

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 19	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2013 - * 017
		Amendment No. (req. for Amendments *)

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

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) <input type="checkbox"/>	Section 3C(b)(2) <input type="checkbox"/>
Section 806(e)(2) <input 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 action (limit 250 characters, required when Initial is checked *).

A proposed rule change to restore certain requirements that were inadvertently deleted when Rule 5815 was adopted in March 2009 and remove fees that have expired from the rules.

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 action.

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.

(Title *)

Date 01/25/2013 Executive Vice President and General Counsel
 By Edward S. Knight
 (Name *)

Edward S Knight,

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.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

Add Remove View

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 *

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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies

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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, security-based swap submission, or advance notice 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

Add Remove View

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

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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

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² The NASDAQ Stock Market LLC (“Nasdaq”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to restore certain requirements that were inadvertently deleted when Rule 5815 was adopted in March 2009 and remove fees that have expired from the rules. Nasdaq has filed this proposal under Rule 19b-4(f)(6)³ and requests that the Commission waive the 30-day operative delay period contained in paragraph (iii) of that Rule.

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.⁴

* * * * *

5815. Review of Staff Determinations by Hearings Panel

When a Company receives a Staff Delisting Determination or a Public Reprimand Letter issued by the Listing Qualifications Department, or when its application for initial listing is denied, it may request in writing that the Hearings Panel review the matter in a written or an oral hearing. This section sets forth the procedures for requesting a hearing before a Hearings Panel, describes the Hearings Panel and the possible outcomes of a hearing, and sets forth Hearings Panel procedures.

(a) Procedures for Requesting and Preparing for a Hearing

(1) Timely Request Stays Delisting

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at <http://nasdaq.cchwallstreet.com>.

(A) A Company may, within seven calendar days of the date of the Staff Delisting Determination notification, Public Reprimand Letter, or written denial of a listing application, request a written or oral hearing before a Hearings Panel to review the Staff Delisting Determination, Public Reprimand Letter, or written denial of a listing application. Subject to the limitation in paragraph (B) below, a timely request for a hearing will stay the suspension and delisting action pending the issuance of a written Panel Decision. Requests for hearings should be submitted in writing to the Hearings Department.

(B) No changes.

(2) Failure to Request Results in Immediate Delisting

If a Company fails to request in writing a hearing within seven calendar days, it waives its right to request review of a Delisting Determination, Public Reprimand Letter, or written denial of an initial listing application. In [that event,] the case of a Company's failure to timely request a hearing to review a Delisting Determination, the Hearings Department will take action to suspend trading of the securities and follow procedures to delist the securities.

(3) Fees

Within 15 calendar days of the date of the Staff Delisting Determination, Public Reprimand Letter, or written denial of an initial listing application, the Company must submit a hearing fee of \$10,000. [However, if the hearing request relates to a Staff Delisting Determination dated before January 2, 2013, the Company must submit a hearing fee as follows:

(A) when the Company has requested a written hearing, \$4,000; or

(B) when the Company has requested an oral hearing, whether in person or by telephone, \$5,000.]

(4) – (6) No changes.

(b) – (d) No changes.

5820. Appeal to the Nasdaq Listing and Hearing Review Council

A Company may appeal a Panel Decision to the Listing Council. The Listing Council may also call for review a Panel Decision on its own initiative. This Rule 5820 describes the procedures applicable to appeals and calls for review.

(a) Procedure for Requesting Appeal

A Company may appeal any Panel Decision to the Listing Council by submitting a written request for appeal and a fee of \$10,000 to the Nasdaq Office of Appeals and Review within 15 calendar days of the date of the Panel Decision. [However, if the appeal relates to a Panel Decision dated before January 2, 2013, the applicable fee is \$4,000.] An appeal will not operate as a stay of the Panel Decision. Upon receipt of the appeal request and the applicable fee, the Nasdaq Office of Appeals and Review will acknowledge the Company's request and provide deadlines for the Company to provide written submissions.

(b) – (e) No changes.

* * * * *

(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 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. If the Commission waives the pre-operative delay provided for in Rule 19b-4(f)(6),⁵ Nasdaq proposes to implement the proposed rule change immediately.

