

Proposed Rule Change by NASDAQ Stock Market
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 checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input checked="" type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
Date Expires <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 type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
Provide a brief description of the proposed rule change (limit 250 characters).

A proposed rule change to adopt Rule 4753(c) as a six month pilot in 100 NASDAQ listed securities.

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 proposed rule change.

First Name Last Name
 Title
 E-mail
 Telephone 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 officer.

Date
 By Executive Vice President and General Counsel
 (Name) (Title)

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 EFFS 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 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 Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² The NASDAQ Stock Market LLC (“NASDAQ”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to adopt Rule 4753(c) as a six month pilot in 100 NASDAQ listed securities.

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.³

* * * * *

4753. Nasdaq Halt and Imbalance Crosses

(a) – (b) No change.

(c) Beginning August 1, 2010, for a period of six months, [B]between 9:30 a.m. and 4:00 p.m. EST, the System will automatically monitor System executions to determine whether the market is trading in an orderly fashion and whether to conduct an Imbalance Cross in order to restore an orderly market in a single Nasdaq Security.

(1) An Imbalance Cross shall occur if the System executes a transaction in a Nasdaq Security at a price that is beyond the Threshold Range away from the Triggering Price for that security. The Triggering Price for each Nasdaq Security shall be the price of any execution by the System in that security within the prior 30 seconds. The Threshold Range shall be determined as follows:

Execution Price	Thresh[h]old Range Away From Triggering Price
\$1.75 and under	15%
Over \$1.75 and up to \$25	10%
Over \$25 and up to \$50	5%
Over \$50	3%

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Changes are marked to the rule text that appears in the electronic manual of NASDAQ found at <http://nasdaq.cchwallstreet.com>.

(2) If the System determines pursuant to subsection (1) above to conduct an Imbalance Cross in a Nasdaq Security, the System shall automatically cease executing trades in that security for a 60-second Display Only Period. During that 60-second Display Only Period, the System shall:

(A) maintain all current quotes and orders and continue to accept quotes and orders in that System Security; and

(B) Disseminate by electronic means an Order Imbalance Indicator every 5 seconds.

(3) At the conclusion of the 60-second Display Only Period, the System shall re-open the market by executing the Nasdaq Halt Cross as set forth in subsection (b)(2) - (4) above.

(4) No change.

* * * * *

(b) - (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of NASDAQ pursuant to authority delegated by the Board of Directors of NASDAQ on December 13, 2006. NASDAQ staff will advise the Board of Directors of NASDAQ of any action taken pursuant to delegated authority. No other action by NASDAQ is necessary for the filing of the rule change.

Questions regarding this rule filing may be directed to T. Sean Bennett, Assistant General Counsel, The NASDAQ OMX Group, Inc., at (301) 978-8499 (telephone) or (301) 978-8472 (fax).

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

a. Purpose

NASDAQ is proposing to adopt Rule 4753(c), a volatility-based pause in trading in individual NASDAQ-listed securities traded on NASDAQ ("NASDAQ Securities").

NASDAQ is proposing to adopt the rule initially as a six-month pilot in 100 NASDAQ Securities beginning August 1, 2010.

Background

NASDAQ's efficient market structure allows the price of a security to change quickly in response to information and market demand. Allowing trading to react quickly is generally beneficial to investors. In some circumstances, however, abrupt and significant movements in the price at which a security is traded can indicate aberrant volatility, which is harmful to investors. On August 19, 2008, the Commission approved new Rule 4753(c), which established a volatility-based halt process on a one-year pilot basis for an initial 100 NASDAQ-listed securities.⁴ Subsequent to the Commission's approval, NASDAQ implemented a market order price collar to address aberrant volatility in lieu of immediately implementing the Rule 4753(c) pilot.⁵ Although these collars are designed to address volatility by reducing the risk that market orders will execute at prices that are significantly worse than the national best bid and offer, they had limited effect on May 6, 2010 because of the limited number of market orders involved in trading that day on NASDAQ.

In light of the unprecedented aberrant volatility witnessed on May 6, 2010, and the limited effect that NASDAQ's market collars had in dampening such volatility, NASDAQ believes that the Rule 4753(c) halt process is needed to protect its listed

⁴ Securities Exchange Act Release No. 58386 (August 19, 2008), 73 FR 50380 (August 26, 2008) (SR-NASDAQ-2007-067).

⁵ This process cancels any portion of most unpriced orders that would execute either on NASDAQ or when routed to another market center at a price that is the greater of \$0.25 or 5 percent worse than the NBBO at the time NASDAQ receives the order. See Securities Exchange Act Release No. 60371 (July 23, 2009), 74 FR 38075 (July 30, 2009) (SR-NASDAQ-2009-070).

securities and market participants from such volatility in the future. Accordingly, as described below, NASDAQ is proposing to adopt Rule 4753(c) again as a six month pilot for 100 NASDAQ-listed securities.

