SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72150; File No. SR-NASDAQ-2014-049)

May 12, 2014

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify NASDAQ Rule 7018 Fees and Establish Fee Tiers for the Execution of Market-on-Close and Limit-on-Close Orders Executed in the NASDAQ Closing Cross and Eliminate the High Volume Market Participant Identifier Program

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 April 30, 2014, 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, 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 the Substance of the Proposed Rule Change

NASDAQ is proposing to modify NASDAQ Rule 7018 fees assessed for execution and routing [sic] securities listed on the New York Stock Exchange ("NYSE") and on exchanges other than NASDAQ and NYSE, as well as establishing fee tiers for the execution of Market-on-Close and Limit-on-Close orders executed in the NASDAQ Closing Cross and eliminating the high volume Market Participant Identifier program.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on May 1, 2014.

The text of the proposed rule change is available at nasdaq.cchwallstreet.com at NASDAQ's principal office, and at the Commission's Public Reference Room.

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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, 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 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 amend NASDAQ Rule 7018 to modify NASDAQ Rule 7018 [sic] fees assessed for execution and routing [sic] securities listed on NYSE ("Tape A") and on exchanges other than NASDAQ and the NYSE ("Tape B"), as well as establishing fee tiers for the execution of Market-on-Close and Limit-on-Close ("MOC/LOC") orders executed in the NASDAQ Closing Cross.

Specifically, NASDAQ is proposing to offer reduced access fees for firms that execute against resting midpoint liquidity for both Tape A and Tape B securities. The standard access fees are currently $0.0030 per executed share, but the Exchange proposes to reduce this fee for Tape A and Tape B securities to $0.0027 per executed share. The Exchange believes that the proposed discounted executions for taking midpoint liquidity will encourage firms that are interested in accessing more of the NASDAQ's price improving liquidity access [sic] more resting midpoint liquidity before routing to other destinations.

Additionally, the Exchange is proposing to establish new fee tiers for the execution of MOC/LOC orders executed in the NASDAQ Closing Cross. The new tiers are designed to reasonably raise revenue, benefit market participants that provide liquidity during market hours and the opportunity to lower the proposed price changes by executing more volume via the NASDAQ Closing Cross. The Exchange proposes to begin offering tiers for the execution of MOC/LOC orders as follows:

- Tier A: Shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 1.40% of Consolidated Volume or MOC/LOC volume above 0.50% of Consolidated Volume: $0.00065 per executed share
- Tier B: Shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.80% to 1.40% of Consolidated Volume or MOC/LOC volume above 0.30% to 0.50% of Consolidated Volume: $0.0011 per executed share
- Tier C: Shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.50% to 0.80% of Consolidated Volume or MOC/LOC volume above 0.10% to 0.30% of Consolidated Volume : $0.0012 per executed share
- Tier D: Shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.30% to 0.50% of Consolidated Volume: $0.0013 per executed share
- Tier E: Shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.015% to 0.30% of Consolidated Volume: $0.00135 per executed share

- Tier F: Shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.00% to 0.015% of Consolidated Volume: $0.0014 per executed share
- Tier G: Member adds Nasdaq Options Market Customer and/or Professional liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 0.80% or more of national customer volume in multiply-listed equity and ETF options classes in a month: $0.0010 per executed share

The new fee tiers for participation in the closing auctions essentially replace the high volume Market Participant Identifier ("High Volume MPID") program that allowed a member that trades through a qualified High Volume MPID to pay a discounted fee per share executed with respect to executions of MOC/LOC orders when the same High Volume MPID is on both sides of the trade. Since this incentive program has been in place, the Exchange has observed that the High Volume MPID program is not widely-used and so it now proposes the new fee tiers discussed above. The proposed new fee tiers will result in higher fees for most firms, however, the Exchange is offering liquidity adding incentives and MOC/LOC incentives to materially reduce the proposed fees to be assessed for MOC/LOC executions in the NASDAQ Closing Cross. Finally, if a member qualifies for two tiers, the lower tier rate will apply.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among

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[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4) and (5).

members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. This proposal is reasonable, equitable and not unfairly discriminatory for the reasons noted below.

The proposed changes are reflective of NASDAQ's ongoing efforts to use reduced access fees and better targeted discount [sic] to attract orders that NASDAQ believes will improve market quality. Generally, NASDAQ seeks to provide customers with discounts that they deem helpful, and to eliminate those that they do not. By offering reduced access fees for firms that execute against resting midpoint liquidity and by replacing the High Volume MPID program with the new fee tiers for participation in the closing auction, NASDAQ believes it will be able to further promote these goals by providing better targeted incentives for market participants.

Specifically, the proposed changes are consistent with statutory requirements. The proposal to reduce access fees for firms that execute against resting midpoint liquidity from the standard access fee of $0.0030 per executed share to $0.0027 per executed share for Tape A and Tape B securities is consistent with a fair allocation of reasonable fees and not unfairly discriminatory because it is a price cut that applies uniformly to all NASDAQ members. NASDAQ believes that the fee reduction will incentivize firms to execute against midpoint liquidity and this, in turn, will lead to an increase in price improvement liquidity and price improvement generally benefits the investing public.

