

Required fields are shown with yellow backgrounds and asterisks.

Proposed Rule Change by NASDAQ Stock Market  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>			
			Rule					
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	19b-4(f)(1) <input type="checkbox"/>	19b-4(f)(2) <input type="checkbox"/>	19b-4(f)(3) <input type="checkbox"/>	19b-4(f)(4) <input type="checkbox"/>	19b-4(f)(5) <input type="checkbox"/>	19b-4(f)(6) <input checked="" type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked \*).  
A proposed rule change to Rule 5210(c), relating to Direct Registration Programs.

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name \* Arnold Last Name \* Golub  
Title \* Vice President  
E-mail \* arnold.golub@nasdaqomx.com  
Telephone \* (301) 978-8075 Fax (301) 978-8472

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,  
  
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date 08/24/2012  
By Edward S. Knight Executive Vice President and General Counsel  
(Name \*) (Title \*)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Edward S Knight,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information (required)**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change (required)**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> The NASDAQ Stock Market LLC, (“Nasdaq”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to Rule 5210(c), relating to Direct Registration Programs.

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.<sup>3</sup>

\* \* \* \* \*

**5210. Prerequisites for Applying to List on The Nasdaq Stock Market**

All Companies applying to list on The Nasdaq Stock Market must meet the following prerequisites:

(a) – (b) No change.

**(c) Direct Registration Program**

All securities initially listing on Nasdaq, except securities which are book-entry only, must be eligible for a Direct Registration Program operated by a clearing agency registered under Section 17A of the Act. [This provision does not extend to: (i) additional classes of securities of Companies which already have securities listed on Nasdaq; (ii) Companies which immediately prior to such listing had securities listed on another registered securities exchange in the U.S.; or, (iii) non-equity securities that are book-entry only.] A Foreign Private Issuer may follow its home country practice in lieu of this requirement by utilizing the process described in Rule 5615(a)(3).

(d) – (i) No change.

\* \* \* \* \*

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<sup>1</sup> 15 USC 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at <http://nasdaq.cchwallstreet.com/>.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self Regulatory Organization

The proposed rule change was approved by senior management of Nasdaq pursuant to authority delegated by the Board of Directors of Nasdaq on August 19, 2011. Nasdaq staff will advise the Board of Directors of Nasdaq of any action taken pursuant to delegated authority. No other action by Nasdaq is necessary for the filing of the rule change.

Nasdaq will implement the proposed change immediately.

Questions regarding this rule filing may be directed to Arnold Golub, Vice President, Office of the General Counsel, Nasdaq, at (301) 978-8075.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

Nasdaq proposes to modify Rule 5210(c) related to Direct Registration Programs (DRS) to reconcile a discrepancy between the initial and continued listing requirements.

As currently drafted, Rule 5210(c) provides that the DRS requirement does not apply to “additional classes of securities of Companies which already have securities listed on Nasdaq” and “Companies which immediately prior to such listing had securities listed on another registered securities exchange in the U.S.”

This language is now outdated. Specifically, when Nasdaq introduced the Direct Registration Program requirement, it applied the rule to most new listings, but created a phase-in period for already listed companies, including companies listing additional

classes of securities and companies switching from other exchanges.<sup>4</sup> This phase-in period has now ended<sup>5</sup> and all listed companies are required by Rule 5255 to comply with the DRS requirement, however, the language allowing an exemption from the DRS initial listing requirement for these companies remains in Rule 5210(c). Thus, as currently written, a company could qualify to list on Nasdaq pursuant to one of these exceptions in Rule 5210(c), but immediately be out of compliance with the continued listing requirements in Rule 5255. The purpose of the proposed rule change is to remove these exceptions from the initial listing requirement, and thereby clarify and conform these rules.

Additionally, the proposed rule change corrects a second inconsistency between the initial listings rules and continued listings rules regarding securities which are book-entry only. The continued listing requirement in Rule 5255 excludes securities that are book-entry only because ownership of such securities is already recorded only on the books and records of the company and is not held in certificated form. As such, these securities already enjoy many of the advantages that the Direct Registration Program is designed to promote. The comparable exception in the initial listing requirement contained in Rule 5210(c), however, only excludes “non-equity securities that are book entry only.” While similar language previously existed limiting the exception from the continued listing requirement to non-equity securities, Nasdaq expanded that exception to

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

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

include all securities that are book-entry only.<sup>6</sup> As with the other correction herein, this creates an inconsistency between the initial and continued listings requirements. Nasdaq now proposes to expand the exception in Rule 5210(c) relating to initial listings to exclude all securities that are book-entry only to clarify and conform these rules. If a security ceases to be book-entry only, that security would be required to be eligible to participate in a Direct Registration Program.

b. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general, and with section 6(b)(5) of the Act,<sup>8</sup> in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination in persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change will remove inconsistent rule language, thereby clarifying Nasdaq's rules, and help assure that the benefits of a Direct Registration Program are available for securities that do not otherwise enjoy those benefits, which will promote the public interest.

