

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 20	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2012 - * 124 Amendment No. (req. for Amendments *)
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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 amend several NASDAQ rules to reflect changes to rules of the Financial Industry Regulatory Authority

**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 \* John Last Name \* Yetter  
Title \* Vice President  
E-mail \* john.yetter@nasdaqomx.com  
Telephone \* (301) 978-8497 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 10/22/2012  
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)**

Add Remove View

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**

Add Remove View

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**

Add Remove View

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) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> The NASDAQ Stock Market LLC (the “Exchange” or “NASDAQ”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend several NASDAQ rules to reflect changes to rules of the Financial Industry Regulatory Authority (“FINRA”). The text of the proposed rule change is attached as Exhibit 5.

(b) and (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of NASDAQ pursuant to general authority delegated by the Board of Directors of NASDAQ on July 10, 2012. 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 rule change thirty days after the date of the filing. Questions regarding this rule filing may be directed to John M. Yetter, Vice President and Deputy General Counsel, The NASDAQ OMX Group, at (301) 978-8497.

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

a. Purpose

Many of NASDAQ’s rules governing member conduct are based on rules of FINRA (formerly the National Association of Securities Dealers (“NASD”)). During

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

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

2008, FINRA embarked on an extended process of moving rules formerly designated as “NASD Rules” into a consolidated FINRA rulebook. In most cases, FINRA has renumbered these rules, and in some cases has substantively amended them.

Accordingly, NASDAQ has also been undertaking a process of modifying its rulebook to ensure that NASDAQ rules corresponding to FINRA/NASD rules continue to mirror them as closely as practicable. To the extent possible, NASDAQ will designate a NASDAQ rule that is intended to parallel a FINRA rule with the suffix “A”. For example, the NASDAQ rule paralleling FINRA Rule 5320 will be designated as Rule 5320A. This filing makes the following changes:

(1) NASDAQ is redesignating IM-2110-2 (Trading Ahead of Customer Limit Order) and Rule 2111 (Trading Ahead of Customer Market Orders) as NASDAQ Rule 5320A, which incorporates FINRA Rule 5320 (Prohibition Against Trading Ahead of Customer Orders) by reference.<sup>3</sup> FINRA Rule 5320.02(b) and the reference to Rule 6420 contained therein, which relate to over-the-counter equity securities, will not be reflected in NASDAQ’s rule since NASDAQ, unlike FINRA, does not regulate the over-the-counter market.

(2) NASDAQ is redesignating Rules 6950, 6951, 6952, 6953, 6954, 6955, and 6956 as Rules 7400A (Order Audit Trail System), 7410A (Definitions), 7420A (Applicability), 7430A (Synchronization of Member Business Clocks), 7440A (Recording of Order Information), 7450A (Order Data Transmission Requirements), and 7460A (Violation of Order Audit Trail System Rules). NASDAQ is also adding Rule 7470A (Exemption to the Order Recording and Data Transmission Requirements) as a

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<sup>3</sup> See Securities Exchange Act Release No. 63895 (February 11, 2011), 76 FR 9386 (February 17, 2011) (SR-FINRA-2009-090).

replacement for former Rule 6958, which lapsed in July 2011, and deleting Rule 6957 (Effective Date). NASDAQ is also making changes to rule text to conform to changes to corresponding FINRA rules.<sup>4</sup>

(3) NASDAQ is redesignating Rule 2110 as Rule 2010A (Standards of Commercial Honor and Principles of Trade) and deleting IM-2110-1 (Reserved).<sup>5</sup>

NASDAQ notes that in some instances, the amended rules reference rules that are being adopted or renumbered by contemporaneous NASDAQ rule filings that have been filed on an immediately effective basis.<sup>6</sup>

b. Statutory Basis

The Exchange 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 with 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

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<sup>4</sup> See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (SR-FINRA-2008-021, -022, -026, -028, -029).

<sup>5</sup> Id.

<sup>6</sup> See SR-NASDAQ-2012-122 (October 22, 2012); SR-NASDAQ-2012-123 (October 22, 2012).

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

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

changes will conform various NASDAQ Rules to changes made to corresponding FINRA rules, thus promoting application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to its regulatory services agreement with NASDAQ.

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

The Exchange 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

Not applicable.

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<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; provided the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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).

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.