NASDAQ's Approach: Rule 4753(c)

NASDAQ originally adopted Rule 4753(c) to promote the protection of investors by providing a meaningful pause in NASDAQ Securities on NASDAQ in the midst of abrupt and significant price movements, while permitting trading to move freely in rapid and stable markets.⁶ As the events of May 6, 2010 show, severe and rapid price dislocation can occur in securities with no connection to the fundamental soundness of the underlying companies. Such dislocation may be caused by operational and structural factors beyond the control of issuers and individual markets. NASDAQ's Rule 4753(c) process is designed to protect NASDAQ securities and market participants from aberrant volatility, which can quickly spread like a contagion from market to market, to allow time to reestablish a rational market in NASDAQ Securities.

NASDAQ's proposed Rule 4753(c) process automatically suspends trading in individual NASDAQ Securities that are the subject of abrupt and significant intraday price movements between 9:30 a.m. and 4 p.m. Eastern Standard Time. The Rule 4753(c) process is triggered automatically when the execution price of a NASDAQ Security moves more than a fixed amount away from a pre-established "triggering price" for that security. The Triggering Price for each NASDAQ Security is the price of

⁶ NASDAQ has other similar processes that serve to protect investors during periods of abnormal trading activity. NASDAQ Rule 4120 authorizes NASDAQ Regulation to halt trading in a security based upon news or an emergency in the market. NASDAQ Regulation also has the ability under NASDAQ Rule 11890 to break trades in order to protect the integrity of the market.

any execution by the System⁷ in that security within the previous 30 seconds. For each NASDAQ Security, the System continually compares the price of each execution in the System against the prices of all System executions in that security over the 30 seconds.

Proposed Rule 4753(c) has tiered triggering price range percentages that are based on the execution price of a security. NASDAQ has observed that, on a percentage basis, lower priced stocks normally trade in a wider range than stocks with higher prices. For example, during the first quarter of 2010, a period of relatively low market volatility, stocks priced under \$1.75 had an average range (percent difference from high to low over the course of the day) of 9%, stocks priced \$1.75 up to \$24.99 had an average range of 4%. Stocks priced \$25 to \$49.99 had an average range of 3%. Stocks priced above \$50 had an average range of 2%. The purpose of Rule 4753(c) is not to inhibit trading within the normal range, but rather to pause trading in instances of aberrant volatility. As a consequence, NASDAQ selected percentage tiers that allow for a wider range in lower priced securities, with decreasing ranges on a percentage basis as price increases.

When the Rule 4753(c) process is triggered, NASDAQ institutes a formal trading halt during which time NASDAQ systems are prohibited from executing orders.⁸ Members, however, may continue to enter quotes and orders, which are queued during a

⁷ As defined in Rule 4751(a).

⁸ A halt pursuant to Rule 4753(c) is not considered a regulatory halt and, therefore, it does not trigger a market-wide trading halt under Section X of the NASDAQ UTP Plan. As a result, other markets are *permitted* to continue trading a NASDAQ stock that is undergoing a Market Re-Opening on NASDAQ. During the Rule 4753(c) process, NASDAQ's quotations are marked "closed," signaling to other markets that quotes and orders routed to NASDAQ will not be executed. A Rule 4753(c) trade is reported to the network processor as a single-price re-opening that is exempt from trade through restrictions pursuant to Rule 611(b)(3).

60-second Display Only Period. At the conclusion of the Display Only Period, the queued orders are executed at a single price, pursuant to Rule 4753.

Current Environment

In light of the events of May 6, 2010, NASDAQ believes that circumstances warrant the implementation of Rule 4753(c), in addition to the market collar protections currently in place.⁹ NASDAQ believes that implementing Rule 4753(c) will serve to protect market participants from aberrant volatility such as that which occurred on May 6, 2010. NASDAQ also believes that Rule 4753(c) will serve as a complement to the recently-approved cross-market single stock pause to be adopted by the U.S. national securities exchanges.¹⁰ NASDAQ notes that there are several differences between the cross-market approach and Rule 4753(c). Specifically, Rule 4753(c) uses tiered threshold range percentages that are based on a security's execution price in determining the price at which a halt would be initiated, whereas the cross market approach does not. Rule 4753(c) also has a shorter time threshold used in determining that a pause in trading should be initiated, and a shorter time during which a security is paused, as compared to the cross-market approach. Rule 4753(c) is applied throughout the trading day, whereas the cross-market approach does not. Last, while the cross-market approach will help to prevent aberrant volatility, it applies only to S&P 500 Index securities, thus it will not address aberrant volatility in the majority of NASDAQ-listed securities. Adoption of

⁹ NASDAQ notes that, while the market collar protections were in place during the events of May 6, 2010, only approximately five percent of the volume on NASDAQ was attributable to market orders.

¹⁰ Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR-BATS-2010-014; SR-EDGA-2010-01; SR-EDGX-2010-01; SR-BX-2010-037; SR-ISE-2010-48; SR-NYSE-2010-39; SR-NYSEAmex-2010-46; SR-NYSEArca-2010-41; SR-NASDAQ-2010-061; SR-CHX-2010-10; SR-NSX-2010-05; SR-CBOE-2010-047).

