

particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>20</sup> which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Commission finds that the proposal is consistent with Rules 610(d)<sup>21</sup> and 612<sup>22</sup> of Regulation NMS.

The Commission believes that the proposed order handling rule change providing for the execution, under certain circumstances, of certain Non-Displayed Orders and orders subject to price sliding that are not executable at their most aggressive prices should serve to enhance the quality of execution on the Exchange by facilitating executions that would not occur pursuant to the Exchange's current order handling process. In addition to facilitating executions that currently would not take place, the proposed rule change will offer price improvement to the orders executed under the new order handling process. The Commission believes that the new order handling process should benefit market participants by, among other things, providing greater opportunities for buy and sell orders to interact with each other and potentially reducing certain trading costs for market participants. The Commission further believes that any potential abuses are mitigated by the Exchange's addition of Interpretation and Policy .01 to BYX Rule 11.13 and its commitment to monitor relevant trading on its market. Additionally, the Commission believes that this proposed order handling process is consistent with Rule 612 of Regulation NMS because any executions in an increment smaller than \$0.01 are the result of bids, offers or orders that are priced in increments at least equal to \$0.01.<sup>23</sup> With regard to the proposed rule change clarifying that an order

subject to NMS price sliding pursuant to BYX Rule 11.9 can be ranked at the same price as an order displayed on the other side of the BATS Book, the Commission believes that such clarification is consistent with Rule 610(d) of Regulation NMS because the proposed rule change would not result in the display of a locking quotation.<sup>24</sup>

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>25</sup> that the proposed rule change (SR-BYX-2011-009) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2011-16550 Filed 6-30-11; 8:45 am]

**BILLING CODE 8011-01-P**

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64744; File No. SR-NASDAQ-2011-086]

#### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7034 Regarding Co-Location Fees for Additional Power and Cable Options

June 24, 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 June 23, 2011, 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, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7034 regarding co-location fees for additional power and cable options. The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at the Exchange's

<sup>24</sup> See Rule 610(d) of Regulation NMS. 17 CFR 242.610(d).

<sup>25</sup> 15 U.S.C. 78s(b)(2).

<sup>26</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.

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, 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

The Exchange proposes to amend Rule 7034 regarding co-location fees for additional power and cable options. The Exchange proposes to offer a new choice of a pair of power receptacles (60 amps 208 volts), which would provide enough power for a high density cabinet. The proposed fee for installation of the pair of the 60-amp 208-volt power receptacles is \$3,000. There are ten other power choices already available and this new receptacle choice is being offered as more clients are requesting higher power density cabinets. Additionally, the Exchange proposes to offer a new choice of patch cable, twinaxial (otherwise known as "Twinax") cables, in lengths of one meter to five meters. The proposed fee for the Twinax cables is \$34 + \$10 per meter. The Exchange is making the Twinax cables available as a convenience to customers, and notes that use of Exchange-provided patch cords is completely voluntary, and that such patch cords may be freely obtained from other vendors for use by customers in the datacenter.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>3</sup> in general, and with Section 6(b)(4) of the Act,<sup>4</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

<sup>3</sup> 15 U.S.C. 78f.

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

<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>21</sup> SEC Rule 610(d) of Regulation NMS requires policies and procedures to avoid the display of quotations that lock or cross protected quotations. 17 CFR 242.610(d).

<sup>22</sup> SEC Rule 612 of Regulation NMS states that no national securities exchange, national securities association, alternative trading system, vendor, or broker or dealer shall display, rank, or accept from any person a bid or offer, an order, or an indication of interest in any NMS stock priced in an increment smaller than \$0.01 if that bid or offer, order, or indication of interest is priced equal to or greater than \$1.00 per share. 17 CFR 242.612.

<sup>23</sup> See Rule 612 of Regulation NMS. 17 CFR 242.612.

which the Exchange operates or controls.

The Exchange operates in a highly competitive market, in which exchanges offer co-location services as a means to facilitate the trading activities of those members who believe that co-location enhances the efficiency of their trading. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of such members. If a particular exchange charges excessive fees for co-location services, affected members will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including co-locating with a different exchange, placing their servers in a physically proximate location outside the exchange's data center, or pursuing trading strategies not dependent upon co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also revenues associated with the execution of orders routed to it by affected members. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for co-location services.

It should be noted, however, that the costs associated with operating a co-location facility, like the costs of operating the electronic trading facility with which the co-location facility is associated, are primarily fixed costs, and in the case of co-location are primarily the costs of renting or owning data center space and retaining a staff of technical personnel. Accordingly, the Exchange establishes a range of co-location fees with the goal of covering these fixed costs, covering less significant marginal costs, such as the cost of electricity, and providing the Exchange a profit to the extent the costs are covered. Because fixed costs must be allocated among all customers, the Exchange's fee schedule reflects an effort to assess a range of relatively low fees for specific aspects of co-location services, which, in the aggregate, will allow the Exchange to cover its costs and to the extent the costs are covered, allow the Exchange to earn a profit.

