SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70915; File No. SR-NASDAQ-2013-140)

November 21, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify NASDAQ connectivity Options and 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 8, 2013, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange"), filed with the Securities and Exchange Commission ("Commission") the 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 Substance of the Proposed Rule Change

The Exchange proposes to modify NASDAQ connectivity options and fees.

The text of the proposed rule change is available from NASDAQ's website at http://nasdaq.cchwallstreet.com/Filings/, 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, 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

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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 Exchange proposes to modify Rule 7034(b) regarding connectivity to NASDAQ. Specifically, the Exchange proposes to establish connectivity and installation fees for a 1Gb Ultra low latency fiber connection option, and to adopt installation fees for subscriptions through January 31, 2014.

The Exchange currently offers various bandwidth and speed options for connectivity to NASDAQ, including copper, fiber, and wireless options in bandwidths ranging from 1Gb to 40Gb. Thus, for example, NASDAQ currently offers both a1Gb fiber connection, and a 1Gb copper connection.[3]

In keeping with changes in technology, the Exchange now proposes to provide another 1Gb fiber connection offering, which uses new lower latency switches.[4] A switch is a type of network hardware that acts as the "gatekeeper" for all of a co-located client's orders sent to the System[5] at the NASDAQ co-location facility and orders them in sequence for entry into the System for execution. Each of NASDAQ's current connection offerings (copper, fiber, wireless) uses different switches, but the switches are of uniform type within each offering (i.e., all fiber connectivity options currently use the same switches). As a consequence, all co-located client subscribers to a particular connectivity option receive the same latency in terms of the

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3 Rule 7034(b).

4 The term "latency" for these purposes is a measure of the time it takes for an order to enter into a switch and then exit for entry into the System.

5 As defined by Rule 4751(a).

capabilities of their switches. The 1Gb Ultra offering will use a low latency switch, which provides faster processing of orders sent to it in comparison to the current 1G switch in use for co-location connectivity. As a consequence, co-located clients needing only 1Gb of bandwidth, but that seek faster processing of those orders as they enter NASDAQ's co-location facility now have the option to subscribe to a faster and more efficient connection to the Exchange.[6]

The Exchange proposes a monthly subscription fee of $2,500 for a 1Gb Ultra connection, and a one-time installation fee of $1,500. NASDAQ believes that the pricing reflects the hardware and other infrastructure and maintenance costs to NASDAQ associated with offering technology that is at the forefront of the industry. The $1,500 installation fee for the 1Gb Ultra product exceeds the $1,000 installation fee for the existing 1Gb product due to the added complexity of installing the Ultra product. In order to achieve lower latency, the Ultra product requires not only the installation of a fiber telecommunications line; it also requires the additional installation of sophisticated switching equipment.

The new low latency service will be completely optional based on whether potential users perceive sufficient value to adopt the new service. This new low latency service decreases the time individual orders are processed and market data is transmitted by these new switches. The Exchange's proposal provides the co-located client the option for faster switch processing, which is highly-valued among some market participants. NASDAQ notes that other markets have adopted low-latency connectivity options for their users. For example, the International

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6 The Exchange is not offering a low latency option for other bandwidth connections at this time, but may do so in the future.

Securities Exchange LLC ("ISE") offers a 10Gb low latency Ethernet connectivity option to its users, which provides a "higher speed network to access [ISE's] Optimise trading system."[7]

The Exchange also proposes to provide a waiver of the installation fees for client orders of 1Gb Ultra fiber connectivity to NASDAQ completed between the effectiveness of this proposal and January 31, 2014. The Exchange is providing the waiver to assist its co-located clients in upgrading to lower latency connections to meet the growing needs of co-located clients' business operations.

NASDAQ is also deleting text that refers to an installation fee waiver time period for 10Gb Ultra connections, which has since expired, and replacing it with the fee waiver for the 1Gb Ultra offering.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and with Section 6(b)(4) of the Act,[9] 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 the Exchange operates or controls. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act[10] 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 and is not designed to permit unfair discrimination between customer, issuers, brokers and dealers.

