

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-75882; File No. SR-NASDAQ-2015-110)

September 10, 2015

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend NASDAQ Rules 7015(b) and (g) to Modify Port Fees

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 September 3, 2015, 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. 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

The Exchange proposes to reduce the fee charged for FIX Trading Ports under Rule 7015(b) and certain other ports under Rule 7015(g) in light of the Exchange removing recently-upgraded hardware supporting the ports, which was the basis for an increased fee. The Exchange will implement the proposed new fees on September 1, 2015.

The text of the proposed rule change is below; proposed new language is underlined; proposed deletions are in brackets.

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**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

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

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

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) No change.

(b) Financial Information Exchange (FIX)

<b>Ports</b>	<b>Price</b>
FIX Trading Port	\$550[75]/port/month
FIX Port for Services Other than Trading	\$500/port/month

(c) – (f) No change.

(g) Other Port Fees

Remote Multi-cast ITCH Wave Ports

<b>Description</b>	<b>Installation Fee</b>	<b>Recurring Monthly Fee</b>
MITCH Wave Port at Secaucus, NJ	\$2,500	\$7,500
MITCH Wave Port at Weehawken, NJ	\$2,500	\$7,500
MITCH Wave Port at Mahwah, NJ	\$5,000	\$12,500

The following port fees shall apply in connection with the use of other trading telecommunication protocols:

- \$550[75] per month for each port pair, other than Multicast ITCH® data feed pairs, for which the fee is \$1,000 per month for software-based TotalView-ITCH or \$2,500 per month for combined software- and hardware-based TotalView-ITCH, and TCP ITCH data feed pairs, for which the fee is \$750 per month.
- An additional \$200 per month for each port used for entering orders or quotes over the Internet.
- An additional \$600 per month for each port used for market data delivery over the Internet.

#### Dedicated OUCH Port Infrastructure

The Dedicated OUCH Port Infrastructure subscription allows a member firm to assign up to 30 of its OUCH ports to a dedicated server infrastructure for its exclusive use. A Dedicated OUCH Port Infrastructure subscription is available to a member firm for a fee of \$5,000 per month, which is in addition to the standard fees assessed for each OUCH port. A one-time installation fee of \$5,000 is assessed subscribers for each Dedicated OUCH Port Server subscription.

(h) – (i) 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, the Exchange 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 amend NASDAQ Rules 7015(b) and (g) to modify the monthly fee it charges for ports used to enter orders in the NASDAQ Market Center for the trading of equities, in connection with the use of FIX and other trading telecommunication protocols.<sup>3</sup> NASDAQ recently increased fees for FIX Ports under Rule 7015(b) and for ports with certain other protocols under Rule 7015(g).<sup>4</sup> NASDAQ increased the fees to offset costs associated with upgrading these ports with new field-programmable gate array (“FPGA”) technology, which is a hardware-delivery mechanism that provides improved performance in terms of predictability.<sup>5</sup> The Exchange implemented the new FPGA hardware and increased the related port fees on August 3, 2015.

NASDAQ recently completed internal testing of future functionality related to the trading systems and through this testing identified a potential unforeseen risk, which could cause a

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<sup>3</sup> Under Rule 7015(g), the Exchange assesses certain port fees that apply in connection with the use of other trading telecommunication protocols. NASDAQ charges a \$575 per month, per port pair fee for OUCH and RASH protocol ports, \$1,000 per month, per port pair for software-based TotalView-ITCH, \$2,500 per month, per port pair for combined software- and hardware-based TotalView-ITCH, and \$750 per month, per port pair for TCP ITCH data feed pairs. Under the rule, the Exchange also assesses an additional \$200 per month for each port used for entering orders or quotes over the Internet and an additional \$600 per month for each port used for market data delivery over the Internet.

<sup>4</sup> See Securities Exchange Act Release No. 75557 (July 30, 2015), 80 FR 46640 (August 5, 2015) (SR-NASDAQ-2015-086).

<sup>5</sup> FPGA hardware is able to process more data packets during peak market conditions without the introduction of variable queuing latency, which improves the predictability of telecommunications ports over non-FPGA hardware and thereby adds value to the user.

disruption to trading with the FPGA updated ports. As a consequence, the Exchange has determined that the risk associated with keeping the FPGA technology in terms of potential disruption to trading outweighs the benefit provided in terms of increased performance. Additionally, NASDAQ would like to conduct additional testing and further review of the implementation before reintroducing the offering. Accordingly, the Exchange is reverting the affected ports back to the hardware used prior to the FPGA hardware as a precautionary measure and concurrently reducing the monthly fees for those ports to their pre-upgrade levels.

## 2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and with Section 6(b)(5) of the Act<sup>7</sup> 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. The Exchange believes that removing the FPGA hardware and reverting back to the hardware used prior to the FPGA upgrade will further perfect the NASDAQ market and serve to protect investors because the change is designed to minimize a newly-identified risk of a market disruption caused by a technical issue within the Exchange's control to eliminate. The Exchange determined that the risk, while unlikely to occur, would be disruptive to trading and consequently outweighs the benefit it provided.

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<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(5).

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act<sup>8</sup> 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 the Exchange operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange believes that the proposed reduction in port fees under Rules 7015(b) and (g) to their pre-FPGA upgrade levels is reasonable because NASDAQ is removing the upgraded hardware from the ports, the cost of which was the basis for increasing the fees. In addition, applying the lower fees will allow NASDAQ to keep the fee in line with its realized capital and operating expenditures, which will be lower going forward based on the operation of the ports with the pre-upgrade hardware. The Exchange believes that the proposed reduction of the fees to their prior levels is both equitably allocated and not unfairly discriminatory because it will apply uniformly to all market participants that subscribe to FIX Ports under Rule 7015(b), and OUCH and RASH Ports under Rule 7015(g) based on the number of such ports subscribed. Accordingly, market participants will be assessed the fees in place prior to the increase and will have the same hardware supported by those fees.

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 Exchange believes that the proposal is irrelevant to competition because it is not driven by, and will have no impact on, competition. Specifically, the Exchange is reverting fees to their prior, lower levels in light of the Exchange removing upgraded hardware that was the basis for the fee increase. Reverting the fees to their lower levels will keep the fees assessed in

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<sup>8</sup> 15 U.S.C. 78f(b)(4).

line with the Exchange's expenditures at this juncture associated with offering the ports. As such, the Exchange does not believe the proposed change will have any impact on competition, as market participants will be assessed the same fee for their ports with the same hardware that was in place prior to the fee increase.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or 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.<sup>9</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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2015-110 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2015-110. 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 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-2015-110 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>10</sup>

Robert W. Errett  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).