substantially upon an Affiliated Exchange's prior determination to approve the Applicant for membership on the Affiliated Exchange when the Department evaluates the Applicant for Exchange membership. The proposed procedures for an Applicant to submit a waive-in application under this provision and for the Department to issue a decision based upon such an application are identical to the

---

14 The Exchange proposes this time frame to accommodate FINRA, which will review waive-in applications on behalf of the Exchange to verify that the Applicants are FINRA members in good standing. As a practical matter, the Exchange expects to act on waive-in applications prior to the 20 day deadline.

15 The Nasdaq Stock Exchange, LLC, Nasdaq BX, Inc., Nasdaq PHLX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, and Nasdaq GEMX, LLC are all affiliated exchanges (the "Affiliated Exchanges").

procedures described above for FINRA members that seek to waive-into Exchange membership. The Exchange proposes to amend its application form to reflect the fact that Applicants may waive-into membership on the Exchange based upon their membership on any of the other five Affiliated Exchanges.

Rule 1014

In several respects, the Exchange proposes to amend Rule 1014, which governs the issuance of membership application decisions by the Department.

First, to improve clarity, the Exchange proposes to reorganize the Rule. Rather than begin the Rule with a paragraph that describes the bases for the Department to issue a decision on an application, as is the case presently, the Exchange proposes to begin with a paragraph (a) to be entitled 'Authority of Department to Approve, Approve with Restrictions, or Deny an Application." This new paragraph sets forth the general authority of the Department to act on an application by approving it, denying it, or approving it subject to restrictions: (1) that are reasonably designed to address a specific (financial, operational, supervisory, disciplinary, investigatory, or other regulatory) concern; or (2) that mirror a restriction placed upon the Applicant by FINRA or an Affiliated Exchange. It incorporates elements of what is now Rule 1014(b) (which the Exchange proposes to delete going forward).

Second, the Exchange proposes to renumber existing paragraph (a) as new paragraph (b). This paragraph will be retitled "Bases for Approval, Conditional Approval, or Denial" but will otherwise remain the same.

Third, as noted above, existing paragraph (b) will be deleted.

Fourth, the Exchange proposes to amend paragraph (c), which prescribes the time period within which the Department must issue and serve a written decision on a membership

application. Presently, the provision requires the Department to serve a written decision within 15 business days after the Applicant concludes its membership interview (if any) or files all of its required information or documents, whichever is later. The Exchange proposes to relax this requirement by stating that the Department must respond in a reasonable time period, not to exceed 45 (calendar) days after the Applicant files and provides to the Exchange all required and requested information or documents in connection with the application, unless the Department and the Applicant agree to further extend the decision deadline.[16] The Exchange proposes these amendments because it adjudges the existing timeframe to be needlessly short and inflexible. In certain instances where the Department has outstanding questions or concerns associated with an application, the existing Rule may force the parties to rush to address outstanding questions and resolve outstanding issues. The proposal would allow for such questions and issues to be addressed with less time pressure involved. The Exchange notes that it does not intend for this proposal to routinely lengthen the Department's timeframe for serving application decisions. Under the existing Rule, the Exchange typically issues decisions far in advance of the 15 business day deadline and the Exchange expects that it will continue to do so in most instances. Indeed, the Exchange has a self-interest in issuing decisions as soon as is possible. The proposed 45 day decision period is merely intended to allow for the parties to have flexibility in unusual circumstances.

Fifth, the Exchange proposes to delete existing paragraph (d), which states that a decision by the Department to approve an application is contingent upon the Applicant filing with the Department an executed written membership agreement that contains the Applicant's agreement to abide by any restriction specified in the Department's decision and to obtain the Department's

[16] The Exchange also proposes conforming amendments to Rule 1014(c)(3), which addresses failures of the Department to serve a decision within the prescribed time frame.

approval prior to undertaking a change in ownership, control, or business operations, or prior to modifying or removing a membership restriction. The Exchange proposes to delete this provision because, as explained above, the Exchange proposes in Rule 1013 to expressly require an Applicant to file a duly executed copy of the Membership Agreement as part of its application. The existing Membership Agreement contains the undertakings described in paragraph (d). Accordingly, paragraph (d) is superfluous.

