

provided by the reporting entity. If the reporting entity verifies the accuracy of the information or the reporting entity no longer exists or is unable to verify the accuracy of the information, FINRA would not change the information.<sup>26</sup>

Upon making its determination, FINRA would notify the disputing eligible party in writing that the investigation resulted in a determination that (1) the information is inaccurate or not accurately presented and has been updated, modified or deleted; (2) the information is accurate in content and presentation and no changes have been made; or (3) the accuracy of the information or its presentation could not be verified and no changes have been made. A determination by FINRA regarding a dispute, including a determination to leave unchanged or to update, modify or delete disputed information, would not be subject to appeal.<sup>27</sup>

As noted above, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. FINRA will implement the proposal in phases, with full implementation occurring no later than 180 days following Commission approval.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>28</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change, among other things, would enhance investor protection by expanding the information disclosed to investors and other users of BrokerCheck.

<sup>26</sup> The principle guiding FINRA's proposed approach is that because information in BrokerCheck is derived from the information filed on the uniform registration forms, it is presumed accurate as filed. FINRA expects that the dispute process will be used principally to address genuine filing errors, which FINRA expects to be rare, or those instances where an event displayed through BrokerCheck has a changed disposition subsequent to it being filed on a uniform registration form.

<sup>27</sup> Although FINRA determinations under the proposed dispute process would not be subject to appeal, individuals and firms would continue to have the ability to challenge BrokerCheck information they believe to be inaccurate through other processes that are available today (e.g., an arbitration or court proceeding).

<sup>28</sup> 15 U.S.C. 78o-3(b)(6).

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

FINRA 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

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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2010-012 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-FINRA-2010-012. 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,<sup>29</sup> 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 Web site viewing and printing 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 FINRA. 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-FINRA-2010-012 and should be submitted on or before May 13, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

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

[FR Doc. 2010-9282 Filed 4-21-10; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61926; File No. SR-NASDAQ-2010-049]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the NASDAQ Market Center

April 16, 2010.

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 13, 2010, 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. Pursuant to

<sup>29</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

<sup>30</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.

Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> NASDAQ has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective upon filing. 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 the Substance of the Proposed Rule Change

NASDAQ proposes to modify pricing for NASDAQ members using the NASDAQ Market Center. NASDAQ will implement the proposed change on April 15, 2010. 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

NASDAQ is proposing to modify its fees for orders that execute at prices below \$1. Currently, NASDAQ charges 0.3% (30 basis points) of the total dollar value of the execution to members accessing liquidity, and provides a rebate of 0.2% (20 basis points) of the total dollar value to members providing liquidity. Through this filing, NASDAQ will reduce the fee to access liquidity to 0.2% (20 basis points) of the total dollar value and the rebate for providing liquidity to 0.1% (10 basis points) of the total dollar value. The change is a competitive response to several other transaction venues that have made mid-April changes to fees for securities priced under \$1.<sup>5</sup> The new fees are

consistent with the limitations of Regulation NMS, SEC Rule 610(c), for securities with a price of less than \$1. NASDAQ's fee for routing securities priced below \$1 remains unchanged at 0.3% (30 basis points) of the total dollar value.

##### 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 impact of the price changes upon the net fees paid by a particular market participant will depend upon a number of variables, including the relative availability of liquidity on NASDAQ and other venues, the prices of the market participant's quotes and orders relative to the national best bid and offer (*i.e.*, its propensity to add or remove liquidity), and the types of securities that it trades. NASDAQ believes that the proposed changes are reasonable and equitable in that they apply uniformly to all similarly situated members.

#### 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. Because the market for order execution and routing is extremely competitive, members may readily direct orders to NASDAQ's competitors if they object to the proposed rule change.

#### 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

*FEA1E85257700006A989D/\$FILE/NYSEArca-2010-26.pdf* (NYSE Arca); <http://www.nsx.com/resources/content/5/1/documents/SR-NSX-2010-04.pdf> (National Stock Exchange); [http://www.ise.com/assets/documents/OptionsExchange/legal/proposed\\_rule\\_changes/2010/SR-ISE-2010-29\\$Proposed\\_Rule\\_Change\\_Relating\\_to\\_Direct\\_Edge%20ECN\\_Fee\\_Change\\_for\\_ISE\\_Members\\$20100405.pdf](http://www.ise.com/assets/documents/OptionsExchange/legal/proposed_rule_changes/2010/SR-ISE-2010-29$Proposed_Rule_Change_Relating_to_Direct_Edge%20ECN_Fee_Change_for_ISE_Members$20100405.pdf) (Direct Edge).

