

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58435; File No. SR-NASDAQ-2008-070)

August 27, 2008

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Fees and Credits for Members Using the Nasdaq Crossing Network

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 August 15, 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 by Nasdaq. Pursuant to Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ Nasdaq has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective upon filing. This rule proposal, which is effective upon filing with the Commission, shall become operative on September 1, 2008.

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 the [sic] Substance of the Proposed Rule Change

Nasdaq is adopting a fee and credit schedule for the Nasdaq Crossing Network.

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).

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets [sic].⁵

7018. Nasdaq Market Center Order Execution and Routing

(a) - (e) No change.

(f) Crossing Network

<u>All orders executed in the Nasdaq Crossing Network</u>	<u>No charge for execution</u>
<u>Credit for eligible executions through the Crossing Network from September 1, 2008 through September 30, 2008</u>	<u>\$0.0010 per share</u>

For the purposes of this subsection “eligible executions” are all executions of trades through the Nasdaq Crossing Network other than those executions that have the same market participant on both sides of the trade.

(f) - (h) Current subsections (f) through (h) will be renumbered as (g) through (i) without other modification.

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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 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.

⁵ Changes are marked to the rule text that appears in the electronic Nasdaq Manual found at <http://nasdaq.complinet.com>.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is adopting a fee and credit schedule for the Nasdaq Crossing Network. The Commission approved the Nasdaq Crossing Network on July 5, 2006.⁶ The Nasdaq Crossing Network provides an execution option to market participants trading in Nasdaq and other exchange-listed securities that facilitates the execution of block trades quickly and anonymously, while minimizing market impact and associated price movements. The Nasdaq Crossing Network consists of a series of trading day (“Intraday”) and after hours (“Post-Close”) Reference Price Crosses.

Since Nasdaq launched the Crossing Network, Nasdaq has not charged a fee to members for executing orders through the Intraday or Post-Close Crosses. Under the rule change, although there will continue to be no fee associated with trading through the Crossing Network, member firms will be eligible for a credit of \$0.0010 per share for orders executed through the Crossing Network during the month of September. The credit will not be subject to volume or use requirements. Trades that involve the same market participant on both sides of the transaction, however, will not be eligible for the credit.

After the expiration of the promotional pricing on September 30, 2008, order executions through the Crossing Network will continue to be offered to members at no charge.

⁶ See Securities Exchange Act Release No. 54248 (July 31, 2006) (SR-NASDAQ-2006-019). Prior to the effective date of Nasdaq’s operation as an exchange for Nasdaq-listed securities, the rule governing the Nasdaq Crossing Network had been approved as an NASD rule (NASD Rule 4716). Securities Exchange Act Release No. 54101 (July 5, 2006), 71 FR 39382 (July 12, 2006) (SR-NASD-2005-140).

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁷ in general, and with Section 6(b)(4) of the Act,⁸ 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. The promotional pricing for the Crossing Network is an equitable allocation of fees because the credit will apply equally to all members who execute orders through the Crossing Network. Furthermore, the credit is reasonable because it is intended to encourage participation in the Crossing Network, which would provide additional data to Nasdaq to evaluate the need for any future changes to the product or the relevant fee schedule.

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.

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

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁹ and subparagraph (f)(2) of Rule 19b-4 thereunder.¹⁰

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-2008-070 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-2008-070. 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

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

Commission will post all 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 self-regulatory organization. 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-2008-070, 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.¹¹

Florence E. Harmon
Acting Secretary

¹¹ 17 CFR 200.30-3(a)(12).