

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² The NASDAQ Stock Market LLC (“Nasdaq” or the “Exchange”) is filing a proposed rule change to modify pricing for Nasdaq members using the NASDAQ Options Market (“NOM), Nasdaq’s facility for the trading of standardized equity and index options. Nasdaq will make the proposed rule change effective on February 1, 2010.

(a) The text of the proposed rule change is below. Proposed new language is underlined; deletions are bracketed.³

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7050. NASDAQ Options Market

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market for all securities.

(1) Fees for Execution of Contracts on the NASDAQ Options Market

Fees and Rebates (per executed contract)				
	Customer	Firm	<u>Non-NOM Market Maker</u>	<u>NOM Market Maker</u>
<u>Penny Pilot Options:</u>				
<u>Rebate to Add Liquidity</u>	\$0.25	\$0.25	\$0.25	<u>\$0.25</u>
<u>Fee for Removing Liquidity</u>	\$0.35	\$0.45	\$0.45	<u>\$0.45</u>
<u>NDX and MNX</u>				
<u>Rebate to Add Liquidity</u>	<u>\$0.10</u>	<u>\$0.10</u>	<u>\$0.10</u>	<u>\$0.20</u>
<u>Fee for Removing Liquidity</u>	<u>\$0.50</u>	<u>\$0.50</u>	<u>\$0.50</u>	<u>\$0.40</u>

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Changes are marked to the rules of The NASDAQ Stock Market LLC found at <http://nasdaqomx.cchwallstreet.com/>.

All Other Options:				
Fee for Adding Liquidity	Free	\$0.30	\$0.30	<u>\$0.30</u>
Fee for Removing Liquidity	-	\$0.20	\$0.45	<u>\$0.45</u>
Rebate for Removing Liquidity*	\$0.20	-	-	<u>-</u>
<p>Transactions in which the same participant is the buyer and the seller shall be charged a net fee of \$0.10 per executed contract</p> <p>* No rebate will be paid when a customer order executes against another customer order.</p> <p>For a pilot period ending July 31, 2010, the charge for members or non-members entering order via the Options Intermarket Linkage that executes in the Nasdaq Options Market shall be \$0.45 per executed contract.</p>				

(2) – (4) No change.

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(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Board of Directors of The Nasdaq Stock Market, LLC (“Nasdaq Board”) approved the submission of this proposed rule change at its meeting on November 7, 2007. No further action is necessary for the filing of this proposal.

Questions regarding this rule proposal may be directed to Jeffrey S. Davis, Deputy General Counsel, The Nasdaq Stock Market LLC, at (301) 978-8484 (telephone) or (301) 978-8472 (fax).

3. Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

Nasdaq is modifying NASDQ Rule 7050, the fee schedule for NOM, to establish pricing for two newly-listed products, the NASDAQ 100 Index Option (NDX) and the

Mini NASDAQ 100 Index Option (MNX). Specifically, Nasdaq is establishing a fee of \$0.50 per executed contract for Customers, Firms, and Non-NOM Market Makers to remove liquidity in NDX and MNX Options, and \$0.40 per executed contract for NOM Market Makers to remove liquidity in NDX and MNX options.⁴ Nasdaq is also proposing to offer a rebate of \$0.10 per executed contract for Customers, Firms, and Non-NOM Market Makers to add liquidity, and \$0.20 per executed contract for NOM Market Makers to add liquidity.

The proposed fee schedule distinguishes between firms that register to and actually make markets on NOM and firms that make markets on other options markets. This pricing convention, which is currently employed by the International Securities Exchange and other exchanges, recognizes the substantial value that registered market makers add to a given marketplace by guaranteeing to provide regular two-sided quotes and to maintain minimum liquidity.⁵ Nasdaq seeks to encourage continued market making on NOM and to attract additional market making by establishing this new fee schedule. To receive NOM Market Maker pricing, the firm must be registered as a NOM Market Maker in the specified security.

Nasdaq believes that the proposed fees are competitive, fair and reasonable, and non-discriminatory in that they apply equally to all similarly situated members and customers. As with all fees, Nasdaq may adjust these proposed fees in response to competitive conditions by filing a new proposed rule change. If the proposed fee schedule

⁴ NOM Market Makers must be registered as such pursuant to Chapter VII, Section 2 of the Nasdaq Options Rules, and must also remain in good standing pursuant to Chapter VII, Section 4. Non-NOM Market Makers are registered market makers on another options market that append the market maker designation to orders routed to NOM.

⁵ See ISE Fee Schedule.

http://www.ise.com/assets/documents/OptionsExchange/legal/fee/fee_schedule.pdf

is successful in establishing vibrant markets in NDX and MNX options on NOM, Nasdaq may expand this pricing model to other options in the future.

b. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and with Section 6(b)(4) of the Act,⁷ 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. Consistent with past practice, the proposed change identifies a class of person subject to transaction execution fees based on the role of that class in bringing order flow to NASDAQ.

4. 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. To the contrary, Nasdaq notes that the options markets compete aggressively on the basis of execution price and this program is one part of Nasdaq's attempt to compete effectively.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ and Rule 19b-4(f)(2) thereunder,⁹

Nasdaq has designated this proposal as establishing or changing a due, fee, or other charge applicable only to members, which renders the proposed rule change effective upon filing.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

1. Form of Notice of Proposed Rule Change for Federal Register

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 C.F.R. 240.19b-4(f)(2).