

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64916; File No. SR-NASDAQ-2011-010)

July 19, 2011

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Change to Link Market Data Fees and Transaction Execution Fees

On January 10, 2011, The NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to discount certain market data fees and increase certain liquidity provider rebates for members that both (1) execute specified levels of transaction volume on NASDAQ as a liquidity provider, and (2) purchase specified levels of market data from NASDAQ. The proposed rule change was published for comment in the Federal Register on January 27, 2011.³ The Commission suspended the proposed rule change and instituted proceedings to determine whether to approve or disapprove the proposed rule change in an order published in the Federal Register on February 3, 2011.⁴ The Commission has received three

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 63745 (January 20, 2011) 76 FR 4970 (“Notice”).

⁴ See Securities Exchange Act Release No. 63796 (January 28, 2011) 76 FR 6165 (“Order Instituting Proceedings”).

comment letters on the proposed rule change.⁵ The Exchange responded to these comments on April 4, 2011.⁶

Section 19(b)(2) of the Act⁷ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on January 27, 2011. July 26, 2011 is 180 days from that date, and September 23, 2011 is an additional 60 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change, the issues raised in the comment letters that have been submitted in connection with this proposed rule change, and the Exchange's response to such issues in its response letter. Specifically, as the Commission noted in the Order Instituting Proceedings, the proposal raises issues such as whether a tying arrangement may not be

⁵ See Letter dated January 13, 2011 from William O'Brien, Chief Executive Officer, Direct Edge to Florence E. Harmon, Deputy Secretary, Commission; Letter dated January 31, 2011 from Christopher Nagy, Managing Director Order Strategy, and Richard P. Urian, Global Head of Market Data, TD Ameritrade Inc. to Elizabeth M. Murphy, Secretary, Commission; and Letter dated March 21, 2011 from Ira D. Hammerman, Senior Managing Director and General Counsel, SIFMA, and Markham Erickson, Executive Director and General Counsel, NetCoalition to Elizabeth M. Murphy, Secretary, Commission.

⁶ See Letter dated April 4, 2011 from Joan Conley, Senior Vice President, NASDAQ OMX Group, Inc. to Elizabeth M. Murphy, Secretary, Commission.

⁷ 15 U.S.C. 78s(b)(2).

consistent with the statutory requirements applicable to a national securities exchange and, in particular, whether the proposal may fail to satisfy the standards under the Exchange Act and the rules thereunder that require market data fees to be equitable, fair, and not unreasonably discriminatory.⁸

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁹ designates September 23, 2011, as the date by which the Commission should either approve or disapprove the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Elizabeth M. Murphy
Secretary

⁸ See Order Instituting Proceedings, supra note 4 at 6165.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(57).