Rule 1015

The Exchange proposes to amend Rule 1015, which states that the Department's membership decisions are subject to review by the Exchange Review Council. Specifically, the Exchange proposes to move from existing Rule 1012(c) to new Rule 1015(k) a provision that prohibits ex parte communications involving membership decisions subject to review among certain Exchange staff, members of the Exchange Review Council, members of a Subcommittee of the Council, and the Board of Directors. Similarly, the Exchange proposes to move from existing Rule 1012(d) to new Rule 1015(l) a provision that governs the recusal and disqualification of a member of the Exchange Review Council, a Subcommittee thereof, or the Board of Directors from participating in a review of a membership decision. The Exchange proposes these moves because it believes that these two provisions fit logically within the section of the membership rules that govern appeals of membership decisions. The Exchange proposes no substantive changes to these provisions[17] and it does not believe that moving them will have any substantive effect.

Rule 1017

---

[17] The Exchange proposes to remove the requirement from Rule 1015(a) that an applicant file a request for review "by first-class mail." Rule 1012(a) now provides for a more modern array of filing options that includes electronic submission.

The Exchange proposes substantial changes to Rule 1017, which requires Members to obtain approval prior to effecting a change in ownership, control, or business operations. These changes are generally intended to streamline and simplify the existing Rule, which the Exchange believes are unnecessary onerous and complex. As much as possible, the Exchange proposes to apply the same procedures to these applications for approval as it does to its applications for membership under Rules 1013 and 1014.

The first change that the Exchange proposes involves Rule 1017(a), which defines the events that require Members to file applications. The existing paragraph states that a Member shall file an application for approval prior to effecting the following changes: (1) a merger of the Member with another Member (unless both are members or the surviving member will continue to be a member of the New York Stock Exchange ("NYSE")); (2) a direct or indirect acquisition by the Member of another Member (unless the acquiring Member is a member of the NYSE); (3) direct or indirect acquisitions or transfers of 25% or more in the aggregate of the Member's assets or any asset, business line or line of operations that generates revenues comprising 25% or more in the aggregate of the Member's earnings measured on a rolling 36 month basis (unless both the seller and acquirer are members of the NYSE); (4) a change in the equity ownership or partnership capital of the Member that results in one person or entity directly or indirectly owning or controlling 25 percent or more of the equity or partnership capital; or (5) a "material change in business operations." Existing Rule 1011(g), in turn, defines a "material change in business operations" to mean, among other things: (1) removing or modifying a membership restriction; (2) acting as a dealer for the first time; (3) market making for the first time on the Exchange (except when the member's market making has been approved previously by FINRA or Nasdaq BX); (4) adding business activities that require higher minimum net capital under SEC

Rule 15c3-1; and (5) adding business activities that would cause a proprietary trading firm no longer to meet the definition of that term contained in the rule.

For ease of reference, the Exchange proposes to incorporate into Rule 1017(a)(5) the definition of a "material change in business operations" rather than define it separately in Rule 1011(g). The Exchange also proposes to take the existing exclusion from that definition – excluding first time market makers on the Exchange whose market making activities have been approved previously by FINRA or Nasdaq BX – and apply it more broadly to all of Rule 1017(a). That is, the Exchange proposes that none of the changes enumerated in Rule 1017(a) would require prior Departmental approval to the extent that the Member's Designated Examining Authority ("DEA"), or an Affiliated Exchange, has approved the change previously in accordance with their respective rules and provided that the Member provides written evidence to the Department of such prior approval. The Exchange believes that this proposal is prudent because in all instances in which a Member's DEA or any Affiliated Exchange[18] have already approved a change, the Exchange can be reasonably confident that such prior approval would be consistent with its own judgment on the matter, such that no purpose would be served in requiring the Department to independently approve the same change.[19] The proposal would also ease burdens on Members that wish to make changes to their businesses and which presently

---

18 Exchange notes that the existing Rule is under-inclusive in that it does not account for prior approvals granted by all of the Affiliated Exchanges. The Exchange believes that there is no reasonable basis for it to defer to a prior approval granted by Nasdaq BX and to not do the same with respect to prior approvals granted by the other Affiliated Exchanges.

