

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2007-61 and should be submitted on or before October 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56390; File No. SR-NASDAQ-2007-075]

### Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Fees for the VTE Terminal

September 12, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 30, 2007, 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. Nasdaq has filed the proposal pursuant to Section 19(b)(3)(A) of the Act <sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> 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 the pricing for its members using the VTE terminal to connect to the Nasdaq Market Center and to make other clarifying changes to the relevant rule text. Nasdaq proposes to implement the proposed rule change on October 1, 2007. The text of the proposed rule change is available at Nasdaq, the Commission’s Public Reference Room, and [www.nasdaq.com](http://www.nasdaq.com).

#### 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

The purpose of this filing is to modify fees for Nasdaq members using the VTE terminal (formerly the INET terminal), to move the rule text under existing Rule 7034 to Rule 7015, and to make other clarifying changes to the relevant rule text.

The VTE terminal is a former INET protocol that is used by Nasdaq members to connect to, and enter orders in, The Nasdaq Market Center. Since Nasdaq acquired INET, VTE users have paid a \$50 monthly fee for access to the terminal via an Internet connection (which is optional) and a \$50 monthly minimum commission fee for users executing orders totaling less than 100,000 shares per month. In addition, VTE users pay the exchanges directly for data feeds and services provided by Nasdaq and other exchanges or market centers through VTE at the Commission-approved rate that they would pay to receive the data feeds through other means. The data feeds provide information that is necessary for users to enter orders through VTE.

Nasdaq is increasing the monthly fee for accessing the VTE terminal through the Internet from \$50 to \$100 per month per user. In addition, Nasdaq is increasing the monthly minimum commission fee for users executing orders totaling less than 100,000 shares per month from \$50 to \$100 per month per user. Users will continue to be charged directly for Nasdaq and non-Nasdaq data feeds and services at Commission-approved rates by the exchange or market center providing the service.

Based on Nasdaq’s operation of the VTE since it was acquired from INET, Nasdaq believes that the pricing changes are warranted in order to appropriately balance the demand for the product

with increasing platform, overhead, and technology infrastructure costs.

The proposed rule change also moves the text of Rule 7034 to Rule 7015 “Access Services” to further consolidate access services fees in one rule, removes references to access alternatives no longer in use (dedicated FIX server and Brut Workstation), and updates the rule language by replacing references to “INET Terminal” with the term “VTE Terminal” to reflect the new name of this protocol after Nasdaq system integration.

In addition, the proposed rule change also eliminates from the rule text references to INET and the locations of data centers (because the relevant fees do not vary based on data center location) and INET, and eliminates the reference to and pricing for Instinet Portal (a product now available from INET’s former owner, Instinet, which INET was supporting on a transitional basis).

###### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>5</sup> in general, and with Section 6(b)(4) of the Act,<sup>6</sup> in particular, in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using any facility or system which Nasdaq operates or controls. Nasdaq believes that the fees are reasonably allocated among members based on their usage of the trading systems operated by Nasdaq, and are generally consistent with fees charged by other market centers for comparable services.

##### 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.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act <sup>7</sup> and

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

subparagraph (f)(2) of Rule 19b-4 thereunder<sup>8</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization.

Accordingly, the proposal is effective upon Commission receipt of the filing. 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2007-075 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-2007-075. 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 a.m. and 3 p.m.

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

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-2007-075 and should be submitted on or before October 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56392; File No. SR-NYSE-2007-42]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Rule 103B ("Specialist Stock Allocation")

September 12, 2007.

On April 20, 2007, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend NYSE Rule 103B ("Specialist Stock Allocation"). On July 20, 2007, NYSE filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on August 8, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

The Exchange proposes to permit member organizations to establish policies and procedures to isolate the activities of the member organization that trade ETFs in a specialist capacity while at the same time registered as a specialist in any of an ETF's component securities. At a minimum, these policies

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 56183 (August 2, 2007), 72 FR 44601 ("Notice").

and procedures would have to include information barriers preventing the flow of non-public information between a member organization's ETF specialist and the member organization's specialist in an associated component security. Further, the trading of an ETF and its underlying component securities by the same specialist firm would be pre-conditioned on the review of the Exchange's Division of Member Firm Regulation for the adequacy of the firm's information barriers.<sup>4</sup> Thereafter, the Exchange would periodically evaluate the integrity of information barriers for breaches and weaknesses to ensure that they are adequately designed. In addition, the Exchange will periodically assess its surveillance and examination procedures to determine whether they are adequate in preventing manipulative or improper trading. The Exchange explained that the current rule requiring organizational separation was originally implemented, at least in part, to address the issue of "wash sales" in the context of ETF and component securities.<sup>5</sup>

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,<sup>7</sup> which require that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. This proposal should eliminate certain redundancies and expenses that result from the current rule requiring organizational separation while ensuring that the relevant activities and information of member organizations that trade ETFs and any of an ETF's component securities in a specialist capacity remain isolated and confidential.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-NYSE-2007-42), as modified by

<sup>4</sup> See, for example, comparable provisions of NYSE Information Memo 91-22 (June 21, 1991), the NASD/NYSE Joint Memo on Chinese Wall Policies and Procedures for procedural structures to assure the effective containment of trading information.

<sup>5</sup> See Securities Exchange Act Release No. 44272 (May 7, 2001), 66 FR 26898 (May 15, 2001) (SR-NYSE-2001-07).

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).