

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61645; File No. SR-NASDAQ-2010-029)

March 4, 2010

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Fees for Members Using the NASDAQ Market Center

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 February 26, 2010, The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) 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 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

NASDAQ proposes to modify pricing for NASDAQ members using the NASDAQ Market Center. NASDAQ will implement the proposed change on March 1, 2010. The text of the proposed rule change is available at <http://nasdaqomx.cchwallstreet.com/>, at NASDAQ’s principal office, 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, NASDAQ 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item IV below. NASDAQ 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

NASDAQ is making minor modifications to its pricing schedule for execution and routing of orders through the NASDAQ Market Center. First, NASDAQ is increasing the fee for members using the STGY, SCAN, SKNY, SKIP, or DOTI routing strategies.³ For orders using these strategies that execute in destinations other than the New York Stock Exchange (“NYSE”) (or NASDAQ OMX BX, in the case of DOTI orders), NASDAQ will increase the fee from \$0.0029 to \$0.0030 per share executed.⁴

Second, NASDAQ is eliminating a temporary pricing incentive designed to encourage use of Mid-Point Pegged Orders in the NASDAQ Market Center. Currently, members providing an average daily volume of more than 95 million shares of liquidity during a month pay no fee for the use of Mid-Point Pegged Orders. As a result of the change, all members will pay the same rates for executions of Mid-Point Pegged Orders as they pay for executions of other orders in the NASDAQ Market Center: either \$0.0028 or \$0.0030 per share executed, depending on the type of security traded and the member’s trading volumes.

³ Orders designated to use these routing strategies check the NASDAQ book for the full size of the order prior to routing. The terms and conditions of NASDAQ’s routing strategies are described in NASDAQ Rule 4758.

⁴ For DOTI orders that execute in NASDAQ OMX BX, NASDAQ will continue to pass through fees and rebates associated with order execution on that venue. SCAN, SKNY, STGY, and SKIP orders executed at NASDAQ OMX BX are currently charged \$0.0029, however, and will now be charged \$0.0030. DOTI, STGY, SCAN, SKNY, and SKIP orders that execute at NYSE are charged \$0.0018 per share executed if they access liquidity at NYSE, or receive a \$0.0010 per share executed credit if they add liquidity at NYSE. These fees and credits are unchanged.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Section 6(b)(4) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. The impact of the modest price increases upon the net fees paid by a particular market participant will depend upon a number of variables, including the routing strategies that it uses, the relative availability of liquidity on NASDAQ and other venues, the prices of the market participant's quotes and orders relative to the national best bid and offer (i.e., its propensity to add or remove liquidity), the types of securities that it trades, and its usage of Mid-Point Pegged Orders. NASDAQ notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Accordingly, if particular market participants object to the proposed fee increases, they can avoid paying the fees by directing orders to other venues or using routing strategies and order types that are not subject to the increases. NASDAQ believes that its fees continue to be reasonable and equitably allocated to members on the basis of whether they opt to direct orders to NASDAQ.

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. Because the market for order execution and routing is extremely competitive,

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

members may readily direct orders to NASDAQ's competitors if they object to the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁷ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁸ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

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-2010-029 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

⁷ 15 U.S.C. 78s(b)(3)(a)(ii).

⁸ 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-NASDAQ-2010-029. 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,⁹ 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 Web site viewing and printing 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 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

⁹ The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

make available publicly. All submissions should refer to File Number SR-NASDAQ-2010-029 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.¹⁰

Florence E. Harmon
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).