

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63419; File No. SR-NASDAQ-2010-149)

December 2, 2010

Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

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 November 24, 2010, 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, 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 modify Rule 7050 governing pricing for NASDAQ members using the NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options.

While fee changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on December 1, 2010.

The text of the proposed rule change is set forth below. Proposed new text is underlined and deleted text is in brackets.

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7050. NASDAQ Options Market

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market for all securities.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(1) – (3) No Change.

(4) Fees for routing contracts to markets other than the NASDAQ Options Market shall be assessed as provided below. The current fees and a historical record of applicable fees shall be posted on the NasdaqTrader.com website.

| Exchange | Customer | Firm | MM | <u>Professional</u> |
|--|-----------------|---------------|---------------|----------------------------|
| BATS | \$0.36 | \$0.55 | \$0.55 | <u>\$0.36</u> |
| BOX | \$0.06 | \$0.55 | \$0.55 | <u>\$0.06</u> |
| CBOE | \$0.06 | \$0.55 | \$0.55 | <u>\$0.26</u> |
| <u>CBOE orders greater than 99 contracts in NDX, MNX ETFs, ETNs & HOLDRs</u> | <u>\$0.24</u> | <u>\$0.55</u> | <u>\$0.55</u> | <u>\$0.26</u> |
| ISE | \$0.06 | \$0.55 | \$0.55 | <u>\$0.24</u> |
| ISE Select Symbols* of 100 or more contracts | \$0.26 | \$0.55 | \$0.55 | <u>\$0.31</u> |
| NYSE Arca Penny Pilot | \$0.50 | \$0.55 | \$0.55 | <u>\$0.50</u> |
| NYSE Arca Non Penny Pilot | \$0.06 | \$0.55 | \$0.55 | <u>\$0.06</u> |
| NYSE AMEX | \$0.06 | \$0.55 | \$0.55 | <u>\$0.26</u> |
| PHLX (for all options other than PHLX Select Symbols) | \$0.06 | \$0.55 | \$0.55 | <u>\$0.26</u> |
| PHLX Select Symbols** | \$0.30 | \$0.55 | \$0.55 | <u>\$0.46</u> |
| C2 | \$0.21 | \$0.55 | \$0.55 | <u>\$0.46</u> |

* These fees are applicable to orders routed to ISE that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See ISE's Schedule of Fees for the complete list of symbols that are subject to these fees.

** These fees are applicable to orders routed to PHLX that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See PHLX's Fee Schedule for the complete list of symbols that are subject to these fees.

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The text of the proposed rule change is available on the Exchange's website at <http://www.nasdaqomx.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 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

NASDAQ is proposing to modify Rule 7050 governing the fees assessed for options orders entered into NOM but routed to and executed on away markets ("routing fees").

NASDAQ Options Services LLC ("NOS"), a member of the Exchange, is the Exchange's exclusive order router. Each time NOS routes to away markets NOS is charged a \$0.06 clearing fee and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which are passed through to the Exchange.

The Exchange proposes to assess new fees for routing contracts to markets other than the NASDAQ Options Market to Rule 7050. Specifically, the Exchange is proposing to assess a routing fee of \$0.24 per contract in Customer option orders that are routed to the Chicago Board Options Exchange, Incorporated (“CBOE”). This would apply to orders greater than 99 contracts in options traded under the symbol NDX (“NDX”) and options on the one-tenth value of the Nasdaq 100 Index traded under the symbol MNX (“MNX”) as well as exchange-traded funds (“ETFs”), exchange-traded notes (“ETNs”) and Holding Company Depositary Receipts (“HOLDERS”). The Exchange is proposing to caption these proposed fees “CBOE orders greater than 99 contracts in NDX, MNX, ETFs, ETNs and HOLDERS.” The CBOE current routing fee of \$0.55 per contract would apply to Firms and Market Makers for CBOE orders greater than 99 contracts in NDX, MNX, ETFs, ETNs and HOLDERS.