Rule 4753(c) will allow NASDAQ to extend the rule's protections to its listed securities trading on NASDAQ, with such protections initially applying to the 100 pilot securities but with the goal of applying the rule to all NASDAQ-listed securities.

The following examples illustrate how Rule 4753(c) would operate in relation to the new cross-market single stock pause. In this sequence of events, the Rule 4753(c) pause is triggered prior to the cross-market trading pause process:

WXYZ is NASDAQ-listed and included in the S&P 500 Index.

- 2:00:00 p.m., WXYZ trades at \$300 on NASDAQ, which is also the consolidated last sale price
- 2:00:30 p.m., WXYZ trades below \$291 on NASDAQ
 - WXYZ is paused pursuant to Rule 4753(c)
 - WXYZ continues to trade elsewhere
- 2:01:30 p.m., WXYZ resumes trading on NASDAQ at \$295
- 2:02:00 p.m., WXYZ trades below 286.15 on NASDAQ
 - WXYZ is again paused pursuant to Rule 4753(c)
 - WXYZ continues to trade elsewhere
- 2:03:00 p.m., WXYZ resumes trading on NASDAQ at \$288;
- 2:03:30 p.m., WXYZ trades below 279.36 on NASDAQ;
 - WXYZ is again paused pursuant to Rule 4753(c)
 - WXYZ continues to trade elsewhere
- 2:04:00 p.m., WXYZ consolidated last sale price reaches \$270
 - The cross-market trading pause process is triggered
 - NASDAQ abandons the Rule 4753(c) and now follows the cross-market trading pause process

The following sequence of events illustrates a situation whereby a NASDAQ-listed security that is also covered by the cross-market trading pause process triggers both processes simultaneously:

WXYZ is NASDAQ-listed and included in the S&P 500 Index.

- 2:00:00 p.m., WXYZ trades at \$20 on NASDAQ, which is also the consolidated last sale price;

- 2:00:30 p.m., WXYZ trades at \$17 on NASDAQ;
 - Because the execution price exceeds both the 10 percent tiers of the cross-market pause process and Rule 4753(c), the cross-market process is followed
 - WXYZ is paused on all markets

The following sequence of events illustrates a situation whereby a NASDAQ-listed security may fall greater than 15 percent, yet does not trigger the cross-market trading pause process:

WXYZ is NASDAQ-listed, but not included in the S&P 500 Index.

- 2:00:00 p.m., WXYZ trades at \$1.50 on NASDAQ, which is also the consolidated last sale price;
- 2:00:30 p.m., WXYZ trades below \$1.275 on NASDAQ;
 - Although the security dropped more than 10 percent, the cross-market trading pause process would not be triggered, since the security is not included in the S&P 500 Index
 - WXYZ is paused pursuant to Rule 4753(c) because the security dropped greater than 15 percent in the prior 30 seconds
 - WXYZ continues to trade elsewhere

The examples above show that, although Rule 4753(c) operates independently from the cross-market trading pause process, both trade pause processes work efficiently alongside of each other to dampen aberrant volatility.

Other Market's Approach

NASDAQ notes that another market has adopted a similar process whereby the market's listed securities each may be temporarily removed from automatic trading when the trading exceeds certain average daily volume-, price-, and volatility-based criteria.¹¹

Although dissimilar in process due to the differing nature of the markets, the pause under Rule 4753(c) is designed to achieve the same goal, namely, to apply quantitative criteria

¹¹ NYSE Rule 1000(a)(iv).

to pause trading in a listed security during times of aberrant volatility so that a more representative market may develop. NASDAQ's process differs from the other market's process in that it uses completely transparent criteria and timeframes, which serve to eliminate uncertainty from the trade pause process. For example and as noted above, the Rule 4753(c) process is triggered by execution prices that are clear and available to all market participants, and the pause in trading has a fixed 60 second Display Only period process that cannot be extended.¹² In addition, the pause will be followed by a "cross" that is predictable and well defined. As a consequence, application of the Rule 4753(c) process is automatic and precise, allowing no place for uncertainty. This will make the transition to this rule predictable and understandable. Most importantly, it will allow NASDAQ to insulate its issuers from volatility injected in the market from exchange halt programs with subjective criteria. Primary markets with responsibility to listed companies have an obligation and right to take actions to provide additional levels of protection from volatility to companies that list with it.

Summary

In approving Rule 4753(c), the Commission stated that systematically suspending trading in NASDAQ-listed securities that are the subject of abrupt and significant intra-day price movements promotes fair and orderly markets and the protection of investors.¹³ NASDAQ believes that adopting Rule 4753(c) is more appropriate now than it was at the time the Commission originally approved Rule 4753(c) given the need to protect investors from aberrant volatility, such as the volatility witnessed on May 6, 2010.

¹² NYSE's LRP process has an indeterminate length, but can last several minutes during which the NYSE is not transmitting a protected quote in the affected security.

¹³ Supra note 4 at 50381.

