

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65013; File No. SR-NASDAQ-2011-103)

August 2, 2011

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Fees for Members Using the NASDAQ Market Center

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 27, 2011, The NASDAQ Stock Market LLC (the “Exchange” or “NASDAQ”) filed with the Securities and Exchange Commission (the “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 Substance of the Proposed Rule Change

NASDAQ proposes to modify pricing for NASDAQ members using the NASDAQ Market Center. NASDAQ will implement the proposed change on August 1, 2011. The text of the proposed rule change is available from NASDAQ’s website at <http://nasdaq.cchwallstreet.com>, at NASDAQ’s principal office, at the Commission’s Public Reference Room, and at the Commission’s website at www.sec.gov.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is amending Rule 7018 to make modifications to its pricing schedule for execution of quotes/orders through the NASDAQ Market Center of securities priced at \$1 or more. Specifically, NASDAQ has several liquidity provider rebate tiers focused on members that are active in both the NASDAQ Stock Market and the NASDAQ Options Market. Currently, a member that provides shares of liquidity in the NASDAQ Market Center representing 0.9% or more of the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during the month, and trades a daily average of more than 300,000 contracts in the NASDAQ Options Market during the month, is eligible to receive a rebate of \$0.0015 per share executed for its non-displayed quotes/orders and \$0.00295 per share executed for its displayed quotes/orders. NASDAQ is modifying the tier requirements slightly to require liquidity in the NASDAQ Market Center representing more than 1.0% of total consolidated volume, and an average daily volume of more than 200,000 contracts in the NASDAQ Options Market. Although NASDAQ is raising the requirement for liquidity provision in the NASDAQ Market Center and lowering the requirement for NASDAQ Options Market activity, it is NASDAQ's expectation, based on observed trading patterns in the market, that the change will make it easier for members to achieve the criteria for the tier, and therefore will result in a price reduction.

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 Section 6(b)(4) of the Act,⁴ 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. All similarly situated members are subject to the same fee structure, and access to NASDAQ is offered on fair and non-discriminatory terms.

NASDAQ notes that its pricing tiers focused on members active in both the NASDAQ Market Center and the NASDAQ Options Market are responsive to the convergence of trading in which members simultaneously trade different asset classes within a single strategy. NASDAQ also notes that cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other. Accordingly, pricing incentives that encourage market participant activity in both markets recognize that activity in the options markets also supports price discovery and liquidity provision in the NASDAQ Market Center. Moreover, NASDAQ believes that these changes are reasonable because they will make it easier for members active in both markets to qualify for an enhanced rebate, and are also non-discriminatory and equitable. They are open to all members, but are not the exclusive means by which members may qualify for the associated rebate levels. Accordingly, members are not required to trade in the NASDAQ Options Market in order to receive the applicable rebates.

Finally, 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. In such an environment, NASDAQ must continually adjust its fees to remain

³ 15 U.S.C. 78f.

⁴ 15 U.S.C. 78f(b)(4).

competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. NASDAQ believes that the proposed rule change reflects this competitive environment because it will broaden the conditions under which members may qualify for higher liquidity provider rebates.

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. Because the market for order execution and routing is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. For this reason and the reasons discussed in connection with the statutory basis for the proposed rule change, 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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.⁵ 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. If the Commission takes such action, the

⁵ 15 U.S.C. 78s(b)(3)(a)(ii).

Commission shall institute proceedings to determine whether the proposed rule should be approved or 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. 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-2011-103 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-2011-103. 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 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 the filing also will be available for inspection and copying at the

principal office 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-2011-103 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.⁶

Elizabeth M. Murphy
Secretary

⁶ 17 CFR 200.30-3(a)(12).