

Required fields are shown with yellow backgrounds and asterisks.

Filing by NASDAQ Stock Market  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<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) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Sponsored Access

**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 \* Angela Last Name \* Dunn  
 Title \* Associate General Counsel  
 E-mail \* angela.dunn@nasdaq.com  
 Telephone \* (215) 496-5692 Fax

**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 11/04/2015 Executive Vice President and General Counsel  
 By Edward S. Knight

edward.knight@nasdaq.com

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**

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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**

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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) The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”), 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> is filing with the Securities and Exchange Commission (“Commission”) a proposal to amend Nasdaq Rule 4615 entitled, “Sponsored Participants” to: (1) define the term “Sponsored Access” and “Customer Agreement;” (2) specify the requirements to comply with Rule 15c3-5 under the Securities Exchange Act of 1934 (“Market Access Rule”); and (3) remove the requirement that each Sponsored Participant and each Sponsoring Member must enter into certain agreements with the Exchange.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the amended Exchange Rule is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of The NASDAQ Stock Market (the “Board”) on July 1, 2015. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change. Questions and comments on the proposed rule change may be directed to Angela Saccomandi Dunn, Associate General Counsel, Nasdaq, Inc. at (215) 496-5692.

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

<sup>2</sup> 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

The purpose of the filing is to amend Nasdaq Rule 4615 entitled, “Sponsored Participants” to: (1) define the term “Sponsored Access,” and specifically stating that compliance with the Market Access Rule is required, and defining “Customer Agreement” to refer to the agreement that must be executed between the Sponsoring Participant and the Sponsoring Member; (2) specify the requirements to comply with the Market Access Rule; and (3) remove the requirement that each Sponsored Participant and each Sponsoring Member must enter into certain agreements with the Exchange to streamline its rule and remove unnecessarily burdensome notice requirements to the Exchange.

Defining Sponsored Access

A Sponsored Participant may be a member or a non-member of the Exchange, such as an institutional investor, that gains access to the Exchange<sup>3</sup> and trades under a Sponsoring Member's execution and clearing identity pursuant to sponsorship arrangements currently set forth in Nasdaq Rule 4615. The Exchange is proposing to define the term “Sponsored Access” to clarify the type of market access arrangement that is subject to Nasdaq Rule 4615. The Exchange proposes to amend Nasdaq Rule 4615(a) to add the following definition, “Sponsored Access shall mean an arrangement whereby a member permits its customers to enter orders into the Exchange’s System that bypass the

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<sup>3</sup> For example, a broker-dealer may allow its customer – whether an institution such as a hedge fund, mutual fund, bank or insurance company, an individual, or another broker-dealer – to use the broker-dealer’s MPID, account or other mechanism or mnemonic used to identify a market participant for the purposes of electronically accessing the Exchange.

member's trading system and are routed directly to the Exchange, including routing through a service bureau or other third party technology provider." This definition was derived from the Commission's description of Sponsored Access used in the release approving the Market Access Rule.<sup>4</sup> The Exchange believes that defining Sponsored Access in Nasdaq Rule 4615 will provide market participants with greater clarity concerning Sponsored Access and their obligations with respect to this type of access arrangement.

#### Defining Customer Agreement

The Exchange proposes to amend Nasdaq Rule 4615(b)(i) to define the agreement that Sponsored Participants must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Nasdaq Market Center, as a "Customer Agreement."

#### Market Access Rule

Pursuant to Nasdaq Rule 4615, the Sponsoring Member is responsible for the activities of the Sponsored Participant. Sponsored Participants are required to have procedures in place to comply with Exchange rules, and the Sponsoring Member takes responsibility for the Sponsored Participant's activity on the Exchange. Members may have multiple Sponsored Access relationships in place at a given time. The Exchange's

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<sup>4</sup> The Market Access Rule, among other things, requires broker-dealers providing others with access to an exchange or alternative trading system to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of providing such access. See Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2010).

examination program assesses compliance with Nasdaq Rule 4615, among other rules.<sup>5</sup> The Exchange proposes to specifically enumerate within Nasdaq Rule 4615 the member's obligation to comply with the Market Access Rule, which members are currently required to comply with respecting market access. The Exchange believes that specifying the obligation to comply with the Market Access Rule specifically will reinforce that Nasdaq Rule 4615 presupposes member compliance with the Market Access Rule.

#### Elimination of Certain Contract Requirements

At this time, the Exchange proposes to remove requirements to submit certain forms to the Exchange. There are three forms that are currently required by Nasdaq Rule 4615: (1) an agreement between the Sponsored Participant and the Exchange ("Exchange Agreement"); (2) a User Agreement between the Sponsored Participant and its Sponsoring Member that is provided to the Exchange; and (3) a Notice of Consent provided to the Exchange by the Sponsoring Member. NASDAQ Rule 4615 will continue to require that each Sponsored Participants enter into a Customer Agreement with each Sponsoring member to establish proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Nasdaq Market Center. These Customer Agreement(s) must incorporate the Sponsorship Provisions set forth in paragraph (ii) in Nasdaq Rule 4615.<sup>6</sup> The Customer Agreement remains unaffected by

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<sup>5</sup> The Exchange has a Regulatory Services Agreement with Financial Industry Regulatory Authority ("FINRA") to conduct regulatory examinations, among other obligations.

