

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70143; File No. SR-NASDAQ-2013-098)

August 8, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Waive the Subscription Fee for New Subscribers to Latency Optics for a Limited Period

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 August 01, 2013, The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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

NASDAQ proposes to adopt a time-limited waiver of the monthly subscription fee for new subscribers to the Latency Optics add-on service to QView under Rule 7058(b). NASDAQ will offer the fee waiver to new subscriptions for the month of August 2013. 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.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

proposed rule change. The text of those 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 parts 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 waive subscription fees for the Latency Optics add on service to QView under Rule 7058(b) for new subscribers to the service during the month of August 2013. Latency Optics provides a subscribing member firm with real-time order latency and analytical tools to measure the historical latency of the member firm's order messages sent to and from the NASDAQ Market Center through the member firm's OUCH ports and received on ITCH ports. NASDAQ adopted Latency Optics in February 2013, and offered the service at no cost to subscribers from February 4, 2013 to April 1, 2013.³ There have been no new subscribers since the prior free period ended on April 1, so NASDAQ is now proposing an additional free period to encourage new customers to subscribe. NASDAQ has also added new functionality to the service, including more in depth order-level data and enhanced export capabilities. NASDAQ is offering the service at no cost to new subscribers for the month of August 2013 to encourage member firms that have not yet subscribed to subscribe. Normal fees will apply to all subscribers, new and existing, thereafter. In amending the rule text, NASDAQ is deleting references to the expired free period and timing of the service's launch.

³ Securities Exchange Act Release No. 68617 (January 10, 2013), 78 FR 3480 (January 16, 2013)(SR-NASDAQ-2013-005).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁴ in general, and with Sections 6(b)(4) and (5)⁵ of the Act, in particular, because 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 the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed fee waiver is reasonable because it will result in a reduction of fees during the month of August 2013 for new subscribers, thereby reducing the fees that they will ultimately pay for the service this year. The proposed fee waiver is equitable and not unfairly discriminatory because, as discussed above, all existing subscribers benefitted from a similar fee waiver that was in effect earlier this year, and there have been no new subscribers since April 1, 2013. Accordingly, existing subscribers will not be disadvantaged by the introduction of a fee waiver for new subscribers. NASDAQ further notes that it has enhanced the service and believes that more member firms would find it beneficial once subscribed. Moreover, as more subscribers sign up for the service, NASDAQ is able to spread the fixed costs of the service among a larger number of subscribers, which in turn reduces the likelihood of future fee increases in response to future increases in fixed costs. Accordingly, NASDAQ believes that efforts to garner additional subscribers for the service are equitable because they may be beneficial to all subscribers.

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. Waiver of the subscription fee for new subscribers will promote broader subscription

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4), (5).

to the service, thus allowing NASDAQ to allocate the fixed costs of the subscription among a larger pool of subscribers and reduce the likelihood of future fee increases as the result of any future increases in fixed costs. In addition, the waiver will result in lower fees, which are generally seen as indicative of the presence of competition. Finally, by providing a service that allows members to evaluate latency of order messages, NASDAQ hopes to enhance its competitiveness vis-à-vis other trading centers.

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 change has become effective pursuant to Section 19(b)(3)(A) of the Act,⁶ and paragraph (f)(2)⁷ of Rule 19b-4, 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.

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

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(2).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR- NASDAQ-2013-098 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-2013-098. 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 NASDAQ. 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-2013-098, 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.⁸

Kevin M. O'Neill
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).