

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58081; File No. SR-NASDAQ-2008-058)

July 2, 2008

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

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 June 30, 2008, The NASDAQ Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared substantially by Nasdaq. Nasdaq has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by Nasdaq under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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 Rule 7050 governing pricing for Nasdaq members using the NASDAQ Options Market (“NOM”), Nasdaq’s facility for executing and routing standardized equity and index options. Nasdaq will implement the proposed rule change on July 1, 2008. The text of the proposed rule change is available at www.complinet.com/nasdaq, the principal offices of the Exchange, and the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to modify the fees assessed for execution of options orders entered into NOM but routed to away markets. Nasdaq currently assesses a routing fee based upon an approximation of the cost to Nasdaq of executing such orders at those markets. In order to reflect Nasdaq's cost of execution at away markets, the fees are separated by type of option (penny pilot, equity/non-penny pilot, ETF or HLDS/non-penny pilot, and Index) and vary depending upon whether the order is being routed for a customer, a member firm, or a registered market maker. In addition, Nasdaq passes through surcharges that are assessed by other markets for the execution of specific options orders on specific underlying instruments.

Nasdaq has determined that the superior approach is to pass through to exchange members the actual fees assessed by away markets plus the clearing fees for the execution of orders routed from Nasdaq. Nasdaq has collected and organized in chart format the fees to be assessed for routing to each destination exchange. These fees include both the execution fees charged by the individual exchanges and also the clearing fees associated with each execution. Nasdaq believes that these routing fees are inherently competitive, fair and reasonable, and non-

discriminatory in that they replicate the fees assessed by away markets executing orders routed from Nasdaq. As with all fees, Nasdaq may adjust these routing fees in response to competitive conditions by filing a new proposed rule change.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Section 6(b)(4) of the Act,⁶ 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.

Nasdaq is one of seven options markets in the national market system for standardized options. Joining Nasdaq and electing to trade options is entirely voluntary. Under these circumstances, Nasdaq's fees must be competitive and low in order for Nasdaq to attract order flow, execute orders, and grow as a market. The various exchanges have filed these fees with the Commission and it is reasonable for Nasdaq to pass those fees through to its members. As such, Nasdaq believes that its fees are fair and reasonable and consistent with the Act.

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. To the contrary, Nasdaq has designed its fees to compete effectively for the execution and routing of options contracts and to reduce the overall cost to investors of options trading.

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.

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act⁷ and Rule 19b-4(f)(2)⁸ thereunder, because it establishes or changes a due, fee, or other charge imposed on members by Nasdaq. Accordingly, the proposal is effective upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

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-2008-058 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2008-058. 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

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240.19b-4(f)(2).

comments on the Commission's Internet Web site (<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 inspection and copying 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 publicly available. All submissions should refer to File Number SR-NASDAQ-2008-058 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.⁹

Florence E. Harmon
Acting Secretary

⁹ 17 CFR 200.30-3(a)(12).