<sup>6</sup> The Customer Agreement is required to include, among other language, all orders entered by the Sponsored Participants and any person acting on behalf of or in the name of such Sponsored Participant and any executions occurring as a result of such orders are binding in all respects on the Sponsoring Member and, also,

this rule proposal. Also, the Exchange is proposing to amend Nasdaq Rule 4615 to identify the aforementioned agreement as the “Customer Agreement.”

Today, only members may request connectivity to the Exchange. A member may obtain one or more ports for the purpose of providing Sponsored Access. If separate ports are requested by a member for the purpose of providing Sponsored Access, the member must request those ports from the Exchange and the member is responsible for the Sponsored Participant's activity on the Exchange. In all circumstances, the Exchange will only permit members to request connectivity to the market and the member is responsible for all customer orders submitted through the member's port.

First, the Exchange believes that completing and submitting the Exchange Agreement, User Agreement and Notice of Consent is unnecessarily burdensome in light of the current structure in place at the Exchange. Only members may request connectivity to the Exchange by contacting Nasdaq Subscriber Services. Such connection by the member requires approval by the Exchange for the purpose of testing as well as other relevant information sharing with the Exchange by the member to obtain a port. The Exchange is aware of the member responsible for each of its ports, however the Exchange may not be aware of the member's Sponsored Access arrangements due to varied ways that a member may utilize a port. The Exchange believes the requirement to also complete and submit an Exchange Agreement, User Agreement and Notice of Consent with our Nasdaq Membership Department is viewed as unnecessarily burdensome by members because of the multitude of relationships the member has with

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Sponsoring Member is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant.

various customers. Members have expressed to the Exchange that they have multiple relationships with customers, which customer relationships change over time.<sup>7</sup> Members have indicated that the necessity to continuously disclose the updated customer relationships to the Exchange is burdensome and unnecessary as they remain responsible for all activity conducted on the Exchange through a port assigned to the member. Further such information is available to the Exchange upon Exchange request from its regulatory group.<sup>8</sup>

Second, the Exchange believes that the Exchange Agreement between the Sponsored Participant and the Exchange is also unnecessarily burdensome. The requirement to provide this form was intended to give the Exchange notification that such a relationship existed and to ensure that the Sponsored Participant was informed of the Exchange's Limited Liability Company Agreement, Bylaws, Rules and procedures. The agreements also provided the Exchange with contractual privity, which would no longer exist with the removal of the Exchange Agreement. The Exchange does not believe the loss of privity with the Sponsored Participant creates a concern as the Exchange has the ability to remove access to the port<sup>9</sup> at any time if the activity of the Sponsored Participant warrants such removal. In addition, as discussed below, the Sponsored Participant will be made aware of its obligations through the Customer Agreement that it

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<sup>7</sup> For example, a broker-dealer's customers, which could include hedge funds, institutional investors, individual investors, and other broker-dealers.

<sup>8</sup> See Nasdaq Rule 8210.

<sup>9</sup> Nasdaq Rule 4611, entitled "Nasdaq Market Center Participant Registration" permits Nasdaq to impose upon any Nasdaq Market Maker, Nasdaq ECN or Order Entry Firm such temporary restrictions upon the automated entry or updating of orders or Quotes/Orders as Nasdaq may determine to be necessary to protect the integrity of Nasdaq's systems.



executed with the Sponsoring Member. As noted above, the Exchange only permits its members to request connectivity to the Exchange's System and members responsible for all trades submitted through such ports. Pursuant to Nasdaq Rule 4615 the trading activity of a Sponsored Participant must be monitored by the Sponsoring Member for compliance with the terms of the Customer Agreement with the Sponsoring Participant.<sup>10</sup> Finally, the member continues to be obligated to comply with Nasdaq Rule 4615 and the Market Access Rule. The Sponsoring Member is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant.

Nasdaq Rule 4615 requires that the Sponsored Participant and the Sponsored Member maintain a Customer Agreement to ensure compliance with the Exchange's Rules and obligations related to security, among other things.<sup>11</sup> Nasdaq Rule 4615 requires that the Customer Agreement specify that the Sponsored Participant shall maintain, keep current and provide to the Sponsoring Member a list of individuals authorized to obtain access to the Exchange on behalf of the Sponsored Participant and provide appropriate training. In addition, pursuant to the Customer Agreement provisions, the Sponsored Participant is required to take reasonable security precautions to prevent unauthorized use or access to the Exchange, including unauthorized entry of information into the Exchange, or the information and data made available therein. Finally, the Customer Agreement must provide that the Sponsored Participant is responsible for any and all orders, trades and other messages and instructions entered,

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<sup>10</sup> See Nasdaq Rule 4615(b)(ii)(G).