Questions regarding this rule filing may be directed to Arnold Golub, Vice President, 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**

Pursuant to the Nasdaq Listing Rule Series 5800, companies may seek review of a determination by Nasdaq Staff to deny initial listing or delist a company's securities or to

⁵ 17 CFR 240.19b-4(f)(6).

issue a Public Reprimand Letter, by requesting an oral or written hearing before an independent Hearings Panel. The proposed rule change restores certain provisions about the Hearings process that were inadvertently deleted when Rule 5815 was adopted in March 2009 as part of a comprehensive re-write of the listing rules, designed to improve the organization of the rules, eliminate redundancies and simplify the rule language.⁶ In that rule filing, Nasdaq specifically represented that “it is not making any substantive changes to the Listing Rules in this proposal.”⁷

First, the proposed rule change clarifies that fees for a hearing are applicable to any requests for a hearing, whether sought for review of a Public Reprimand Letter, Staff denial of an initial listing application, or review of a delisting determination. The preamble text in Rule 5815 makes clear that a Company may request a hearing for review of a Public Reprimand or denial of an initial listing application, as well as a Delisting Determination. Similarly, the predecessor to Rule 5815, former Rule 4805, allowed a company to request review of a “Staff Determination,” which was defined in former Rule 4801(k)(1) as “a written determination by the Listing Department to limit or prohibit the initial or continued listing of an issuer’s securities ... or ... a public reprimand letter....”⁸ However, while former Rule 4805(d) required a company to pay the applicable fee whenever it requested a hearing for review of a Staff Determination, Rule 5815(a)(3) does not specifically impose a fee for requests for review of a Public Reprimand Letter or

⁶ Exchange Act Release No. 59663 (March 31, 2009), 74 FR 15552 (April 6, 2009) (SR-NASDAQ-2009-018).

⁷ Id. at 15553.

⁸ The former Listing Rules are available at http://nasdaq.cchwallstreet.com/NASDAQ/pdf/old_listing_rules.pdf.

denial of an initial listing application. The proposed rule change amends Rule 5815(a)(3) to state that fees for hearings continue to apply to requests for review of a Public Reprimand and denial of an initial listing application.⁹

Second, the proposed rule change restores the requirement that a denial of initial listing must be in writing in order to be eligible for review under Rule 5815. This requirement was also inadvertently deleted during the same re-write of the listing rules. As noted above, the definition in the prior rules of a “Staff Determination,” which could be appealed to the Panel, was “a written determination by the Listing Department.” This requirement helped assure that Staff has completed its review before a matter could proceed to the Panel, and that the Panel has formal documentation of Staff’s concerns when it considers the matter, thereby allowing the Panel to fully fulfill its investor protection mandates and allow companies a fair and substantive review process. Nasdaq proposes to restore this requirement to add transparency to the rules.

Finally, the proposed rule change removes language in Rules 5815(a)(3) and 5820 that describes fees that are no longer applicable. Nasdaq adopted new fees effective for companies that request review of a Staff Delisting Determination issued on or after January 2, 2013 or a Panel Decision issued on or after January 2, 2013. This rule change removes from the rule text the fees applicable before that date, because no companies are eligible to request review under the old fees.

⁹ Since the new rulebook was adopted, the practice of applying fees to all requests for hearings has continued.

b. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁰ in general and with Sections 6(b)(5) of the Act,¹¹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market systems, and in general to protect investors and the public interest. The proposed amendment will provide clarity and reflect the legacy rule, which Nasdaq did not intend to modify, and the continued practice of applying fees to requests for all hearings and allowing appeals only of written decisions to deny initial inclusion. The proposed rule change will also conform the various parts of Rule 5815, thereby clarifying Nasdaq's rules to the benefit of investors and the public interest.

Nasdaq also believes that the proposed changes are consistent with Section 6(b)(7) of the Act,¹² in that the proposed changes are consistent with the provision by the Exchange of fair procedures for the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange. In particular, Nasdaq believes that the clarifications about the availability and requirements for an appeal support a fair process designed to provide substantive review of formal determinations of Nasdaq.

¹⁰ 15 U.S.C. 78f.

¹¹ 15 U.S.C. 78f(b)(4) and (5).

¹² 15. U.S.C. 78f(b)(7).

4. 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. The market for listing services is extremely competitive and listed companies may freely choose alternative venues. For this reason, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings.

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

Nasdaq does not consent at this time 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 Act¹³ and paragraph (f)(6) of Rule 19b-4 thereunder,¹⁴ 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

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

January 7, 2013, 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.