Accordingly, NASDAQ is proposing to adopt Rule 4753(c) in identical form as originally approved by the Commission, but as a six month pilot for an initial 100 Nasdaq-listed securities. During this pilot period, NASDAQ will study the impact of the rule on the pilot securities and will provide the Commission with monthly reports detailing its ongoing review of the pilot. These reports will inform the Commission of the number of times Rule 4753(c) is triggered and the security or securities involved, and will describe any patterns that emerge during the pilot period. NASDAQ is also making a technical correction to the table found in Rule 4753(c)(1).

b. Statutory Basis

NASDAQ believes the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁴ in general and with Section 6(b)(5) of the Act,¹⁵ in particular, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is consistent with these requirements in that it will reduce the negative impacts of sudden, unanticipated volatility in individual NASDAQ Securities, and serve to restore an orderly market in a transparent and uniform manner, enhance the price-discovery process, increase overall market confidence, and promote fair and orderly markets and the protection of investors.

¹⁴ 15 U.S.C. 78f.

¹⁵ 15 U.S.C. 78f(b)(5).

NASDAQ notes that the proposed rule change is identical to the rule change approved by the Commission when it approved Rule 4753(c) in August 2008, except that NASDAQ plans to implement the pilot on a shorter, six month basis. In approving Rule 4753(c), the Commission acknowledged that Rule 4753(c), which systematically suspends trading in NASDAQ-listed securities that are the subject of abrupt and significant intra-day price movements, promotes fair and orderly markets and the protection of investors.¹⁶ NASDAQ notes that the Commission received no comments on the proposed rule change that adopted Rule 4753(c) originally. NASDAQ believes that the lack of comment signaled that market participants considered the proposed new rule to be non-controversial. NASDAQ believes that, given the events of May 6, 2010, adopting Rule 4753(c) as a new pilot will ensure that covered NASDAQ Securities, and market participants trading therein on NASDAQ, are provided the needed protections of the rule.

NASDAQ notes that the proposed rule change supplements the cross-market single stock pause to be adopted by the national securities exchanges, which was approved by the Commission on June 10, 2010.¹⁷ NASDAQ applauds the Commission's leadership in bringing the national securities exchanges together to achieve a cross-market solution to help address the issues that may have caused the events of May 6, 2010. NASDAQ is continuously assessing actions it can take to further strengthen its market. In this regard, NASDAQ believes that quickly implementing Rule 4753(c) will complement the cross-market single stock pause by serving to better protect all of NASDAQ's listed securities covered by the pilot trading on NASDAQ during times of

¹⁶ Supra note 4 at 50381.

¹⁷ Supra note 10.

aberrant volatility, such as the volatility witnessed on May 6, 2010. NASDAQ notes that Rule 4753(c) in no way conflicts with the new cross-market single stock pause, but rather applies, in some cases, more stringent criteria to pause a broader range of securities on NASDAQ only. In addition, should a cross-market single stock pause be initiated in a NASDAQ Security during a Rule 4753(c) pause, the security would be subject to the cross-market single stock pause process.

NASDAQ has an obligation to adopt rules that protect investors and the public interest, which include rules that protect its listed securities and those that trade in them. Instituting Rule 4753(c) will serve to protect market participants within the scope of NASDAQ's authority under the Act. NASDAQ notes that market participants would be able to trade in securities subject to a Rule 4753(c) pause at other market venues, should they so choose.¹⁸

Last, NASDAQ notes that, in approving another market's approach to dealing with abnormal volatility in its listed securities, the Commission stated that precluding automatic executions under certain circumstances is warranted.¹⁹ Like that market's process, the proposed change to NASDAQ Rule 4753(c) will extend the rule's halt process to all listed securities traded on NASDAQ and will likewise serve to dampen volatility, thus providing market participants with time to react to achieve a more natural trading pattern of a particular security.

NASDAQ will keep the Commission apprised of the use of Rule 4753(c) as part of NASDAQ's ongoing review of the pilot. In this regard, during the pilot period

¹⁸ Supra note 8.

¹⁹ Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353, 16377-78 (March 31, 2006) (SR-NYSE-2004-05).

NASDAQ will provide the Commission with monthly reports detailing the use of Rule 4753(c) and describing any patterns that may develop. As such, NASDAQ believes that the proposed rule change is consistent with the protection of investors and the public interest, and does not raise any novel regulatory issues.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

NASDAQ does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.²⁰

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

NASDAQ requests that the Commission find good cause to approve the proposed rule change on an accelerated basis. Accelerated approval of the proposed rule change is in the public interest and supports the protection of investors by allowing NASDAQ to provide the protections of Rule 4753(c) on a pilot basis to an initial 100 NASDAQ-listed securities. NASDAQ believes that the proposed rule change is consistent with the protection of investors and will not place a significant burden on competition, as the change is designed to increase transparency and uniformity regarding trade-halt decisions and reduce the negative impacts of sudden, aberrant volatility in individual NASDAQ

²⁰ 15 U.S.C. 78s(b)(2).

