

Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2022 - * 21

Amendment No. (req. for Amendments *)

Filing by Nasdaq PHLX LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

A proposal to amend the Nasdaq Amended and Restated Certificate of Incorporation

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 * Sun Last Name * Kim

Title * Associate General Counsel

E-mail * Sun.Kim@nasdaq.com

Telephone * (646) 420-7816 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Nasdaq PHLX LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 05/06/2022

(Title *)

By John A. Zecca

EVP, Chief Legal Officer

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

 Date: 2022.05.06 12:16:02 -04'00'

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information *

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SR-Phlx-2022-21 19b-4.doc

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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SR-Phlx-2022-21 Exhibit 1.doc

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 Advanced 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 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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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 Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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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 Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

SR-Phlx-2022-21 Exhibit 5.doc

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) Nasdaq PHLX LLC (“Phlx” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend the Amended and Restated Certificate of Incorporation (“Certificate”) of its parent corporation, Nasdaq, Inc. (“Nasdaq” or the “Company”), to increase Nasdaq’s authorized share capital.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of Nasdaq on March 23, 2022. The Board of Directors of the Exchange approved the proposed rule change on April 14, 2022. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Sun Kim
Associate General Counsel
Nasdaq, Inc.
(646) 420-7816

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The purpose of the proposed rule change is to amend the Nasdaq Certificate³ to increase the total number of authorized shares of Nasdaq common stock, par value \$0.01 per share (“Common Stock”). Specifically, the Exchange proposes to amend Article Fourth, Section A such that the total number of shares of Stock (i.e., capital stock) that Nasdaq is authorized to issue would be increased from 330,000,000 to 930,000,000 shares, and the portion of that total constituting Common Stock would be changed from 300,000,000 to 900,000,000 shares. As amended, Article Fourth, Section A of the Certificate would provide:

The total number of shares of Stock which Nasdaq shall have the authority to issue is Nine Hundred Thirty Million (930,000,000), consisting of Thirty Million (30,000,000) shares of Preferred Stock, par value \$.01 per share (hereinafter referred to as “Preferred Stock”), and Nine Hundred Million (900,000,000) shares of Common Stock, par value \$.01 per share (hereinafter referred to as “Common Stock”).⁴

As noted above, the proposed amendments to the Certificate were approved by the Nasdaq Board of Directors (“Nasdaq Board”) on March 23, 2022. The proposed amendments to the Certificate would be effective when filed with the Secretary of State of Delaware, which would not occur until approval of the amendments by the

³ Nasdaq owns 100% of the equity interest in the Exchange. The Exchange’s affiliates, Boston Stock Exchange Clearing Corporation, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, The Nasdaq Stock Market LLC, and Stock Clearing Corporation of Philadelphia will each concurrently submit substantially the same rule filings to propose the changes described herein.

⁴ Nasdaq currently has no Preferred Stock outstanding.

stockholders of Nasdaq is obtained at the 2022 Annual Meeting of the Stockholders on June 22, 2022 and until this proposed rule change becomes effective and operative.

The trading price of Nasdaq's Common Stock has risen significantly over the past several years. Since Nasdaq first became a publicly traded company in 2002, the total number of authorized shares of Common Stock has remained constant at 300,000,000 shares. However, over the last five years, the trading price of Nasdaq's Common Stock has increased by approximately 162%.⁵ As the trading price of Nasdaq's Common Stock has risen, the Nasdaq Board has carefully evaluated the effect of the trading price of the Common Stock on the liquidity and marketability of the Common Stock. The Nasdaq Board believes that this price appreciation may be affecting the liquidity of the Common Stock, making it more difficult to efficiently trade and potentially less attractive to certain investors. Accordingly, the Nasdaq Board approved pursuing a 3-for-1 stock split by way of a stock dividend, pursuant to which the holders of record of shares of Common Stock would receive, by way of a dividend, two shares of Common Stock for each share of Common Stock held by such holder (the "Stock Dividend"). The Nasdaq Board's approval of the Stock Dividend was contingent upon this proposed rule change becoming effective and operative, and Nasdaq stockholder approval of the proposed amendments to the Certificate.