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

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

19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>9</sup> 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-2010-049 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-2010-049. 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 Web site viewing and printing in the Commission's Public Reference Room 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 offices of the Exchange. All comments received will be posted without change; the Commission does

<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 <http://apps.nyse.com/commdata/pub19b4.nsf/docs/50B8C6B6842>

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

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

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-2010-049, and should be submitted on or before May 13, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-9281 Filed 4-21-10; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61923; File No. SR-NYSE-2010-33]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend From May 30, 2010 Until June 30, 2010 the Final Date by Which the Exchange Must Terminate Its Affiliation With NYFIX Securities Corporation

April 15, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on April 14, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the self-regulatory organization. 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 from May 30, 2010 until June 30, 2010 the final date by which it must terminate its affiliation with NYFIX Securities Corporation ("NYFIX Securities"), a registered broker-dealer subsidiary of NYFIX, Inc., ("NYFIX"). On November 30, 2009, NYFIX became an indirect wholly-owned subsidiary of the Exchange's parent company, NYSE Euronext. There is no proposed rule text.

#### 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 November 9, 2009, the Commission approved a proposed rule change by the Exchange in connection with the acquisition of NYFIX, a Delaware corporation, by a wholly-owned subsidiary of NYSE Euronext, the Exchange's parent company. The Commission's approving release granted permission for the Exchange to be affiliated with two registered broker-dealer subsidiaries of NYFIX for a period not to exceed six months and subject to certain limitations and obligations.<sup>3</sup> The two subsidiaries were NYFIX Millennium L.L.C. ("NYFIX Millennium") and NYFIX Securities Corporation ("NYFIX Securities"). The NYFIX acquisition closed on November 30, 2009, marking the beginning of the Exchange's affiliation with NYFIX Millennium and NYFIX Securities, which means that the final date by which the Exchange must terminate its affiliation with these two broker-dealers is May 30, 2010.

The Exchange has already terminated its affiliation with NYFIX Millennium and is in the process of terminating its affiliation with NYFIX Securities. While the Exchange anticipates that the transaction by which its affiliation with NYFIX Securities will be terminated should close by May 30, the Exchange believes that some additional flexibility with respect to timing is desirable in the event that issues unexpectedly arise in connection with the aforementioned transaction. Consequently, the Exchange is proposing a short extension of the date by which it must end its affiliation with NYFIX Securities from May 30,

2010 to June 30, 2010. The Exchange believes that this one-month extension will allow sufficient time to deal with any unexpected delays that might occur in connection with the transaction that is expected to terminate the Exchange's affiliation with NYFIX Securities.

In the NYFIX Approval Order, as a requirement for its approval of the Exchange's temporary affiliation with NYFIX Millennium and NYFIX Securities, the Commission listed a series of terms and conditions that must be adhered to during the period of said affiliation.<sup>4</sup> The purpose of these terms and conditions is to "address concerns regarding \* \* \* (1) The potential for conflicts of interest where an exchange is affiliated with a broker-dealer conducting an order routing business that may interact with the Exchange itself, and (2) the potential for informational advantages that could place such an affiliated broker-dealer at a competitive advantage in comparison with other non-affiliated broker-dealers."<sup>5</sup> The Exchange represents that all of these terms and conditions will continue to be applicable with respect to NYFIX Securities during the extension period being proposed herein until such time as the Exchange's affiliation with NYFIX Securities is terminated.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>6</sup> of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(1)<sup>8</sup> of the Act, in particular, in that it enables the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this proposed rule change is also consistent with, and furthers the objectives of Section 6(b)(5)<sup>9</sup> of the Act, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open

<sup>4</sup> See NYFIX Approval Order, 74 FR at 59295-59296 (paragraphs numbered (1)-(6), including subparagraphs (a)-(f) thereunder).

<sup>5</sup> *Id.* at 59295.

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

<sup>7</sup> 15 U.S.C. 78a.

<sup>8</sup> 15 U.S.C. 78f(b)(1).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>3</sup> Securities Exchange Act Release No. 60969 (November 9, 2009), 74 FR 59294 (November 17, 2009) (order approving File No. SR-NYSE-2009-96, as modified by Amendment No. 2 thereto) ("NYFIX Approval Order").

<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.