

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56905; File No. SR-NASDAQ-2007-087)

December 5, 2007

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

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 October 31, 2007, 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 substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders it effective upon filing with the Commission. 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 proposes to modify pricing for Nasdaq members using the Nasdaq Market Center. Nasdaq will implement this proposed rule change on November 1, 2007.

The text of the proposed rule change is available at the Exchange’s Web site, the Exchange and the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

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

Effective November 1, 2007, Nasdaq is implementing a set of pricing changes relating to securities listed on exchanges other than Nasdaq and the New York Stock Exchange ("NYSE").⁵ Specifically, for certain "Low-Volume Securities," Nasdaq is adopting an enhanced liquidity provider rebate of \$0.004 per share executed.⁶ A Low-Volume Security is defined as a security listed on an exchange other than Nasdaq or the NYSE with an average daily volume on all venues during the preceding month of less than 200,000 shares. For each calendar month, the determination of Low-Volume Securities will be made on the 25th day of the preceding month, based on trading volumes since the 25th day of the month before. For example, the determination of Low-Volume Securities for trading during the calendar month of November would be made on October 25, based on trading volumes from September 25 until October 24. The list of Low-Volume Securities will be posted on the NasdaqTrader.com Web site. By announcing the list prior to the first of the month, Nasdaq believes that it will enable market participants to reflect on

⁵ Transaction reports for these securities are disseminated by the Consolidated Tape Association ("CTA") on "Tape B."

⁶ There is, however, no liquidity provider rebate if the execution price is less than \$1 per share.

the list when making trading decisions at the beginning of the month. A security with seven or fewer trading days during an assessment period, such as a new listing, will not be considered a Low-Volume Security, regardless of its volume, since the lack of trading data does not provide a meaningful basis for determining the security's potential volume during the following month.

As a corollary to the enhanced liquidity provider rebate for Low-Volume Securities, Nasdaq will be eliminating market data revenue sharing for these same securities. Nasdaq's existing program for sharing 50% of market data revenue with liquidity providers in Tape B securities will remain in effect for Tape B securities that are not Low-Volume Securities.

Nasdaq believes that because the amount of a liquidity provider rebate is known by market participants prior to order execution, it provides a more direct incentive for liquidity provision than market data revenue sharing, the exact amount of which is estimated monthly but confirmed on a quarterly basis and depends upon a range of factors beyond the control of a particular market participant. Accordingly, Nasdaq believes that substituting an enhanced rebate for market data revenue sharing may encourage market participants to make greater use of Nasdaq for trading the securities covered by the program.

At present, Nasdaq's only active program for market data revenue sharing is for liquidity providers in Tape B securities.⁷ Accordingly, the proposed enhanced rebate applies only to these securities. Moreover, Nasdaq's initial focus is on Low-Volume Securities (as defined above and in the rule) because Nasdaq believes that an enhanced credit may encourage tighter spreads and more overall activity in these stocks. Moreover, the focus on these securities will allow Nasdaq

⁷ The Financial Industry Regulatory Authority ("FINRA") /NASDAQ Trade Reporting Facility also maintains a revenue sharing program, but Nasdaq's program under Rule 7024, which allows for discretionary sharing of an unspecified percentage of certain operating revenues, is not currently in use.

to evaluate the financial and market behavior impact of the change without materially increasing the overall amount of liquidity provider credits that it pays.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁸ in general, and with Section 6(b)(4) of the Act,⁹ 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 change responds to fee changes by NYSE to ensure that Nasdaq's fees for routing to NYSE are generally consistent with charges that NYSE imposes on Nasdaq when it routes orders to it.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing proposed rule change is filed pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁰ and subparagraph (f)(2) of Rule 19b-4 thereunder¹¹ because it establishes or changes a due, fee, or other charge applicable only to a member imposed by a self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

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-NASDAQ-2007-087 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2007-087. 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 10:00 am and 3:00 pm. Copies of such 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-2007-087 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).