Securities on the price-discovery process and overall market confidence. As noted, the proposed rule filing merely institutes an identical, but for a shorter timeframe, pilot that was previously approved by the Commission, and which received no comments during the comment period. In addition, the Commission has recognized the importance of having a mechanism by which a market may pause automatic trading in a listed security subject to abrupt and significant intra-day price movements when it approved not only NASDAQ Rule 4753(c), but also the rules of another market concerning its process for addressing aberrant volatility.²¹ Such a mechanism is designed to provide market participants with better executions, and provide NASDAQ-listed securities further protection from aberrant volatility, which may not be provided by recently-approved cross-market protections. As noted above, NASDAQ will keep the Commission apprised of the use of Rule 4753(c) monthly as part of NASDAQ's ongoing review of the pilot.

As such, NASDAQ believes that the proposed rule change to adopt Rule 4753(c) in identical form as approved by the Commission in August 2008, but with a shortened six month initial pilot of 100 securities, is consistent with the protection of investors and the public interest and should not be delayed. Accordingly, NASDAQ requests that the Commission find good cause pursuant to Section 19(b)(2) of the Act to quickly publish the proposed rule change, and to approve the proposed rule change prior to the 30th day after its publication in the Federal Register.

²¹ In approving NYSE's LRP process, the Commission noted that such a model, whereby automatic execution is precluded temporarily in response to a volatile market, is consistent with the Act. Supra note 19.

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

Based, in part, on NYSE Rule 1000(a)(iv).

9. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASDAQ-2010-074)

June __, 2010

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change to Adopt Rule 4753(c) as a Six Month Pilot in 100 NASDAQ-Listed Securities

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 June 18, 2010, The NASDAQ Stock Market LLC (“NASDAQ”) filed with the Securities and Exchange Commission (“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, and is approving the proposal on an accelerated basis.

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

NASDAQ is proposing to adopt Rule 4753(c) as an initial six month pilot in 100 NASDAQ-listed securities.

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.³

* * * * *

4753. Nasdaq Halt and Imbalance Crosses

(a) – (b) No change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Changes are marked to the rule text that appears in the electronic manual of NASDAQ found at <http://nasdaq.cchwallstreet.com>.

(c) Beginning August 1, 2010, for a period of six months, [B]between 9:30 a.m. and 4:00 p.m. EST, the System will automatically monitor System executions to determine whether the market is trading in an orderly fashion and whether to conduct an Imbalance Cross in order to restore an orderly market in a single Nasdaq Security.

(1) An Imbalance Cross shall occur if the System executes a transaction in a Nasdaq Security at a price that is beyond the Threshold Range away from the Triggering Price for that security. The Triggering Price for each Nasdaq Security shall be the price of any execution by the System in that security within the prior 30 seconds. The Threshold Range shall be determined as follows:

Execution Price	Thresh[h]old Range Away From Triggering Price
\$1.75 and under	15%
Over \$1.75 and up to \$25	10%
Over \$25 and up to \$50	5%
Over \$50	3%

(2) If the System determines pursuant to subsection (1) above to conduct an Imbalance Cross in a Nasdaq Security, the System shall automatically cease executing trades in that security for a 60-second Display Only Period. During that 60-second Display Only Period, the System shall:

(A) maintain all current quotes and orders and continue to accept quotes and orders in that System Security; and

(B) Disseminate by electronic means an Order Imbalance Indicator every 5 seconds.

(3) At the conclusion of the 60-second Display Only Period, the System shall re-open the market by executing the Nasdaq Halt Cross as set forth in subsection (b)(2) - (4) above.

(4) No change.

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

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below, and is set forth in Sections A, B, and C below.

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

1. Purpose

NASDAQ is proposing to adopt Rule 4753(c), a volatility-based pause in trading in individual NASDAQ-listed securities traded on NASDAQ ("NASDAQ Securities"). NASDAQ is proposing to adopt the rule initially as a six-month pilot in 100 NASDAQ Securities beginning August 1, 2010.

Background

NASDAQ's efficient market structure allows the price of a security to change quickly in response to information and market demand. Allowing trading to react quickly is generally beneficial to investors. In some circumstances, however, abrupt and significant movements in the price at which a security is traded can indicate aberrant volatility, which is harmful to investors. On August 19, 2008, the Commission approved new Rule 4753(c), which established a volatility-based halt process on a one-year pilot basis for an initial 100 NASDAQ-listed securities.⁴ Subsequent to the Commission's approval, NASDAQ implemented a market order price collar to address aberrant volatility in lieu of immediately implementing the Rule 4753(c) pilot.⁵ Although these collars are designed to address volatility by reducing the risk that market orders will execute at prices that are significantly worse than the national best bid and offer, they had

⁴ Securities Exchange Act Release No. 58386 (August 19, 2008), 73 FR 50380 (August 26, 2008) (SR-NASDAQ-2007-067).

⁵ This process cancels any portion of most unpriced orders that would execute either on NASDAQ or when routed to another market center at a price that is the greater of \$0.25 or 5 percent worse than the NBBO at the time NASDAQ receives the order. See Securities Exchange Act Release No. 60371 (July 23, 2009), 74 FR 38075 (July 30, 2009) (SR-NASDAQ-2009-070).

limited effect on May 6, 2010 because of the limited number of market orders involved in trading that day on NASDAQ.