In its guidance on the proposed rules of Self-Regulatory Organizations (“SROs”),<sup>11</sup> the Commission concluded that filings based on the rules of another SRO already approved by the Commission are eligible for immediate effectiveness under Rule 19b-4(f)(6). The Commission noted that “a proposed rule change appropriately may be filed as an immediately effective rule so long as it is based on and similar to another SRO’s rule and each policy issue raised by the proposed rule (i) has been considered previously by the Commission when the Commission approved another exchange’s rule (that was subject to notice and comment), and (ii) the rule change resolves such policy issue in a manner consistent with such prior approval.”<sup>12</sup> The Exchange notes that the change is substantially similar in all material respects to changes by FINRA approved by the Commission in the filings cited above.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is substantially similar in all material respects to the rule changes approved by the Commission in the FINRA filings cited above.

9. Exhibits

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

5. Text of the proposed rule change.

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<sup>11</sup> See Securities Exchange Act Release No. 58092 (July 3, 2008), 73 FR 40144 (July 11, 2008).

<sup>12</sup> Id. at 40149.

**EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-NASDAQ-2012-124)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend and Adopt Several NASDAQ Rules to Reflect Changes to Rules of the Financial Industry Regulatory Authority (“FINRA”)

October \_\_, 2012

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 October 22, 2012, The NASDAQ Stock Market LLC (“Exchange”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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

The Exchange proposes to amend several NASDAQ rules to reflect changes to rules of the Financial Industry Regulatory Authority (“FINRA”). NASDAQ will implement the proposed rule change thirty days after the date of the filing. The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com>, at NASDAQ’s principal office, and at the Commission’s Public Reference Room.

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

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



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 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

Many of NASDAQ's rules governing member conduct are based on rules of FINRA (formerly the National Association of Securities Dealers ("NASD")). During 2008, FINRA embarked on an extended process of moving rules formerly designated as "NASD Rules" into a consolidated FINRA rulebook. In most cases, FINRA has renumbered these rules, and in some cases has substantively amended them. Accordingly, NASDAQ has also been undertaking a process of modifying its rulebook to ensure that NASDAQ rules corresponding to FINRA/NASD rules continue to mirror them as closely as practicable. To the extent possible, NASDAQ will designate a NASDAQ rule that is intended to parallel a FINRA rule with the suffix "A". For example, the NASDAQ rule paralleling FINRA Rule 5320 will be designated as Rule 5320A. This filing makes the following changes:

(1) NASDAQ is redesignating IM-2110-2 (Trading Ahead of Customer Limit Order) and Rule 2111 (Trading Ahead of Customer Market Orders) as NASDAQ Rule 5320A, which incorporates FINRA Rule 5320 (Prohibition Against Trading Ahead of

Customer Orders) by reference.<sup>3</sup> FINRA Rule 5320.02(b) and the reference to Rule 6420 contained therein, which relate to over-the-counter equity securities, will not be reflected in NASDAQ's rule since NASDAQ, unlike FINRA, does not regulate the over-the-counter market.

(2) NASDAQ is redesignating Rules 6950, 6951, 6952, 6953, 6954, 6955, and 6956 as Rules 7400A (Order Audit Trail System), 7410A (Definitions), 7420A (Applicability), 7430A (Synchronization of Member Business Clocks), 7440A (Recording of Order Information), 7450A (Order Data Transmission Requirements), and 7460A (Violation of Order Audit Trail System Rules). NASDAQ is also adding Rule 7470A (Exemption to the Order Recording and Data Transmission Requirements) as a replacement for former Rule 6958, which lapsed in July 2011, and deleting Rule 6957 (Effective Date). NASDAQ is also making changes to rule text to conform to changes to corresponding FINRA rules.<sup>4</sup>

(3) NASDAQ is redesignating Rule 2110 as Rule 2010A (Standards of Commercial Honor and Principles of Trade) and deleting IM-2110-1 (Reserved).<sup>5</sup>

NASDAQ notes that in some instances, the amended rules reference rules that are being adopted by contemporaneous NASDAQ rule filings that have been filed on an immediately effective basis.<sup>6</sup>

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<sup>3</sup> See Securities Exchange Act Release No. 63895 (February 11, 2011), 76 FR 9386 (February 17, 2011) (SR-FINRA-2009-090).

<sup>4</sup> See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (SR-FINRA-2008-021, -022, -026, -028, -029).

<sup>5</sup> Id.

<sup>6</sup> See SR-NASDAQ-2012-122 (October 22, 2012); SR-NASDAQ-2012-123 (October 22, 2012).

