

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act<sup>7</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose 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*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>9</sup> The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest

because it will allow the benefits of the IWM Pilot Program to continue without interruption.<sup>10</sup> Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 No. SR-ISE-2008-03 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-ISE-2008-03. 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

<sup>10</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

between the hours of 10 a.m. and 3 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 available publicly. All submissions should refer to File Number SR-ISE-2008-03 and should be submitted on or before February 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-967 Filed 1-18-08; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57146; File No. SR-NASDAQ-2008-003]

### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto To Establish Fees for Members Using the NASDAQ Pre-Trade Risk Management Functionality**

January 14, 2008.

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 January 7, 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 substantially by Nasdaq. On January 10, 2008, Nasdaq filed Amendment No. 1 to the proposed rule change to make certain clarifying changes in its description. Nasdaq has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) 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

<sup>11</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)(ii).

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

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

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written 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. The Exchange has fulfilled this requirement.

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 is proposing to establish member charges for the use of NASDAQ new pre-trade risk management ("PRM") functionality. The text of the proposed rule change is available at <http://www.nasdaq.complinet.com>, the principal offices of the Exchange, and the Commission's Public Reference Room.

### **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 establish the following charges for the use of Nasdaq's new PRM functionality:

There will be a charge of \$100 per month for each port enabled for PRM functionality. This charge will be in addition to other applicable port charges. Each PRM-enabled port will provide (at no additional charge) "fat finger" checks for orders being placed through the port. A fat finger check will compare price instructions on the order against the current composite displayed size and price at the relevant levels, and will automatically reject the order if it is priced outside the acceptable range previously specified by the user.

Users of PRM Modules will be assessed a further charge of \$500 per month per Module. Since a PRM Module can function only through PRM-enabled ports, all Module users will also be responsible for the charges described above to enable at least one port for PRM.

A PRM Module helps users control risk by checking each order, before it is accepted into the system, against certain parameters pre-specified by the user, such as maximum order size or value, order type restrictions, market session

restrictions (pre/post market), security restrictions, including per-security limits, restricted stock list, and certain other criteria. These checks are in addition to the fat finger checks that are available for all orders submitted through a PRM-enabled port. A Module can be configured to pre-trade-manage a user's order flow for a specified market participant ID ("MPID"), for a specified MPID and PRM-enabled port, or for an account within an MPID.

There will be an additional charge for PRM Module users who wish also to use the Aggregate Total Checks functionality: \$0.025 per each side that is being checked, capped at \$2,000 per month per PRM Module. Whereas PRM Modules validate individual orders against pre-specified parameters, Aggregate Totals Checks allow users to establish additional checks by limiting in certain pre-specified ways their overall daily trading activity.

Users of the NASDAQ Workstation or WeblinkACT 2.0 who subscribe to PRM Modules will receive one Workstation add-on per Module. Additional add-ons will be available, if needed, for \$100 per month.

##### **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 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 PRM functionality provides members with a new optional tool at a reasonable cost. Members are not required to use either the NASDAQ PRM or any similar functionality. Furthermore, some users are already performing various pre-trade checks either with their own tools or with third-party software. The optional nature of the service and competition from both existing and possible future sources and providers assures that the proposed charges will remain market-competitive.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

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

#### *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 Act<sup>7</sup> and Rule 19b-4(f)(2)<sup>8</sup> 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.<sup>9</sup>

### **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-2008-003 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-2008-003. 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/>

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

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

<sup>9</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on January 10, 2008, the date on which Nasdaq filed Amendment No. 1.

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. 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-2008-003 and should be submitted on or before February 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

[FR Doc. E8-993 Filed 1-18-08; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57147; File No. SR-NASDAQ-2008-001]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto To Modify Fees for Members Using the Nasdaq Market Center

January 14, 2008.

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 January 2, 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 substantially by the Nasdaq. On January 11, 2008, Nasdaq filed Amendment No. 1 to the proposed

rule change for the purpose of providing a more detailed description of the statutory basis for the proposed rule change and correcting a minor typographical error. Nasdaq has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) 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, as amended, 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 January 2, 2008. The text of the proposed rule change is available at <http://www.nasdaq.complinet.com>, the principal offices of the Exchange, and the Commission's Public Reference Room.

#### 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 revising its pricing schedule for transaction execution and routing to enhance incentives for liquidity provision and display of quotes/orders that provide liquidity. Nasdaq is also adopting different pricing schedules for each of the types of securities that it trades that reflect modest increases in some of the fees to access liquidity or route orders. For securities listed on Nasdaq,<sup>5</sup> the fees are

largely unchanged, except that the liquidity provider rebate will be reduced by \$0.0001 per share executed for quotes/orders that are designated for posting to the Nasdaq book without being displayed to other market participants. Although Nasdaq, like other markets, gives market participants the option of posting undisplayed liquidity, Nasdaq believes that it is appropriate to use pricing incentives to encourage display of liquidity to the greatest extent possible.

With regard to fees for executing orders in securities listed on NYSE, routing such orders to venues other than NYSE, and routing of orders for exchange-traded funds ("ETFs") to NYSE for execution, Nasdaq is increasing both its order execution and routing fees and its liquidity provider rebate. For these transactions, members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 35 million shares of liquidity provided, and (ii) more than 55 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 25 million shares of liquidity provided, and (ii) more than 65 million shares of liquidity accessed and/or routed, will pay \$0.0028 per share executed (up from \$0.0026 per share executed) for order execution and routing of orders that check the Nasdaq book for the full size of the order prior to routing. Members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 35 million shares of liquidity accessed and/or routed will pay \$0.0029 per share executed (up from \$0.0028 per share executed). Other members will continue to pay \$0.003 per share executed. However, the liquidity provider rebates for these securities will also increase as follows: Members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 35 million shares of liquidity provided will receive \$0.0027 per share executed (up from \$0.0025 per share executed). 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 will receive \$0.0023 per share executed (up from \$0.0022), and other members will

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

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

<sup>5</sup> As described in Nasdaq Interpretive Material 4390, securities that are dually listed on Nasdaq and the New York Stock Exchange ("NYSE") are

traded as NYSE-listed securities for most purposes under Nasdaq rules, including execution and routing fees.

<sup>10</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.