In light of the unprecedented aberrant volatility witnessed on May 6, 2010, and the limited effect that NASDAQ's market collars had in dampening such volatility, NASDAQ believes that the Rule 4753(c) halt process is needed to protect its listed securities and market participants from such volatility in the future. Accordingly, as described below, NASDAQ is proposing to adopt Rule 4753(c) again as a six month pilot for 100 NASDAQ-listed securities.

NASDAQ's Approach: Rule 4753(c)

NASDAQ originally adopted Rule 4753(c) to promote the protection of investors by providing a meaningful pause in NASDAQ Securities on NASDAQ in the midst of abrupt and significant price movements, while permitting trading to move freely in rapid and stable markets.⁶ As the events of May 6, 2010 show, severe and rapid price dislocation can occur in securities with no connection to the fundamental soundness of the underlying companies. Such dislocation may be caused by operational and structural factors beyond the control of issuers and individual markets. NASDAQ's Rule 4753(c) process is designed to protect NASDAQ securities and market participants from aberrant volatility, which can quickly spread like a contagion from market to market, to allow time to reestablish a rational market in NASDAQ Securities.

⁶ NASDAQ has other similar processes that serve to protect investors during periods of abnormal trading activity. NASDAQ Rule 4120 authorizes NASDAQ Regulation to halt trading in a security based upon news or an emergency in the market. NASDAQ Regulation also has the ability under NASDAQ Rule 11890 to break trades in order to protect the integrity of the market.

NASDAQ's proposed Rule 4753(c) process automatically suspends trading in individual NASDAQ Securities that are the subject of abrupt and significant intraday price movements between 9:30 a.m. and 4 p.m. Eastern Standard Time. The Rule 4753(c) process is triggered automatically when the execution price of a NASDAQ Security moves more than a fixed amount away from a pre-established "triggering price" for that security. The Triggering Price for each NASDAQ Security is the price of any execution by the System⁷ in that security within the previous 30 seconds. For each NASDAQ Security, the System continually compares the price of each execution in the System against the prices of all System executions in that security over the 30 seconds.

Proposed Rule 4753(c) has tiered triggering price range percentages that are based on the execution price of a security. NASDAQ has observed that, on a percentage basis, lower priced stocks normally trade in a wider range than stocks with higher prices. For example, during the first quarter of 2010, a period of relatively low market volatility, stocks priced under \$1.75 had an average range (percent difference from high to low over the course of the day) of 9%, stocks priced \$1.75 up to \$24.99 had an average range of 4%. Stocks priced \$25 to \$49.99 had an average range of 3%. Stocks priced above \$50 had an average range of 2%. The purpose of Rule 4753(c) is not to inhibit trading within the normal range, but rather to pause trading in instances of aberrant volatility. As a consequence, NASDAQ selected percentage tiers that allow for a wider range in lower priced securities, with decreasing ranges on a percentage basis as price increases.

⁷ As defined in Rule 4751(a).

When the Rule 4753(c) process is triggered, NASDAQ institutes a formal trading halt during which time NASDAQ systems are prohibited from executing orders.⁸

Members, however, may continue to enter quotes and orders, which are queued during a 60-second Display Only Period. At the conclusion of the Display Only Period, the queued orders are executed at a single price, pursuant to Rule 4753.

Current Environment

In light of the events of May 6, 2010, NASDAQ believes that circumstances warrant the implementation of Rule 4753(c), in addition to the market collar protections currently in place.⁹ NASDAQ believes that implementing Rule 4753(c) will serve to protect market participants from aberrant volatility such as that which occurred on May 6, 2010. NASDAQ also believes that Rule 4753(c) will serve as a complement to the recently-approved cross-market single stock pause to be adopted by the U.S. national securities exchanges.¹⁰ NASDAQ notes that there are several differences between the cross-market approach and Rule 4753(c). Specifically, Rule 4753(c) uses tiered

⁸ A halt pursuant to Rule 4753(c) is not considered a regulatory halt and, therefore, it does not trigger a market-wide trading halt under Section X of the NASDAQ UTP Plan. As a result, other markets are *permitted* to continue trading a NASDAQ stock that is undergoing a Market Re-Opening on NASDAQ. During the Rule 4753(c) process, NASDAQ's quotations are marked "closed," signaling to other markets that quotes and orders routed to NASDAQ will not be executed. A Rule 4753(c) trade is reported to the network processor as a single-price re-opening that is exempt from trade through restrictions pursuant to Rule 611(b)(3).

⁹ NASDAQ notes that, while the market collar protections were in place during the events of May 6, 2010, only approximately five percent of the volume on NASDAQ was attributable to market orders.

