

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

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Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68841; File No. SR-NASDAQ-2013-020]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the Limit Locator Service Offered at No Cost to Subscribing Members

February 6, 2013.

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 January 28, 2013, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange"), 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 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 Substance of the Proposed Rule Change

The Exchange proposes to establish the Limit Locator service offered at no cost to subscribing members beginning February 4, 2013. The text of the proposed rule change is below. Proposed new language is italicized.

##### 7061. Limit Locator

*Limit Locator is a tool to assist a member firm in monitoring its trades reported into the FINRA/NASDAQ TRF for compliance with the requirements of the National Market System Plan to Address Extraordinary Market Volatility. The service provides a subscribing member firm with an overview of its trades reported at, or outside of, a designated Limit Up/Limit Down pricing band. The service will provide a total count of the subscribing member firm's trades in each category as well as present this information graphically, on a rolling month basis. A subscribing member firm is able to create custom emails alerts to notify users when a trade is reported at, or outside of, a Limit Up/Limit Down pricing band. Limit Locator is accessed through the NASDAQ*

*Workstation or Weblink ACT 2.0 and is offered at no cost at this time.*

\* \* \* \* \*

#### 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange is proposing to adopt a new add on tool to the NASDAQ Workstation and/or Weblink ACT 2.0, Limit Locator, to assist a member firm in monitoring its trades reported into the FINRA/NASDAQ TRF ("TRF") for compliance with the requirements of the National Market System Plan to Address Extraordinary Market Volatility (the "Plan").<sup>3</sup> The Plan provides a limit up/limit down mechanism designed to prevent trades in NMS securities from occurring outside of specified price bands. The bands will be set a percentage level above and below the average reference price of the security over the immediately preceding five-minute period, and are calculated on a continuous basis during regular trading hours. If the National Best Offer ("NBO") equals the lower price band without crossing the NBO, or National Best Bid ("NBB") equals the upper price band without crossing the NBB, then the stock will enter a limit state quotation period of 15 seconds during which no new reference prices or price bands will be calculated. A stock will exit the limit state when the entire size of all quotations are either executed or cancelled. If the limit state exists and

trading continues to occur at the price band, or no trading occurs within the price band, for more than 15 second then a five minute trading pause will be enacted. The Plan requires that member firms establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan.

NASDAQ is proposing to offer Limit Locator to member firms to assist them in monitoring compliance with the Plan by tracking trades reported to the TRF that occur at, or outside of, the limit up/limit down bands and providing notice thereof.<sup>4</sup> A record will be displayed if Limit Locator finds that a trade was reported: at lower price band; at higher price band; outside lower price band; or outside lower price band [sic]. The service will provide a subscribing member firm with both daily trade data and 30 days of historical data, which will be available for export in CSV format. The information provided by the service is presented numerically as a running intra-day count of all trades that fit within each of the four categories, and presented graphically as daily totals on a rolling month basis. A subscribing member firm will also have the option to receive email alerts when a trade is reported to the TRF at, or outside of, a limit up/limit down band.

On April 8, 2013, Phase I of the Plan will go into effect. Phase I of the Plan will apply only to Tier 1 NMS Stocks. To assist firms in preparing for the implementation of Phase I, the Security [sic] Information Processors will begin disseminating limit up/limit down information in select stocks on a test basis beginning February 4, 2013. Accordingly, NASDAQ is proposing to offer Limit Locator on February 4, 2013 so that member firms may begin to use the tool concurrent with the availability of the limit up/limit down test data. The Exchange is proposing to offer Limit Locator at no cost to members at this time, but may assess a fee in the future. Any such fee would be filed with the Commission.

<sup>3</sup> On April 5, 2011, the Exchange, together with other self-regulatory organizations, filed with the Commission a national market system plan to adopt a market-wide limit up/limit down system to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks, like that which was experienced on May 6, 2010. Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4-631). The Plan was approved by the Commission on a pilot basis on May 31, 2012. Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

<sup>4</sup> Limit Locator will help a subscribing member firm to identify trades reported to the TRF that occurred at or outside of the limit up/limit down bands, but will not prevent such trades from occurring. A member firm may use the information provided by Limit Locator to prevent additional violations of the Plan from occurring by taking corrective action, but use of Limit Locator does not satisfy a member firm's obligation under the Plan to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up/limit down and trading pause requirements.