## 2. Statutory Basis

The Exchange 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 with 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 changes will conform various NASDAQ Rules to changes made to corresponding FINRA rules, thus promoting application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to its regulatory services agreement with NASDAQ.

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

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

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

Written comments were neither solicited nor received.

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

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

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; provided the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

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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).

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-2012-124 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-2012-124. 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 website viewing and printing 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2012-124, 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).

**EXHIBIT 5**

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

**[2110] 2010A. Standards of Commercial Honor and Principles of Trade**

A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.

**[IM-2110-1. Reserved]****[IM-2110-2] 5320A. Prohibition Against Trading Ahead of Customer [Limit] Orders**

(a) Nasdaq members and persons associated with a member shall comply with [NASD Interpretive Material 2110-2] FINRA Rule 5320 as if such Rule were part of Nasdaq's rules.

(b) For purposes of this Rule:

(1) [the reference to "NASD Rules" in NASD Interpretive Material 2110-2(a) shall be construed as a reference to "the Nasdaq Rules",]

[(2) references to "NASD's Board of Governors" shall be construed as references to "the Nasdaq Board",]

[(3)] references to Rules [2110, Rule 2320, and Rule 3110] 4512, 5310, 5320, and 7440 shall be construed as references to Nasdaq Rules [2210, Nasdaq Rule 2320, and Nasdaq Rule 3110] 4512A, 5310A, 5320A, and 7440A, respectively;

(2) Rule 5320.02(b) and the reference to Rule 6420 therein shall be disregarded,

[(4)] (3) references to ["NASD"] "FINRA" shall be construed as references to "Nasdaq".

[(5)] (4) Nasdaq members and persons associated with a member relying upon the exemption set forth in [NASD Interpretive Material 2110-2(c)] FINRA Rule 5320.03 shall comply with the [provisions of the NASD Rule 4600 Series cited therein as if such Rules were part of Nasdaq's Rules] reporting requirements stated therein. Nasdaq and FINRA are parties to the Regulatory Contract pursuant to which FINRA has agreed to perform certain functions on behalf of Nasdaq. Therefore, Nasdaq members are complying with Nasdaq Rule 5320A.03 [Nasdaq Interpretive Material 2110-2] by complying with FINRA Rule 5320.03 [NASD Interpretive Material 2110-2] as written, including, for example, [filing] reporting requirements and notifications. In addition, functions performed by FINRA, FINRA departments, and FINRA staff under Nasdaq Rule 5320A.03 [Nasdaq Interpretive Material 2110-2] are being performed by FINRA on behalf of Nasdaq.

\* \* \* \* \*

**[2111. Trading Ahead of Customer Market Orders**

(a) Nasdaq members and persons associated with a member shall comply with NASD Rule 2111 as if such Rule were part of Nasdaq's rules.

(b) For purposes of this Rule, references to IM-2110-2, Rule 2320, and Rule 3110 shall be construed as references to Nasdaq IM-2110-2, Nasdaq Rule 2320, and Nasdaq Rule 3110.

(c) Nasdaq members and persons associated with a member relying upon the exemption set forth in NASD Rule 2111(f) shall comply with the provisions of the NASD Rule 4600 Series and 6400 Series cited therein as if such Rules were part of Nasdaq's Rules. Nasdaq and FINRA are parties to the Regulatory Contract pursuant to which FINRA has agreed to perform certain functions on behalf of Nasdaq. Therefore, Nasdaq members are complying with Nasdaq Rule 2111(f) by complying with NASD Rule 2111(f) as written, including, for example, filing requirements and notifications. In addition, functions performed by FINRA, FINRA departments, and FINRA staff under Nasdaq Rule 2111(f) are being performed by FINRA on behalf of Nasdaq.]

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**[6950] 7400A. Order Audit Trail System****[6951] 7410A. Definitions**

For purposes of the Rule [6950] 7400A Series:

(a) Terms shall have the same meaning as those defined in the Nasdaq By-Laws and rules, unless otherwise specified.

(b) "Bunched Order" shall mean two or more orders that are aggregated prior to execution.

[(b)] (c) "Customer" shall mean a person other than a broker or dealer.

[(c)] (d) "Nasdaq Market Center" shall mean the service provided by Nasdaq that provides for the automated execution and reporting of transactions in Nasdaq securities.

[(d)] (e) "Electronic Communication Network" shall mean any electronic system that widely disseminates to third parties orders entered therein by an exchange market maker or over-the-counter market maker, and permits such orders to be executed in whole or in part, and as further defined in [Securities Exchange Act] Rule 600 of SEC Regulation NMS.