The number of shares of Common Stock proposed to be issued in the Stock Dividend exceeds Nasdaq's authorized but unissued shares of Common Stock. The

⁵ The price of one share of Common Stock on March 31, 2017 was \$69.45 and the closing market price of one share of Common Stock on April 1, 2022 was \$181.92 as reported on the Nasdaq Stock Market.

proposed rule change would increase Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend.

The proposed changes would not otherwise alter the Certificate, including the limitations on voting and ownership set forth in Article Fourth, Section C of the Certificate that generally provides no person who beneficially owns shares of common stock or preferred stock of Nasdaq in excess of 5% of the then-outstanding securities generally entitled to vote may vote the shares in excess of 5%. This limitation mitigates the potential for any Nasdaq shareholder to exercise undue control over the operations of Nasdaq's self-regulatory subsidiaries, and facilitates the self-regulatory subsidiaries' and the Commission's ability to carry out their regulatory obligations under the Act.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(1) of the Act,⁷ in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposal to increase Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend would not impact the Exchange's ability to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act. In particular, the proposed changes would

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(1).

not alter the limitations on voting and ownership set forth in Article Fourth, Section C of the Certificate, and so the proposed changes would not enable a person to exercise undue control over the operations of Nasdaq's self-regulatory subsidiaries or to restrict the ability of the Commission or the Exchange to effectively carry out their regulatory oversight responsibilities under the Act.

The Exchange also believes that the proposal is consistent with Section 6(b)(5) of the Act⁸ because it would not impact the Exchange's governance or regulatory structure, which would continue to be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 the proposed rule change would 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, because by increasing Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend, the proposed rule change will facilitate broader ownership of Nasdaq.

The Exchange also notes that the proposed rule change is substantially similar to a prior proposal by Intercontinental Exchange, Inc. ("ICE"), which is the holding company for three national securities exchanges, including the New York Stock Exchange. The

⁸ 15 U.S.C. 78f(b)(5).

ICE proposal amended ICE's Certificate of Incorporation to effectuate a similar stock split as proposed by the Exchange herein.⁹ As such, the Exchange does not believe that its proposal raises any new or novel issues not already considered by the Commission.

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

Because the proposed rule change relates solely to the number of authorized shares of Common Stock and shares of capital stock of the Company and not to the operations of the Exchange, 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.

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)(iii)¹⁰ of the Act and Rule 19b-4(f)(6) thereunder¹¹ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii)

⁹ In particular, the ICE proposal increased ICE's total number of authorized shares of ICE common stock in order to effectuate a 5-for-1 stock split by way of a stock dividend. See Securities Exchange Act Release No. 78992 (September 29, 2016), 81 FR 69092 (October 5, 2016) (SR-NYSE-2016-57, SR-NYSEArca-2016-119, and SR-NYSEMKT-2016-80) (hereinafter, "ICE Approval").

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6).

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.

The proposed changes do not significantly affect the protection of investors or the public interest; instead, they will further the interests of investors and the public by allowing the implementation of the proposed rule change immediately following the Annual Meeting of Stockholders on June 22, 2022. The increase in the number of Nasdaq's authorized shares of Common Stock would allow Nasdaq to effectuate the Stock Dividend without delay. Doing so would allow Nasdaq to efficiently carry out the stated wishes of the Nasdaq Board, who approved the proposed amendments to the Certificate and pursuing the Stock Dividend on March 23, 2022, subject to this proposed rule change becoming effective and operative, and the approval of the amendments at the Annual Meeting of the Stockholders on June 22, 2022. As noted above, by increasing Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend, the proposed rule change will facilitate broader ownership of Nasdaq.

Moreover, the proposed rule change would have no impact on the limitations on voting and ownership set forth in Article Fourth, Section C of the Certificate, and so the proposed changes would not enable a person to exercise undue control over the operations of Nasdaq's self-regulatory subsidiaries or to restrict the ability of the Commission or the Exchange to effectively carry out their regulatory oversight responsibilities under the Act.

