

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Elizabeth M. Murphy,**  
Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63705; File No. SR-NASDAQ-2011-006]

**Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees for the NASDAQ Options Market**

January 12, 2011.

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 6, 2011, The NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 modify Rule 7050 governing pricing for NASDAQ members using the NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options.

The text of the proposed rule change is set forth below. Proposed new text is italicized and deleted text is in brackets.

\* \* \* \* \*

**7050. NASDAQ Options Market**

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market for all securities.

(1)—(3) No Change.

(4) Fees for routing contracts to markets other than the NASDAQ Options Market shall be assessed as provided below. The current fees and a historical record of applicable fees shall be posted on the NasdaqTrader.com Web site.

Exchange	Customer	Firm	MM	Professional
BATS .....	\$0.36	\$0.55	\$0.55	\$0.36
BOX .....	0.06	0.55	0.55	0.06
CBOE .....	0.06	0.55	0.55	0.26
CBOE orders greater than 99 contracts in NDX, MNX ETFs, ETNs & HOLDRs .....	0.24	0.55	0.55	0.26
ISE .....	0.06	0.55	0.55	0.24
ISE Select Symbols* [of 100 or more contracts] .....	0.[26]18	0.55	0.55	0.3[1]4
NYSE Arca Penny Pilot .....	0.50	0.55	0.55	0.50
NYSE Arca Non Penny Pilot .....	0.06	0.55	0.55	0.06
NYSE AMEX .....	0.06	0.55	0.55	0.26
PHLX (for all options other than PHLX Select Symbols) .....	0.06	0.55	0.55	0.26
PHLX Select Symbols** .....	0.30	0.55	0.55	0.46
C2 .....	0.21	0.55	0.55	0.46

\* These fees are applicable to orders routed to ISE that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See ISE’s Schedule of Fees for the complete list of symbols that are subject to these fees.

\*\* These fees are applicable to orders routed to PHLX that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See PHLX’s Fee Schedule for the complete list of symbols that are subject to these fees.

The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nasdaq.cchwallstreet.com>, at the principal office of the Exchange, 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, the Exchange 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. The

Exchange 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 Rule 7050 governing the fees assessed for options orders entered into NOM but routed to and executed on away markets (“Routing Fees”). Specifically, the Exchange is proposing to amend its current Routing Fees that are currently assessed on orders routed to the

International Securities Exchange LLC (“ISE”) in Select Symbols<sup>3</sup> for orders of 100 or more contracts. ISE recently amended its fees and the amendments proposed herein reflect the proposed ISE amendments.<sup>4</sup>

The Exchange proposes to assess Customers a fee of \$0.18 per contract and Professionals a fee of \$0.34 per contract for orders routed to ISE in Select Symbols. The Routing Fees currently assessed on Firms and Market Makers will remain unchanged. Currently, the Exchange assesses the following fees to route to ISE in Select Symbols of 100 or more contracts: \$.26 per contract for Customers, \$0.55 per contract for Firms<sup>5</sup> and Market Makers<sup>6</sup> and \$0.31 per contract for Professionals.

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Select Symbols refer to the symbols which are subject to ISE’s Rebates and Fees for Adding and

Removing Liquidity in Select Symbols in ISE’s Schedule of Fees.

<sup>4</sup> See SR-ISE-2010-120.

<sup>5</sup> Firm is an order that clears as “Firm” with the Options Clearing Corporation (“OCC”). This fee of \$0.55 is a fixed routing fee for routing orders for the account(s) of Firms.

<sup>6</sup> This fee of \$0.55 is a fixed routing fee for routing orders for the account(s) of Market Makers. The Exchange notes that some other options exchanges include Market Maker transaction and clearing fees as “broker-dealer” fees.

All other orders that are routed to ISE, including orders that are less than 100 contracts, are assessed the rates labeled "ISE".

The Exchange also proposes to amend the title of the Routing Fees in ISE Select Symbols to state "ISE Select Symbols" rather than "ISE Select Symbols of 100 or more contracts" to reflect the recent amendments to ISE's fees which eliminate the fee differential between priority customers with 100 or more contracts and priority customers with less than 100 contracts.<sup>7</sup> All other orders that are routed to ISE, which are not in the Select Symbols, would be assessed the rates labeled "ISE".

NASDAQ Options Services LLC ("NOS"), a member of the Exchange, is the Exchange's exclusive order router. Each time NOS routes to away markets NOS is charged a \$0.06 clearing fee and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which are passed through to the Exchange. Each destination market's transaction charge varies for each transaction incurred by the Exchange. The Exchange is proposing this amendment in order to recoup clearing and transaction charges incurred by the Exchange when orders are routed to ISE in the ISE Select Symbols.

## 2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(4) of the Act,<sup>9</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 Exchange believes that these fees are reasonable because the Exchange is seeking to recoup costs that it incurs when routing orders to ISE in Select Symbols on behalf of its members. The Exchange believes that the proposed fee amendments are equitable because these amendments mirror recent proposed amendments to ISE's Schedule of Fees and are being uniformly applied to the Exchange's members.

NASDAQ is one of nine options markets in the national market system for standardized options. Joining NASDAQ and electing to trade options is entirely voluntary. Under these circumstances, NASDAQ's fees must be competitive and low in order for NASDAQ to attract order flow, execute orders, and grow as a market. NASDAQ

thus believes that its fees are fair and reasonable and consistent with the Exchange Act.

### 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 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 either solicited or 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 19(b)(3)(A)(ii) of the Act<sup>10</sup> and paragraph (f)(2) of Rule 19b-4<sup>11</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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-2011-006 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-2011-006. 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, 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 available publicly. All submissions should refer to File No. SR-NASDAQ-2011-006 and should be submitted on or before February 9, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Elizabeth M. Murphy,  
Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice to Rescind a Notice of Intent to Prepare a Supplemental Environmental Impact Statement: State Route 374 From State Route 149 West of River Road to State Route 76 in Clarksville, Montgomery County, TN

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice to rescind a Notice of Intent to Prepare a Supplemental Environmental Impact Statement (EIS).

**SUMMARY:** The FHWA is issuing this notice to advise the public that the Notice of Intent published on April 21, 2010, at 75 FR 20879, to prepare a Supplemental EIS for the extension of SR 374 from SR 149 west of River Road to SR 76 in Clarksville, Montgomery County, Tennessee, is being rescinded.

<sup>7</sup> See SR-ISE-2010-120.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> 17 CFR 200.30-3(a)(12).