The impact of the change in adding new tiers for participation in the NASDAQ Closing Cross will be a price increase for many market participants, but those that provide greater liquidity during market hours or increase their usage of the NASDAQ Closing Cross will receive a greater discount. Generally speaking, the base rate will increase from $0.0010 to $0.0014 per executed share as discussed more fully below, but the Exchange is providing various incentives to all market participants to lower the fees to be assessed for MOC/LOC executions.

The Exchange's proposal to establish Tier A in which shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 1.40% of Consolidated Volume or MOC/LOC volume above 0.50% of Consolidated Volume will be executed at $0.00065 per share is equitable and not unfairly discriminatory because all market participants have the opportunity to achieve this tier if they choose to increase added [sic] liquidity or MOC/LOC volume. The fee is reasonable because it represents a price reduction when compared to the current rate of $0.0010 per executed share and is approximately the average rate paid by those market participants that chose to avail themselves of the High Volume MPID discount.

The Exchange's proposal to establish Tier B in which shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.80% to 1.40% of Consolidated Volume or MOC/LOC volume above 0.30% to 0.50% of Consolidated Volume will be executed at $0.0011 per share is equitable and not unfairly discriminatory. While this is a price increase, the Exchange is still providing opportunities for all market participants to reduce the per share rate by adding additional liquidity or executing a greater number of MOC/LOC shares.

The Exchange's proposal to establish Tier C in which shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.50% to 0.80% of Consolidated Volume or MOC/LOC volume above 0.10% to 0.30% of Consolidated Volume will be executed at $0.0012 per share is equitable and not unfairly discriminatory because this tier provides additional opportunities for members to reduce the fees to be paid for

MOC/LOC executions.

The Exchange's proposal to establish Tier D in which shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.30% to 0.50% of Consolidated Volume will be executed at $0.0013 per share is equitable and not unfairly discriminatory because this tier provides additional opportunities for members to reduce the fees to be paid for MOC/LOC executions.

The Exchange's proposal to establish Tier E in which shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.015% to 0.30% of Consolidated Volume will be executed at $0.00135 per share is equitable and not unfairly discriminatory because this tier provides additional opportunities for members to reduce the fees to be paid for MOC/LOC executions.

The Exchange's proposal to establish Tier F in which shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.00% to 0.015% of Consolidated Volume will be executed at $0.0014 per share is equitable and not unfairly discriminatory because the Exchange believes this represents the base rate for utilizing the NASDAQ Closing Cross. The Exchange spends significant testing and regulatory resources, among other resources, to ensure that the NASDAQ Closing cross [sic] is the industry standard. The Exchange believes that this proposed rate properly reflects that ongoing investment. Further, the Exchange is offering a variety of incentives that are discussed above and below for market participants to reduce their costs [sic] adding additional liquidity or increasing volume in the NASDAQ Closing Cross.

The Exchange's proposal to establish Tier G in which a member adds Nasdaq Options Market Customer and/or Professional liquidity in Penny Pilot Options and/or Non- Penny Pilot

Options of 0.80% or more of national customer volume in multiply-listed equity and ETF options classes in a month will be executed at $0.0010 per share is equitable and not unfairly discriminatory because this provides an additional means for members to reduce their fees assessed for executions in the NASDAQ Closing Cross. Like the other tiers offered, this tier enhances market participants' choices to earn price cuts. They can add more liquidity on the Exchange or its options platform or they can use the NASDAQ Closing Cross instead of potential off-exchange alternatives.

Volume-based discounts such as the fees associated with the new tiers for participation in the Closing Cross proposed here have been widely adopted in the cash equities markets, and are equitable because they are open to all members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes of the Closing Cross. NASDAQ further notes that it operates in a highly competitive market in which market participants can readily favor competing venues, or in this case, internalize orders rather than exposing them to the broader market, if they deem fee levels at a particular venue to be excessive. NASDAQ believes that the new fee tiers will help ensure that its Closing Cross continues to attract high levels of participation.

Additionally, the elimination of High Volume MPID program is consistent with a fair allocation of reasonable fees and not unfairly discriminatory since the removal of the rule language pertaining to the incentives impacts all firms equally.

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

NASDAQ does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[5] NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, discounted executions for taking midpoint liquidity, as well as the replacement of the High Volume MPID program with the establishment of new fee tiers for the execution of MOC/LOC orders executed in the NASDAQ Closing Cross reflect this.

Accordingly, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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.

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5 15 U.S.C. 78f(b)(8).

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)[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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2014-049 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2014-049. 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

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6 15 U.S.C. 78s(b)(3)(A).

7 17 CFR 240.19b-4(f)

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 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-2014-049, 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

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[8] 17 CFR 200.30-3(a)(12).