In addition, the proposed rule change does not impose any significant burden on competition, as it relates solely to the number of authorized shares of Common Stock and shares of capital stock of the Company, and not to the operations of the Exchange. As noted above, the proposed rule change is substantially similar to the ICE Approval, and thus the Exchange does not believe that its proposal raises any new or novel issues not already considered by the Commission.¹²

Furthermore, Rule 19b-4(f)(6)(iii)¹³ 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 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.

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

The proposed rule change is based on the ICE Approval.¹⁴

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

Not applicable.

¹² See supra note 9.

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ See supra note 9.

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. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-Phlx-2022-21)

August __, 2022

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Nasdaq Amended and Restated Certificate of Incorporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 6, 2022, Nasdaq PHLX LLC (“Phlx” 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 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 amend the Amended and Restated Certificate of Incorporation (“Certificate”) of its parent corporation, Nasdaq, Inc. (“Nasdaq” or the “Company”), to increase Nasdaq’s authorized share capital.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/phlx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 proposed rule change is to amend the Nasdaq Certificate³ to increase the total number of authorized shares of Nasdaq common stock, par value \$0.01 per share ("Common Stock"). Specifically, the Exchange proposes to amend Article Fourth, Section A such that the total number of shares of Stock (i.e., capital stock) that Nasdaq is authorized to issue would be increased from 330,000,000 to 930,000,000 shares, and the portion of that total constituting Common Stock would be changed from 300,000,000 to 900,000,000 shares. As amended, Article Fourth, Section A of the Certificate would provide:

The total number of shares of Stock which Nasdaq shall have the authority to issue is Nine Hundred Thirty Million (930,000,000), consisting of Thirty Million (30,000,000) shares of Preferred Stock, par value \$.01 per share (hereinafter referred to as "Preferred Stock"), and Nine Hundred Million (900,000,000) shares

³ Nasdaq owns 100% of the equity interest in the Exchange. The Exchange's affiliates, Boston Stock Exchange Clearing Corporation, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, The Nasdaq Stock Market LLC, and Stock Clearing Corporation of Philadelphia will each concurrently submit substantially the same rule filings to propose the changes described herein.

of Common Stock, par value \$.01 per share (hereinafter referred to as “Common Stock”).⁴

As noted above, the proposed amendments to the Certificate were approved by the Nasdaq Board of Directors (“Nasdaq Board”) on March 23, 2022. The proposed amendments to the Certificate would be effective when filed with the Secretary of State of Delaware, which would not occur until approval of the amendments by the stockholders of Nasdaq is obtained at the 2022 Annual Meeting of the Stockholders on June 22, 2022 and until this proposed rule change becomes effective and operative.

The trading price of Nasdaq’s Common Stock has risen significantly over the past several years. Since Nasdaq first became a publicly traded company in 2002, the total number of authorized shares of Common Stock has remained constant at 300,000,000 shares. However, over the last five years, the trading price of Nasdaq’s Common Stock has increased by approximately 162%.⁵ As the trading price of Nasdaq’s Common Stock has risen, the Nasdaq Board has carefully evaluated the effect of the trading price of the Common Stock on the liquidity and marketability of the Common Stock. The Nasdaq Board believes that this price appreciation may be affecting the liquidity of the Common Stock, making it more difficult to efficiently trade and potentially less attractive to certain investors. Accordingly, the Nasdaq Board approved pursuing a 3-for-1 stock split by way of a stock dividend, pursuant to which the holders of record of shares of Common Stock would receive, by way of a dividend, two shares of Common Stock for each share of Common Stock held by such holder (the “Stock Dividend”). The Nasdaq Board’s

⁴ Nasdaq currently has no Preferred Stock outstanding.

