

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 16	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2013 - * 031	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 checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>	
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)	
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) <input type="checkbox"/>			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) <input type="checkbox"/>	
Exhibit 2 Sent As Paper Document <input type="checkbox"/>		Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
Description Provide a brief description of the action (limit 250 characters, required when Initial is checked *). A Proposal Amending the Attestation Requirement of Rule 4780 Allowing a Retail Member Organization to Attest that "Substantially All" Orders Submitted to the Retail Price Improvement Program Will Qualify as "Retail Orders".				
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 * Jonathan Last Name * Cayne Title * Associate General Counsel E-mail * jonathan.cayne@nasdaqomx.com Telephone * (301) 978-8493 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 02/19/2013 By Edward S. Knight (Name *) Executive Vice President and General Counsel 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 *

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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 *

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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 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 the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² The NASDAQ Stock Market LLC (“Nasdaq” or the “Exchange”), is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the attestation requirement of Nasdaq Rule 4780 to allow a Retail Member Organization (“RMO”) to attest that “substantially all” orders submitted to the Retail Price Improvement Program (the “Program”) will qualify as “Retail Orders.” Nasdaq Rule 4780(b)(2)(C) currently requires RMOs to attest that “any order” will so qualify, effectively preventing certain significant retail brokers from participating in the Program due to operational constraints.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the proposed rule is attached hereto as Exhibit

5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Board of Directors of the Exchange approved the submission of this proposed rule change on September 26, 2012. No other action by the Exchange is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to Jonathan F. Cayne, Associate General Counsel, at (301) 978-8493.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

Background

The Exchange is proposing an amendment to Nasdaq Rule 4780(b)(2)(C) to provide that an RMO may attest that “substantially all” of the orders it submits to the Program are Retail Orders, as defined in Nasdaq Rule 4780(a)(2), replacing the requirement that the RMO must attest that all submitted orders qualify as Retail Orders.³

Under current Nasdaq Rule 4780, a member organization wishing to become an RMO must submit: (A) an application form; (B) supporting documentation; and (C) an attestation that “any order” submitted as a Retail Order will qualify as such under a member organization wishing to become an RMO must submit: (A) an application form; (B) supporting documentation; and (C) an attestation that “any order” submitted as a Retail Order will qualify as such under Nasdaq Rule 4780.⁴

Accordingly, the Exchange is proposing a de minimis relaxation of the RMO attestation requirement in order to accommodate these system limitations and expand the access of retail customers to the benefits of the Program. Specifically, as proposed an RMO would be permitted to send de minimis quantities of agency orders to the Exchange as Retail Orders that cannot be explicitly attested to under existing definitions of the

³ See Securities Exchange Act Release No. 68747 (January 28, 2013) (SR-NYSE-2013-08) (substantially similar to the filing at hand).

⁴ A Retail Order is defined in Nasdaq Rule 4780(a)(2), in part, as “an agency or riskless principal order that originates from a natural person and is submitted to Nasdaq by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price (except in the case that a market order is changed to a marketable limit order) or side of market and the order does not originate from a trading algorithm or any other computerized methodology.”

Program.

The Exchange will issue an Equity Trader Alert to make clear that the “substantially all” language is meant to permit the presence of only isolated and de minimis quantities of agency orders that do not qualify as Retail Orders that cannot be segregated from Retail Orders due to systems limitations. In this regard, an RMO would need to retain, in its books and records, adequate substantiation that substantially all orders sent to the Exchange as Retail Orders met the strict definition and that those orders not meeting the strict definition are agency orders that cannot be segregated from Retail Orders due to system limitations, and are de minimis in terms of the overall number of Retail Orders sent to the Exchange.⁵

b. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁶ In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,⁷ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

⁵ The Financial Industry Regulatory Authority, Inc., on behalf of the Exchange, will review a member organization’s compliance with these requirements.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because, while the proposed rule change represents a relaxation of the attestation requirements, the change is a de minimis relaxation that still requires the RMO applicant to attest that “substantially all” of its orders will qualify as Retail Orders. The slight relaxation will allow enough flexibility to accommodate system limitations while still ensuring that only a fractional amount of orders submitted to the Program would not qualify as Retail Orders.

The Exchange believes that the proposed rule change promotes just and equitable principles of trade because it will ensure that similarly situated member organizations who have only slight differences in the capability of their systems will be able to equally benefit from the Program.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because it will allow member organizations, who are concerned about its system limitations not allowing 100% certification that submitted orders are Retail Orders, to still participate in the Program. By removing impediments to participation in the Program, the proposed change would permit expanded access of retail customers to the price improvement and transparency offered by the Program and thereby potentially stimulate further price competition for retail orders.

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. The Exchange believes that the amendment, by increasing the level of participation in the Program, will increase the level of competition around retail

executions such that retail investors would receive better prices than they currently do on the Exchange and potentially through bilateral internalization arrangements. The Exchange believes that the transparency and competitiveness of operating a program such as the Retail Price Improvement Program on an exchange market would result in better prices for retail investors, and benefits retail investors by expanding the capabilities of Exchanges to encompass practices currently allowed on non-Exchange venues.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of any time period for Commission action.

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

Not applicable.

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

The proposed amendment to Nasdaq Rule 4780 is based on an amendment to NYSE Rule 107C, which relates to the attestation requirement of the NYSE "Retail Liquidity Program."⁸

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.

