

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

This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange provided 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 the proposed rule change as required by Rule 19b-4(f)(6).⁸ For the foregoing reasons, the Exchange believes the proposed rule filing qualifies for expedited approval as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 of the Act.

The Exchange believes the proposed rule change is non-controversial in that it will allow the Exchange to adopt an industry-recognized value to determine the closing settlement value for FX Options traded on the Exchange. The Exchange also believes that the proposed rule change does not raise any new, unique or substantive issues, and is beneficial for competitive purposes and to promote a free and open market for the benefit of investors.

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. Please include File Number SR-ISE-2009-48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2009-48. 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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-2009-48 and should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Elizabeth M. Murphy,
Secretary.

[FR Doc. E9-16854 Filed 7-15-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60265; File No. SR-NASDAQ-2009-058]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Modify Port Fees

July 8, 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 24, 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 from interested persons.

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

NASDAQ proposes to modify fees charged to members and non-members for ports used to enter orders into NASDAQ systems. The text of the proposed rule change is available from the principal office of NASDAQ and from the Commission, and is also available at <http://www.cchwallstreet.com/nasdaq>. NASDAQ will implement the proposed rule change on the first day of the month immediately following Commission approval (or on the date of approval, if on the first business day of a month).

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 200.30-3(a)(12).

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

1. Purpose

NASDAQ is proposing to increase the monthly fee that it charges for ports used to enter orders in NASDAQ trading systems such as the NASDAQ Market Center and the NASDAQ Options Market. The change, which increases the charge from \$400 to \$500 per month, applies to ports using FIX, RASH, and OUCH. The change does not affect ports used to receive market data, to enter quotes, or to enter trade reports into the FINRA/NASDAQ Trade Reporting Facility. The change applies both to members that obtain ports for direct access, and non-member service bureaus that act as a conduit for orders entered by NASDAQ members that are their customers.

NASDAQ has not made any significant changes to the fees that it charges for access to its market facilities since it began to operate as a national securities exchange in 2006. During that period, however, the market has undergone dramatic changes, including the implementation of Regulation NMS, the entry of several significant new trading venues, extreme market volatility resulting from the credit crisis in the late 2008, and a marked increase in the percentage of orders being executed away from transparent public markets. Accordingly, NASDAQ believes that an increase in access services fees is now warranted to help ensure that its market technology continues to perform at a high level of responsiveness and efficiency.

NASDAQ is also modifying the language of Rule 7015 to make it clear that access service fees apply to access provided to all NASDAQ-operated systems, to replace references to NASD with references to FINRA, and remove obsolete language regarding a trial discount that ended in 2007. Finally, NASDAQ is removing language regarding the applicability of the rule to members and non-members. Because the current rule has been previously approved for applicability to members and non-members, and because this filing likewise applies to both members and non-members, the existing language is unnecessary and potentially confusing to the reader.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,³ in

general and with Section 6(b)(4) of the Act,⁴ as stated above [sic], in that it provides an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using the [sic] its facilities. NASDAQ believes that its modified access services fees are reasonable in light of the benefits to members of direct market access, and are equitably allocated among members based upon the number of access ports that they require to submit orders to the market. NASDAQ believes that its fees for access services will enable it to cover its costs and earn an appropriate return on its investment in market technology and 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, as amended. Fees for market access are a component of the overall fees charged by NASDAQ to execute and route orders through the NASDAQ Market Center. As the Commission has recognized, the market for execution and routing services is extremely competitive.⁵ Market participants that choose not to connect directly to NASDAQ can readily access liquidity available on NASDAQ by directing their order flow to other venues that, under Regulation NMS, must route to NASDAQ if it has posted the best price. Accordingly, NASDAQ must set its fees, including access services fees, at a level that will not deter market participants from connecting to NASDAQ. Otherwise, potential users of NASDAQ's services will simply direct order flow to NASDAQ's multiple competitors.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

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. Please include File Number SR-NASDAQ-2009-058 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2009-058. 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. 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-2009-058 and

⁴ 15 U.S.C. 78f(b)(4).

⁵ Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21).

³ 15 U.S.C. 78f.

should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Elizabeth M. Murphy,
Secretary.

[FR Doc. E9-16856 Filed 7-15-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60278; File No. SR-NYSE-2009-67]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendment No. 1 Thereto Extending a Temporary Equity Transaction Fee for Shares Executed on the NYSE MatchPointSM System

July 10, 2009.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that on July 6, 2009, New York Stock Exchange LLC (“NYSE” or “Exchange”) 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 the self-regulatory organization. On July 8, 2009, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ 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 extend a temporary equity transaction fee for shares executed on the NYSE MatchPointSM (“NYSE MatchPoint” or “MatchPoint”) system, effective upon filing through July 31, 2009. The Exchange will charge each member organization using the MatchPoint system a per share fee scaled to the average daily volume of shares it executes on the MatchPoint system. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and <http://www.nyse.com>.

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ Amendment No. 1 made a technical correction to the proposed changes to the NYSE Fee Schedule.

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

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

On January 7, 2009, the Exchange filed with the Securities and Exchange Commission (the “Commission”) a proposed rule change to adopt a temporary equity transaction fee for shares executed on the NYSE MatchPointSM system, effective until February 28, 2009 (the “January filing”).⁵ On February 26, 2009, the Exchange filed with the Commission a proposed rule change to extend this temporary equity transaction fee until April 30, 2009 (the “March filing”).⁶ On April 29, 2009, the Exchange filed with the Commission a proposed rule change to further extend this temporary equity to transaction fee until June 30, 2009 (the “April filing”).⁷ Through this filing, the Exchange proposes to extend this equity transaction fee to be effective upon filing through July 31, 2009.

Prior to the January filing, the equity transaction fee was \$.0015 per share executed on the MatchPoint system. In the January filing, the Exchange proposed to adopt a scaled fee for MatchPoint users based on the average daily volume of shares executed during a calendar month through the MatchPoint system as follows:

| Average daily volume of shares executed | Rate (per share) |
|---|------------------|
| 50,000 shares or less | \$.0015 |
| Over 50,000 to 499,999 | .0010 |
| 500,000 and greater | .0005 |

⁵ See Securities Exchange Act Release No. 59229 (January 12, 2009) 74 FR 3119 (January 16, 2009) (SR-NYSE-2009-01).

⁶ See Securities Exchange Act Release No. 59491 (March 3, 2009) 74 FR 10107 (March 9, 2009) (SR-NYSE-2009-20).

⁷ See Securities Exchange Act Release No. 59864 (May 5, 2009) 74 FR 22194 (May 12, 2009) (SR-NYSE-2009-44).

The March and April filings proposed to continue this fee schedule.

The Exchange believes that the extension of the fee schedule through July 31, 2009 will continue to reward those who have been using the MatchPoint system for share execution, and will provide a continued incentive for new participants in MatchPoint.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the “Act”)⁸ for the proposed rule change is the requirement under Section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes the fees are reasonable in that they carry forward a reduction in fees that the January filing established and that the March and April filings extended, and are equitable in that they are available to all members who access the MatchPoint system.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)⁹ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁰ thereunder, because it establishes a due, fee, or other charge imposed by the NYSE.

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.

⁸ 15 U.S.C. 78a.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(2).