

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58279; File No. SR-NASDAQ-2008-066)

July 31, 2008

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing Of A Proposed Rule Change To Modify Rule 7050 Governing Pricing For Nasdaq Members Using The NASDAQ Options Market (“NOM”)

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 July 24, 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. Nasdaq has filed this proposal 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 applicable only to members, which renders the proposed rule change effective upon filing. The Commission is publishing this notice and order 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 has filed a proposed rule change 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. The text of the proposed rule change is available at <http://nasdaqomx.cchwallstreet.com>, the principal offices of Nasdaq, 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 C.F.R. 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. The text of these statements may be examined at the places specified in Item III below, and is set forth in Sections A, B, and C below.

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 Rule 7050 governing the fees assessed for execution of options orders entered into NOM but routed to away markets. When Nasdaq began trading standardized option on March 31, 2008, it assessed a routing fee based upon an approximation of the cost to Nasdaq of executing such orders at those markets. Nasdaq later determined that the superior approach for executions on away markets 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. To support that approach, Nasdaq collected and organized in chart format the fees to be assessed for executions at each destination exchange.

Nasdaq has determined that it is impractical to reflect and maintain in its rule manual the chart of fees assessed by each of the six away markets. Nasdaq filed two proposed rule changes to make changes to the chart of fees for executions on away markets during the month of July.⁵ Nasdaq expects that the current rule convention would require Nasdaq to file up to six changes each month in order to accurately reflect the changing fees for all six markets.

Accordingly, under Nasdaq's current proposed rule change, Nasdaq will preserve the pass-through approach to fees for executions on away markets but modify the way those fees

⁵ See SR-NASDAQ-2008-058 (filed June 30, 2008), and SR-NASDAQ-2008-059 (filed July 1, 2008).

appear in Nasdaq's rule manual. Rather than reflect the actual fees in its rule manual, Nasdaq will cross-reference a location on its primary website for members, NasdaqTrader.com, where it will maintain a fee schedule applicable to options executions at away markets. Nasdaq will maintain a current fee schedule as well as an historical record of fees applicable on prior trading days in order to permit members to understand and evaluate their invoices from Nasdaq.

Nasdaq believes that these routing fees and the proposed approach to displaying them are competitive, fair and reasonable, and non-discriminatory in that they replicate the fees assessed by away markets executing orders routed from Nasdaq. Nasdaq believes that displaying its fees on a well-publicized and accessible website and maintaining an historical record of fee changes will provide sufficient transparency for Nasdaq members that voluntarily choose to use Nasdaq systems to route orders in standardized options.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and with Section 6(b)(4) of the Act,⁷ 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 market 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 Exchange Act.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

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.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ and Rule 19b-4(f)(2) thereunder,⁹ Nasdaq has designated this proposal as establishing or changing a due, fee, or other charge applicable only to members, which renders the proposed rule change effective upon filing. Nasdaq will make the proposed pricing schedule operational on August 1, 2008.

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:

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 C.F.R. 240.19b-4(f)(2).

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-2008-066 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-2008-066. 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-2008-066 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.¹⁰

Florence E. Harmon
Acting Secretary

¹⁰ 17 CFR 200.30-3(a)(12).