

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63536; File No. SR-NASDAQ-2010-163)

December 14, 2010

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4² thereunder, notice is hereby given that, on December 8, 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 and II below, which Items have been prepared by the NASDAQ. 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 NASDAQ Stock Market LLC proposes to create a new Rule 7007 titled “Collection of Exchange Fees and Other Claims- NASDAQ Options Market” to require members to provide a clearing account number at the National Securities Clearing Corporation (“NSCC”) for purposes of permitting the Exchange to debit any undisputed or final fees, fines, charges and/or other monetary sanctions or monies due and owing to the Exchange.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to create an efficient method of collecting undisputed or final fees, fines, charges and/or other monetary sanctions or monies due and owing to the Exchange from NASDAQ Options Market ("NOM") members.³ This proposal would provide a cost savings to the Exchange by alleviating administrative processes related to the collection of monies owed to the Exchange. Collection matters divert staff resources away from the Exchange's regulatory and business purposes. In addition, the debiting process would prevent member accounts from becoming overdue.

Currently, the Exchange issues monthly invoices to NOM members, which invoices are paid by NOM members directly to the Exchange's accounting department. The Exchange proposes to require NOM members and applicants to provide a clearing account number for an account at NSCC in order to permit the Exchange to debit any undisputed or final fees, fines,

³ The Exchange will not debit accounts for fees that are unusually large or for special circumstances, unless such debiting is requested by the member.

charges and/or monetary sanctions or other monies due and owing to the Exchange or other charges related to Rule 1002(c)(2).⁴

The Exchange would continue to send a monthly invoice⁵ to each NOM member on approximately the 4th – 6th business day of the following month. The Exchange would also send a file to NSCC each month on approximately the 23rd of the following month to initiate the debit of the appropriate amount stated on the member's invoice for the prior month. Because the members would receive an invoice well before any monies are debited (normally within two weeks), the members would have adequate time to contact the staff with any questions concerning their invoice.

If a NOM member disagrees with the invoice, the Exchange would not commence the debit until the dispute is resolved. Specifically, if a member disputes an invoice, the Exchange will not include the disputed amount in the debit if the member has disputed the amount in writing to the Exchange's designated staff by the 15th of the month, or the following business day if the 15th is not a business day, and the amount in dispute is at least \$10,000 or greater.

Once NSCC receives the file from the Exchange, NSCC would proceed to debit the amounts indicated from the clearing members' account. In the instance where the member clears through an Exchange clearing member, the estimated transactions fees owed to the Exchange are typically debited by the clearing member on a daily basis in order to ensure adequate funds have

⁴ Exchange Rule 1002(c)(1) titled Payment of Fees, Dues, Assessments, and Other Charges by Members and Associated Persons, states that fees, dues, assessments, and other charges shall be called and payable by members and associated persons as determined by Nasdaq from time to time.

⁵ The monthly invoice will indicate that the amount on the invoice will be debited from the designated NSCC account. Each month, the Exchange will send a file to the member's clearing firm which will indicate the amounts to be debited from each member. If a member is "self-clearing", no such file would be sent as the member would receive the invoice, as noted above, which would indicate the amount to be debited.

been escrowed. The Exchange would debit any monies owed including undisputed or final fees,⁶ fines, charges and/or monetary sanctions or monies due and owed to the Exchange.⁷ The Exchange believes that the debit process would eliminate the risk of unpaid invoices because of the large amounts of capital held at NSCC by members.

The Exchange is also proposing to amend Exchange Rules 1002, Qualifications of Nasdaq Members and Associated Persons, and Exchange Rule 8320, Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay, to reference new Exchange Rule 7007.

The Exchange would provide NOM members with a thirty (30) day period, upon publication of this rule change, to provide the Membership Department with an NSCC number.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular, in that it is designed to promote just and equitable principles of trade, 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, by providing its NOM members with an efficient process to pay

⁶ See applicable Exchange fees at Rule 7050 and Rule 7053.

⁷ This includes, among other things, fines which result from: violations of the Minor Rule Plan pursuant to Chapter X, Section 7 and monetary sanctions pursuant to Rule 8310, 8320 or 8330. With respect to disciplinary sanctions, the Exchange would not debit any monies until such action is final. The Exchange would not consider an action final until all appeal periods have run and/or all appeal timeframes are exhausted. With respect to non-disciplinary actions, the Exchange would similarly not take action to debit a member account until all appeal periods have run and/or all appeal timeframes are exhausted. Any uncontested disciplinary or non-disciplinary actions will be debited, and the amount due will appear on the members invoice prior to the actual NSCC debit.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

undisputed or final fees, fines, charges and/or monetary sanctions or monies dues and owing to the Exchange. The Exchange believes that this process of debiting NSCC accounts would ease the NOM member's administrative burden in paying monthly invoices, avoid overdue balances and provide same day collection from all NOM members, who owe monies to the Exchange, which results in equitable treatment.

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

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6)¹¹ 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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 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. NASDAQ has satisfied this requirement.

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-2010-163 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-2010-163. 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,¹² 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.

¹² The text of the proposed rule change is available on the Commission's website at <http://www.sec.gov>.

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 make available publicly. All submissions should refer to File Number SR-NASDAQ-2010-163 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.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).