

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69444; File No. SR-NASDAQ-2013-066)

April 24, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the Limit Up/Limit Down Band Lookup add-on Service to TradeInfo and Assess a Related Subscription Fee

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 15, 2013, 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 and II 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 Substance of the Proposed Rule Change

NASDAQ proposes to establish the Limit Up/Limit Down Band Lookup add-on service to TradeInfo and assess a related subscription fee. The Exchange is proposing to offer the proposed service at no cost to members beginning April 15, 2013<sup>3</sup> and for a monthly fee of \$200 per user beginning May 1, 2013.

The text of the proposed rule change is below. Proposed new language is underlined.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> But see Securities Exchange Act Release No. 69445 (April 24, 2013) (proposed rule change eliminating the free period for the Limit Up/Limit Down Band Lookup add-on service; NASDAQ will offer the service for \$200 on May 1, 2013).

## 7015. Access Services

The following charges are assessed by Nasdaq for connectivity to systems operated by NASDAQ, including the Nasdaq Market Center, the FINRA/NASDAQ Trade Reporting Facility, and FINRA's OTCBB Service. The following fees are not applicable to the NASDAQ Options Market LLC. For related options fees for Access Services refer to Chapter XV, Section 3 of the Options Rules.

(a) - (e) No change.

### (f) TradeInfo

Members not subscribing to the Nasdaq Workstation using TradeInfo will be charged a fee of \$95 per user per month.

A member firm that has a TradeInfo user subscription may subscribe to the Limit Up/Limit Down Band Lookup add-on service at no cost beginning April 15, 2013 and for a fee of \$200 per user per month beginning May 1, 2013. The Limit Up/Limit Down Band Lookup add-on service provides a subscribing member firm with intraday and historical limit up/limit down price band information for individual securities that are subject to limit up/limit down price bands.

(g) - (h) No change.

\* Eligible for 25% discount under the Qualified Market Maker Program during a pilot period expiring on April 30, 2013.

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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 those 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 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 offer member firms a means to review the Limit Up/Limit Down ("LULD") price bands for individual securities. The National Market System Plan to Address Extraordinary Market Volatility<sup>4</sup> (the "Plan") provides a limit up/limit down mechanism designed to prevent trades in NMS securities from occurring outside of specified price bands. The bands will be set a percentage level above and below the average reference price of the security over the immediately preceding five-minute period, and are calculated on a continuous basis during regular trading hours. If the National Best Offer ("NBO") equals the lower price band without crossing the NBO, or National Best Bid ("NBB") equals the upper price band without crossing the NBB, then the stock will enter a limit state quotation period of 15 seconds during which no new reference prices or price bands will be calculated. A stock will exit the limit state when the entire size of all quotations are [sic] either executed or cancelled. If the limit state exists and trading continues to occur at the price band, or no trading occurs within the price band, for more than 15 seconds, then a five minute trading pause will be enacted. The Plan

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<sup>4</sup> On April 5, 2011, the Exchange, together with other self-regulatory organizations, filed with the Commission a national market system plan to adopt a market-wide limit up/limit down system to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks, like that which was experienced on May 6, 2010. Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4-631). The Plan was approved by the Commission on a pilot basis on May 31, 2012. Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). On April 8, 2013, Phase I of the Plan went into effect. Phase I of the Plan applies only to Tier 1 NMS Stocks. The Limit Up/Limit Down Band Lookup service will support all securities subject to the Plan as they are phased in.

requires that member firms establish, maintain, and enforce written policies and procedures that are reasonably designed to ensure that the firm complies with the limit up-limit down and trading pause requirements specified in the Plan.

LULD price band information is disseminated via the Securities Information Processor feeds (“SIPs”). If a member firm wishes to know what a particular security’s price band parameters were during a particular day, including the current day, it must develop a system that will capture and store the data disseminated by the SIPs. Member firms have requested that NASDAQ provide a service that displays LULD price band information for individual securities for both the current day and historically. To meet this need, NASDAQ OMX included a Band Lookup feature in the Limit Locator<sup>5</sup> compliance tool available for NASDAQ Workstation and Weblink ACT users. NASDAQ proposes to offer virtually the same Band Lookup functionality as an add-on service to TradeInfo to allow a broader audience access to intraday and historical LULD price band information for individual securities.<sup>6</sup> A subscribing member firm may retrieve a list of all of the historical price bands for a selected security on a selected day, up to 30-days prior. The service displays both the upper and lower price bands, and the time at which the price bands became effective. The service also provides subscribing member firms with the option to export the data provided by the service in CSV format.

To subscribe to the Limit Up/Limit Down Band Lookup service a member firm must also subscribe to TradeInfo. TradeInfo allows a subscribing member firm to query for their [sic] orders submitted to the NASDAQ System and perform certain actions concerning the queried orders, such as canceling open orders. TradeInfo is the means by which a member firm accesses

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<sup>5</sup> NASDAQ Rule 7061.

<sup>6</sup> The Band Lookup feature of Limit Locator provides subscribers with the same information as the proposed Band Lookup feature of TradeInfo, presented in [sic] slightly different manner.

the proposed service.<sup>7</sup> Each TradeInfo user account provides an access point to Limit Up/Limit Down Band Lookup service, therefore a member firm that subscribes to multiple TradeInfo accounts may access Limit Up/Limit Down Band Lookup service through each of its TradeInfo user accounts concurrently. The Exchange is proposing to offer the proposed service at no cost to members beginning April 15, 2013 and for a monthly fee of \$200 per user beginning May 1, 2013.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>8</sup> in general, and with Section 6(b)(4)<sup>9</sup> of the Act, in particular. The Exchange believes it is consistent with Section 6(b)(4) of the Act because 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 the Exchange operates or controls. The Exchange determined that the proposed fee is reasonable based on member firm interest in the service, costs associated with developing and supporting the service, and the value that the Limit Up/Limit Down Band Lookup service provides to subscribing member firms.

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>10</sup> which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the

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<sup>7</sup> TradeInfo is offered complimentary as part of the NASDAQ Workstation or separately for a fee of \$95 per user, per month. See Rule 7015(f).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes the proposed rule change is consistent with these requirements because the proposed service provides a subscribing member firm with a useful analytical tool with which it may determine where the limit up/limit down price bands of individual securities are both currently and historically on a rolling 30-day basis. With this information, a subscribing member firm is able to analyze historical trade executions and reports, and conduct back-testing scenarios.

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. The proposed service provides useful information to member firms with which they may analyze historical trade executions and reports, and conduct back-testing scenarios. The proposed fee allows NASDAQ to recapture the costs associated with developing and supporting the service, and may provide NASDAQ with a profit to the extent its costs are covered.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>11</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>12</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>13</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>14</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because Phase I of the Plan has become effective and the Band Lookup feature will benefit the Exchange's member firms if made available by the Exchange as soon as possible. For this reason, the Commission designates the proposed rule change to be operative upon filing.<sup>15</sup>

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

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii), the Exchange is required to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the requirement that NASDAQ provide the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> Rule 19b-4(f)(6)(iii).

<sup>15</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2013-066 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-2013-066. 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 such filing also will be available for inspection and copying at the principal offices 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-2013-066, 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.<sup>16</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).