<sup>11</sup> See Nasdaq Rule 4615(b)(ii)(B).

transmitted or received under identifiers, passwords and security codes of authorized individuals, and for the trading and other consequences thereof, including granting unauthorized access to the Exchange. The contents and the requirement for a Customer Agreement are unchanged.

Pursuant to Nasdaq Rule 4615 the Sponsoring Member must provide a Notice of Consent to the Exchange. The Exchange believes that a Notice of Consent provided to the Exchange by the Sponsoring Member is also unnecessarily burdensome. The Notice of Consent notifies the Exchange of the relationship between the Sponsoring Member and the Sponsored Participant. However, as noted above, the Exchange's regulatory group may request information about a particular customer relationship as it deems necessary.<sup>12</sup> Further, the Exchange is made aware of the existence of ports when the Sponsoring Member requests connectivity to the Exchange and the Members are responsible for all trading activity by its Sponsored Participant. In addition, the Exchange, through its Regulatory Services Agreement with the Financial Industry Regulatory Authority (FINRA), reviews for member compliance with Nasdaq Rule 4615 and the Market Access Rule. The Exchange has the ability to remove access to the port<sup>13</sup> at any time if the activity of the Sponsored Participant would warrant such removal.

In light of the foregoing, the requirement to complete and submit an Exchange Agreement and Notice of Consent with the Nasdaq Membership Department is viewed as unnecessarily burdensome by members, who must update their customer relationships internally and provides such information upon Exchange request.

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<sup>12</sup> See Nasdaq Rule 8210.

<sup>13</sup> See note 9.

Finally, the Exchange notes it is correcting a capitalization in Nasdaq Rule 4615(ii)(C).

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</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, by enhancing the risk protections available to Exchange members.

Defining Sponsored Access

Adding a definition of Sponsored Access will assist market participants to understand the type of arrangements that are subject to Nasdaq Rule 4615 and such clarity will serve to promote just and equitable principles of trade. Members have indicated, and the Exchange believes, that adding the Sponsored Access definition will provide members with additional guidance with respect to Nasdaq Rule 4615.

Defining Customer Agreement

Defining the agreement that Sponsored Participants must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Nasdaq Market Center, as a “Customer Agreement” will also serve to provide members with clarity on the agreement

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

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

that the Exchange will continue to require and the obligations that are contained within the Customer Agreement. This amendment is non-substantive.

#### Market Access Rule

Members continue to be required to comply with Rule 4615 and the Market Access Rule. The Exchange believes that specifically enumerating the member's responsibility to comply with the Market Access Rule will provide member's with additional guidance concerning the application of the Rule. This change is non-substantive as members are currently responsible to comply with the Market Access Rule.

#### Elimination of Certain Contract Requirements

Removing the requirement to submit and complete an Exchange Agreement, User Agreement and Notice of Consent will remove impediments to and perfect the mechanism of a free and open market by removing a burdensome and time-consuming requirement for members. While elimination of the Exchange Agreement requirement will also eliminate the Exchange's contractual privity with the Sponsored Participant, the Exchange notes that any potential concerns to the loss of privity are mitigated by the Exchange's ability to restrict the Sponsored Participant's access to a port<sup>16</sup> at any time it is warranted by the Sponsored Participant's trading activity. Also, members have indicated that customer relationships must be frequently updated and it is unnecessarily burdensome to continuously update the Exchange with this information that is available upon request. Connectivity to the Exchange is authorized by the Exchange and must be requested by a member of the Exchange. Such connection requires approval by the

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<sup>16</sup> See note 9.

Exchange, testing and other security features as well as information sharing with the Exchange by the member. In addition, Nasdaq Rule 4615 delineates the terms of the required contractual relationship between the Sponsoring Member and the Sponsored Participant in the Customer Agreement, which remains in effect. The Exchange believes that the Notice of Consent is unnecessary as Sponsoring Members must request connectivity to the Exchange as well as enter into a Customer Agreement with the Sponsored Participant. Finally, as is the case with other Exchange Rules, the Exchange examines for compliance with Nasdaq Rule 4615 and may request information about any customer relationship which concerns the Exchange.

The requirement to also complete and submit an Exchange Agreement, User Agreement and a Notice of Consent with our Nasdaq Membership Department is viewed as unnecessarily burdensome by members, who must update their customer relationships internally.

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

The Exchange 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 for the reasons below.

##### Defining Sponsored Access

The addition of a definition for Sponsored Access will assist market participants to understand the type of arrangement subject to Nasdaq Rule 4615 and such clarity will serve to promote just and equitable principles of trade.

##### Defining Customer Agreement

Defining the agreement that Sponsored Participants must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Nasdaq Market Center, as a “Customer Agreement” does not create an undue burden on competition as this amendment is non-substantive and the Exchange believes that providing guidance concerning the type of arrangement subject to Nasdaq Rule 4615 will facilitate member compliance and does not unduly burden competition.

#### Market Access Rule

In addition, the Exchange believes that specifically enumerating the member’s obligation to comply with the Market Access Rule does not create an undue burden on competition, but rather reinforces the application of the Rule. This change is non-substantive as members are currently responsible to comply with the Market Access Rule.