⁸ Supra note 3.

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.
5. Text of Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. ; File No. SR-NASDAQ-2013-031)

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by The NASDAQ Stock Market LLC Amending the Attestation Requirement of Rule 4780 Allowing a Retail Member Organization to Attest that “Substantially All” Orders Submitted to the Retail Price Improvement Program Will Qualify as “Retail Orders”

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on February 19, 2013, The NASDAQ Stock Market LLC (“Nasdaq”) 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 is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change amend the attestation requirement of Nasdaq Rule 4780 to allow a Retail Member Organization (“RMO”) to attest that “substantially all” orders submitted to the Retail Price Improvement Program (the “Program”) will qualify as “Retail Orders.” Nasdaq Rule 4780(b)(2)(C) currently requires RMOs to attest that “any order” will so qualify, effectively preventing certain significant retail brokers from participating in the Program due to operational constraints.

The text of the proposed rule change is available from Nasdaq’s website at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

<http://nasdaq.cchwallstreet.com/Filings/> , at Nasdaq’s principal office, 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

The Exchange is proposing an amendment to Nasdaq Rule 4780(b)(2)(C) to provide that an RMO may attest that “substantially all” of the orders it submits to the Program are Retail Orders, as defined in Nasdaq Rule 4780(a)(2), replacing the requirement that the RMO must attest that all submitted orders qualify as Retail Orders.³

Under current Nasdaq Rule 4780, a member organization wishing to become an RMO must submit: (A) an application form; (B) supporting documentation; and (C) an attestation that “any order” submitted as a Retail Order will qualify as such under a member organization wishing to become an RMO must submit: (A) an application form; (B) supporting documentation; and (C) an attestation that “any order” submitted as a

³ See Securities Exchange Act Release No. 68747 (January 28, 2013) (SR-NYSE-2013-08) (substantially similar to the filing at hand).

Retail Order will qualify as such under Nasdaq Rule 4780.⁴

Accordingly, the Exchange is proposing a de minimis relaxation of the RMO attestation requirement in order to accommodate these system limitations and expand the access of retail customers to the benefits of the Program. Specifically, as proposed an RMO would be permitted to send de minimis quantities of agency orders to the Exchange as Retail Orders that cannot be explicitly attested to under existing definitions of the Program.

The Exchange will issue an Equity Trader Alert to make clear that the “substantially all” language is meant to permit the presence of only isolated and de minimis quantities of agency orders that do not qualify as Retail Orders that cannot be segregated from Retail Orders due to systems limitations. In this regard, an RMO would need to retain, in its books and records, adequate substantiation that substantially all orders sent to the Exchange as Retail Orders met the strict definition and that those orders not meeting the strict definition are agency orders that cannot be segregated from Retail Orders due to system limitations, and are de minimis in terms of the overall number of Retail Orders sent to the Exchange.⁵

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities

⁴ A Retail Order is defined in Nasdaq Rule 4780(a)(2), in part, as “an agency or riskless principal order that originates from a natural person and is submitted to Nasdaq by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price (except in the case that a market order is changed to a marketable limit order) or side of market and the order does not originate from a trading algorithm or any other computerized methodology.”

⁵ The Financial Industry Regulatory Authority, Inc., on behalf of the Exchange, will review a member organization’s compliance with these requirements.

exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁶ In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,⁷ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because, while the proposed rule change represents a relaxation of the attestation requirements, the change is a de minimis relaxation that still requires the RMO applicant to attest that “substantially all” of its orders will qualify as Retail Orders. The slight relaxation will allow enough flexibility to accommodate system limitations while still ensuring that only a fractional amount of orders submitted to the Program would not qualify as Retail Orders.

The Exchange believes that the proposed rule change promotes just and equitable principles of trade because it will ensure that similarly situated member organizations who have only slight differences in the capability of their systems will be able to equally benefit from the Program.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because it will allow member organizations, who are concerned about its system

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

limitations not allowing 100% certification that submitted orders are Retail Orders, to still participate in the Program. By removing impediments to participation in the Program, the proposed change would permit expanded access of retail customers to the price improvement and transparency offered by the Program and thereby potentially stimulate further price competition for retail orders.

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. The Exchange believes that the amendment, by increasing the level of participation in the Program, will increase the level of competition around retail executions such that retail investors would receive better prices than they currently do on the Exchange and potentially through bilateral internalization arrangements. The Exchange believes that the transparency and competitiveness of operating a program such as the Retail Price Improvement Program on an exchange market would result in better prices for retail investors, and benefits retail investors by expanding the capabilities of Exchanges to encompass practices currently allowed on non-Exchange venues.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or

disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- 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-2013-031 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-2013-031. 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-2013-031 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.⁸

Kevin M. O'Neill
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

* * * * *

4700. Nasdaq Market Center — Execution Services

Rule 4780. Retail Price Improvement Program

(a) No Change

(b) Retail Member Organization Qualifications and Application.

(1) No change.

(2) To become a Retail Member Organization, a Member must submit:

(A) - (B) No change.

(C) an attestation, in a form prescribed by Nasdaq, that substantially all [any] orders submitted as [a] Retail Orders will qualify as such under this Rule.

(3) - (6) No change.

(c) – (h) No change.

* * * * *