19 In Rule 1017(a), the Exchange also proposes to eliminate exceptions relating to NYSE membership. The Exchange believes that this proposal is reasonable insofar as the NYSE's rules may, at times, diverge with those of the Exchange. Going forward, the Exchange feels more confident deferring to the prior judgment of a Member's DEA or of an Affiliated Exchange as to the specific change event at issue than it does to the mere fact that a Member or its counterparty in a business transaction are NYSE members.

require multiple approvals to do so. The Exchange notes that it proposes to retain authority to require approval of a proposed change where the nature, terms, or conditions of the change have altered since the Member's DEA or an Affiliated Exchange approved it.

Next, the Exchange proposes to make several organizational and clarifying amendments to Rule 1017(b), which governs the filing and content of applications filed under Rule 1017. It proposes to preface subparagraph (b)(2) – which presently states vaguely that the "application" shall contain certain items – with language clarifying that the provision pertains to applications for approval of a change in ownership or control or a material change in the business operations of a member. It also breaks out the last sentence of (b)(2) into new subparagraphs (2)(A) and (2)(B). Furthermore, it proposes clarifying changes in (2)(A) (proposing to specify that a description of a "change in ownership, control, or business operations" means a "proposed" change in ownership, control, or "material" business operations) and (2)(B) (specifying that the Member must "attach" rather than "include" a business plan, pro forma financials, an organizational chart, and written supervisory procedures relating to the "proposed" change). Finally, the Exchange proposes to renumber the remainder of the Rule.

The Exchange proposes to amend Rule 1017(c) to limit its scope. Specifically, it proposes to eliminate from subparagraph (c)(1) the ability of a Member to effect a change in ownership or control prior to receiving approval from the Department and the ability of the Department to impose interim restrictions on the Member pending final Department approval. The Exchange believes that the concepts of interim changes and restrictions are overly complex, potentially disruptive, and ultimately unnecessary given the short time frames that the Rules

prescribe for the Department to act on applications.[20] Additionally, the Exchange notes that in its experience reviewing applications under Rule 1017, these provisions never have been invoked Finally, the Exchange proposes to change the title of this provision to reflect the deletion of the foregoing. Whereas now, the title is "Effecting Change and Imposition of Interim Restrictions," the Exchange proposes to re-title it as "When Applications Shall or May Be Filed."

Existing paragraphs (d), (e), and (f) of Rule 1017, prescribes standards for rejecting applications that are not substantially complete, authorizes the Department to serve a request for additional documents and information, and permits the Department to conduct interviews of Applicants, respectively. The Exchange proposes to delete these provisions and replace them with provisions that are more consistent with proposed amended Rule 1013(a)(2), (3), and (4). That is, new Rule 1017(d) will state that the Department will deem an application to be filed on the date when it is substantially complete, meaning the date on which the Department receives from the Applicant all material documentation and information required under the Rule. It also requires the Department to inform the Applicant in writing when the Department deems an application to be substantially complete. New Rule 1017(d) will state that the Department may treat an application filed under this Rule as having lapsed, and the Department may reject an application filed under this Rule, in accordance with Rule 1013(a)(3), except that the Department may treat an application as having lapsed if it is not substantially complete for 30 days or more after the applicant initiates it.[21] Finally, proposed Rule 1017(f) will state that at any time before

---

[20] The Exchange also notes that FINRA is also publicly contemplating eliminating the concept of allowing its members to effect business changes on an interim basis. See FINRA, Regulatory Notice 18-23: Membership Application Proceedings (Request for Public Comment), Attachment B (July 26, 2018), available at http://www.finra.org/sites/default/files/Attachment-B_Regulatory-Notice-18-23.pdf.