As described above, the proposed rule change is designed to conform Nasdaq's rules with the previously approved listing rules and remove expired fee provisions from the rules. As such, Nasdaq believes that the proposed change does not significantly affect the protection of investors and that investors and issuers will benefit from the additional clarity in the rules, and that it is therefore appropriate to file this proposal for immediate effectiveness pursuant to Section 19(b)(3)(A)¹⁵ and Rule 19b-4(f)(6)¹⁶.

Nasdaq requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6). This will allow Nasdaq's rules to immediately reflect the legacy rule, which Nasdaq did not intend to modify, and allow companies and investors to immediately benefit from the additional clarity provided by the proposed rule.

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

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advanced Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

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

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2013-017)

January __, 2013

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Restore Certain Requirements that Were Inadvertently Deleted from Rule 5815

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4² thereunder, notice is hereby given that on January 25, 2013, 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, II, and III, below, which Items have been prepared by Nasdaq. 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

Nasdaq proposes to restore certain requirements that were inadvertently deleted when Rule 5815 was adopted in March 2009 and remove from the rules fees that have expired.

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

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

5815. Review of Staff Determinations by Hearings Panel

When a Company receives a Staff Delisting Determination or a Public Reprimand Letter issued by the Listing Qualifications Department, or when its application for initial listing is denied, it may request in writing that the Hearings Panel review the matter in a written or an oral hearing. This section sets forth the procedures for requesting a hearing before a Hearings Panel, describes the Hearings Panel and the possible outcomes of a hearing, and sets forth Hearings Panel procedures.

(a) Procedures for Requesting and Preparing for a Hearing

(1) Timely Request Stays Delisting

(A) A Company may, within seven calendar days of the date of the Staff Delisting Determination notification, Public Reprimand Letter, or written denial of a listing application, request a written or oral hearing before a Hearings Panel to review the Staff Delisting Determination, Public Reprimand Letter, or written denial of a listing application. Subject to the limitation in paragraph (B) below, a timely request for a hearing will stay the suspension and delisting action pending the issuance of a written Panel Decision. Requests for hearings should be submitted in writing to the Hearings Department.

(B) No changes.

(2) Failure to Request Results in Immediate Delisting

If a Company fails to request in writing a hearing within seven calendar days, it waives its right to request review of a Delisting Determination, Public Reprimand Letter, or written denial of an initial listing application. In [that event,] the case of a Company's failure to timely request a hearing to review a Delisting Determination, the Hearings Department will take action to suspend trading of the securities and follow procedures to delist the securities.

(3) Fees

Within 15 calendar days of the date of the Staff Delisting Determination, Public Reprimand Letter, or written denial of an initial listing application, the Company must submit a hearing fee of \$10,000. [However, if the hearing request relates to a Staff Delisting Determination dated before January 2, 2013, the Company must submit a hearing fee as follows:

(A) when the Company has requested a written hearing, \$4,000; or

(B) when the Company has requested an oral hearing, whether in person or by telephone, \$5,000.]

(4) – (6) No changes.

(b) – (d) No changes.

5820. Appeal to the Nasdaq Listing and Hearing Review Council

A Company may appeal a Panel Decision to the Listing Council. The Listing Council may also call for review a Panel Decision on its own initiative. This Rule 5820 describes the procedures applicable to appeals and calls for review.

(a) Procedure for Requesting Appeal

A Company may appeal any Panel Decision to the Listing Council by submitting a written request for appeal and a fee of \$10,000 to the Nasdaq Office of Appeals and Review within 15 calendar days of the date of the Panel Decision. [However, if the appeal relates to a Panel Decision dated before January 2, 2013, the applicable fee is \$4,000.] An appeal will not operate as a stay of the Panel Decision. Upon receipt of the appeal request and the applicable fee, the Nasdaq Office of Appeals and Review will acknowledge the Company's request and provide deadlines for the Company to provide written submissions.

(b) – (e) No changes.

* * * * *

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Pursuant to the Nasdaq Listing Rule Series 5800, companies may seek review of a determination by Nasdaq Staff to deny initial listing or delist a company's securities or to

issue a Public Reprimand Letter, by requesting an oral or written hearing before an independent Hearings Panel. The proposed rule change restores certain provisions about the Hearings process that were inadvertently deleted when Rule 5815 was adopted in March 2009 as part of a comprehensive re-write of the listing rules, designed to improve the organization of the rules, eliminate redundancies and simplify the rule language.⁴ In that rule filing, Nasdaq specifically represented that “it is not making any substantive changes to the Listing Rules in this proposal.”⁵

