

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57595; File No. SR-NASDAQ-2007-067)

April 1, 2008

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of A Proposed Rule Change to Establish an Imbalance Cross

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 July 18, 2007 The NASDAQ Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. 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 has submitted a proposed rule change to establish a continuous crossing system. The text of the proposed rule change is available on Nasdaq’s Web site (<http://www.nasdaq.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 these statements may be examined at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the places specified in Item IV below. Nasdaq 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq’s efficient market structure allows the price of a security to change quickly in response to information and market demand. Allowing trading to react quickly is generally beneficial to investors. In some circumstances, however, abrupt and significant movements in the price at which a security is traded can be harmful to investors. In order to protect the integrity of the market, NASDAQ Rule 4120 authorizes Nasdaq Regulation to halt trading in a security based upon news or an emergency in the market. Nasdaq Regulation also has the ability under NASDAQ Rule 11890 to break trades in order to protect the integrity of the market.

In order to offer additional protection for investors, Nasdaq proposes to create the “Imbalance Cross” that will systematically suspend trading in Nasdaq-listed securities that are the subject of abrupt and significant intra-day price movements. The Imbalance Cross shares characteristics in common with trading halts initiated pursuant to Rule 4120³ as well as with the evaluation of potential clearly erroneous trades pursuant to Rule 11890.⁴ It differs from and supplements these two processes in one material respect: the

³ For a detailed description of the Nasdaq Halt Cross, see Securities Exchange Act Release No. 53488, 71 FR 14272 (March 16, 2006) (notice of filing of SR-NASD-2006-015).

⁴ For a detailed description of the adjudication of potential clearly erroneous trades, see Securities Exchange Act Release No. 54854, 71 FR 71208 (Dec. 8, 2006) (notice of SR-NASDAQ-2006-046).

Imbalance Cross will be fully automated and will be based entirely on objective, quantitative criteria.

The Imbalance Cross will be triggered automatically when the execution price of a Nasdaq-listed security moves more than a fixed amount away from a pre-established “reference price” for that security. The Reference Price for each security will be the price of any execution by the System in that security within the prior 30 seconds. For each Nasdaq security, the System will continually compare the price of each execution against the prices of all executions in that security over the prior minute.

As the System compares current executions against executions occurring within the prior 30 seconds, it will determine whether the current execution price is outside a “threshold range” for that security. The Threshold Range for each security will be based upon the current execution price for that security and will vary by price. Specifically, for per-share execution prices of \$1.75 or under, the Threshold Range will be 15 percent; for execution prices over \$1.75 and up to \$25, the Threshold Range will be 10 percent; for execution prices over \$25 and up to \$50, the threshold Range will be five percent; and for execution prices over \$50, the Threshold Range will be three percent. These Threshold Ranges, generally correspond to the thresholds established for clearly erroneous trades under NASDAQ IM 11890-4 with the exception of executions priced under \$1.75 which will be subject to a straightforward 15 percent threshold.

If the System determines that the execution price of a trade in a Nasdaq security exceeds the Threshold Range from the Reference Price, the System will automatically trigger the Imbalance Cross. When that occurs, the System will automatically cease executing trades in that security for a 60-second “Display Only Period” similar to the

Display Only Period provided prior to the opening of a security subject to a trading halt initiated pursuant to Rule 4120. During that 60-second Display Only Period, the System will maintain all current quotes and orders and continue to accept new quotes and orders in that System Security. In order to provide transparency for the Imbalance Cross, the System will disseminate an Order Imbalance Indicator every 5 seconds as it does for the re-opening of securities that are the subject of a trading halt.

The Display Only Period for the Imbalance Cross will differ from the Display Only Periods for trading halts initiated pursuant to Rule 4120. Unlike a trading halt, the Imbalance Cross will not be considered a regulatory halt and, therefore, it will not trigger a marketwide trading halt under Section X of the Nasdaq UTP Plan. As a result, other markets will be permitted to continue trading a Nasdaq stock that is undergoing a Market Re-Opening on Nasdaq. During the Imbalance Cross, Nasdaq's quotations will be marked "closed," signaling to other markets that quotes and orders routed to Nasdaq will not be executed. Nasdaq's Imbalance Cross trade will be reported to the network processor as a single-price re-opening that is exempt from trade through restrictions pursuant to Rule 611(b)(3)

At the conclusion of the 60-second Display Only Period, the System will automatically re-open the market by executing the Nasdaq Halt Cross as set forth in Rule 4753(b)(2) - (4) precisely as it does today for securities subject to a trading halt pursuant to Rule 4120. Unlike securities subject to a Rule 4120 trading halt, securities subject to an Imbalance Cross will automatically re-open at the end of the 60-second Display Only Period and that period will not be subject to further extensions.

The Imbalance Cross price will be set by the Nasdaq Halt Cross which, with one exception, will operate in the same manner as the Halt Cross operates when trading resumes following a trading halt initiated pursuant to Rule 4120. In other words, quotes and orders residing on the Nasdaq book during the Imbalance Cross will be subject to the same priorities and same execution algorithm that applies during the standard Halt Cross. Unlike the standard Halt Cross, Nasdaq proposes to “bound” the Imbalance Cross price as it does the Nasdaq Closing Cross (see Rule 4754(b)(2)(E)). As already exists for the Nasdaq Closing Cross, Nasdaq will establish a benchmark price and a threshold range beyond which the Imbalance Cross price cannot move.

Nasdaq believes that the proposed Imbalance Cross combines the best elements of its highly-effective Nasdaq Halt Cross, with the experience gathered in administering trading halts under Rule 4120 and the adjudication of potential clearly erroneous trades pursuant to Rule 11890. The Imbalance Cross will promote the protection of investors by providing a meaningful pause in the midst of abrupt and significant price movements while permitting trading to move freely in rapid and stable markets.

Nasdaq is proposing to establish the Imbalance Cross as a one-year pilot in order to ensure that it has sufficient flexibility to implement the proposal in a prudent manner. Nasdaq plans to implement the pilot with 100 representative securities which will be published on the nasdaqtrader.com website. Nasdaq will monitor the operation of the Imbalance Cross and, upon determining that circumstances warrant, Nasdaq will expand the pilot to cover additional securities. Should Nasdaq determine to modify the pilot to add additional securities to the initial list of 100, Nasdaq will post a notice on nasdaqtrader.com and provide sufficient time for members to prepare for such change.

Nasdaq will attempt to determine within one year whether to expand the pilot permanently and to all securities traded on Nasdaq, in which case Nasdaq will file an additional proposed rule change seeking such approval.

b. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Section 6(b)(5) of the Act,⁶ in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

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.

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

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be 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. In particular, the Commission is interested in commenters' views with respect to whether Nasdaq's Imbalance Cross trade qualifies for the single-priced reopening exception under Rule 611(b)(3) of Reg. NMS. 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-2007-067 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2007-067. 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 Web site (<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 inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 am and 3 pm. Copies of the filing also will be available for inspection and copying at the principal office 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-2007-067 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.⁷

Florence E. Harmon
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).