[21] The Exchange notes that this 30 day time period for deeming an application to have lapsed derives from existing Rule 1017(d).

the Department serves its decision on an application filed under Rule 1017, the Department may request additional information or documentation from the Applicant or from a third party in accordance with Rule 1013(a)(4).[22]

Existing Rule 1017(g) prescribes a complex system for the Department to issue decisions in response to applications filed under Rule 1017. For example, it differentiates between decisions issued with respect to Members that are and are not FINRA members (or required to be FINRA members). With respect to Members that are FINRA members, the Rule requires the Department to consider whether the Applicant and its Associated Persons meet the standards set forth in NASD (FINRA) Rule 1014(a). It also prescribes specific criteria for issuing decisions where the Applicant seeks a modification or removal of a membership restriction. The Exchange believes that this complex system is unnecessary and can be simplified considerably, particularly in light of the proposal described above to exempt a Member from obtaining the Exchange's approval to effect a change in ownership or control or a material change in its business operations when FINRA has already approved the change previously. That is, there is no reason for the Exchange to make an independent assessment of whether the proposed change complies with FINRA rules if FINRA has already made that determination.

In lieu of the existing provisions, the Exchange proposes to state that the Department will render a decision on an application filed under Rule 1017 in accordance with the standards set forth in Rule 1014, except with respect to applications to modify or remove a membership restriction, in which case the Department will consider the factors presently set forth in existing Rule 1017(g)(1)(D) (the Exchange proposes to renumber this provision as subparagraph (g)(1)).

---

[22] As stated previously, circumstances where the Department may consult a third party include to seek additional information about or to verify aspects of an application. For example, the Department may consult another SRO to verify the financial status or prior disciplinary history of a Member's prospective new ownership.

Additionally, in lieu of existing Rule 1017(g)(2), which requires the Department to serve a written decision on an application filed under Rule 1017 within 30 (calendar days) after conclusion of a membership interview or the filing of additional information or documents (whichever is later), the Exchange proposes to state that the Department will serve a written decision in accordance with Rule 1013(c).[23] The Exchange proposes this change to 1017(g)(2) for the same reasons that it discussed above with respect to Rule 1013(c).

Finally, the Exchange proposes to delete Rule 1017(k). This provision presently states that if an application for approval of a change in ownership lapses or is denied and all appeals are exhausted or waived, the Member must, within 60 days, submit a new application, unwind the transaction, or file a Form BDW. It also provides for the Department to shorten or lengthen the 60 day period under certain circumstances. Due to the fact that the Exchange – as explained previously –proposes to eliminate the ability of a Member to effect a change in ownership while its application for Departmental approval is pending, this provision will no longer be necessary. That is, there will be no interim change in ownership that will need to be unwound or otherwise addressed if the Department denies an application or it lapses.

Rule 1018

The Exchange proposes to consolidate within Rule 1018, which is presently reserved, existing provisions of the Rules pertaining to the resignation of members (existing Rule 1012(g), transfer of membership (existing Rule 1012(i)(1)), termination of membership (existing Rule 1012(i)(2)), and reinstatement of membership (existing Rule 1002(d)). The Exchange believes that these provisions are logically related and belong together in a single Rule. The Exchange

---

23 The Exchange notes that the proposed cross-reference to Rule 1013(c) also addresses the Applicant's rights in the event that the Department does not serve it with a timely written decision. Accordingly, the Exchange proposes to delete existing subparagraph (g)(3), which covers the same topic.

generally proposes to maintain the substance of these consolidated provisions unchanged from their existing state, except that the Exchange proposes that resignations will no longer require a 30 day time period to become effective. Also, the provision on reinstatement will apply to membership only and not to registration, which is covered separately in the Exchange's Rules.