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7 See Securities Exchange Act Release No. 66525 (March 7, 2012), 77 FR 14847 (March 13, 2012) (SR-ISE-2012-09).

8 15 U.S.C. 78f(b).

9 15 U.S.C. 78f(b)(4).

10 15 U.S.C. 78f(b)(5).

The Exchange believes that its proposal is consistent with Section 6(b)(4) of the Act because the fees assessed for 1Gb Ultra fiber connectivity allow the Exchange to cover the costs associated with the purchase of new equipment for this new offering. NASDAQ is offering 1Gb Ultra fiber connectivity at a premium to the current 1Gb offering but at a discount to the 10Gb and 40Gb fiber connectivity offerings as these provide more bandwidth available on NASDAQ, which is important for co-located clients that have high order flow and ingest large amounts of market data and demand the greatest bandwidth possible to handle such message flow. Some co-located clients, however, do not have bandwidth demands that would require 10Gb or 40Gb fiber bandwidth but rather put a premium on reducing latency. The 1Gb Ultra fiber connectivity it designed to meet this demand.

NASDAQ believes that the proposed one-time installation fee is consistent with Section 6(b)(4) of the Act because it is identical to the installation fees assessed for 40Gb fiber connectivity and 10Gb Ultra connectivity under the rule. NASDAQ notes that it will incur the same costs associated with setting up a subscriber with either 40Gb fiber or 10Gb Ultra fiber connectivity. As a consequence, NASDAQ believes that it is reasonable to assess the same installation fee as 40Gb fiber and 10Gb Ultra. The Exchange also believes that its proposal to waive temporarily the 1Gb Ultra fiber connection installation fee is reasonable because it will assist its co-located clients in upgrading to lower latency connections to meet the growing needs of the co-located clients' business operations at a time in the industry when speed continues to be a driver of the U.S. securities markets. Moreover, the Exchange notes that it has previously waived the installation fees for the 10Gb Ultra and 40Gb fiber connections for a limited time after these connectivity options were first introduced.[11]

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[11] See Securities Exchange Act Release No. 66428 (February 21, 2012), 77 FR 11602

In addition to covering costs, the proposed fees provide the Exchange a profit while providing customers the ability to reduce the latency of their orders sent via these new connections. As discussed above, ISE offers different connectivity options with respect to latency, charging higher fees for lower latency options.[12] Therefore, the Exchange believes it is reasonable also to charge higher fees for lower latency options. Also, NASDAQ's fee compares favorably to fees at NYSE Arca, Inc. NYSE Arca offers a 1Gb connection for a monthly fee of $5,000, which is double NASDAQ's proposed monthly fee for the 1Gb Ultra fiber connectivity option.[13] NASDAQ notes that the 1Gb Ultra fiber option provides connectivity to all seven of the NASDAQ OMX Group markets, whereas the offerings of other exchanges provide far fewer.[14] For these reasons, the Exchange believes the proposed fees for 1Gb Ultra fiber connectivity to NASDAQ are reasonable.

The Exchange also believes the proposed 1Gb Ultra fiber installation and connectivity fees are equitably allocated in that all co-located clients that voluntarily select this service option will be charged the same amount to cover the hardware, installation, testing and connection costs to maintain and manage the enhanced connection. The proposed fees allow the Exchange to recoup costs associated with providing the 1Gb Ultra fiber connection and provide the Exchange a profit while providing customers with the more efficient connection to the System in terms of

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(February 27, 2012) (SR-NASDAQ-2012-028).

12 ISE offers both an Ethernet connectivity option and an Ethernet/Low Latency connectivity option. At 10Gb, the Ethernet option costs $4,000 monthly and the Ethernet/Low Latency option costs $7,000 monthly. See http://www.ise.com/assets/documents/OptionsExchange/legal/fee/fee_schedule.pdf

13 NYSE charges $5,000 per month for a 1Gb LCN (Liquidity Center Network) Connection. See https://usequities.nyx.com/sites/usequities.nyx.com/files/nyse_price_list_9_3_13_-_corrected.pdf, page 14.

