

and better service in the interest of investors and the general public.”⁸

The proposed rule change is designed to increase transparency and the efficiency of executions by enabling vendors to provide additional market data in a cost efficient manner. There is significant competition for the provision of market data to broker-dealers and other market data consumers, as well as competition for the orders that generate the data. Nasdaq fully expects its competitors to quickly respond to this proposal as they have responded to other Nasdaq data products in the past.

Moreover, market forces have shaped the market data fees that Nasdaq has charged for this product in the past and will continue to shape those fees in the future. Over time, Nasdaq has continually decreased the cost of data distribution to promote continued growth in the use of depth of book data.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be 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
- Send an e-mail to rule-comments@sec.gov. Please include File

No. SR-NASDAQ-2006-048 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NASDAQ-2006-048. 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 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. Copies of such filing also will be available for inspection and copying at the principal office 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-2006-048 and should be submitted on or before April 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55463; File No. SR-NASDAQ-2006-041]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval to Proposed Rule Change as Modified by Amendment No. 1 To Modify an Aspect of the Definition of Independent Director

March 13, 2007.

I. Introduction

On October 3, 2006, 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 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to modify an aspect of Nasdaq's definition of “independent director.” The proposed rule change was published for comment in the **Federal Register** on November 28, 2006.³ The Commission received no comment letters on the proposal as published. On March 2, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change. The Commission is publishing notice of Amendment No. 1 to the proposed rule change and granting approval to the proposed rule change as modified by Amendment No. 1 on an accelerated basis.

II. Description of the Proposed Rule Change

Under current Nasdaq Rule 4200(a)(15)(B), a director of a listed issuer is generally precluded from being considered independent if that director has received more than \$60,000 in compensation from the issuer during any period of twelve consecutive months within the three years preceding the determination of independence.⁴ The proposed rule change would raise this amount to \$100,000, the same figure specified by the New York Stock Exchange (“NYSE”) in its comparable independence standard.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 54797 (November 20, 2006), 71 FR 68855 (“Notice”).

⁴ See Nasdaq Rule 4200(a)(15)(b).

⁵ See Section 303A.02(b)(ii) of the NYSE Listed Company Manual. See also Amendment No. 1 to the proposed rule change.

⁸ Securities Exchange Act Release No. 54155 (July 14, 2006), 71 FR 41291, 41298 (July 20, 2006) (SR-NASDAQ-2006-001).

⁹ 17 CFR 200.30-3(a)(12).

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to Nasdaq,⁶ and, in particular, with Section 6(b)(5) of the Act.⁷

The Commission believes that the proposed rule change is reasonable and would align Nasdaq's "bright line" test with respect to a director's receipt of compensation from the issuer more closely with the equivalent rule of the NYSE. The Commission notes that, under the proposed rule change, a Nasdaq listed issuer's board would still have the responsibility to make an affirmative determination that an independent director has no relationship whatsoever with the issuer that would impair his or her independence, even when the director has passed the "bright line" test of the rule and has not accepted (and has no family member who has accepted) more than \$100,000 in compensation from the issuer during the relevant period.⁸

IV. Solicitation of Comments Concerning the Proposed Rule Change

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change, 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-2006-041 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NASDAQ-2006-041. 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

⁶In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

⁸ See Nasdaq Rule 4200(a)(15) and IM-4200—"Definition of Independence." See also Notice, *supra* note 3, at note 8.

only one method. The 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. 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-2006-041 and should be submitted on or before April 11, 2007.

V. Accelerated Approval of the Proposed Rule Change

Nasdaq has requested that the Commission approve the proposed rule change as modified by Amendment No. 1 on an accelerated basis.⁹ Pursuant to Section 19(b)(2) of the Act,¹⁰ the Commission may not approve any proposed rule change, or amendment thereto, prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

The Commission hereby finds good cause to approve the proposed rule change as amended by Amendment No. 1 on an accelerated basis. The proposed rule change as published in the Notice would have raised the amount of compensation that precludes a director from being an "independent director" from \$60,000 to \$120,000. Amendment No. 1 established the compensation threshold at \$100,000. The Commission believes that this change raises no new regulatory issues and aligns Nasdaq's rule with the equivalent rule of the NYSE. The Commission believes that no reasonable purpose would be served by delaying implementation of the proposal.

Accordingly, pursuant to Section 19(b)(2) of the Act,¹¹ the Commission

finds good cause to approve the proposed rule change as modified by Amendment No. 1 prior to the 30th day after notice in the **Federal Register**.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (File No. SR-NASDAQ-2006-041), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55457; File No. SR-NASDAQ-2006-064]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change and Amendments No. 1 and 2 There to Modify the Fee for Connecting to a Nasdaq Data Center Over the Internet

March 13, 2007.

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 December 22, 2006, 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 substantially prepared by Nasdaq. On January 19, 2007, Nasdaq submitted Amendment No. 1 to the proposed rule change. On February 22, 2007, Nasdaq submitted Amendment No. 2 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to amend Rule 7034 to modify the fee for connecting to a Nasdaq data center over the Internet. The text of the proposed rule change is

¹² *Id.*

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 2 replaced and superseded the original filing and Amendment No. 1 in their entirety.

⁹ See Amendment No. 1.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ *Id.*