Other Miscellaneous Changes

Lastly, the Exchange proposes to make non-substantive changes throughout the Rule 1000 Series, as follows. Where the Rules refer specifically to "Nasdaq," the Exchange proposes to replace such references with more general terms "Exchange" or "the Exchange." The Exchange proposes this change to make it easier in the future to harmonize the Exchange's membership rules with those of the other Affiliated Exchanges. The Exchange also proposes to update obsolete references to the "NASD" to reflect the fact that the NASD is now known as "FINRA." Finally, where applicable, the Exchange proposes to renumber the Rules and update or correct cross-references.

Implementation

To facilitate an orderly transition from the existing membership rules to the new rules, the Exchange is proposing to apply the existing rules to all applications which have been submitted to the Exchange (including applications that are not yet complete) and are pending approval prior to the operative date. The Exchange also will apply the existing rules to any appeal of an Exchange membership decision or any request for the Board to direct action on an application is pending before the Exchange Review Council, the Board, or the Commission, as applicable. As a consequence of this transition process, the Exchange will retain the existing processes during the transition period until such time that there are no longer any applications or matters proceeding under the existing rules. To facilitate this transition process, the Exchange

will retain a transitional Rulebook that will contain the Exchange's membership rules as they are at the time that this proposal is filed with the Commission. This transitional Rulebook will apply only to matters initiated prior to the operational date of the changes proposed herein and it will be posted to the Exchange's public rules website. When the transition is complete, the Exchange will remove the transitional Rulebook from its public rules website.

The Exchange will announce and explain this transition process in a regulatory alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Section 6(b)(5) and of the Act,[25] 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. It is also consistent with Section 6(b)(7) of the Act in that it provides for a fair procedure for denying Exchange membership to any person who seeks it, barring any person from becoming associated with an Exchange Member, and prohibiting or limiting any person with respect to access to services offered by the Exchange or a Member thereof.[26]

As a general matter, the Exchange believes that its proposal to amend its membership Rules will promote a free and open market, and will benefit investors, the public, and the markets, because it will render the Rules clearer, better organized, simpler, and easier to comply with.

---

24 15 U.S.C. 78f(b).

25 15 U.S.C. 78f(b)(5).

26 15 U.S.C. 78f(b)(7).

The proposal is just and equitable because it will render the Exchange's membership rules easier for Applicants and Members to read and understand, including by doing the following:

- Establishing a "roadmap" paragraph in proposed Rule 1014(a) that sets forth the basic authority of the Department to approve, approve with conditions, or deny applications for membership before the Rule goes on to enumerate criteria for the Department to apply when taking each of those actions;
- Making the titles of the Rules more accurate and descriptive (e.g., proposed Rule 1014(b) (amending the existing title "Bases for Denial" to also include bases for approval and conditional approval to make it more accurate and complete));
- Grouping logically-related provisions together in the Rules (e.g., provisions governing resignation, termination, transfer, and reinstatement of membership (moving them from Rule 1002(d) and 1012(g) and (i) to proposed Rule 1018); provisions relating to ex parte communications (existing Rule 1012(c)) and recusals and disqualifications (existing Rule 1012(d) (moving them into Rule 1015, which governs reviews of membership decisions));
- Rationalizing and consolidating provisions that presently govern lapses and rejections of applications, including by making clearer conceptual distinctions between lapses (i.e., applications that are not substantially complete and which the Department may deem to be abandoned, such that the Department will refund any application fees paid by the Applicant) and rejections (i.e., applications that the Department deemed to be filed but which it refuses to act upon due to lingering incompleteness, in which case

the Department will not refund application fees paid to it), and by consolidating Rules 1012(b) and 1013(a)(3) into proposed Rule 1013(a)(3)(A) and (B);