¹⁰ Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR-BATS-2010-014; SR-EDGA-2010-01; SR-EDGX-2010-01; SR-BX-2010-037; SR-ISE-2010-48; SR-NYSE-2010-39; SR-NYSEAmex-2010-46; SR-NYSEArca-2010-41; SR-NASDAQ-2010-061; SR-CHX-2010-10; SR-NSX-2010-05; SR-CBOE-2010-047).

threshold range percentages that are based on a security's execution price in determining the price at which a halt would be initiated, whereas the cross market approach does not. Rule 4753(c) also has a shorter time threshold used in determining that a pause in trading should be initiated, and a shorter time during which a security is paused, as compared to the cross-market approach. Rule 4753(c) is applied throughout the trading day, whereas the cross-market approach does not. Last, while the cross-market approach will help to prevent aberrant volatility, it applies only to S&P 500 Index securities, thus it will not address aberrant volatility in the majority of NASDAQ-listed securities. Adoption of Rule 4753(c) will allow NASDAQ to extend the rule's protections to its listed securities trading on NASDAQ, with such protections initially applying to the 100 pilot securities but with the goal of applying the rule to all NASDAQ-listed securities.

The following examples illustrate how Rule 4753(c) would operate in relation to the new cross-market single stock pause. In this sequence of events, the Rule 4753(c) pause is triggered prior to the cross-market trading pause process:

WXYZ is NASDAQ-listed and included in the S&P 500 Index.

- 2:00:00 p.m., WXYZ trades at \$300 on NASDAQ, which is also the consolidated last sale price
- 2:00:30 p.m., WXYZ trades below \$291 on NASDAQ
 - WXYZ is paused pursuant to Rule 4753(c)
 - WXYZ continues to trade elsewhere
- 2:01:30 p.m., WXYZ resumes trading on NASDAQ at \$295
- 2:02:00 p.m., WXYZ trades below 286.15 on NASDAQ
 - WXYZ is again paused pursuant to Rule 4753(c)
 - WXYZ continues to trade elsewhere
- 2:03:00 p.m., WXYZ resumes trading on NASDAQ at \$288;
- 2:03:30 p.m., WXYZ trades below 279.36 on NASDAQ;
 - WXYZ is again paused pursuant to Rule 4753(c)
 - WXYZ continues to trade elsewhere

- 2:04:00 p.m., WXYZ consolidated last sale price reaches \$270
 - The cross-market trading pause process is triggered
 - NASDAQ abandons the Rule 4753(c) and now follows the cross-market trading pause process

The following sequence of events illustrates a situation whereby a NASDAQ-listed security that is also covered by the cross-market trading pause process triggers both processes simultaneously:

WXYZ is NASDAQ-listed and included in the S&P 500 Index.

- 2:00:00 p.m., WXYZ trades at \$20 on NASDAQ, which is also the consolidated last sale price;
- 2:00:30 p.m., WXYZ trades at \$17 on NASDAQ;
 - Because the execution price exceeds both the 10 percent tiers of the cross-market pause process and Rule 4753(c), the cross-market process is followed
 - WXYZ is paused on all markets

The following sequence of events illustrates a situation whereby a NASDAQ-listed security may fall greater than 15 percent, yet does not trigger the cross-market trading pause process:

WXYZ is NASDAQ-listed, but not included in the S&P 500 Index.

- 2:00:00 p.m., WXYZ trades at \$1.50 on NASDAQ, which is also the consolidated last sale price;
- 2:00:30 p.m., WXYZ trades below \$1.275 on NASDAQ;
 - Although the security dropped more than 10 percent, the cross-market trading pause process would not be triggered, since the security is not included in the S&P 500 Index
 - WXYZ is paused pursuant to Rule 4753(c) because the security dropped greater than 15 percent in the prior 30 seconds
 - WXYZ continues to trade elsewhere

The examples above show that, although Rule 4753(c) operates independently from the cross-market trading pause process, both trade pause processes work efficiently along side of each other to dampen aberrant volatility.

Other Market's Approach

NASDAQ notes that another market has adopted a similar process whereby the market's listed securities each may be temporarily removed from automatic trading when the trading exceeds certain average daily volume-, price-, and volatility-based criteria.¹¹ Although dissimilar in process due to the differing nature of the markets, the pause under Rule 4753(c) is designed to achieve the same goal, namely, to apply quantitative criteria to pause trading in a listed security during times of aberrant volatility so that a more representative market may develop. NASDAQ's process differs from the other market's process in that it uses completely transparent criteria and timeframes, which serve to eliminate uncertainty from the trade pause process. For example and as noted above, the Rule 4753(c) process is triggered by execution prices that are clear and available to all market participants, and the pause in trading has a fixed 60 second Display Only period process that cannot be extended.¹² In addition, the pause will be followed by a "cross" that is predictable and well defined. As a consequence, application of the Rule 4753(c) process is automatic and precise, allowing no place for uncertainty. This will make the transition to this rule predictable and understandable. Most importantly, it will allow NASDAQ to insulate its issuers from volatility injected in the market from exchange halt programs with subjective criteria. Primary markets with responsibility to listed companies have an obligation and right to take actions to provide additional levels of protection from volatility to companies that list with it.

¹¹ NYSE Rule 1000(a)(iv).

¹² NYSE's LRP process has an indeterminate length, but can last several minutes during which the NYSE is not transmitting a protected quote in the affected security.

