

February 3, 2015

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the List of Securities Eligible for the Select Symbol Program under Rule 7018(a)(4)

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 January 27, 2015, The NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to modify the list of securities eligible for the Select Symbol program under Rule 7018(a)(4).

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 replace the security of a company that is eligible for reduced fees under the Select Symbol program under Rule 7018(a)(4). NASDAQ recently adopted the Select Symbol program,³ which provides lower execution fees for a select group of securities where access fees may be discouraging the use of public markets. NASDAQ is implementing the program on February 2, 2015. Since filing the program with the Commission, one symbol included in the program no longer exists because the company was acquired by another company. Specifically, Avanir Pharmaceuticals, Inc. (AVNR) was recently acquired by Otsuka Pharmaceutical Co., Ltd., and was suspended from trading on NASDAQ on January 14, 2015. Accordingly, NASDAQ is proposing to replace AVNR with Micron Technology, Inc. (MU), which has similar off-exchange trading and other attributes as other Select Symbol securities in the program.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁵ in particular, in that it

³ Securities Exchange Act Release No. 73967 (December 30, 2014), 80 FR 594 (January 6, 2015)(SR-NASDAQ-2014-128)

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(5).

is 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; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the proposed change furthers these objectives because it replaces a Select Symbol security that no longer exists with another security that has similar attributes. Removal of the Select Symbol security from the program will serve to avoid any investor confusion concerning trading in a security that no longer exists. Adding a replacement security to the list of symbols eligible for the reduced transaction fees of the program ensures that the program has an adequate number of securities on which the Exchange may gather data as part of its analysis of the impact of reducing fees on exchange trading. The Exchange notes that, in selecting the replacement security, it applied the same eligibility criteria as it did in selecting the current symbols eligible for the program.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the change does not alter the meaning or application of the fees and credits provided under Rule 7018(a)(4), but rather affects only which securities are included in the Select Symbol program. The Select Symbol program is designed to benefit market quality and ultimately, price competition among market participants on the Exchange, and the proposed

change to the program furthers those goals. Accordingly, the proposed change does not place any burden on competition.

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

No written comments were either solicited or received.

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

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)(ii) of the Act⁶ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁷

A proposed rule change filed under Rule 19b-4(f)(6)⁸ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that NASDAQ may remove AVNR from the list of Select Symbols and add MU immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow NASDAQ to remove a

⁶ 15 U.S.C. 78s(b)(3)(a)(ii).

⁷ 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.

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 240.19b-4(f)(6)(iii).

company that no longer exists from the Select Symbols immediately, and add another company that meets the same criteria as the other companies in the Select Symbols, enabling NASDAQ to implement the program with a full complement of securities. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.¹⁰

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2015-006 on the subject line.

¹⁰ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2015-006. 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 website (<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 such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2015-006, 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.¹¹

¹¹ 17 CFR 200.30-3(a)(12).

Jill M. Peterson,
Assistant Secretary.

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