- Consolidating overlapping provisions that govern the registration of branch offices and office of supervisory jurisdiction into a single provision (consolidating Rule 1012(j) and IM-1002-4 into Rule 1002(d));
- Eliminating references in Rule 1002(c), Rule 1012(j), and Rule 1013(a)(1)(U) to the obligation of Members (and their branch offices) to pay fees, charges, dues, and assessments to the Exchange insofar as those obligations are duplicative of Rule 9553;
- Converting IM-1002-1 and IM-1002-4 into rule text;
- Clarifying when the Department will deem an application to be filed (when the application is "substantially complete," as set forth in proposed Rule 1013(a)(2)) and by requiring the Department to notify an Applicant in writing of the filing date;
- Clarifying what the Exchange means when it states that an Applicant may "waive-in" to Exchange membership (as set forth in proposed Rule 1013(b)); and
- Updating obsolete cross-references throughout the Rules from NASD to FINRA.

The proposal will also make compliance with the membership rules simpler and less burdensome for Applicants and Members by doing the following:

- Eliminating obsolete requirements to submit paper copies of Forms U-4 and BD or explain information listed on the forms (Rule 1013(a)(1)(A), (J), (K), and (P) and Rule 1013(a)(2)) where the Department already has electronic access to the Forms and the information contained therein;
- Permitting electronic filing of applications (proposed Rule 1012(a)(1);

- Allowing payment of application fees by means other than paper check (proposed Rule 1013(a)(1)(C));
- Relaxing deadlines that needlessly rush the process of responding to the Department's questions and concerns about an application[27] or that force the Department to render a decision when the Applicant is not ready for the Department to do so[28];
- Eliminating formal membership interviews and procedures related thereto, which the Exchange has not utilized historically (Rule 1013(b))[29];
- Harmonizing disparate procedures under Rules 1013 and 1017 for filing, evaluating, and responding to initial membership applications and applications for approval of business changes, including by streamlining the Rule 1017 procedures;

---

27 Rather than require an Applicant to file a response to a supplemental request for documents or information within 15 business days, proposed Rule 1013(a)(3) states that the Applicant must respond within a "reasonable period of time" to be prescribed by the Department. Even then, Rule 1013(a)(3)(B) states that the Department must serve upon the Applicant a notice of incompleteness if it fails to respond to a supplemental request and then afford the Applicant an additional reasonable time period to remedy the failure before it may reject the Applicant's application.

28 Rather than require the Department to serve a written decision within 15 business days, proposed Rule 1014(c) states that it must issue a decision within a reasonable period of time, not to exceed 45 calendar days after the application is filed and complete, unless the parties agree to a later date. As explained above, the Exchange does not intend for this change to result in the Department routinely issuing decisions later than it does presently. The Exchange presently issues decisions, in most instances, well in advance of the current 15 business day deadline and it has a self-interest in continuing to do so whenever possible. However, the Exchange believes that it is in the interest of Applicants for the Department to have discretion to respond at a later time in the event that the Applicant needs to address or resolve outstanding questions or concerns associated with its application.

29 The elimination of the formal membership interview process will have no practical effect on the membership process insofar as the Department otherwise has authority to request additional information from the Applicant. Under the proposed Rule 1014(a)(4), this authority may include a request for the Applicant to provide information or documents in-person or by telephone. In other words, the Department will retain authority to conduct an informal interview of the Applicant.

- Broadening the circumstances in which an Applicant may waive-into Exchange membership to include the Applicant's membership in any of the Affiliated Exchanges[30] and defining procedures for processing and responding to waive-in applications (proposed Rule 1013(b));
- Narrowing the circumstances in which a Member must obtain prior Department approval before effecting a change in ownership, control, or material business operations by excluding changes for which a Member has obtained prior approval from the Member's DEA, or an Affiliated Exchange (proposed Rule 1017(a))[31];
- Eliminating the unused, unnecessary, and potentially disruptive ability of Members, pursuant to Rule 1017(c), to effect ownership changes on an interim basis while an application for Department approval is pending; and
- Eliminating the 30 day waiting period for Members that seek to resign their memberships under proposed Rule 1018(a).