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

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

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes the proposed rule change is consistent with these requirements because the proposed service provides a subscribing member firm with a useful monitoring and analytical tool with which it may determine where its TRF-reported trades are occurring in relation to the limit up/limit down bands, receive notice of trades that occurred at, or outside of, the limit up/limit down bands, and conduct research using thirty days of historical data.

### *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. The proposed service is designed to promote a competitive marketplace by promoting compliance with the Plan. In furtherance of that goal, the proposed service provides a subscribing member firm with a tool to identify orders reported to the TRF that fall at or outside of the limit up/limit down bands, and receive notice thereof. With that information, the member firm may take corrective action to avoid further violations of the Plan. Moreover, the proposed service will allow a subscribing member firm the ability to research its historical trades.

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

Written comments were neither solicited nor received.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>8</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>9</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to offer this service on February 4, 2013, the date that the markets will begin transmitting limit up/limit down data for select test securities and approximately two months prior to the Phase I Plan implementation date. By waiving the operative delay, member firms will be afforded additional time to subscribe to, and test adequately, the service. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.<sup>10</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>10</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 under Section 19(b)(2)(B) of the Act<sup>11</sup> to determine whether the proposed rule change 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 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 No. SR-NASDAQ-2013-020 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 No. SR-NASDAQ-2013-020. 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 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments

<sup>11</sup> 15 U.S.C. 78s(b)(2)(B).

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

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 No. SR-NASDAQ-2013-020 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68855; File No. SR-FINRA-2013-010]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Individual Stock Trading Pause Pilot Program

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 1, 2013, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) to extend the effective date of the pilot, which is currently scheduled to expire on February 4, 2013, until the earlier of the initial date of operations of the Regulation NMS Plan to Address

Extraordinary Market Volatility or February 4, 2014.

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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

FINRA proposes to amend FINRA Rule 6121.01 (Trading Pauses), which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of February 4, 2013,<sup>4</sup> until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility<sup>5</sup> or February 4, 2014. The pilot will continue to operate as to individual securities until such security is subject to the Regulation NMS Plan to Address Extraordinary Market Volatility.

FINRA Rule 6121.01 provides that if a primary listing market has issued an individual stock trading pause under its rules, FINRA will halt trading otherwise than on an exchange in that security until trading has resumed on the primary listing market. The pilot was developed and implemented as a market-wide initiative by FINRA and other self-regulatory organizations ("SROs") in consultation with the Commission staff and is currently applicable to all NMS stocks (other than

rights and warrants) and specified exchange-traded products.<sup>6</sup>

The extension proposed herein would allow the pilot to continue to operate without interruption until implementation of the Regulation NMS Plan to Address Extraordinary Market Volatility. The Regulation NMS Plan to Address Extraordinary Market Volatility will not begin initial operations on February 4, 2013 as previously planned, but has been delayed until April 8, 2013.<sup>7</sup> If the Regulation NMS Plan to Address Extraordinary Market Volatility has an initial date of operations before February 4, 2014, the trading pause pilot would expire at that time.

FINRA has filed the proposed rule change for immediate effectiveness. The effective date of this proposed rule change will be the date of filing.

###### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>8</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

Additionally, extension of the pilot until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014 would allow the pilot to continue to operate without interruption while FINRA, the other SROs and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot, which contributes to the protection of investors and the public interest.

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

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance

<sup>4</sup> See Securities Exchange Act Release No. 67578 (August 2, 2012), 77 FR 47469 (August 8, 2012) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2012-037).

<sup>5</sup> See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4-631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility).

<sup>6</sup> See Securities Exchange Act Release No. 65819 (November 23, 2011), 76 FR 74105 (November 30, 2011) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2011-068).

<sup>7</sup> See Letter from Janet McGinness, EVP & Corporate Secretary, General Counsel, NYSE Markets, to Elizabeth M. Murphy, Secretary, SEC dated January 17, 2013.

<sup>8</sup> 15 U.S.C. 78o-3(b)(6).

<sup>12</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.

<sup>3</sup> 17 CFR 240.19b-4(f)(b).