First, the proposed rule change clarifies that fees for a hearing are applicable to any requests for a hearing, whether sought for review of a Public Reprimand Letter, Staff denial of an initial listing application, or review of a delisting determination. The preamble text in Rule 5815 makes clear that a Company may request a hearing for review of a Public Reprimand or denial of an initial listing application, as well as a Delisting Determination. Similarly, the predecessor to Rule 5815, former Rule 4805, allowed a company to request review of a “Staff Determination,” which was defined in former Rule 4801(k)(1) as “a written determination by the Listing Department to limit or prohibit the initial or continued listing of an issuer’s securities ... or ... a public reprimand letter....”⁶ However, while former Rule 4805(d) required a company to pay the applicable fee whenever it requested a hearing for review of a Staff Determination, Rule 5815(a)(3) does not specifically impose a fee for requests for review of a Public Reprimand Letter or

⁴ Exchange Act Release No. 59663 (March 31, 2009), 74 FR 15552 (April 6, 2009) (SR-NASDAQ -2009-018).

⁵ Id. at 15553.

⁶ The former Listing Rules are available at http://nasdaq.cchwallstreet.com/NASDAQ/pdf/old_listing_rules.pdf.

denial of an initial listing application. The proposed rule change amends Rule 5815(a)(3) to state that fees for hearings continue to apply to requests for review of a Public Reprimand and denial of an initial listing application.⁷

Second, the proposed rule change restores the requirement that a denial of initial listing must be in writing in order to be eligible for review under Rule 5815. This requirement was also inadvertently deleted during the same re-write of the listing rules. As noted above, the definition in the prior rules of a “Staff Determination,” which could be appealed to the Panel, was “a written determination by the Listing Department.” This requirement helped assure that Staff has completed its review before a matter could proceed to the Panel, and that the Panel has formal documentation of Staff’s concerns when it considers the matter, thereby allowing the Panel to fully fulfill its investor protection mandates and allow companies a fair and substantive review process. Nasdaq proposes to restore this requirement to add transparency to the rules.

Finally, the proposed rule change removes language in Rules 5815(a)(3) and 5820 that describes fees that are no longer applicable. Nasdaq adopted new fees effective for companies that request review of a Staff Delisting Determination issued on or after January 2, 2013 or a Panel Decision issued on or after January 2, 2013. This rule change removes from the rule text the fees applicable before that date, because no companies are eligible to request review under the old fees.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁸ in general and with Sections 6(b)(5) of the Act,⁹ in particular, in

⁷ Since the new rulebook was adopted, the practice of applying fees to all requests for hearings has continued.

that it is designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market systems, and in general to protect investors and the public interest. The proposed amendment will provide clarity and reflect the legacy rule, which Nasdaq did not intend to modify, and the continued practice of applying fees to requests for all hearings and allowing appeals only of written decisions to deny initial inclusion. The proposed rule change will also conform the various parts of Rule 5815, thereby clarifying Nasdaq's rules to the benefit of investors and the public interest.

Nasdaq also believes that the proposed changes are consistent with Section 6(b)(7) of the Act,¹⁰ in that the proposed changes are consistent with the provision by the Exchange of fair procedures for the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange. In particular, Nasdaq believes that the clarifications about the availability and requirements for an appeal support a fair process designed to provide substantive review of formal determinations of Nasdaq.

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. The market for listing services is extremely competitive and listed companies may freely choose alternative venues. For this reason, Nasdaq does not

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(4) and (5).

¹⁰ 15. U.S.C. 78f(b)(7).

believe that the proposed rule change will result in any burden on competition for listings.

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

Written comments were n either solicited or 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 Act¹¹ and paragraph (f)(6) of Rule 19b-4 thereunder,¹² 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 January 7, 2013, 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.

As described above, the proposed rule change is designed to conform Nasdaq's rules with the previously approved listing rules and remove expired fee provisions from the rules. As such, Nasdaq believes that the proposed change does not significantly affect the protection of investors and that investors and issuers will benefit from the additional clarity in the rules, and that it is therefore appropriate to file this proposal for immediate effectiveness pursuant to Section 19(b)(3)(A)¹³ and Rule 19b-4(f)(6)¹⁴.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

Nasdaq requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6). This will allow Nasdaq's rules to immediately reflect the legacy rule, which Nasdaq did not intend to modify, and allow companies and investors to immediately benefit from the additional clarity provided by the proposed rule.

At any time within 60 days of the filing of such 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.

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-2013-017 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-2013-017. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2013-017 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.¹⁵

Kevin M. O'Neill
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).