#### Elimination of Certain Contract Requirements

Removing the requirement to complete an Exchange Agreement, User Agreement and Notice of Consent under Nasdaq Rule 4615 does not create an undue burden on competition. The Exchange believes that this requirement is unnecessarily burdensome as the Exchange’s regulatory group may request information about a particular customer relationship as it deems necessary.<sup>17</sup> Further, the Exchange is made aware of the existence of ports when the Sponsoring Member requests connectivity to the Exchange and the Members are responsible for all trading activity by its Sponsored Participant. In order to obtain connectivity to the Exchange, members are required to contact Nasdaq

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<sup>17</sup> See Nasdaq Rule 8210.

Subscriber Services and request a connection to the market. Such connection requires approval by the Exchange, testing and other security features as well as information sharing with the Exchange by the member. Only members are permitted to request connectivity to the Exchange. The requirement to also complete and submit an Exchange Agreement, User Agreement and a Notice of Consent with our Nasdaq Membership Department is viewed as unnecessarily burdensome by members, who must update their customer relationships internally. Additionally, the Exchange examines for compliance with Nasdaq Rule 4615 and may request information about any customer relationship which concerns the Exchange.

The Sponsoring Member remains responsible for customer activity conducted on the Exchange through the Customer Agreement, among other obligations. Additionally, Sponsored Participants that obtain access to the Exchange's System are required to take reasonable security precautions and prevent unauthorized use or access to the Nasdaq Market Center, including unauthorized entry of information into the Nasdaq Market Center,<sup>18</sup> pursuant to the Customer Agreement. Further, the Sponsored Participants is responsible to establish adequate procedures and controls that permit it to effectively monitor its employees', agents' and customers' use and access to the Nasdaq Market Center for compliance with the terms of this agreement.<sup>19</sup> In addition, the Exchange, through its Regulatory Services Agreement with FINRA conducts reviews of members for compliance with Nasdaq Rule 4615 and the Market Access Rule. The Exchange has

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<sup>18</sup> See Nasdaq Rule 4615(b)(ii)(G).

<sup>19</sup> See Nasdaq Rule 4615(b)(ii)(H).

the ability to remove access to the port<sup>20</sup> at any time if the activity of the Sponsored Participant would warrant such removal. Finally, Nasdaq Rule 4615 is currently applicable to all Nasdaq members that desire to sponsor access for its customers and applies to trading in all securities on the Exchange.

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

Not applicable.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>21</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>22</sup> in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, 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. Adding a definition of Sponsored Access does not significantly affect the protection of investors, rather the Exchange believes that defining Sponsored Access in Nasdaq Rule 4615 will provide market participants with greater clarity concerning Sponsored Access and their obligations with respect to this type of access arrangements. This new definition assists

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<sup>20</sup> See note 9.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>22</sup> 17 CFR 240.19b-4(f)(6).



members to understand the types of arrangement covered by Nasdaq Rule 4615 and therefore does not significantly burden competition. Requiring compliance with the Market Access Rule reinforces the application of the Rule. This change is non-substantive as members are currently responsible to comply with the Market Access Rule and therefore does not significantly affect the protection of investors or the public interest or impose a significant burden on competition. The Exchange believes that removing the requirement to notify the Exchange of such access by completing an Exchange Agreement, User Agreement and Notice of Consent removes an unnecessary burden on members. Members have indicated that they maintain various customer relationships and it would be burdensome to keep updating the list of such arrangements for each customer with the Exchange. Connectivity to the Exchange is authorized by the Exchange and must be requested by a member of the Exchange. In order to obtain connectivity to the Exchange, members are required to contact Nasdaq Subscriber Services and request a connection to the market, the Exchange believes that this is consistent with the protection of investors and the public interest. Only members are permitted to request connectivity to the Exchange. Also, the Exchange has the ability to remove access to the port at any time if the activity of the Sponsored Participant would warrant such removal. Finally, the Exchange, through its Regulatory Services Agreement with FINRA, conducts reviews of members for compliance with Nasdaq Rule 4615 and the Market Access Rule. For these reasons, the Exchange does not believe that removing the requirement to notify the Exchange of such access by completing an Exchange Agreement, User Agreement and Notice of Consent significantly affect the protection of investors or the public interest or significantly burdens competition.

Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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.

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.

5. Proposed rule text.

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-NASDAQ-2015-140)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Sponsored Access

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 November 4, 2015, 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 amend Nasdaq Rule 4615 entitled, “Sponsored Participants” to: (1) define the term “Sponsored Access” and “Customer Agreement;” (2) specify the requirements to comply with Rule 15c3-5 under the Securities Exchange Act of 1934 (“Market Access Rule”); and (3) remove the requirement that each Sponsored Participant and each Sponsoring Member must enter into certain agreements with the Exchange.