In sum, the foregoing changes will update, rationalize, and streamline the Exchange's membership rules and processes, all to the benefit of Applicants and Members. Moreover, these changes will not adversely impact the rights of Applicants or Members to appeal adverse

---

30 As noted above, the Exchange believes that it is reasonable to permit reciprocity in membership among all of the Affiliated Exchanges. The Exchange believes that there is no reasonable basis for it to defer to a prior approval granted by Nasdaq BX and to not do the same with respect to prior approvals granted by the other Affiliated Exchanges.

31 As is discussed above, the Exchange believes that deference to prior approvals of a proposed business change made by an Affiliated Exchange or the Exchange's DEA is reasonable because the judgment of these entities on such matters is likely to be the same as that which the Exchange would itself employ. The Exchange assesses that any marginal benefit that might be gained from it applying its own independent judgment outweighs the burden to Applicants of obtaining multiple approvals for the same proposed change. The Exchange notes that it will require a Member to obtain approval for such a change if the nature, terms, or conditions of the proposed change have altered since its DEA or an Affiliated Exchange approved it.

Departmental decisions under these Rules or to request Board action to compel the Department to render decisions on applications.

Last, the Exchange believes that its proposal to phase-in the implementation of the new membership rules and processes is consistent with Section 6(b)(7) of the Act[32] because both the current and proposed processes provide fair procedures for granting and denying applications for becoming an Exchange Member, becoming an Associated Person, and making material changes to the business operations of a Member. The Exchange is proposing to provide advanced notice of the implementation date of the new processes, and will apply the new processes to new applications, appeals, and requests for Board action that are initiated on or after that implementation date. Any application, appeal, or request for Board action initiated prior to the implementation date will be completed using the current processes. As a consequence, the Exchange will maintain a transitional Rulebook on the Exchange's public rules website which will contain the Exchange Rules as they are at the time of filing this rule change. These transitional rules will apply exclusively to applications, appeals, and requests for Board action initiated prior to the implementation date. Upon conclusion of the last decision on a matter to which the transitional rules apply, the Exchange will remove the defunct transitional rules from its public rules website. Thus, the transition will be conducted in a fair, orderly, and transparent manner.

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 Exchange does not expect that its proposed changes to the membership rules will have any

[32] 15 U.S.C. 78f(b)(7).

competitive impact on its existing or prospective membership. The proposed changes will apply equally to all similarly situated Applicants and Members and they will confer no relative advantage or disadvantage upon any category of Exchange Applicant or Member. Moreover, the Exchange does not expect that its proposal will have an adverse impact on competition among exchanges for members; to the contrary, the Exchange hopes that by clarifying, reorganizing, and streamlining its membership rules, and by making the Exchange's membership process less burdensome for Applicants and Members, the Exchange will improve its competitive standing relative to other exchanges.

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 as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[33] and Rule 19b-4(f)(6) thereunder.[34]

A proposed rule change filed under Rule 19b-4(f)(6)[35] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),[36] the

---

33 15 U.S.C. 78s(b)(3)(A)(iii).

34 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization 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.

35 17 CFR 240.19b-4(f)(6).

Commission may 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 proposal may become operative upon filing. The Exchange states that the proposed changes are primarily intended to update and reorganize the Exchange's existing membership rules and processes. Further, the Exchange states these rules are intended to streamline and clarify processes and also eliminate unused and outdated provisions. The Exchange states the effect of these changes will make the membership process less burdensome for Applicants, Members, and Associated Persons while not limiting the Exchange's ability to appropriately scrutinize prospective and existing Members and Associated Persons. For the foregoing reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.[37]

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.

---

36 17 CFR 240.19b-4(f)(6)(iii).

37 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).

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-2019-022 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-2019-022. 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 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-2019-022 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.[38]

Eduardo A. Aleman,
Deputy Secretary.

[38] 17 CFR 200.30-3(a)(12).

[FR Doc. 2019-07050 Filed: 4/9/2019 8:45 am; Publication Date: 4/10/2019]