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October 22, 2015

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: File No. SR-NASDAQ-2015-112; Release No. 34-75987

Dear Mr. Fields:

This letter responds to comments received in connection with a proposal filed by The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") with the Securities and Exchange Commission ("Commission") to amend Nasdaq Rule 4758 (Order Routing) to adopt a new routing option, the Retail Order Process ("RTFY").[1]

As Nasdaq clearly describes in its rule filing, the proposed rule change amends Nasdaq Rule 4758, which defines its order routing processes, to add the new RTFY order routing option under Nasdaq Rule 4758(a)(1)(A)(v) for Designated Retail Orders ("DROs").[2] Retail order firms often send non-marketable order flow (orders that are not executable against the best prices available in the market place based on their limit price) to post and display on exchanges. However, some of the orders that have been deemed to be non-marketable by the entering firm become marketable by the time the exchange receives them and ultimately remove liquidity from the exchange order book. The availability of the RTFY order routing option will enable entering

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1 Securities Exchange Act Release No. 75987 (September 25, 2015), 80 FR 59210 (October 1, 2015)(SR-NASDAQ-2015-112) ("RTFY Filing").

2 See Nasdaq Rule 7018.

firms to elect to route the order to destinations in the System routing table[3] to increase price improvement opportunities for the DROs. A DRO electing the RTFY order routing option may subsequently remove liquidity from the Exchange book after routing to other destinations. RTFY is designed to enhance execution quality and benefit retail investors by providing price improvement opportunities to retail order flow. It is important to note that the Exchange itself does not make the RTFY routing designation, but carries out the instructions of the members that route DROs. Further, as stated in the RTFY Filing, Nasdaq will incur the standard fee or will receive the standard rebate (where applicable), but will not accept any negotiated payment for order flow.

The Commission received two comment letters[4] (collectively, the "Letters") on the RTFY Filing. The Exchange will take this opportunity to respond to the pertinent comments raised in these comment letters, but will not respond to the inflammatory language employed in the Letters other than to note that tactics such as the repeated use of provocative words such as "scheme" in the Themis Letter are merely weak attempts to mischaracterize the essence of a proposed order routing option that will hopefully prove beneficial to retail investors.

The Themis Letter begins with a claim that the proposed routing option is simply an "order routing scheme designed to hand over valuable order flow information to their electronic market maker clients under the pretense of price improvement".[5] This is factually incorrect and merely uninformed speculation. As previously mentioned, the Exchange believes that RTFY enhances execution quality and benefits retail investors by providing price improvement opportunities to retail order flow. As further described below, the Exchange uses a best execution committee (the "Committee")[6] to review and determine the structure and destinations of the System routing table. If the Committee observes that a particular destination is not providing sufficient price improvement, the destination will have to improve in this respect or be dropped from the System routing table. Finally, the retail order firms are free not to use the RTFY routing option if it fails to benefit their clients.

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3 The term "System routing table" refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. Nasdaq reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. See Nasdaq Rule 4758(a)(1)(A).

4 See Letter from Joseph Saluzzi, Themis Trading LLC, dated September 29, 2015 ("Themis Letter") and Letter from Suzanne Shatto, dated October 6, 2015 ("Shatto Letter"). The letters are posted on http://www.sec.gov/comments/sr-nasdaq-2015-112/nasdaq2015112.shtml.

5 See Themis Letter at p. 1.

6 The best execution committee consists of several internal Nasdaq participants representing product management, internal audit, economic research, broker-dealer compliance, and market operations.