Summary

In approving Rule 4753(c), the Commission stated that systematically suspending trading in NASDAQ-listed securities that are the subject of abrupt and significant intra-day price movements promotes fair and orderly markets and the protection of investors.¹³ NASDAQ believes that adopting Rule 4753(c) is more appropriate now than it was at the time the Commission originally approved Rule 4753(c) given the need to protect investors from aberrant volatility, such as the volatility witnessed on May 6, 2010. Accordingly, NASDAQ is proposing to adopt Rule 4753(c) in identical form as originally approved by the Commission, but as a six month pilot for an initial 100 Nasdaq-listed securities. During this pilot period, NASDAQ will study the impact of the rule on the pilot securities and will provide the Commission with monthly reports detailing its ongoing review of the pilot. These reports will inform the Commission of the number of times Rule 4753(c) is triggered and the security or securities involved, and will describe any patterns that emerge during the pilot period. NASDAQ is also making a technical correction to the table found in Rule 4753(c)(1).

2. Statutory Basis

NASDAQ believes the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁴ in general and with Section 6(b)(5) of the Act,¹⁵ in particular, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling,

¹³ Supra note 4 at 50381.

¹⁴ 15 U.S.C. 78f.

¹⁵ 15 U.S.C. 78f(b)(5).

processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is consistent with these requirements in that it will reduce the negative impacts of sudden, unanticipated volatility in individual NASDAQ Securities, and serve to restore an orderly market in a transparent and uniform manner, enhance the price-discovery process, increase overall market confidence, and promote fair and orderly markets and the protection of investors.

NASDAQ notes that the proposed rule change is identical to the rule change approved by the Commission when it approved Rule 4753(c) in August 2008, except that NASDAQ plans to implement the pilot on a shorter, six month basis. In approving Rule 4753(c), the Commission acknowledged that Rule 4753(c), which systematically suspends trading in NASDAQ-listed securities that are the subject of abrupt and significant intra-day price movements, promotes fair and orderly markets and the protection of investors.¹⁶ NASDAQ notes that the Commission received no comments on the proposed rule change that adopted Rule 4753(c) originally. NASDAQ believes that the lack of comment signaled that market participants considered the proposed new rule to be non-controversial. NASDAQ believes that, given the events of May 6, 2010, adopting Rule 4753(c) as a new pilot will ensure that covered NASDAQ Securities, and market participants trading therein on NASDAQ, are provided the needed protections of the rule.

¹⁶ Supra note 4 at 50381.

NASDAQ notes that the proposed rule change supplements the cross-market single stock pause to be adopted by the national securities exchanges, which was approved by the Commission on June 10, 2010.¹⁷ NASDAQ applauds the Commission's leadership in bringing the national securities exchanges together to achieve a cross-market solution to help address the issues that may have caused the events of May 6, 2010. NASDAQ is continuously assessing actions it can take to further strengthen its market. In this regard, NASDAQ believes that quickly implementing Rule 4753(c) will complement the cross-market single stock pause by serving to better protect all of NASDAQ's listed securities covered by the pilot trading on NASDAQ during times of aberrant volatility, such as the volatility witnessed on May 6, 2010. NASDAQ notes that Rule 4753(c) in no way conflicts with the new cross-market single stock pause, but rather applies, in some cases, more stringent criteria to pause a broader range of securities on NASDAQ only. In addition, should a cross-market single stock pause be initiated in a NASDAQ Security during a Rule 4753(c) pause, the security would be subject to the cross-market single stock pause process.

NASDAQ has an obligation to adopt rules that protect investors and the public interest, which include rules that protect its listed securities and those that trade in them. Instituting Rule 4753(c) will serve to protect market participants within the scope of NASDAQ's authority under the Act. NASDAQ notes that market participants would be able to trade in securities subject to a Rule 4753(c) pause at other market venues, should they so choose.¹⁸

¹⁷ Supra note 10.

¹⁸ Supra note 8.

Last, NASDAQ notes that, in approving another market's approach to dealing with abnormal volatility in its listed securities, the Commission stated that precluding automatic executions under certain circumstances is warranted.¹⁹ Like that market's process, the proposed change to NASDAQ Rule 4753(c) will extend the rule's halt process to all listed securities traded on NASDAQ and will likewise serve to dampen volatility, thus providing market participants with time to react to achieve a more natural trading pattern of a particular security.

NASDAQ will keep the Commission apprised of the use of Rule 4753(c) as part of NASDAQ's ongoing review of the pilot. In this regard, during the pilot period NASDAQ will provide the Commission with monthly reports detailing the use of Rule 4753(c) and describing any patterns that may develop. As such, NASDAQ believes that the proposed rule change is consistent with the protection of investors and the public interest, and does not raise any novel regulatory issues.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the Federal Register or

¹⁹ Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353, 16377-78 (March 31, 2006) (SR-NYSE-2004-05).

within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

(ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2010-074 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-NASDAQ-2010-074. 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 inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the NASDAQ. 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-2010-074 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.²⁰

Florence E. Harmon
Deputy Secretary

²⁰ 17 CFR 200.30-3(a)(12).