

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75064; File No. SR-BSECC-2015-001]

### Self-Regulatory Organizations; Boston Stock Exchange Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Amended and Restated Certificate of Incorporation and By-Laws of The NASDAQ OMX Group, Inc.

May 28, 2015.

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 May 19, 2015, Boston Stock Exchange Clearing Corporation (“BSECC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by BSECC. 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

BSECC is filing this proposed rule change with respect to amendments of the Amended and Restated Certificate of Incorporation (the “Charter”) and By-Laws (the “By-Laws”) of its parent corporation, The NASDAQ OMX Group, Inc. (“NASDAQ OMX” or the “Company”), to change the name of the Company to Nasdaq, Inc. The proposed amendments will be implemented on a date designated by NASDAQ OMX following approval by the Commission. The text of the proposed rule change is available on BSECC’s Web site at <http://nasdaqomxbx.cchwallstreet.com>, at the principal office of BSECC, 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, BSECC 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. BSECC 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

As part of an ongoing global rebranding initiative, the Company has begun to refer to itself, both internally and externally, as Nasdaq, rather than NASDAQ OMX. For purposes of consistency with its marketing, communications and other materials, the Company has decided to change the legal names of NASDAQ OMX and certain of its subsidiaries to eliminate references to OMX. The Company therefore proposes to amend its Charter and By-Laws to change its legal name from The NASDAQ OMX Group, Inc. to Nasdaq, Inc.

Specifically, the Company proposes to file a Certificate of Amendment to its Charter with the Secretary of State of the State of Delaware to amend Article First of the Charter to reflect the new name. In addition, the Company proposes to amend the title and Article I(f) of the By-Laws to reflect the new name.

##### 2. Statutory Basis

BSECC believes that its proposal is consistent with Section 17A(b)(3)(C) of the Act,<sup>3</sup> in that it assures a fair representation of shareholders and participants in the selection of directors and administration of its affairs. While the proposals relate to the organizational documents of NASDAQ OMX, rather than BSECC, BSECC is indirectly owned by NASDAQ OMX, and therefore, NASDAQ OMX’s stockholders have an indirect stake in BSECC. In addition, the participants in BSECC, to the extent any exist, could purchase stock in NASDAQ OMX in the open market, just like any other stockholder.

Specifically, NASDAQ OMX is proposing changes to its Charter and By-Laws to change NASDAQ OMX’s legal name to Nasdaq, Inc. BSECC believes that the changes will eliminate confusion that may exist because of NASDAQ OMX’s ongoing global rebranding as Nasdaq. As a result, BSECC believes that the proposals assure a fair representation of NASDAQ OMX’s stockholders in the selection of directors and administration of NASDAQ OMX’s affairs, as well as the affairs of BSECC.

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

Because the proposed rule change relates to the governance of NASDAQ

OMX and not to the operations of BSECC, BSECC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were either solicited or received.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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

- (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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BSECC-2015-001 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BSECC-2015-001. This file number should be included on the subject line if email 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

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

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

<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(C).

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 Web site 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 BSECC. 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-BSECC-2015-001 and should be submitted on or before June 24, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

**Robert W. Errett,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75072; File No. SR-NASDAQ-2015-057]

### Self-Regulatory Organizations; The NASDAQ Stock Market, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 4626(b)(3)

May 29, 2015.

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 May 19, 2015, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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 text of the proposed rule change is available on the Exchange's Web site

at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in 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

###### Introduction

On March 22, 2013, the Commission approved a proposal by Nasdaq to establish a one-time voluntary accommodation policy for claims arising from system difficulties that Nasdaq experienced during the initial public offering ("IPO") of Facebook, Inc. ("Facebook" or "FB") on May 18, 2012.<sup>3</sup> Rule 4626 limits the liability of Nasdaq and its affiliates with respect to any losses, damages, or other claims arising out of the Nasdaq Market Center or its use and provides for limited accommodations under the conditions specified in the rule.<sup>4</sup> Rule 4626(b)(1) provides that for the aggregate of all claims made by market participants related to the use of the Nasdaq Market Center during a single calendar month, Nasdaq's payments under Rule 4626 shall not exceed the larger of \$500,000 or the amount of the recovery obtained

<sup>3</sup> Securities Exchange Act Release No. 69216 (March 22, 2013), 78 FR 19040 (March 28, 2013) (SR-NASDAQ-2012-090) ("Approval Order"). See also Securities Exchange Act Release No. 67507 (July 26, 2012), 77 FR 45706 (August 1, 2012) (SR-NASDAQ-2012-090) ("Proposing Release").

<sup>4</sup> Rule 4626(a) provides that except as set forth in the accommodation portion of the rule, "Nasdaq and its affiliates shall not be liable for any losses, damages, or other claims arising out of the Nasdaq Market Center or its use. Any losses, damages, or other claims, related to a failure of the Nasdaq Market Center to deliver, display, transmit, execute, compare, submit for clearance and settlement, adjust, retain priority for, or otherwise correctly process an order, Quote/Order, message, or other data entered into, or created by, the Nasdaq Market Center shall be absorbed by the member, or the member sponsoring the customer, that entered the order, Quote/Order, message, or other data into the Nasdaq Market Center."

by Nasdaq under any applicable insurance policy. Rule 4626(b)(2) states that for the aggregate of all claims made by market participants related to systems malfunctions or errors of the Nasdaq Market Center concerning locked/crossed compliance, trade through protection, market maker quoting, order protection, or firm quote compliance, during a single calendar month Nasdaq's payments under Rule 4626 shall not exceed the larger of \$3,000,000 or the amount of the recovery obtained by Nasdaq under any applicable insurance policy. Rule 4626(b)(3) established a methodology for submission, evaluation, and payment of claims associated with the Facebook IPO. The purpose of this proposed rule change is to amend Rule 4626(b)(3) to permit a limited reopening of the process for submitting, evaluating, and paying such claims, in accordance with the terms and conditions described herein.

On May 18, 2012, Nasdaq experienced system difficulties during the Nasdaq Halt and Imbalance Cross Process (the "Cross") for the FB IPO. These difficulties delayed the completion of the Cross from 11:05 a.m. until 11:30 a.m.<sup>5</sup> Based on its assessment of the information available at the time, Nasdaq concluded that the system issues would not have any effects beyond the delay itself. In an exercise of its regulatory authority, Nasdaq determined to proceed with the IPO at 11:30 a.m. rather than postpone it.

As a result of the system difficulties, however, certain orders for FB stock that were entered between 11:11:00 a.m. and 11:30:09 a.m. in the expectation of participating in the Cross—and that were not cancelled prior to 11:30:09 a.m.—either did not execute or executed after 1:50 p.m. at prices other than the \$42.00 price established by the Cross. (Other orders entered between 11:11:00 a.m. and 11:30:09 a.m., including cancellations, buy orders below \$42.00, and sell orders above \$42.00, were handled without incident.) System issues also delayed the dissemination of Cross transaction reports from 11:30 a.m. until 1:50 p.m. At 1:50 p.m., Nasdaq system difficulties were completely resolved.

Rule 4626(b)(3) provides that, as a result of these unique circumstances, Nasdaq would accommodate members for losses attributable to the system difficulties on May 18, 2012 in an amount not to exceed \$62 million. Rule 4626(b)(3)(A) provides that all claims for such accommodation must arise solely from realized or unrealized direct

<sup>5</sup> All times in this filing are Eastern Time.

<sup>4</sup> 17 CFR 200.30-3(a)(12).

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

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