

The Exchange has asked the Commission to 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, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.<sup>13</sup>

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

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change 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-NYSEMKT-2014-28 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEMKT-2014-28. 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/>

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[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 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-NYSEMKT-2014-28 and should be submitted on or before April 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71826; File No. SR-NASDAQ-2014-030]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the Retail Price Improvement Program, Which Currently Is Set To Expire on March 28, 2014, for an Additional Six Months

March 28, 2014.

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 March 26, 2014, 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

<sup>14</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.

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 extend the pilot period for the Exchange's Retail Price Improvement ("RPI") Program, which is set to expire on March 28, 2014, for six months, to expire on September 30, 2014.

The text of the proposed rule change is available 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, the self-regulatory organization 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 those statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

###### 1. Purpose

The purpose of this filing is to extend the pilot period of the RPI Program,<sup>3</sup> currently scheduled to expire on March 28, 2014, for an additional six months, until September 30, 2014.

###### Background

In February 2013, the Commission approved the RPI Program on a pilot basis.<sup>4</sup> The Program is designed to attract retail order flow to the Exchange, and allow such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than \$1.00 per share. Under the Program, a new class of market participant called a Retail Member Organization ("RMO") is eligible to submit certain retail order flow ("Retail Orders")<sup>5</sup> to the Exchange. NASDAQ

<sup>3</sup> Securities Exchange Act Release No. 68937 (February 15, 2013), 78 FR 12397 (February 22, 2013) ("RPI Approval Order") (SR-NASDAQ-2012-129).

<sup>4</sup> See *id.*

<sup>5</sup> A "Retail Order" is defined in NASDAQ Rule 4780(a)(2), in part, as "an agency or riskless

members (“Members”) are permitted to provide potential price improvement for Retail Orders in the form of non-displayed interest that is priced more aggressively than the Protected National Best Bid or Offer (“Protected NBBO”).<sup>6</sup>

The Program was approved by the Commission on a pilot basis running one-year from the date of implementation.<sup>7</sup> The Commission approved the Program on February 15, 2013.<sup>8</sup> The Exchange implemented the Program on March 28, 2013.<sup>9</sup> Thus, the pilot period for the Program is scheduled to end on March 28, 2014.

#### Proposal To Extend the Operation of the Program

The Exchange established the RPI Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit Retail Price Improvement Orders (“RPI Orders”) to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.<sup>11</sup> As such, the Exchange believes that it is appropriate to extend

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.”

<sup>6</sup> The term Protected Quotation is defined in Chapter XII, Sec. 1(19) and has the same meaning as is set forth in Regulation NMS Rule 600(b)(58). The Protected NBBO is the best-priced protected bid and offer. Generally, the Protected NBBO and the national best bid and offer (“NBBO”) will be the same. However, a market center is not required to route to the NBBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBBO is otherwise not available for an automatic execution. In such case, the Protected NBBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

<sup>7</sup> See RPI Approval Order, *supra* note 3 at 12397.

<sup>8</sup> *Id.*

<sup>9</sup> Securities Exchange Act Release No. 69308 (April 4, 2013), 78 FR 21663 (April 11, 2013) (SR–NASDAQ–2013–057).

<sup>10</sup> A Retail Price Improvement Order is defined in NASDAQ Rule 4780(a)(3), in part, as consisting of “non-displayed liquidity on NASDAQ that is priced better than the Protected NBBO by at least \$0.001 and that is identified as such.”

<sup>11</sup> See RPI Approval Order, *supra* note 3 at 12401.

the current operation of the Program.<sup>12</sup> Through this filing, the Exchange seeks to extend the current pilot period of the Program until September 30, 2014.

#### 2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>13</sup> in general, and with Section 6(b)(5) of the Act,<sup>14</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that extending the pilot period for the RPI Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

#### 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 rule change extends an established pilot program for six months, thus allowing the RPI Program to enhance competition for retail order flow and contribute to the public price discovery process.

#### 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.

<sup>12</sup> Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the RPI orders in sub-penny increments. See Letter from John Yetter, Deputy General Counsel, The NASDAQ Stock Market LLC to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission dated March 24, 2014.

<sup>13</sup> 15 U.S.C. 78f.

<sup>14</sup> 15 U.S.C. 78f(b)(5).

#### 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>15</sup> and Rule 19b–4(f)(6) thereunder.<sup>16</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>17</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),<sup>18</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to 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 pilot program to continue uninterrupted. Accordingly, the Commission hereby grants the Exchange’s request and designates the proposal operative upon filing.<sup>19</sup>

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.

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

<sup>16</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 Commission has waived this requirement in this case.

<sup>17</sup> 17 CFR 240.19b–4(f)(6).

<sup>18</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>19</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).

#### 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-NASDAQ-2014-030 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-NASDAQ-2014-030. 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 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 publicly available. All submissions should refer to File Number SR-NASDAQ-2014-030 and should be submitted on or before April 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-71818; File No. SR-NYSEARCA-2014-27]**

#### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.62 To Specifically Address the Number and Size of Contra-Parties To a Qualified Contingent Cross Order**

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on March 19, 2014, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 amend Rule 6.62 (Certain Types of Orders Defined) to specifically address the number and size of contra-parties to a Qualified Contingent Cross Order ("QCC Order"). The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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 parts of such statements.

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

##### **1. Purpose**

The purpose of this rule filing is to amend Rule 6.62 to specifically address the number and size of contra-parties to a QCC Order. The proposed rule change, which mirrors a recently adopted rule by the International Securities Exchange ("ISE"),<sup>4</sup> is intended to accommodate multiple contra-parties, so long as each contra-side order meets the minimum size requirements as discussed below.

The Exchange adopted the QCC Order type on March 17, 2011.<sup>5</sup> Under current Rule 6.62(bb), a QCC Order must be comprised of an order to buy or sell at least 1,000 contracts<sup>6</sup> that is identified as being part of a qualified contingent trade,<sup>7</sup> coupled with a contra-side order to buy or sell an equal number of contracts. As Qualified Contingent Crosses, QCC Orders are automatically executed upon entry provided that the execution (i) is not at the same price as a Customer Order in the Consolidated Book and (ii) is at or between the NBBO.<sup>8</sup> In addition, QCC Orders that cannot be executed when entered will automatically cancel.<sup>9</sup> Finally, QCC

<sup>4</sup> See Securities Exchange Act Release No. 71182 (December, 24, 2013), 78 FR 79721 (December 31, 2013) (SR-ISE-2013-71).

<sup>5</sup> See Securities Exchange Act Release No. 64086 (March 17, 2011), 76 FR 16021 (March 22, 2011) (SR-NYSEArca-2011-09).

<sup>6</sup> In the case of mini options, the minimum size is 10,000 contracts.

<sup>7</sup> A "qualified contingent trade" must meet the following conditions: (i) At least one component must be an NMS Stock; (ii) all the components must be effected with a product price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (iii) the execution of one component must be contingent upon the execution of all other components at or near the same time; (iv) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) must be determined by the time the contingent order is placed; (v) the component orders must bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (vi) the transaction must be fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. In addition, ATP Holders must demonstrate that the transaction is fully hedged using reasonable risk-valuation methodologies. See *supra* n.5 (citing Securities Exchange Act Release No. 57620 (April 4, 2008), 73 FR 19271 (April 9, 2008)).

<sup>8</sup> See Rule 6.90 (Qualified Contingent Crosses).

<sup>9</sup> *Id.*

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

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