⁵ The price of one share of Common Stock on March 31, 2017 was \$69.45 and the closing market price of one share of Common Stock on April 1, 2022 was \$181.92 as reported on the Nasdaq Stock Market.

approval of the Stock Dividend was contingent upon this proposed rule change becoming effective and operative, and Nasdaq stockholder approval of the proposed amendments to the Certificate.

The number of shares of Common Stock proposed to be issued in the Stock Dividend exceeds Nasdaq's authorized but unissued shares of Common Stock. The proposed rule change would increase Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend.

The proposed changes would not otherwise alter the Certificate, including the limitations on voting and ownership set forth in Article Fourth, Section C of the Certificate that generally provides no person who beneficially owns shares of common stock or preferred stock of Nasdaq in excess of 5% of the then-outstanding securities generally entitled to vote may vote the shares in excess of 5%. This limitation mitigates the potential for any Nasdaq shareholder to exercise undue control over the operations of Nasdaq's self-regulatory subsidiaries, and facilitates the self-regulatory subsidiaries' and the Commission's ability to carry out their regulatory obligations under the Act.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(1) of the Act,⁷ in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its members

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(1).

and persons associated with its members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposal to increase Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend would not impact the Exchange's ability to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act. In particular, the proposed changes would not alter the limitations on voting and ownership set forth in Article Fourth, Section C of the Certificate, and so the proposed changes would not enable a person to exercise undue control over the operations of Nasdaq's self-regulatory subsidiaries or to restrict the ability of the Commission or the Exchange to effectively carry out their regulatory oversight responsibilities under the Act.

The Exchange also believes that the proposal is consistent with Section 6(b)(5) of the Act⁸ because it would not impact the Exchange's governance or regulatory structure, which would continue to be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 the proposed rule change would 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, because by increasing

⁸ 15 U.S.C. 78f(b)(5).

Nasdaq's authorized shares of Common Stock and shares of capital stock sufficient to allow Nasdaq to effectuate the Stock Dividend, the proposed rule change will facilitate broader ownership of Nasdaq.

The Exchange also notes that the proposed rule change is substantially similar to a prior proposal by Intercontinental Exchange, Inc. ("ICE"), which is the holding company for three national securities exchanges, including the New York Stock Exchange. The ICE proposal amended ICE's Certificate of Incorporation to effectuate a similar stock split as proposed by the Exchange herein.⁹ As such, the Exchange does not believe that its proposal raises any new or novel issues not already considered by the Commission.

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

Because the proposed rule change relates solely to the number of authorized shares of Common Stock and shares of capital stock of the Company and not to the operations of the Exchange, 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.

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.

⁹ In particular, the ICE proposal increased ICE's total number of authorized shares of ICE common stock in order to effectuate a 5-for-1 stock split by way of a stock dividend. See Securities Exchange Act Release No. 78992 (September 29, 2016), 81 FR 69092 (October 5, 2016) (SR-NYSE-2016-57, SR-NYSEArca-2016-119, and SR-NYSEMKT-2016-80) (hereinafter, "ICE Approval").

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

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 Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹

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:

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2022-21 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-Phlx-2022-21. 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-Phlx-2022-21 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.¹²

J. Matthew DeLesDernier
Assistant Secretary

¹² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

Nasdaq, Inc.

* * * * *

CERTIFICATE OF AMENDMENT DATED ●, 2022

Pursuant to Section 242 of the General Corporation Law of the State of Delaware Nasdaq, Inc., a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. Article Fourth, Section A of the Amended and Restated Certificate of Incorporation of the Corporation is hereby amended in its entirety to read as follows:

“A. The total number of shares of Stock which Nasdaq shall have the authority to issue is Nine Hundred Thirty Million (930,000,000), consisting of Thirty Million (30,000,000) shares of Preferred Stock, par value \$.01 per share (hereinafter referred to as "Preferred Stock"), and Nine Hundred Million (900,000,000) shares of Common Stock, par value \$.01 per share (hereinafter referred to as "Common Stock").”

2. The foregoing amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be executed by its duly authorized officer on this ● day of ●, 2022.

Nasdaq, Inc.

By: _____

Name:

Title:

* * * * *