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

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

The text of the proposed rule change is available on the Exchange's Website at <http://www.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

The purpose of the filing is to amend Nasdaq Rule 4615 entitled, "Sponsored Participants" to: (1) define the term "Sponsored Access," and specifically stating that compliance with the Market Access Rule is required, and defining "Customer Agreement" to refer to the agreement that must be executed between the Sponsoring Participant and the Sponsoring Member; (2) specify the requirements to comply with the Market Access Rule; and (3) remove the requirement that each Sponsored Participant and each Sponsoring Member must enter into certain agreements with the Exchange to streamline its rule and remove unnecessarily burdensome notice requirements to the Exchange.

Defining Sponsored Access

A Sponsored Participant may be a member or a non-member of the Exchange, such as an institutional investor, that gains access to the Exchange<sup>3</sup> and trades under a Sponsoring Member's execution and clearing identity pursuant to sponsorship arrangements currently set forth in Nasdaq Rule 4615. The Exchange is proposing to define the term "Sponsored Access" to clarify the type of market access arrangement that is subject to Nasdaq Rule 4615. The Exchange proposes to amend Nasdaq Rule 4615(a) to add the following definition, "Sponsored Access shall mean an arrangement whereby a member permits its customers to enter orders into the Exchange's System that bypass the member's trading system and are routed directly to the Exchange, including routing through a service bureau or other third party technology provider." This definition was derived from the Commission's description of Sponsored Access used in the release approving the Market Access Rule.<sup>4</sup> The Exchange believes that defining Sponsored Access in Nasdaq Rule 4615 will provide market participants with greater clarity concerning Sponsored Access and their obligations with respect to this type of access arrangement.

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<sup>3</sup> For example, a broker-dealer may allow its customer – whether an institution such as a hedge fund, mutual fund, bank or insurance company, an individual, or another broker-dealer – to use the broker-dealer's MPID, account or other mechanism or mnemonic used to identify a market participant for the purposes of electronically accessing the Exchange.

<sup>4</sup> The Market Access Rule, among other things, requires broker-dealers providing others with access to an exchange or alternative trading system to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of providing such access. See Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2010).

### Defining Customer Agreement

The Exchange proposes to amend Nasdaq Rule 4615(b)(i) to define the agreement that Sponsored Participants must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Nasdaq Market Center, as a “Customer Agreement.”

### Market Access Rule

Pursuant to Nasdaq Rule 4615, the Sponsoring Member is responsible for the activities of the Sponsored Participant. Sponsored Participants are required to have procedures in place to comply with Exchange rules, and the Sponsoring Member takes responsibility for the Sponsored Participant's activity on the Exchange. Members may have multiple Sponsored Access relationships in place at a given time. The Exchange's examination program assesses compliance with Nasdaq Rule 4615, among other rules.<sup>5</sup> The Exchange proposes to specifically enumerate within Nasdaq Rule 4615 the member's obligation to comply with the Market Access Rule, which members are currently required to comply with respecting market access. The Exchange believes that specifying the obligation to comply with the Market Access Rule specifically will reinforce that Nasdaq Rule 4615 presupposes member compliance with the Market Access Rule.

### Elimination of Certain Contract Requirements

At this time, the Exchange proposes to remove requirements to submit certain forms to the Exchange. There are three forms that are currently required by Nasdaq Rule

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<sup>5</sup> The Exchange has a Regulatory Services Agreement with Financial Industry Regulatory Authority (“FINRA”) to conduct regulatory examinations, among other obligations.

4615: (1) an agreement between the Sponsored Participant and the Exchange (“Exchange Agreement”); (2) a User Agreement between the Sponsored Participant and its Sponsoring Member that is provided to the Exchange; and (3) a Notice of Consent provided to the Exchange by the Sponsoring Member. NASDAQ Rule 4615 will continue to require that each Sponsored Participants enter into a Customer Agreement with each Sponsoring member to establish proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Nasdaq Market Center. These Customer Agreement(s) must incorporate the Sponsorship Provisions set forth in paragraph (ii) in Nasdaq Rule 4615.<sup>6</sup> The Customer Agreement remains unaffected by this rule proposal. Also, the Exchange is proposing to amend Nasdaq Rule 4615 to identify the aforementioned agreement as the “Customer Agreement.”

Today, only members may request connectivity to the Exchange. A member may obtain one or more ports for the purpose of providing Sponsored Access. If separate ports are requested by a member for the purpose of providing Sponsored Access, the member must request those ports from the Exchange and the member is responsible for the Sponsored Participant's activity on the Exchange. In all circumstances, the Exchange will only permit members to request connectivity to the market and the member is responsible for all customer orders submitted through the member’s port.

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<sup>6</sup> The Customer Agreement is required to include, among other language, all orders entered by the Sponsored Participants and any person acting on behalf of or in the name of such Sponsored Participant and any executions occurring as a result of such orders are binding in all respects on the Sponsoring Member and, also, Sponsoring Member is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant.

