SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59405; File No. SR- NASDAQ-2009-008)

February 13, 2009

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Rule 7050 Governing Pricing For Nasdaq Members Using The NASDAQ Options Market ("NOM")

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 February 5, 2009, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. Nasdaq has filed this proposal pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b-4(f)(2) thereunder,[4] 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. 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

Nasdaq has filed a proposed rule change to modify Rule 7050 governing pricing for Nasdaq members using the NASDAQ Options Market ("NOM"), Nasdaq's facility for executing

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

2 17 CFR 240.19b-4.

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

4 17 C.F.R. 240.19b-4(f)(2).

and routing standardized equity and index options. Proposed new language is underlined; proposed deletions are in brackets. [5]

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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 by members for all securities that it trades.

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

Except as specified below, the charge to member entering order that executes in the NASDAQ Options Market	$0.45 per executed contract
For a pilot period ending July 31, 2009, charge for members or non-members entering order via the Options Intermarket Linkage that executes in the Nasdaq Options Market	$0.45 per executed contract
Charge to members entering orders in options on QQQQ, SPY, DIA, [and] IWM, AAPL, BAC, C, GS, JPM, RIMM, XLE, XLF, and XOM with an account type “Customer” that executes and remove liquidity entered by another member.	No fee.

5 Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at http://nasdaqomx.cchwallstreet.com.

Credit to member providing liquidity through the NASDAQ Options Market:	$0.30per executed contract
Credit to member providing liquidity using price-improving orders through the NASDAQ Options Market:	$0.35 per executed contract

(2) – (4) **No change.**

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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 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 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 is proposing to lower the fee for the execution of options contracts for certain orders in certain options on the NASDAQ Options Market ("NOM"). On January 12, 2009, Nasdaq began permitting orders with an account type of "Customer" to take liquidity[6] for free in certain options. Nasdaq applied the new fee provision to options on four exchange-traded funds:

[6] An order that takes liquidity is one that is entered into NOM and that executes against an order resting on the NOM book.

QQQQ, SPY, DIA, and IWM. That proposal accomplished its goal of attracting liquidity to the Nasdaq Options Market.

Accordingly, Nasdaq now proposes to expand the application of that rule to additional options classes. Specifically, Nasdaq is proposing to apply the new fee provision to options on the following equities: AAPL, BAC, C, GS, JPM, RIMM, XLE, XLF, and XOM. Nasdaq will monitor the trading of options on these equities to ensure that the proposal is operating in a fashion that promotes the interests of investors.

To ensure that this reduction applies only to customers, the fee reduction will apply only when a customer order entered by one member takes liquidity provided by a different member. When a trade occurs in an included options class and the trade involves a customer removing liquidity that has been provided by the same broker dealer, the customer side of the transaction will be charged the standard rate for removing liquidity. For example, if participant A enters an order and then participant A accesses that liquidity with an order with an account type of "Customer", the "Customer" order is still charged $0.45 per executed contract.

This proposed rule change does not impact the liquidity provider rebates set forth in Nasdaq Rule 7050. Nor does it impact the fees assessed for orders executed in the Opening and Closing Crosses, or those orders routed to away markets.

Nasdaq believes that the proposed fees are competitive, fair and reasonable, and non-discriminatory in that they apply equally to all 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.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(4) of the Act,[8] 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. As the seventh options market in the national market system, Nasdaq's fees must be competitive and low in order for Nasdaq to attract order flow, execute orders, and grow as a market. Nasdaq believes that its fees are fair and reasonable and consistent with the Exchange Act.

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. To the contrary, Nasdaq has designed its fees to compete effectively for the execution of options contracts and to reduce the overall cost to investors of options trading.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b-4(f)(2) thereunder,[10] 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. Nasdaq will make the proposed pricing schedule operational on February 9, 2009.

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7 15 U.S.C. 78f.

8 15 U.S.C. 78f(b)(4).

9 15 U.S.C. 78s(b)(3)(A)(ii).

10 17 C.F.R. 240.19b-4(f)(2).

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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-2009-008 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.

All submissions should refer to File Number SR-NASDAQ-2009-008. 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, 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 will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-2009-008 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.[11]

Florence E. Harmon
Deputy Secretary

[11] 17 CFR 200.30-3(a)(12).