14 The ISE connectivity offering provides access to one market and the NYSE Arca connectivity offering provides connectivity to the four markets of NYSE Euronext.

latency. All co-located clients have the option to select this voluntary co-location connectivity option; however, NASDAQ is not currently eliminating any existing connectivity options. Accordingly, a co-located client may elect not to subscribe to the 1Gb Ultra fiber connectivity option and retain the option to which it is currently subscribed.

The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act[15] 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 and is not designed to permit unfair discrimination between customer, issuers, brokers and dealers. The 1Gb Ultra fiber connectivity option assists co-located clients in making their network connectivity more efficient by reducing the time orders take to reach the System once sent from their co-located server and also the time that market data takes to reach their co-located server. Speed and efficiency are important drivers of the U.S. securities markets and NASDAQ is offering a co-location connectivity solution that promotes these drivers by providing technology that is available to all co-located clients. The Exchange believes the enhanced 1Gb Ultra connection will remove impediments to and perfect the mechanism of a free and open market and a national market system because NASDAQ will provide this switching technology to market participants, which will improve the speed and efficiency of processing orders arriving at the market from clients' co-located servers.

The Exchange also believes that the reduction in latencies attributed to the enhanced 1Gb Ultra connection option serves to protect investors and the public interest. The reduction in latency will provide investors with the most efficient means of processing orders once they reach

[15] 15 U.S.C. 78f(b)(5).

the Exchange. Not all clients require the Higher bandwidth options like NASDAQ's current 10Gb, 10Gb Ultra and 40Gb fiber connectivity, so this new option enables clients to lower their latency while not increasing the bandwidth.

The Exchange also believes the proposed installation and subscription fees for the 1Gb Ultra fiber connectivity option are not unfairly discriminatory because all users have the option to subscribe to co-locate with NASDAQ and subscribe to the 1Gb Ultra connection. There is no differentiation among co-located clients with regard to the fees charged for these services. The Exchange believes the proposal to waive the 1Gb Ultra fiber connection installation fee is not unfairly discriminatory because the waiver of fees is provided to all co-located clients that volunteer for this particular service option during the prescribed timeframe, and there is no differentiation among co-located clients with regard to the waiver of fees for this option.

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

The Exchange 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. To the contrary, the Exchange believes that the proposed changes will promote competition by offering co-located clients an additional connectivity option that will enhance their trading operations and ultimately bring greater speed and efficiency to trading in the marketplace. NASDAQ further notes that the proposed option is voluntary in that the Exchange is not required to offer this connectivity, and the user is not required to utilize it. The competitiveness of the offering will determine whether a particular user will adopt the option or not.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b-4(f)(6) thereunder.[17] Because the foregoing proposed rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[18] and Rule 19b-4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19b-4(f)(6)[20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange represented that its proposal provides co-located clients an option to enhance the efficiency of their trading through the 1Gb Ultra connectivity and believes that the benefits gained in the facilitation of trading activities warrants the waiver of the 30-day operative delay. The Exchange stated it is also providing a waiver of the installation fee for the 1Gb Ultra

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16 15 U.S.C. 78s(b)(3)(A)(iii).

17 17 CFR 240.19b-4(f)(6).

18 15 U.S.C. 78s(b)(3)(A).

19 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of 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. The Exchange has met this requirement.

20 17 CFR 240.19b-4(f)(6).

21 17 CFR 240.19b-4(f)(6)(iii).

connection service to allow the co-located clients who select this service to receive its benefits immediately. For the above reasons, the Commission believes waiver of the operative delay is appropriate and hereby grants the Exchange's request and designates the proposal operative upon filing.[22]

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)[23] of the Act to determine whether the proposed rule change 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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2013-140 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.

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22 For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

23 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-NASDAQ-2013-140. 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 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-2013-140 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.[24]

Kevin M. O'Neill
Deputy Secretary

[24] 17 CFR 200.30-3(a)(12).