First, the Exchange believes that completing and submitting the Exchange Agreement, User Agreement and Notice of Consent is unnecessarily burdensome in light of the current structure in place at the Exchange. Only members may request connectivity to the Exchange by contacting Nasdaq Subscriber Services. Such connection by the member requires approval by the Exchange for the purpose of testing as well as other relevant information sharing with the Exchange by the member to obtain a port. The Exchange is aware of the member responsible for each of its ports, however the Exchange may not be aware of the member's Sponsored Access arrangements due to varied ways that a member may utilize a port. The Exchange believes the requirement to also complete and submit an Exchange Agreement, User Agreement and Notice of Consent with our Nasdaq Membership Department is viewed as unnecessarily burdensome by members because of the multitude of relationships the member has with various customers. Members have expressed to the Exchange that they have multiple relationships with customers, which customer relationships change over time.<sup>7</sup> Members have indicated that the necessity to continuously disclose the updated customer relationships to the Exchange is burdensome and unnecessary as they remain responsible for all activity conducted on the Exchange through a port assigned to the member. Further such information is available to the Exchange upon Exchange request from its regulatory group.<sup>8</sup>

Second, the Exchange believes that the Exchange Agreement between the Sponsored Participant and the Exchange is also unnecessarily burdensome. The

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<sup>7</sup> For example, a broker-dealer's customers, which could include hedge funds, institutional investors, individual investors, and other broker-dealers.

<sup>8</sup> See Nasdaq Rule 8210.



requirement to provide this form was intended to give the Exchange notification that such a relationship existed and to ensure that the Sponsored Participant was informed of the Exchange's Limited Liability Company Agreement, Bylaws, Rules and procedures. The agreements also provided the Exchange with contractual privity, which would no longer exist with the removal of the Exchange Agreement. The Exchange does not believe the loss of privity with the Sponsored Participant creates a concern as the Exchange has the ability to remove access to the port<sup>9</sup> at any time if the activity of the Sponsored Participant warrants such removal. In addition, as discussed below, the Sponsored Participant will be made aware of its obligations through the Customer Agreement that it executed with the Sponsoring Member. As noted above, the Exchange only permits its members to request connectivity to the Exchange's System and members responsible for all trades submitted through such ports. Pursuant to Nasdaq Rule 4615 the trading activity of a Sponsored Participant must be monitored by the Sponsoring Member for compliance with the terms of the Customer Agreement with the Sponsoring Participant.<sup>10</sup> Finally, the member continues to be obligated to comply with Nasdaq Rule 4615 and the Market Access Rule. The Sponsoring Member is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant.

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<sup>9</sup> Nasdaq Rule 4611, entitled "Nasdaq Market Center Participant Registration" permits Nasdaq to impose upon any Nasdaq Market Maker, Nasdaq ECN or Order Entry Firm such temporary restrictions upon the automated entry or updating of orders or Quotes/Orders as Nasdaq may determine to be necessary to protect the integrity of Nasdaq's systems.

<sup>10</sup> See Nasdaq Rule 4615(b)(ii)(G).

Nasdaq Rule 4615 requires that the Sponsored Participant and the Sponsored Member maintain a Customer Agreement to ensure compliance with the Exchange's Rules and obligations related to security, among other things.<sup>11</sup> Nasdaq Rule 4615 requires that the Customer Agreement specify that the Sponsored Participant shall maintain, keep current and provide to the Sponsoring Member a list of individuals authorized to obtain access to the Exchange on behalf of the Sponsored Participant and provide appropriate training. In addition, pursuant to the Customer Agreement provisions, the Sponsored Participant is required to take reasonable security precautions to prevent unauthorized use or access to the Exchange, including unauthorized entry of information into the Exchange, or the information and data made available therein. Finally, the Customer Agreement must provide that the Sponsored Participant is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of authorized individuals, and for the trading and other consequences thereof, including granting unauthorized access to the Exchange. The contents and the requirement for a Customer Agreement are unchanged.

Pursuant to Nasdaq Rule 4615 the Sponsoring Member must provide a Notice of Consent to the Exchange. The Exchange believes that a Notice of Consent provided to the Exchange by the Sponsoring Member is also unnecessarily burdensome. The Notice of Consent notifies the Exchange of the relationship between the Sponsoring Member and the Sponsored Participant. However, as noted above, the Exchange's regulatory group

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<sup>11</sup> See Nasdaq Rule 4615(b)(ii)(B).

may request information about a particular customer relationship as it deems necessary.<sup>12</sup> Further, the Exchange is made aware of the existence of ports when the Sponsoring Member requests connectivity to the Exchange and the Members are responsible for all trading activity by its Sponsored Participant. In addition, the Exchange, through its Regulatory Services Agreement with the Financial Industry Regulatory Authority (FINRA), reviews for member compliance with Nasdaq Rule 4615 and the Market Access Rule. The Exchange has the ability to remove access to the port<sup>13</sup> at any time if the activity of the Sponsored Participant would warrant such removal.

In light of the foregoing, the requirement to complete and submit an Exchange Agreement and Notice of Consent with the Nasdaq Membership Department is viewed as unnecessarily burdensome by members, who must update their customer relationships internally and provides such information upon Exchange request.

Finally, the Exchange notes it is correcting a capitalization in Nasdaq Rule 4615(ii)(C).

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</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

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<sup>12</sup> See Nasdaq Rule 8210.

<sup>13</sup> See note 9.