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

<sup>7</sup> 15 U.S.C 78f.

<sup>8</sup> 15 U.S.C 78f(b)(5).

4. Self Regulatory Organizations Statement of Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

5. Self Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

At this time, Nasdaq does not consent to an extension of the time period for commission action specified in Section 19(b)(2) of the act

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(6) of Rule 19b-4 thereunder, in that the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. On August 10, 2012 Nasdaq gave the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change.

Nasdaq believes that the proposed rule change does not significantly affect the protection of investors or the public interest because it conforms the initial listing standard contained in Rule 5210 to the existing continued listing standard contained in Rule 5255 by eliminating exceptions to the rule that are no longer applicable and

providing that the rule is not applicable to any security which is book-entry only, since such securities already enjoy the benefits of a direct registration program.

8. Proposed Rule Change based on Rules of Another Self Regulatory Organization of the Commission

Not applicable.

9. Exhibits

1. Completed notice of proposed rule change for publication in Federal Register

**EXHIBIT 1**

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASDAQ-2012-100)

August \_\_, 2012

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 24, 2012 The NASDAQ Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by Nasdaq. Nasdaq has designated the proposed rule change as effecting a change described under Rule 19b-4(f)(6) under the Act,<sup>3</sup> 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 the Substance of the Proposed Rule Change

Nasdaq proposes to Nasdaq proposes to modify Rule 5210(c) related to Direct Registration Programs (DRS) to reconcile a discrepancy between the initial and continued listing requirements. Nasdaq will implement the proposed rule change immediately.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 C.F.R. 240.19b-4(f)(6).

The text of the proposed rule change is available on the Exchange's website at <http://www.nasdaq.cchwallstreet.com>, at <http://www.sec.gov>, 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, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of 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 modify Rule 5210(c) related to Direct Registration Programs (DRS) to reconcile a discrepancy between the initial and continued listing requirements.

As currently drafted, Rule 5210(c) provides that the DRS requirement does not apply to "additional classes of securities of Companies which already have securities listed on Nasdaq" and "Companies which immediately prior to such listing had securities listed on another registered securities exchange in the U.S."

This language is now outdated. Specifically, when Nasdaq introduced the Direct Registration Program requirement, it applied the rule to most new listings, but created a phase-in period for already listed companies, including companies listing additional classes of securities and companies switching from other exchanges.<sup>4</sup> This phase-in

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

period has now ended<sup>5</sup> and all listed companies are required by Rule 5255 to comply with the DRS requirement, however, the language allowing an exemption from the DRS initial listing requirement for these companies remains in Rule 5210(c). Thus, as currently written, a company could qualify to list on Nasdaq pursuant to one of these exceptions in Rule 5210(c), but immediately be out of compliance with the continued listing requirements in Rule 5255. The purpose of the proposed rule change is to remove these exceptions from the initial listing requirement, and thereby clarify and conform these rules.

Additionally, the proposed rule change corrects a second inconsistency between the initial listings rules and continued listings rules regarding securities which are book-entry only. The continued listing requirement in Rule 5255 excludes securities that are book-entry only because ownership of such securities is already recorded only on the books and records of the company and is not held in certificated form. As such, these securities already enjoy many of the advantages that the Direct Registration Program is designed to promote. The comparable exception in the initial listing requirement contained in Rule 5210(c), however, only excludes “non-equity securities that are book entry only.” While similar language previously existed limiting the exception from the continued listing requirement to non-equity securities, Nasdaq expanded that exception to include all securities that are book-entry only.<sup>6</sup> As with the other correction herein, this creates an inconsistency between the initial and continued listings requirements. Nasdaq

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

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

now proposes to expand the exception in Rule 5210(c) relating to initial listings to exclude all securities that are book-entry only to clarify and conform these rules. If a security ceases to be book-entry only, that security would be required to be eligible to participate in a Direct Registration Program.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general, and with section 6(b)(5) of the Act,<sup>8</sup> in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination in persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change will remove inconsistent rule language, thereby clarifying Nasdaq's rules, and help assure that the benefits of a Direct Registration Program are available for securities that do not otherwise enjoy those benefits, which will promote the public interest.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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<sup>7</sup> 15 U.S.C 78f.

<sup>8</sup> 15 U.S.C 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

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<sup>9</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>10</sup> 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) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. On August 10, 2012 Nasdaq gave the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change.

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

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. NASDAQ has provided the

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

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.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2012-100 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2012-100. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<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 inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2012-100 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Kevin M O'Neill  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).