SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-73025; File No. SR-NASDAQ-2014-089)

September 9, 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

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 28, 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 [sic] fees assessed for execution and routing securities listed on NASDAQ, the New York Stock Exchange ("NYSE") and on exchanges other than NASDAQ and NYSE.

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.

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

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 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 fees assessed for execution and routing securities listed on NASDAQ ("Tape C"), NYSE ("Tape A") and on exchanges other than NASDAQ and the NYSE ("Tape B").

The Exchange is proposing to no longer offer a recently adopted credit[3] provided to members that qualify under certain requirements of the Market Quality Incentive Programs of Rule 7014. Specifically, NASDAQ will no longer provide a credit of $0.0001 per share executed to a member that either qualifies for a credit under Rule 7014(c)(3) or that is designated as a Qualified Market Maker ("QMM") under Rule 7014(d). The credit currently provided is based on the shares executed through the qualifying MPID under Rules 7014(c)(3) or 7014(d), and is provided in addition to any other credit or rebate for which the member may qualify. NASDAQ believes that the elimination of this program is warranted since it has failed to increase liquidity in Tape A securities or to provide members with additional incentive to improve market quality.

Additionally, a member with (i) shares of liquidity provided in all securities during the month representing more than 0.15% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) Total Volume, as defined in Chapter XV, Section 2 of the Nasdaq Options Market rules, of 100,000 or more contracts per day in a month executed through one or more of its Nasdaq Option Market MPIDs qualifies for a credit of

[3] See Securities Exchange Act Release No. 72810 (August 11, 2014), 79 FR 48281 (August 15, 2014) (SR-NASDAQ-2014-078).

$0.0029 per share executed. NASDAQ is proposing to decrease the Consolidated Volume requirement for this tier from 0.15% to shares representing more than 0.10% of Consolidated Volume. The Exchange believes that the proposed lower Consolidated Volume requirement will encourage market participant activity and will also support price discovery and liquidity provision.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[5] 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, 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.

NASDAQ believes that eliminating the recently adopted $0.0001 per share executed credit in NYSE-listed securities provided to members that either qualify for a credit under Rule 7014(c)(3) or that is [sic] designated as a QMM under Rule 7014(d) is consistent with an equitable allocation of a reasonable fee and not unfairly discriminatory. Specifically, the Exchange believes it is equitable and not unfairly discriminatory because it is being eliminated for all members that meet the requirements of either Rule 7014(c)(3) or 7014(d) and that receive the credit for its [sic] executions in NYSE-listed securities. NASDAQ also believes that eliminating the credit is reasonable because the Exchange has determined that although the credit

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4 15 U.S.C. 78f.

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

was designed to increase liquidity in Tape A securities and to provide members with additional incentive to improve market quality, the program failed to have such an impact.

NASDAQ also believes the proposed rule change is reasonable since the Exchange must balance its desire to provide certain incentives with the costs the Exchange incurs in providing such incentives, which ultimately affect the ability to sustain them. As a consequence, NASDAQ must choose carefully the credits it provides, so that it promotes activity it deems most important while foregoing offering other credits, which may also improve market quality yet prove too costly. NASDAQ notes that the credit, in the end, did not suffice as an additional incentive to members to improve the quality of the market in NYSE-listed securities on NASDAQ.

NASDAQ believes that the proposed rule changes to the rebate tiers through which members may earn a $ 0.0029 per share executed rebate are reasonable because they will make it easier for members to receive a rebate at that level, by lowering the volume requirements for existing tiers. In addition, the proposed rule changes are consistent with an equitable allocation of fees because they reflect an allocation of rebates to liquidity providers designed to encourage beneficial market activity, with greater incentives for market participants to provide liquidity and the proposed rule changes are not unfairly discriminatory because they apply uniformly across all markets. Finally, the changes are not unfairly discriminatory because they increase the availability of higher rebates without eliminating any of the other means by which a member may earn a higher rebate under Rule 7018(a).

B. <u>Self-Regulatory Organization's Statement on Burden on Competition</u>

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.[6] 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, the changes to routing fees and credits do not impose a burden on competition because NASDAQ's routing services are optional and are the subject of competition from other exchanges and broker-dealers that offer routing services, as well as [sic] the ability of members to develop their own routing capabilities. In sum, if the changes proposed herein are unattractive to market participants, it is likely that NASDAQ will lose market share as a result.

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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6 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)(ii) of the Act[7]. 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-2014-089 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-2014-089. 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

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7 15 U.S.C. 78s(b)(3)(A)(ii).

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-2014-089, 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).