The Exchange is also proposing to adopt routing fees for a new type of participant called “Professional”.³ The Exchange proposes to assess the following Professional routing fees, in addition to the current categories of Customer, Firm and Market Maker, to its members: (i) a \$0.36 per contract fee for Professional orders routed to BATS Exchange, Inc. (“BATS”) in all options; (ii) a \$0.06 per contract fee for Professional orders routed to the Boston Options Exchange Group LLC (“BOX”) in all options; (iii) a \$0.26 per contract fee for Professional

³ See Chapter I, Section I (Definitions). The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A Participant or a Public Customer may, without limitation, be a Professional. All Professional orders shall be appropriately marked by Participants. See Securities Exchange Act Release Nos. 63028 (October 1, 2010), 75 FR 62443 (October 8, 2010) (SR-NASDAQ-2010-099); and 63151 (October 21, 2010), 75 FR 66811 (October 29, 2010) (SR-NASDAQ-2010-132).

orders routed to the Chicago Board of Options Exchange, Inc. (“CBOE”) in all options⁴; (iv) a \$.24 per contract fee for Professional orders routed to International Securities Exchange, LLC (“ISE”) in all options, except for Select Symbols of 100 or more contracts; (v) a \$0.31 per contract fee for Professional orders routed to ISE in its Select Symbols of 100 or more contracts⁵; (vi) a \$0.50 per contract fee for Professional orders routed to NYSE Arca, Inc. (“NYSE Arca”) in Penny Pilot options; (vii) a \$0.06 per contract fee for Professional orders routes to NYSE Arca in Non-Penny Pilot options; (viii) a \$0.26 per contract fee for Professional orders routed to NYSE Amex LLC (“NYSE Amex”) in all options; (ix) a \$0.26 per contract fee for Professional orders routed to NASDAQ OMX PHLX LLC (“PHLX”) in all option other than the PHLX Select Symbols;⁶ (x) a \$0.46 per contract fee for Professional orders routed to PHLX in Select Symbols;⁷ and (xi) a \$0.46 per contract fee for Professional orders routed to C2 Options Exchange, Inc. (“C2”) in all options.

The Exchange is proposing these fees in order to recoup clearing and transaction charges incurred by the Exchange when certain Customer options orders are routed to CBOE⁸ as well as when certain Professional options orders are routed to the various destination markets. Each destination market’s transaction charge varies and there is a standard clearing charge for each transaction incurred by the Exchange. The Exchange believes that the routing fees proposed will

⁴ A Professional would also be assessed the proposed \$0.26 per contract for a CBOE order greater than 99 contracts in NDX, MNX, ETFs, ETNs and HOLDRs.

⁵ See ISE's Schedule of Fees for the complete list of Select Symbols.

⁶ See PHLX’s Fee Schedule for the complete list of Select Symbols.

⁷ See PHLX's Fee Schedule for the complete list of Select Symbols.

⁸ See Securities Exchange Act Release No. 62902 (September 14, 2010), 75 FR 57313 (September 20, 2010) (SR-CBOE-2010-081) (a rule change to assess a transaction fee of \$.18 per contract on public customer orders in options on Standard & Poor’s Depository Receipts, except for orders of 99 contracts or less).

enable the Exchange to recover the transaction fees assessed by away markets, where applicable, plus clearing fees for the execution of Customer, Firm, Market Maker and Professional orders. As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

While fee changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on December 1, 2010.

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,⁹ in general, and with Section 6(b)(4) of the Act,¹⁰ 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 Exchange believes that the proposed fees are reasonable because they seek to recoup costs that are incurred by the Exchange when routing Customer orders greater than 99 contracts in NDX, MNX, ETFs, ETNs and HOLDRs to CBOE and also when routing orders designated as Professional to the various destination markets listed herein, on behalf of its members. The Exchange also believes that the proposed fees are equitable because they will be uniformly applied to all Customers and Professionals.

NASDAQ is one of nine options market in the national market system for standardized options. Joining NASDAQ and electing to trade options is entirely voluntary. Under these circumstances, NASDAQ's fees must be competitive and low in order for NASDAQ to attract order flow, execute orders, and grow as a market. NASDAQ thus believes that its fees are fair and reasonable and consistent with the Exchange Act.

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(4).

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

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.

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 Act¹¹ and paragraph (f)(2) of Rule 19b-4¹² thereunder. 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:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2010-149 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.

All submissions should refer to File Number SR-NASDAQ-2010-149. 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 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 No. SR-NASDAQ-2010-149 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).