

extend the pilot periods to provide the Exchange and Commission more data upon which to evaluate the rules.

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

The proposed rule change does not impose 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) ⁹ of the Act and Rule 19b-4(f)(6) thereunder.¹⁰ As required under Rule 19b-4(f)(6)(iii),¹¹ the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

A proposed rule change filed under Rule 19b-4(f)(6) ¹² normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) ¹³ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),¹⁴ which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public

interest because such waiver would allow the pilot periods to continue without interruption until July 25, 2007.¹⁵ Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of such 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-ISE-2007-62 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-ISE-2007-62. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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-ISE-2007-62 and should be submitted on or before August 15, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56092; File No. SR-NASDAQ-2007-042]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Modify the Entry and Annual Fees Paid by a Company That Lists on Nasdaq Upon Emerging from Bankruptcy

July 18, 2007.

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 April 13, 2007, 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 substantially prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on June 28, 2007. The Commission is publishing this notice to solicit comment on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the entry and annual fees paid by a company that lists on Nasdaq upon emerging from bankruptcy. Nasdaq will implement the proposed rule as of the date it filed this proposed change.

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ *Id.*

¹⁵ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

The text of the proposed rule change is set forth below. Proposed new language is in italics.

* * * * *

IM-4500-6. Waiver of Fees for Companies Emerging from Bankruptcy

(a) *Entry Fees.* Any company that lists on Nasdaq upon emerging from bankruptcy is not required to pay the entry fee (including the application fee) set forth in Rules 4510(a) and 4520(a).

(b) *Annual Fees.*

(1) *The annual fee for any company that lists on the Nasdaq Global Market (including the Nasdaq Global Select Market) upon emerging from bankruptcy will be the minimum annual listing fee specified in Rule 4510(c)(1) for the first (pro rated) year that such a company is listed and for each of the subsequent two full years.*

(2) *Any company listing on Nasdaq upon emerging from bankruptcy that relists during the same year that it had previously paid an annual fee will not be subject to a second annual fee in that year.*

* * * * *

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. 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 proposes to modify the fees charged to companies that list upon emerging from bankruptcy. Specifically, Nasdaq proposes to waive the entry fee (which includes a \$5,000 non-refundable application fee) that such companies would otherwise be required to pay. In addition, for companies listing on the NASDAQ Global Market (including the NASDAQ Global Select Market), Nasdaq proposes to charge the company the minimum annual listing fee applicable to companies on that market (currently \$30,000) for the first (prorated) year that such a company is

listed³ and for each of the subsequent two full calendar years.⁴ Finally, Nasdaq proposes that a company that emerges from bankruptcy and relists during the same year that it has previously paid an annual fee will not be required to pay a second annual fee for that year.

Nasdaq believes that the proposed fees are justified by the unique circumstances faced by companies emerging from bankruptcy. These companies typically are not raising any new capital at the time of listing, so the payment of initial listing fees is more burdensome than for companies that are listing upon an initial public offering. Also, because of the desire in bankruptcy proceedings to ensure that creditors are paid as much as possible, these companies are much more sensitive to both the initial and continued costs associated with listing. As such, Nasdaq believes the proposed fees are reasonable and equitably allocated.

The proposed rule change will not affect Nasdaq's commitment of resources to its regulatory oversight of the listing process or its other regulatory programs. Specifically, Nasdaq historically has not listed a large number of companies emerging from bankruptcy in any given year.⁵ Further, Nasdaq will still conduct a complete review of these companies for compliance with Nasdaq listing standards in the same manner as any other company applying for listing on Nasdaq. The company must successfully complete that review process and demonstrate compliance with the initial listing requirements prior to being approved for listing.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act⁶ in general, and with Section 6(b)(4) of the Act⁷ in particular, which requires that Nasdaq's rules provide for the equitable allocation of reasonable dues, fees, and other charges among its issuers. Nasdaq believes that the proposed waivers are equitable and reasonable in light of the unique circumstances faced by companies emerging from bankruptcy.

³ Nasdaq prorates the annual fee for the year a company lists, based on the month in which the company lists.

⁴ All domestic companies on the NASDAQ Capital Market pay the same annual fee.

⁵ Nasdaq listed four companies upon their emergence from bankruptcy from January 1, 2006, through March 31, 2007.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

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.

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

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 Exchange consents, the Commission will:

(A) By order approve the 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. Please include File Number SR-Nasdaq-2007-042 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-2007-042. 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 a.m. and 3 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-2007-042 and should be submitted on or before August 15, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56096; File No. SR-NASDAQ-2007-037]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Modify Order Audit Trail System Rules To Provide an Exemption From Transmission Requirements for Proprietary Orders

July 18, 2007.

I. Introduction

On April 3, 2007, The NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to provide an exemption from OATS transmission requirements for certain

proprietary orders. On June 4, 2007, Nasdaq filed Amendment No. 1. The proposed rule change, as amended, was published for comment in the **Federal Register** on June 6, 2007.³ The Commission received one comment letter expressing support for the proposal.⁴ On July 17, 2007, Nasdaq filed Amendment No. 2. This notice and order notices Amendment No. 2; solicits comments from interested persons on Amendment No. 2; and approves the proposed rule change, as amended, on an accelerated basis.

II. Description of Proposal

Nasdaq proposes to modify its OATS rules to adopt a limited exemption from OATS⁵ order data transmission requirements for proprietary trading firms. Nasdaq proposes to define a "Proprietary Trading Firm" as a Nasdaq member that trades its own capital, with all the trading being done in the firm's accounts by traders that are owners of, employees of, or contractors to the firm. A Proprietary Trading Firm would not have "customers," as that term is defined in Nasdaq Rule 0120(g) and would not be a member of the NASD.

Nasdaq proposes to amend Nasdaq Rule 6955 regarding transmission of OATS data to provide that a Proprietary Trading Firm would be required to transmit OATS order data information to Nasdaq Regulation only upon request.⁶ Although a Proprietary Trading Firm would not be required to transmit the order data information to Nasdaq Regulation unless requested, it still would be responsible for maintaining and retaining the information in a format that could be easily integrated into the NASD's OATS system in the event Nasdaq Regulation makes a request for such information.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Comments

³ See Securities Exchange Act Release No. 55870, 72 FR 32692 (June 13, 2007).

⁴ See letter from Stephen Schuler, Managing Member, Global Electronic Trading Company, LLC to Nancy M. Morris, Secretary, Commission, dated July 3, 2007.

⁵ OATS is an integrated audit trail of order, quote, and trade information for Nasdaq securities used to recreate events in the life cycle of orders and more completely monitor the trading practices of member firms.

⁶ Rule 0130 provides that the term Nasdaq Regulation should be understood as also referring to NASD staff, NASD Regulation staff, and NASD departments acting on behalf of Nasdaq pursuant to a regulatory services agreement between Nasdaq and the NASD.

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-2007-037 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-2007-037. 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 a.m. and 3 p.m. 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-2007-037 and should be submitted on or before August 15, 2007.

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,⁷ and, in

⁷ The Commission has considered the amended proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.