**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34–70139; File No. SR–NASDAQ–2013–105]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate the Exchange's Routable Order Program

August 8, 2013.

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 August 5, 2013, 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 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

NASDAQ is proposing changes to eliminate the Exchange's Routable Order Program (''ROP''). The changes pursuant to this proposal are effective upon filing, and the Exchange will implement the proposed rule changes on August 5, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://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. 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

In February 2013, NASDAQ introduced the Routable Order Program in an effort to encourage greater participation by members representing retail customers in NASDAQ.[3] The program was premised on the propensity of members representing retail customers to make more extensive use of exchange-provided routing facilities and pre- and post-market trading sessions, as compared with proprietary traders.

To be eligible for the Routable Order Program, a member was required to have a market participant identifier (''MPID'') through which it provides an average daily volume of at least 35 million shares of displayed liquidity using orders that employ the SCAN or LIST routing strategies, including an average daily volume of at least 2 million shares that are provided prior to the NASDAQ Opening Cross and/or after the NASDAQ Closing Cross.[4] During recent months, no members have qualified for the program.

With respect to SCAN and LIST orders in securities priced at $1 or more per share entered through an MPID that qualified for the ROP, NASDAQ charged a fee of $0.0029 per share executed with respect to such orders when accessing liquidity in the Nasdaq Market Center.[5] If such orders were designated for display in the Nasdaq Market Center and provided liquidity after posting to the book, NASDAQ provided a credit of $0.0037 per share executed. With respect to SCAN and LIST orders in securities priced less than $1 per share entered through an MPID that qualified for the ROP, NASDAQ charged a fee of 0.30% of the total transaction cost with respect to such orders when accessing liquidity in the Nasdaq Market Center,[6] and provided a credit of $0.00003 per share executed if they were designated for display and provided liquidity after posting to the book. These fees and credits would be in lieu of the fees and credits otherwise charged or provided under Rule 7018. Moreover, orders that qualified for these fees and credits were not eligible to receive additional credits under NASDAQ's Investor Support Program (the ''ISP''),[7] but were included in calculations with regard to eligibility to participate in the ISP and other incentive programs under Rule 7014.

The program has not been successful in achieving its goal of encouraging members with retail order flow to increase their participation in NASDAQ. Accordingly, NASDAQ has decided to terminate the program, such that a member that might qualify for the program in the future would receive credits and pay fees otherwise applicable under Rule 7018 and 7014.[8]

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[10] 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

NASDAQ believes that the proposed elimination of the ROP is consistent with the requirements of the Act. Specifically, although the goal of the program was to provide meaningful incentives for members that represent significant numbers of retail customers to increase their participation in NASDAQ, the program has not had that effect; accordingly, elimination of the program is reasonable because it will not result in a change to the fees and rebates applicable to members in August

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 68905 (February 12, 2013), 78 FR 11716 (February 29 [sic], 2013) (SR–NASDAQ–2013–023).

[4] SCAN is a basic routing strategy that is widely used by firms that represent retail customers. SCAN orders check the Nasdaq Market Center System for available shares, while remaining shares are simultaneously routed to destinations on the applicable routing table. If shares remain un-executed after routing, they are posted on the book. Once on the book, if the order is subsequently locked or crossed by another market center, the System will not route the order to the locking or crossing market center. LIST is a routing strategy that is used by firms that wish for their orders to participate in the opening and closing processes of each security's primary listing exchange, to access liquidity on all exchanges if marketable, and otherwise to post to the NASDAQ book. Members, including those that represent retail customers, use the LIST strategy to offload on the Exchange and its routing broker the technical complexity associated with routing orders to participate in the market open and/or close.

[5] When such orders executed at other market centers, the routing fees provided for in Rule 7018 would apply.

[6] When such orders executed at other market centers, the routing fees provided for in Rule 7018 would apply.

[7] Rule 7014(a)–(c).

[8] Because this proposed rule change is effective as of August 5, 2013, ROP pricing would apply on August 1–2, 2013 to any member that qualifies for the ROP during August 2013.

In addition to deleting the relevant paragraphs from Rule 7014, NASDAQ is also making conforming changes to the rest of that rule.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4) and (5).

2013, based on their level of participation in recent months. In addition, the change is reasonable because the fees and rebates applicable in the absence of the program are the fees and rebates that are otherwise in effect for members not qualifying for the program under Rules 7014 and 7018, all of which have been established and described in prior proposed rule changes. In addition, another pricing incentive program aimed at members representing retail customers, the ISP, remains in effect. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because although NASDAQ believes that it is equitable to use fee reductions as a means to encourage greater retail participation in NASDAQ, such reductions are not required under the Act, and the change will eliminate a provision that could result in a very high rebate being paid to only certain members. Moreover, since the program has not applied to any members in recent months, its elimination will not have a direct effect on the allocation of fees. Similarly, its elimination is not discriminatory because it will have no direct effect on members based on their current levels of participation. Finally, the change will not result in unfair discrimination against firms that represent retail customers, since providing financial incentives to such members, while not inconsistent with the Act, is also not required by the Act, and because the incentives provided by the ISP remain in place.

*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.[11] NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges, while also seeking to recoup its costs of operation and earn a return. Accordingly, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this case, NASDAQ is eliminating an incentive program aimed at members representing retail customers, but in which such members were not currently participating. Accordingly, NASDAQ does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

*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) of the Act[12] and paragraph (f) of Rule 19b–4 thereunder.[13] 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 email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–105 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–2013–105. This file number should be included on the subject line if email 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 10:00 a.m. and 3:00 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–NASDAQ–2013–105 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–70145; File No. SR–EDGX–2013–27]**

## Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

August 8, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2013, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III

[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.