

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54965; File No. SR-NASDAQ-2006-052)

December 19, 2006

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Waive Distributor Fee For Specific Data Element

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 7, 2006, The NASDAQ Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Nasdaq. Nasdaq has filed the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) 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 allow for the unlimited, free distribution of Nasdaq’s aggregate best bid and offer quotation for Nasdaq’s quoting in stocks listed on the New York Stock Exchange LLC (“NYSE”) and the American Stock Exchange LLC (“Amex”). Below is the text of the proposed rule change. Proposed new language is underlined.

7023. Nasdaq TotalView

(a) – (b) No change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

(c) OpenView

(1) The OpenView entitlement package consists of all individual Nasdaq Market Center participant quoting quotes and orders in non-Nasdaq exchange-listed securities in the system. There shall be a charge of \$6 per month per controlled device for OpenView.

(2) The OpenView Top-of-File (“OpenView TOF”) entitlement package consists of the Nasdaq aggregate best bid and offer quotation for non-Nasdaq exchange-listed securities in the system. There shall be no fee for the distribution of the OpenView TOF.

(d) No change.

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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.

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

1. Purpose

To encourage more competition in the trading and quoting of NYSE- and Amex-listed stocks, as well as to encourage subscribership to Nasdaq’s full-depth products, Nasdaq proposes new Nasdaq Rule 7023(c)(2) to institute a fee waiver for firms wishing to distribute the OpenView Top-of-File, which consists of Nasdaq’s aggregate real-time best bid and offer quote for NYSE- and Amex-listed stocks. The aggregate best bid and offer is a single data element within Nasdaq OpenView. That element can be extracted from OpenView and, under this

proposal, can be separately distributed free of charge. Nasdaq believes that this will promote wider distribution of data and benefit investors wishing to use that data in making investment decisions. Nasdaq has filed this proposal as a change to the rule manual of The NASDAQ Stock Market LLC. As such, it will be operative when Nasdaq begins operating as an exchange with respect to the trading of NYSE- and Amex-listed securities.⁵

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 Sections 6(b)(5) of the Act,⁷ in particular, in that waiving the distribution fee for Nasdaq's aggregate best bid and offer in NYSE and Amex securities will encourage broader dissemination of that data and thereby increase transparency in those securities.

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.

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 Telephone conversation among John Roeser, Assistant Director, Division of Market Regulation ("Division"), Commission, David Liu, Special Counsel, Division, Commission, and Jeffrey Davis, Vice President-Deputy General Counsel, Nasdaq, on December 18, 2006.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

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

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(iii) of the Act⁸ and Rule 19b-4(f)(6) thereunder⁹ because the proposal: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that Nasdaq has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.¹⁰

At any time within 60 days of the filing of such 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

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ Nasdaq has satisfied the five-day pre-filing requirement.

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2006-052 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-2006-052. 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 the 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-2006-052 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Florence E. Harmon
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).