[(e)] (f) "Electronic Order" shall mean an order captured by a member in an electronic order-routing or execution system.

[(f)] (g) "Index Arbitrage Trade" shall have the same meaning as the term "Index Arbitrage" [mean an arbitrage trading strategy involving the purchase or sale of a "basket" or group of



securities in conjunction with the purchase or sale, or intended purchase or sale, of one or more cash-settled options or futures contracts on index stock groups, or options on any such futures contracts in an attempt to profit by the price difference, as further defined] in New York Stock Exchange Rule [132B] 7410.

[(g)] (h) "Intermarket sweep order" shall have the same meaning as contained in [SEC] Rule 600 [adopted pursuant to the Act] of SEC Regulation NMS.

[(h)] (i) "Manual Order" shall mean an order that is captured by a member other than in an electronic order-routing or execution system.

(j) "NMS stock" shall have the same meaning as contained in Rule 600 of SEC Regulation NMS.

[(i)] (k) "Order" shall mean any oral, written, or electronic instruction to effect a transaction in an equity security listed on The Nasdaq Stock Market that is received by a member from another person for handling or execution, or that is originated by a department of a member for execution by the same or another member, other than any such instruction to effect (1) a proprietary transaction originated by a trading desk in the ordinary course of a member's market making activities in a Nasdaq-listed equity security or (2) effect a Bona Fide Hedge Transaction involving a Nasdaq-listed equity security originated by a trading desk in the ordinary course of the member's options market making activities.

[(j)] (l) "Order Audit Trail System" shall mean the automated system owned and operated by FINRA that is designed to capture order information in equity securities listed on the Nasdaq Stock Market reported by members for integration with trade and quotation information to provide FINRA with an accurate time sequenced record of orders and transactions.

[(k)] (m) "Program Trade" shall have the same meaning as the term "Program Trading" [mean a trading strategy involving the related purchase or sale of a group of 15 or more securities having a total market value of \$1 million or more, as further defined] in New York Stock Exchange Rule [132B] 7410.

[(l)] (n) "Reporting Agent" shall mean a third party that enters into any agreement with a member pursuant to which the Reporting Agent agrees to fulfill such member's obligations under Rule [6955] 7450A.

[(m)] (o) "Reporting Member" shall mean a member that receives or originates an order and has an obligation to record and report information under Rules [6954 and 6955] 7440A and 7450A.

(1) A member shall not be considered a Reporting Member in connection with an order, if the following conditions are met:

[(1)] (A) the member engages in a non-discretionary order routing process, pursuant to which it immediately routes, by electronic or other means, all of its orders to a single receiving Reporting Member;

[(2)] (B) the member does not direct and does not maintain control over subsequent routing or execution by the receiving Reporting Member;

[(3)] (C) the receiving Reporting Member records and reports all information required under Rules [6954 and 6955] 7440A and 7450A with respect to the order; and

[(4)] (D) the member has a written agreement with the receiving Reporting Member specifying the respective functions and responsibilities of each party to effect full compliance with the requirements of Rules [6954 and 6955] 7440A and 7450A.

[(n)] (p) "Proprietary Trading Firm" shall mean a Nasdaq member that trades its own capital and that does not have "customers," as that term is defined in Nasdaq Rule 0210(g), and that is not a FINRA member. The funds used by a Proprietary Trading firm must be exclusively firm funds and all trading must be in the firm's accounts. Traders must be owners of, employees of, or contractors to the firm.

**[6952] 7420A. Applicability**

(a) Unless otherwise indicated, the requirements of the Rule [6950] 7400A Series are in addition to the requirements contained elsewhere in the Nasdaq Rules.

(b) Unless otherwise indicated, the requirements of the Rule [6950] 7400A Series shall apply to all Nasdaq Members and to their associated persons.

(c) Unless otherwise indicated, the requirements of the Rule [6950] 7400A Series shall apply to all executed or unexecuted orders for equity securities listed on Nasdaq.

**[6953] 7430A. Synchronization of Member Business Clocks**

(a) Nasdaq members shall comply with [NASD Rule 6953] FINRA Rule 7430 as if such Rule were part of Nasdaq's rules.

(b) For purposes of this Rule, references to "the [By-Laws or other rules of the Association] FINRA By-Laws or other FINRA rules" shall be construed as references to "the Nasdaq Rules".