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

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

market system, and, in general to protect investors and the public interest, by enhancing the risk protections available to Exchange members.

#### Defining Sponsored Access

Adding a definition of Sponsored Access will assist market participants to understand the type of arrangements that are subject to Nasdaq Rule 4615 and such clarity will serve to promote just and equitable principles of trade. Members have indicated, and the Exchange believes, that adding the Sponsored Access definition will provide members with additional guidance with respect to Nasdaq Rule 4615.

#### Defining Customer Agreement

Defining the agreement that Sponsored Participants must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Nasdaq Market Center, as a “Customer Agreement” will also serve to provide members with clarity on the agreement that the Exchange will continue to require and the obligations that are contained within the Customer Agreement. This amendment is non-substantive.

#### Market Access Rule

Members continue to be required to comply with Rule 4615 and the Market Access Rule. The Exchange believes that specifically enumerating the member’s responsibility to comply with the Market Access Rule will provide member’s with additional guidance concerning the application of the Rule. This change is non-substantive as members are currently responsible to comply with the Market Access Rule.

Elimination of Certain Contract Requirements

Removing the requirement to submit and complete an Exchange Agreement, User Agreement and Notice of Consent will remove impediments to and perfect the mechanism of a free and open market by removing a burdensome and time-consuming requirement for members. While elimination of the Exchange Agreement requirement will also eliminate the Exchange's contractual privity with the Sponsored Participant, the Exchange notes that any potential concerns to the loss of privity are mitigated by the Exchange's ability to restrict the Sponsored Participant's access to a port<sup>16</sup> at any time it is warranted by the Sponsored Participant's trading activity. Also, members have indicated that customer relationships must be frequently updated and it is unnecessarily burdensome to continuously update the Exchange with this information that is available upon request. Connectivity to the Exchange is authorized by the Exchange and must be requested by a member of the Exchange. Such connection requires approval by the Exchange, testing and other security features as well as information sharing with the Exchange by the member. In addition, Nasdaq Rule 4615 delineates the terms of the required contractual relationship between the Sponsoring Member and the Sponsored Participant in the Customer Agreement, which remains in effect. The Exchange believes that the Notice of Consent is unnecessary as Sponsoring Members must request connectivity to the Exchange as well as enter into a Customer Agreement with the Sponsored Participant. Finally, as is the case with other Exchange Rules, the Exchange examines for compliance with Nasdaq Rule 4615 and may request information about any customer relationship which concerns the Exchange.

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<sup>16</sup> See note 9.

The requirement to also complete and submit an Exchange Agreement, User Agreement and a Notice of Consent with our Nasdaq Membership Department is viewed as unnecessarily burdensome by members, who must update their customer relationships internally.

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

The Exchange 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 for the reasons below.

Defining Sponsored Access

The addition of a definition for Sponsored Access will assist market participants to understand the type of arrangement subject to Nasdaq Rule 4615 and such clarity will serve to promote just and equitable principles of trade.

Defining Customer Agreement

Defining the agreement that Sponsored Participants must enter into and maintain with one or more Sponsoring Members to establish proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Nasdaq Market Center, as a "Customer Agreement" does not create an undue burden on competition as this amendment is non-substantive and the Exchange believes that providing guidance concerning the type of arrangement subject to Nasdaq Rule 4615 will facilitate member compliance and does not unduly burden competition.

Market Access Rule

In addition, the Exchange believes that specifically enumerating the member's obligation to comply with the Market Access Rule does not create an undue burden on

competition, but rather reinforces the application of the Rule. This change is non-substantive as members are currently responsible to comply with the Market Access Rule.

#### Elimination of Certain Contract Requirements

Removing the requirement to complete an Exchange Agreement, User Agreement and Notice of Consent under Nasdaq Rule 4615 does not create an undue burden on competition. The Exchange believes that this requirement is unnecessarily burdensome as the Exchange's regulatory group may request information about a particular customer relationship as it deems necessary.<sup>17</sup> Further, the Exchange is made aware of the existence of ports when the Sponsoring Member requests connectivity to the Exchange and the Members are responsible for all trading activity by its Sponsored Participant. In order to obtain connectivity to the Exchange, members are required to contact Nasdaq Subscriber Services and request a connection to the market. Such connection requires approval by the Exchange, testing and other security features as well as information sharing with the Exchange by the member. Only members are permitted to request connectivity to the Exchange. The requirement to also complete and submit an Exchange Agreement, User Agreement and a Notice of Consent with our Nasdaq Membership Department is viewed as unnecessarily burdensome by members, who must update their customer relationships internally. Additionally, the Exchange examines for compliance with Nasdaq Rule 4615 and may request information about any customer relationship which concerns the Exchange.

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<sup>17</sup> See Nasdaq Rule 8210.