The Letters also question the Exchange's Committee and the System routing table. The Shatto Letter worries that "an unknown committee decides a sequence/priority of market venues that receive these types of orders", while the Themis Letter is concerned that the System routing table is a non-transparent "proprietary process".[7] As Nasdaq states in its rule filing, and as with all routing options (other than Directed Orders),[8] the RTFY routing table will be monitored and approved by the Committee. It is within the Committee's discretion how to organize the System routing table[9] and to determine which trading destinations are included therein. Specifically, the RTFY Filing states the Committee "considers best execution by reviewing various parameters, such as price improvement, fill rate, latency, interaction rate, experience of the execution venue operator, and the volume the execution venue handles on a daily basis. As execution quality is dynamic, the parameters considered by the Committee evolve over time; often resulting in new parameters being considered."[10] As noted above, many factors are weighed in making best execution determinations and Nasdaq does not agree with the Themis letter that price improvement opportunities for retail investors should be considered "meaningless"[11] in this context and instead are an integral component of such decisions by both the Committee and by retail order firms.

Additionally, the Themis Letter attempts to cast the Committee in a negative light by highlighting that its members are comprised of "internal Nasdaq participants".[12] However, the concept of a best execution committee is not novel and is a widely used practice at many broker-dealers. The Committee, like those of other broker-dealers, including Themis Trading LLC, is subject to FINRA oversight.[13] Moreover, the Committee is subject to additional supervision

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7 See Themis Letter at p. 2.

8 See Nasdaq Rule 4758(a)(1)(A)(ix).

9 The term "System routing table" refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. Nasdaq reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. See Nasdaq Rule 4758(a)(1)(A).

10 See RTFY Filing at pp. 10 – 11.

11 See Themis Letter at p. 1.

12 Id. at p. 2.

13 FINRA requires a member firm, in any transaction for or with a customer or a customer of another broker-dealer, to use "reasonable diligence" to ascertain the best market for a security and to buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions. The rule identifies five factors that are among those to be considered in determining whether the firm has used reasonable diligence: (i) the character of the market for the security; (ii) the size and type of transaction; (iii) the number of markets checked; (iv) the accessibility of the quotation; and (v) the terms and conditions of the order as communicated to the firm. See FINRA

beyond that required by rule since oversight is also provided by Nasdaq, Inc.'s internal audit group that, in turn, reports to the audit committee of the Board of Directors of Nasdaq, Inc.[14]

The Themis Letter also seems to confuse routing to an away market with a failure by the Exchange to satisfy its best execution obligations. Nasdaq believes that providing additional price improvement opportunities for retail investors that they do not otherwise enjoy today is a critical component of its best execution obligations. Moreover, the Exchange has structured an array of order routing options so that in the aggregate the overall experience for investors will be positive. Also, and as stated above, if it is determined by the Committee that a particular market center does not provide sufficient price improvement opportunities the destination in all likelihood will be removed from the System routing table.

As the Themis Letter itself acknowledges in its conclusion, retail investors have a choice when routing their orders and it is up to them to determine whether or not they use the broker provided router or send their orders directly to a particular destination.[15] As stated in the RTFY Filing, the Exchange competes vigorously for order flow in a marketplace where participants have many trading venue choices and Nasdaq remains a firm believer that competition results in innovation and better services provided at lower prices. The RTFY proposal is the result of competition and a dynamic, highly functioning marketplace such as the U.S. equities market.

Ultimately, the Letters offer an insufficient basis for not approving the RTFY Filing. Nasdaq believes that permitting members that route DROs to use their discretion to decide whether to employ the proposed routing option falls well within the Commission's approval authority. This authority remains a key element of the overall regulatory structure that has been carefully crafted and put in place by the Commission.

Nasdaq appreciates the opportunity to address the Commission and respectfully requests that it approve SR-NASDAQ-2015-112.

Respectfully Submitted,

Jonathan F. Cayne

Rule 5310(a). FINRA discusses the Commission's approval of FINRA's rule change to adopt FINRA Rule 5310 (Best Execution and Interpositioning). See FINRA Regulatory Notice 12-13 available at http://finra.complinet.com/net_file_store/new_rulebooks/f/i/FINRANotice12_13.pdf.

14 Information concerning Nasdaq, Inc.'s corporate governance, including the audit committee, can be found at http://ir.nasdaq.com/nasdaq-inc.cfm.

15 See Themis Letter at p. 2.