

using its facilities; Section 6(b)(5) of the Act,⁸ which requires, among other things, that the rules of a national securities exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and Section 6(b)(8) of the Act,⁹ which requires that the rules of a national securities exchange do not impose any burden on competition not necessary or appropriate in furtherance of the Act.

Accordingly, the Commission believes that the procedures provided by Section 19(b)(2) of the Act¹⁰ will provide a more appropriate mechanism for determining whether the proposed rule change is consistent with the Act. Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to abrogate the proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(3)(C) of the Act,¹¹ that File No. SR-NASDAQ-2009-053, be and hereby is, summarily abrogated. If NASDAQ chooses to re-file the proposed rule change, it must do so pursuant to Sections 19(b)(1)¹² and 19(b)(2) of the Act.¹³

By the Commission.

Elizabeth M. Murphy,
Secretary.

[FR Doc. E9-15998 Filed 7-7-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In the Matter of GenX Corporation; Order of Suspension of Trading

July 2, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of GenX Corporation because of questions about the accuracy and adequacy of publicly disseminated information appearing in stock promotional materials, and elsewhere, concerning among other things the company's purported partnerships and other relationships with certain individuals and entities.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the company listed above.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above listed company is suspended for the period from 9:30 a.m. EDT on July 2, 2009, through 11:59 p.m. EDT, on July 16, 2009.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E9-16040 Filed 7-2-09; 4:15 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60186; File No. SR-NASDAQ-2009-056]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of a Proposed Rule Change To Adopt Rules To Implement the Options Order Protection and Locked/Crossed Market Plan

June 29, 2009.

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 June 23, 2009, 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. 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

The Exchange proposes to adopt rules to implement the Options Order Protection and Locked/Crossed Market Plan (the "Plan"), and to delete provisions which will no longer be applicable following adoption of the Plan. The text of the proposed rule change is available at <http://nasdaqomx.cchwallstreet.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 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

On May 7, 2008, NASDAQ filed an executed copy of the Options Order Protection and Locked/Crossed Market Plan ("Plan"), joining all other approved options markets in proposing the Plan. The Plan requires each options exchange to adopt rules implementing various requirements specified in the Plan. This proposal is designed to fulfill that obligation.

Background

The Plan will replace the current Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan"). That plan requires its participant exchanges to operate a stand-alone system or "Linkage" for sending order-flow between exchanges to limit trade-throughs. The Options Clearing Corporation ("OCC [sic]) operates the Linkage system (the "System"). The Linkage rules provide for unique types of Linkage orders, with a complicated set of requirements as to who may send such orders and under what conditions. Before a market maker can trade through another exchange's quote, it first must send a Linkage order and then wait three seconds for a response.

While the Linkage largely has operated satisfactorily, it is under significant strain. When the Commission approved the Linkage Plan in 2000, average daily volume ("ADV") in the options market was approximately 2.6 million contracts across all exchanges. Now the ADV has increased four-fold to more than 10.8 million contracts, putting added strain on the ability of market makers to comply with the complex Linkage rules. At the same time, the options markets have been moving towards quoting in pennies. This greatly increases the number of price changes in an option, giving rise to greater chances of trade-throughs and missing markets as market makers send Linkage orders and have to wait three seconds for a response.

Based upon experience in the equities markets following the adoption of Regulation NMS in 2005, the options exchanges have determined to replace

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(8).

¹⁰ *Id.*

¹¹ 15 U.S.C. 78s(b)(3)(C).

¹² 15 U.S.C. 78s(b)(1).

¹³ 15 U.S.C. 78s(b)(2).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.