

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69700; File No. SR-NASDAQ-2013-080)

June 5, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Fees for the MOPB Routing Option under Rule 7018(a)

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 May 24, 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, II and III 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 adopt fees for the new MOPB routing option under Rule 7018(a). The Exchange has designated the proposed changes as immediately effective, and proposes to implement the changes effective with the implementation of the MOPB order on June 14, 2013. The text of the proposed rule change is available on the Exchange’s Website at <http://www.nasdaq.cchwallstreet.com>, at the principal office of the Exchange, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 adopt fees for the new MOPB routing option. On May 15, 2013, NASDAQ adopted the MOPB routing option, which will be implemented in mid-June.³ NASDAQ is amending Rule 7018(a), which concerns fees assessed to members for the use of the order execution and routing services of the Nasdaq Market Center, to adopt associated fees assessed for execution of MOPB routing option orders. NASDAQ has determined to assess fees for the MOPB routing option that are identical to the fees assessed for execution of MOPP routing option orders. The MOPB routing option is very similar to the MOPP routing option, in that both order types require the member firm to enter the size and limit price of the order, which then routes only to protected quotations ("Protected Quotes"),⁴ including the NASDAQ Market Center, but only for displayed size. Unlike the MOPP routing option, an order with the MOPB routing option will not route if, at the time of entry, the MOPB order's quantity is insufficient to clear the entire size of Protected Quotes, which are better than or equal to the order's limit price. In such a case, a MOPB order will instead cancel back immediately thus avoiding any execution. Also unlike the MOPP routing option, if shares of an order with the MOPB routing option remain un-executed after routing they will be immediately cancelled back to the member rather than posting to the NASDAQ book.

³ Securities Exchange Act Release No. 69631 (May 23, 2011) (SR-NASDAQ-2013-078).

⁴ As defined by Rule 600(b)(58) of Regulation NMS.

NASDAQ is proposing to assess the same fees for execution of MOPB routing option orders as are assessed for execution of MOPP routing option orders because of the similarity of the two routing options. Specifically, NASDAQ is proposing to assess a fee of \$0.0035 per share executed for a MOPB order in a NASDAQ-⁵ or NYSE-listed⁶ security or a Tape B security⁷, except for those MOPB orders that execute at the New York Stock Exchange, which will be charged \$0.0027 per share executed. NASDAQ notes that the fees assessed for MOPP routing option orders are assessed only on a shares executed basis. As such, both MOPP and MOPB routing options operate in the same manner for all executed shares, with the only difference being that some MOPB orders are canceled back in part or in full, as described above. Accordingly, NASDAQ believes that it is appropriate to assess the same fee, based on shares executed.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁸ in general, and with Section 6(b)(4)⁹ 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 proposed fee structure is equitable and not unfairly discriminatory because the Exchange would uniformly assess members the same fee structure to access the NASDAQ service. As noted, the MOPB order

⁵ Rule 7018(a)(1).

⁶ Rule 7018(a)(2).

⁷ Rule 7018(a)(3).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

routing option is very similar to the MOPP order routing option, differing only in the initial requirements for order entry and how unexecuted shares are handled. Both order routing options route to all displayed protected quotes, including NASDAQ. As such, the costs incurred by NASDAQ in the execution and routing of the shares for both MOPP and MOPB routing options are identical and therefore assessing the same fees is reasonable.

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 fees allow NASDAQ to recapture the costs associated with offering an order routing option and the proposed fees are identical to the fees assessed for a very similar order routing option. For these reasons, NASDAQ does not believe that the proposed rule change will result in any burden on competition whatsoever.

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 change has become effective pursuant to Section 19(b)(3)(A) of the Act,¹⁰ and paragraph (f)¹¹ of Rule 19b-4, thereunder. 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.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f).

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-2013-080 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-2013-080. 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-2013-080, 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.¹²

Kevin M. O'Neill
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).