

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57924; File No. SR-NASDAQ-2008-048)

June 5, 2008

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying Pricing for Nasdaq Members Using the Nasdaq Market Center

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 May 30, 2008, The NASDAQ Stock Market LLC (“Nasdaq” or the “Exchange”) 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 pricing for Nasdaq members using the Nasdaq Market Center. Nasdaq will implement this rule change on June 2, 2008. The text of the proposed rule change is available at www.nasdaq.com, 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 increase the liquidity provider credit paid to high volume liquidity providers with respect to their transactions in securities listed on exchanges other than Nasdaq and the New York Stock Exchange (“Tape B Securities”). At the same time, Nasdaq is proposing to eliminate its market data revenue sharing program for executions of Tape B Securities occurring on Nasdaq. Finally, Nasdaq is proposing to delete Nasdaq Rule 7024, which formerly established a revenue sharing program for market participants trading on Nasdaq’s discontinued SuperMontage trading system.

Currently, members that provide an average daily volume through the Nasdaq Market Center in all securities during the month of more than 35 million shares of liquidity provided receive a credit of \$0.0028 per share for executions against displayed liquidity and \$0.0015 per share for executions against non-displayed liquidity. For executions in Tape B Securities only, Nasdaq is increasing the credit for executions against displayed liquidity to \$0.0031.

As is currently the case, members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 20 million shares of liquidity provided (but

that do not qualify for the higher credit described in the preceding sentence) will receive a credit of \$0.0025 per share for executions against displayed liquidity and \$0.001 per share for executions against non-displayed liquidity; and other members will receive a credit of \$0.002 per share for executions against displayed liquidity and \$0.001 per share for executions against non-displayed liquidity.

At the same time, Nasdaq is eliminating its program for market data revenue sharing in Tape B securities. Currently, Nasdaq pays to liquidity providers in Tape B Securities 50% of the market data revenue associated with transactions in Tape B Securities executed through the Nasdaq Market Center. Nasdaq believes that by focusing incentives for liquidity provision solely on direct transaction credits and away from market data revenue sharing, Nasdaq will enhance the transparency of its pricing. Nasdaq believes that market participants will prefer this approach because revenue sharing is paid on an estimated monthly basis with a quarterly “true-up”, and therefore the value of revenue sharing is difficult for market participants to predict in advance. As a result of the change, Nasdaq will no longer share market data revenue with its market participants. Revenue sharing with firms reporting over-the-counter trades to the FINRA/NASDAQ Trade Reporting Facility will continue, however, as provided by NASD Rule 7001B.

These changes reflect the continued extent of competition among transaction execution venues for all securities, including Tape B Securities. Notably, NYSE Arca has recently submitted a proposed rule change to reduce Tape B Securities execution and routing fees for market participants with high volumes of order execution, routing and liquidity provision.⁵ Nasdaq believes that by increasing the liquidity provider credit for market participants with high volumes of liquidity provision while simplifying pricing through the elimination of market data revenue

⁵ SR-NYSEArca-2008-53.

sharing, Nasdaq will attract higher levels of liquidity and transparency to its market, notwithstanding pricing changes by competing venues.

Finally, Nasdaq is deleting Rule 7024, which is now obsolete and may be removed from the Nasdaq rulebook. The rule provided for sharing a percentage of operating revenue, as determined by the Nasdaq Board of Directors, with “Nasdaq Quoting Market Participants,” as defined in former Rule 4701. Rule 4701 defined categories of participants in Nasdaq’s former SuperMontage execution system, which ended operations in 2006.⁶ Accordingly, the rule became obsolete at that time, and revenue sharing under the rule was discontinued.

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 impact of the changes upon the net fees paid by a particular market participant will depend upon a number of variables, including its monthly volume, the order types it uses, and the prices of its quotes and orders (i.e., its propensity to add or remove liquidity). Nasdaq notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Although the proposed rule change may increase net charges for market participants that trade Tape B Securities through Nasdaq but that do not provide high levels of liquidity, Nasdaq believes that its fees remain

⁶ Securities Exchange Act Release No. 54155 (July 14, 2006), 71 FR 41291 (July 20, 2006)(SR-NASDAQ-2006-001).

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to Nasdaq rather than competing venues.

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act⁹ and Rule 19b-4(f)(2)¹⁰ 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.

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

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-2008-048 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-2008-048. 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, 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-2008-048 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).