**[6954] 7440A. Recording of Order Information**

(a) Nasdaq members and persons associated with a member shall comply with [NASD Rule 6954] FINRA Rule 7440 as if such Rule were part of Nasdaq's rules. Nasdaq and FINRA are parties to the Regulatory Contract pursuant to which FINRA has agreed to perform certain functions on behalf of Nasdaq. Therefore, Nasdaq members are complying with Nasdaq Rule [6954] 7440A by complying with [NASD Rule 6954] FINRA Rule 7440 as written, including, for example, filing requirements and notifications. In addition, functions performed by FINRA, FINRA departments, and FINRA staff under Nasdaq Rule [6954] 7440A are being performed by FINRA on behalf of Nasdaq.

(b) For purposes of this Rule[,]:

(1) references to Rules [6952 through 6957] 7420 through 7460 shall be construed as references to Nasdaq Rules [6952 through 6957] 7420A through 7460A;

(2) references to Rules 5320, 7440, and 7450 shall be construed as references to Nasdaq Rules 5320A, 7440A, and 7450A, respectively.

(c) Nasdaq members shall assign and enter a unique order identifier, in the form prescribed by Nasdaq, to all orders that are electronically transmitted to the Nasdaq Market Center. An order identifier shall not be required for orders that are manually transmitted.

#### **[6955] 7450A. Order Data Transmission Requirements**

(a) Except as provided in paragraph (b), Nasdaq members and persons associated with a member shall comply with [NASD Rule 6955] FINRA Rule 7450A as if such Rule were part of Nasdaq's rules. Nasdaq and FINRA are parties to the Regulatory Contract pursuant to which FINRA has agreed to perform certain functions on behalf of Nasdaq. Therefore, Nasdaq members are complying with Nasdaq Rule [6955] 7450A by complying with [NASD Rule 6955] FINRA Rule 7450 as written, including, for example, filing requirements and notifications. In addition, functions performed by FINRA, FINRA departments, and FINRA staff under Nasdaq Rule [6955] 7450A are being performed by FINRA on behalf of Nasdaq.

(b) Proprietary Trading Firms shall be required to comply with [NASD Rule 6955] FINRA Rule 7450 as if such Rule were part of Nasdaq's rules, only when they receive a request from Nasdaq Regulation to submit order information with respect to specific time periods identified in such request. Nothing in this Rule shall be construed to limit the obligations of Proprietary Trading Firms under any other Rule of the [6950] 7400A Series, including but not limited to, Rule [6954] 7440A.

(c) For purposes of this Rule, references to Rule[s 6954] 7440 shall be construed as references to Nasdaq Rule [6954] 7440A.

#### **[6956] 7460A. Violation of Order Audit Trail System Rules**

Failure of a member or person associated with a member to comply with any of the requirements of Rule [6951] 7410A through Rule [6957] 7460A may be considered conduct that is inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 2110.

#### **[6957. Effective Date**

(a) Nasdaq members and persons associated with a member shall comply with NASD Rule 6957 as if such Rule were part of Nasdaq's rules.

(b) For purposes of this Rule, references to Rule 6953, Rule 6954, and Rule 3110 shall be construed as references to Nasdaq Rule 6953, Nasdaq Rule 6954, and Nasdaq Rule 3110.]

**7470A. Exemption to the Order Recording and Data Transmission Requirements**

(a) Pursuant to the Rule 9600 Series, Nasdaq, for good cause shown after taking into consideration all relevant factors, may exempt subject to specified terms and conditions, a member from the recording and order data transmission requirements of Rules 7440A and 7450A, respectively, for manual orders, if such exemption is consistent with the protection of investors and the public interest, and the member meets the following criteria:

(1) the member and current control affiliates and associated persons of the member have not been subject within the last five years to any final disciplinary action, and within the last ten years to any disciplinary action involving fraud;

(2) the member has annual revenues of less than \$2 million;

(3) the member does not conduct any market making activities in Nasdaq Stock Market equity securities;

(4) the member does not execute principal transactions with its customers (with limited exception for principal transactions executed pursuant to error corrections); and

(5) the member does not conduct clearing or carrying activities for other firms.

(b) An exemption provided pursuant to this Rule shall not exceed a period of two years. At or prior to the expiration of a grant of exemptive relief under this Rule, a member meeting the criteria set forth in paragraph (a) above may request, pursuant to the 9600 Series, a subsequent exemption, which will be considered at the time of the request consistent with the protection of investors and the public interest.

(c) This Rule shall be in effect until July 10, 2015.