

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57658; File No. SR-NASDAQ-2008-030]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Charges for Pre-Trade Risk Management Workstation Add-Ons

April 11, 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 April 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. 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 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 is proposing to adjust the recently-established member charge for the use of PRM Workstation Add-ons. The text of the proposed rule change is available at <http://www.complinet.com/nasdaq>, 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

Earlier this year, Nasdaq established the pricing for its new pre-trade risk management (“PRM”) functionality.<sup>5</sup> Included in the new charges was the fee that PRM Module subscribers that are users of the NASDAQ Workstation or WeblinkACT 2.0 would pay for PRM Workstation Add-ons. At the time, it was envisioned that each subscriber would be able to receive at no charge one PRM Workstation per PRM Module and would pay \$100 per month for each additional PRM Workstation per PRM Module.

Nasdaq has since determined that this approach is needlessly cumbersome, costly to administer and potentially confusing to the users. Therefore, Nasdaq has decided to make any needed number of PRM Workstation Add-ons available to users at no charge during the months of April through June 2008, and then, starting in July 2008, to begin charging \$100 per month for each PRM Workstation Add-on that users request (thus eliminating the one-free-Add-on-per-module feature). Nasdaq believes that the proposed change is minor, and therefore, the PRM Workstation Add-on charges remain reasonable and equitably allocated among members that may choose to use this functionality.

##### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and with Section 6(b)(4) of the Act,<sup>7</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 pre-trade management risk functionality provides members with an optional tool at a reasonable cost. Members are not required to use the NASDAQ PRM or PRM Workstation Add-ons. The optional nature of these services and the intensely competitive environment in which they are being offered ensure 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 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 Act<sup>8</sup> and Rule 19b-4(f)(2)<sup>9</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.

#### 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-2008-030 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-2008-030. 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

<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>5</sup> See Securities Exchange Act Release No. 57146 (January 14, 2008), 73 FR 3786 (January 22, 2008) (SR-NASDAQ-2008-003).

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

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

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

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. 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-2008-030 and should be submitted on or before May 8, 2008.

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

**Nancy M. Morris,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57654; File No. SR-NASDAQ-2008-028]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Trade Options on the Full and Reduced Values of the Nasdaq 100 Index

April 11, 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 March 28, 2008, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") 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 the Exchange. This order provides notice of the proposed rule change and approves it on an accelerated basis.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to trade options on the full and reduced values of the Nasdaq 100 Index ("Index"). Nasdaq also proposes to list and trade long-term options on full and reduced values of the Index. Options on the Index will be cash-settled and have European-style exercise provisions. The text of the proposed rule change is available on Nasdaq's Web site (<http://www.nasdaq.com/plinet.com>), at Nasdaq's principal office, and at 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 III 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 proposes to list and trade cash-settled, European-style, index options on the full and reduced values of the Nasdaq 100 Index, a stock index calculated and maintained by Nasdaq.<sup>3</sup> Specifically, the Exchange proposes to list options based upon the full value of the Nasdaq 100 Index ("Full-size Nasdaq 100 Index" or "NDX") as well as one-tenth of the value of the Nasdaq 100 Index ("Mini Nasdaq 100 Index" or "MNX"). The options on NDX and MNX listed on NASDAQ will be identical to those already listed on multiple exchanges.

Nasdaq is filing the proposed rule change because options on the Nasdaq 100 Index will not otherwise qualify for listing on the NASDAQ Option Market ("NOM") due to the component weightings of the Nasdaq 100 Index. Specifically, Chapter XIV, section

3(b)(8) of the NOM rules currently requires that no component of a broad-based index account for more than ten percent of the weight of the index.<sup>4</sup> Therefore, like the six other options exchanges that currently trade options on the Nasdaq 100 Index, Nasdaq is seeking approval to list and trade Nasdaq 100 Index options under the conditions and according to the standards set forth below.

#### Index Design and Composition

The Nasdaq 100 Index, launched in January 1985, represents the largest non-financial domestic and international issues listed on Nasdaq based on market capitalization. The Index reflects companies across major industry groups, including computer hardware and software, telecommunications, retail/wholesale trade, and biotechnology.

The Index is calculated using a modified capitalization-weighted methodology. The value of the Index equals the aggregate value of the Index share weights of each of the component securities multiplied by each security's respective official closing price on Nasdaq, divided by the Divisor. The Divisor serves the purpose of scaling such aggregate value (otherwise in the trillions) to a lower order of magnitude which is more desirable for Index reporting purposes. If trading in an Index security is halted while the market is open, the last Nasdaq traded price for that security is used for all index computations until trading resumes. If trading is halted before the market is open, the previous day's official closing price is used. Additionally, the Index ordinarily is calculated without regard to dividends on component securities. The modified capitalization-weighted methodology is expected to retain, in general, the economic attributes of capitalization weighting, while providing enhanced diversification. To accomplish this, Nasdaq reviews the composition of the Index quarterly and adjusts the weighting of Index components using a proprietary algorithm, if certain pre-established weight distribution requirements are not met.

Nasdaq has certain eligibility requirements for inclusion in the Index.<sup>5</sup> For example, to be eligible for inclusion in the Index, a component security must be exclusively listed on the Nasdaq Global Select or Nasdaq

<sup>4</sup> See Securities Exchange Act Release No. 57478 (March 12, 2008); 73 FR 14521 (March 18, 2008).

<sup>5</sup> The initial eligibility criteria and continued eligibility criteria are available on Nasdaq's Web site at [http://dynamic.nasdaq.com/dynamic/nasdaq100\\_activity.stm](http://dynamic.nasdaq.com/dynamic/nasdaq100_activity.stm).

<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.

<sup>3</sup> A description of the Index is available on Nasdaq's Web site at [http://dynamic.nasdaq.com/dynamic/nasdaq100\\_activity.stm](http://dynamic.nasdaq.com/dynamic/nasdaq100_activity.stm).