The Sponsoring Member remains responsible for customer activity conducted on the Exchange through the Customer Agreement, among other obligations. Additionally, Sponsored Participants that obtain access to the Exchange's System are required to take reasonable security precautions and prevent unauthorized use or access to the Nasdaq Market Center, including unauthorized entry of information into the Nasdaq Market Center,<sup>18</sup> pursuant to the Customer Agreement. Further, the Sponsored Participants is responsible to establish adequate procedures and controls that permit it to effectively monitor its employees', agents' and customers' use and access to the Nasdaq Market Center for compliance with the terms of this agreement.<sup>19</sup> In addition, the Exchange, through its Regulatory Services Agreement with FINRA conducts reviews of members for compliance with Nasdaq Rule 4615 and the Market Access Rule. The Exchange has the ability to remove access to the port<sup>20</sup> at any time if the activity of the Sponsored Participant would warrant such removal. Finally, Nasdaq Rule 4615 is currently applicable to all Nasdaq members that desire to sponsor access for its customers and applies to trading in all securities on the Exchange.

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

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<sup>18</sup> See Nasdaq Rule 4615(b)(ii)(G).

<sup>19</sup> See Nasdaq Rule 4615(b)(ii)(H).

<sup>20</sup> See note 9.



Because the foregoing 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>21</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>22</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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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. The Exchange has provided 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, at least five business days prior to the date of filing of the proposed rule change.

#### 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:

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<sup>21</sup> 15 U.S.C. 78s(b)(3)(a)(iii).

<sup>22</sup> 17 CFR 240.19b-4(f)(6).

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2015-140 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-NASDAQ-2015-140. 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-2015-140 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.<sup>23</sup>

Robert W. Errett  
Deputy Secretary

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<sup>23</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

**NASDAQ Stock Market Rules**

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**4615. Sponsored Participants**

(a) The Exchange shall be available for entry and execution of orders by Sponsored Participants with authorized access. [To obtain authorized access to the Exchange, each Sponsored Participant must enter into a Sponsored Participant Agreement with the Exchange in such form as the Exchange may provide.] Sponsored Access shall mean an arrangement whereby a member permits its customers to enter orders into the System that bypass the member's trading system and are routed directly to the Exchange, including routing through a service bureau or other third party technology provider.

(b) Sponsored Participants. A Sponsored Participant may obtain authorized access to the Nasdaq Market Center only if such access is authorized in advance by one or more Exchange members as follows:

(i) Sponsored Participants must enter into and maintain customer agreements with one or more Sponsoring Members establishing proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Nasdaq Market Center ("Customer Agreement"). Such [c]Customer [a]Agreement(s) must incorporate the Sponsorship Provisions set forth in paragraph (ii) below.

(ii) For a Sponsored Participant to obtain and maintain authorized access to the Nasdaq Market Center, a Sponsored Participant and its Sponsoring Member must agree in writing to the following Sponsorship Provisions:

(A) The authorized access must comply with Rule 15c3-5 under the Securities Exchange Act of 1934. [Sponsored Participant and its Sponsoring Member must have entered into and maintained a User Agreement with the Exchange. The Sponsoring Member must designate the Sponsored Participant by name in its User Agreement as such.]

(B) Sponsoring Member acknowledges and agrees that

(1) All orders entered by the Sponsored Participants and any person acting on behalf of or in the name of such Sponsored Participant and any executions occurring as a result of such orders are binding in all respects on the Sponsoring Member and

(2) Sponsoring Member is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant.

- (C) Sponsoring Member shall comply with the Exchange's Limited Liability Company Agreement, By-[1]Laws, Rules and procedures with regard to the Nasdaq Market Center and Sponsored Participant shall comply with the Exchange's Certificate of Incorporation, Bylaws, Rules and procedures with regard to the Nasdaq Market Center, as if Sponsored Participant were an Exchange Member.
- (D) Sponsored Participant shall maintain, keep current and provide to the Sponsoring Member a list of individuals authorized to obtain access to the Nasdaq Market Center on behalf of the Sponsored Participant.
- (E) Sponsored Participant shall familiarize its authorized individuals with all of the Sponsored Participant's obligations under this Rule and will assure that they receive appropriate training prior to any use or access to the Nasdaq Market Center.
- (F) Sponsored Participant may not permit anyone other than authorized individuals to use or obtain access to the Nasdaq Market Center.
- (G) Sponsored Participant shall take reasonable security precautions to prevent unauthorized use or access to the Nasdaq Market Center, including unauthorized entry of information into the Nasdaq Market Center, or the information and data made available therein. Sponsored Participant understands and agrees that Sponsored Participant is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of authorized individuals, and for the trading and other consequences thereof.
- (H) Sponsored Participant acknowledges its responsibility to establish adequate procedures and controls that permit it to effectively monitor its employees', agents' and customers' use and access to the Nasdaq Market Center for compliance with the terms of this agreement.
- (I) Sponsored Participant shall pay when due all amounts, if any, payable to Sponsoring Member, the Exchange, or any other third parties that arise from the Sponsored Participant's access to and use of the Nasdaq Market Center. Such amounts include, but are not limited to applicable exchange and regulatory fees.
- [(iii) The Sponsoring Member must provide the Exchange with a Notice of Consent acknowledging its responsibility for the orders, executions and actions of its Sponsored Participant at issue.]

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