In the case of the proposed fees for a pair of the 60-amp power receptacles and the Twinax cables, the proposed fees cover the marginal costs of establishing and maintaining the electrical installation, the costs of obtaining the cable equipment from the Exchange's vendors, and allow the Exchange to earn a profit; to the extent the costs are covered. Accordingly, the Exchange believes that it is reasonable

to use fees assessed on this basis as a means to recoup a share of fixed costs associated with the proposed power and cable options, provide a convenience for the customers and to the extent the costs are covered, provide a profit to the Exchange.

The Exchange also notes that the fees charged by the Exchange are generally lower or comparable to prices charged by other exchanges or unregulated vendors for similar services. For instance, NYSE Arca, Inc. charges for the power installation by including it in a higher install for the co-location cabinet.<sup>5</sup> With respect to the proposed fees for Twinax cables, the fees charged by the Exchange are generally lower or comparable to prices charged by unregulated vendors for similar products. See <http://www.google.com/products/catalog?hl=en&biw=1259&bih=813&q=Twinax+cable&um=1&ie=UTF-8&tbn=shop&cid=15023972358025904938&sa=X&ei=8tDfTaOwlcHagQeVu6DUCg&ved=0CDDcQ8wIwAw#>.

Furthermore, because the proposed services are available to all members through optional co-location services, the Exchange's fees for proposed co-location services are reasonable and equitably allocated across the membership. All co-location customers are offered the same range of products and services and there is no differentiation among customers with regard to the fees charged for a particular product, service, or piece of equipment.

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

The Exchange 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 rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>6</sup> 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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-NASDAQ-2011-086 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-2011-086. 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 not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

<sup>5</sup> See Release No. 63275 (November 8, 2010) at page 4, 75 FR 70048 (November 16, 2010) (SR-NYSEArca-2010-100).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(a)(ii) [sic].

submissions should refer to File Number SR–NASDAQ–2011–086, and should be submitted on or before July 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–16538 Filed 6–30–11; 8:45 am]

**BILLING CODE 8011–01–P**

## U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12560 and #12561]

**Arkansas Disaster Number AR–00048**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 8.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–1975–DR), dated 05/02/2011.

*Incident:* Severe Storms, Tornadoes, and Associated Flooding.

*Incident Period:* 04/14/2011 through 06/03/2011.

*Effective Date:* 06/22/2011.

*Physical Loan Application Deadline Date:* 08/01/2011.

*EIDL Loan Application Deadline Date:* 02/02/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Presidential disaster declaration for the State of ARKANSAS, dated 05/02/2011 is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties: (Physical Damage and Economic Injury Loans):* Desha, Carroll, Chicot, Clark, Crawford, Dallas, Hot Spring.

*Contiguous Counties: (Economic Injury Loans Only):*

Arkansas: Ashley, Calhoun, Nevada, Ouachita, Sebastian.

Louisiana: East Carroll, Morehouse, West Carroll.

Mississippi: Issaquena, Washington.

Missouri: Stone.

Oklahoma: Sequoyah.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Joseph P. Loddo,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2011–16529 Filed 6–30–11; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12586 and #12587]

**North Dakota Disaster Number ND–00025**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 3.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Dakota (FEMA–1981–DR), dated 05/10/2011.

*Incident:* Flooding.

*Incident Period:* 02/14/2011 and continuing.

*Effective Date:* 06/23/2011.

*Physical Loan Application Deadline Date:* 07/11/2011.

*Economic Injury (EIDL) Loan Application Deadline Date:* 02/10/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of North Dakota, dated 05/10/2011, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Mckenzie.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Joseph P. Loddo,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2011–16530 Filed 6–30–11; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12530 and #12531]

**North Carolina Disaster Number NC–00033**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 4.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–1969–DR), dated 04/19/2011.

*Incident:* Severe Storms, Tornadoes, and Flooding.

*Incident Period:* 04/16/2011.

*Effective Date:* 06/22/2011.

*Physical Loan Application Deadline Date:* 07/05/2011.

*EIDL Loan Application Deadline Date:* 01/20/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Presidential disaster declaration for the State of North Carolina, dated 04/19/2011 is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties: (Physical Damage and Economic Injury Loans):* Alamance.

*Contiguous Counties: (Economic Injury Loans Only):*

North Carolina: Caswell, Guilford,

Orange, Randolph, Rockingham.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Joseph P. Loddo,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2011–16531 Filed 6–30–11; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

### Interest Rates

The Small Business Administration publishes an interest rate called the optional “peg” rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This

<sup>7</sup> 17 CFR 200.30–3(a)(12).