

appropriate in furtherance of the purposes of the Act. Documents and information provided through the EMMA pilot will continue to be available to all persons on an equal basis. The MSRB will continue to make its official statement and advance refunding document collection available by subscription on an equal basis without imposing restrictions on subscribers from re-disseminating such documents or otherwise offering value-added services and products based on such documents on terms determined by each subscriber. The MSRB believes that any incidental impact of the extension of the EMMA pilot on commercial enterprises would not create an unequal burden among such enterprises and would be substantially outweighed by the benefits provided by the continuation of the EMMA pilot in removing impediments to and helping to perfect the mechanisms of a free and open market in municipal securities, assisting in the prevention of fraudulent and manipulative acts and practices, and generally promoting investor protection and the public interest.

*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 with respect to the extension of the EMMA pilot.

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

The MSRB represented that the proposed rule change qualifies for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder<sup>8</sup> because it: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>9</sup>

The MSRB has requested that the Commission waive the 30-day operative delay, so that the proposed rule change may become operative upon filing and ensure that the EMMA pilot is extended

before its scheduled expiration. The Commission hereby grants the MSRB's request and believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>10</sup> The extension of the EMMA pilot will ensure that there is no lapse in the availability to the public of the documents and information currently made available on the EMMA portal prior to the commencement of operations of the permanent EMMA services.

At any time within 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.<sup>11</sup>

**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-MSRB-2009-01 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-MSRB-2009-01. 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/>

<sup>10</sup> The MSRB provided the written notice required under Rule 19b-4(f)(6)(iii) on March 13, 2009 and requested that the Commission waive the five business day notification period. The Commission hereby grants the MSRB's request and believes that waiving the five business day notification period is consistent with the protection of investors and the public interest. For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>11</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[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 MSRB. 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-MSRB-2009-01 and should be submitted on or before April 16, 2009.

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

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E9-6616 Filed 3-25-09; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-59610; File No. SR-NASDAQ-2009-023]

**Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Trading the Two-Character Ticker Symbol "UG"**

March 20, 2009.

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 March 13, 2009, 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 prepared by Nasdaq. Nasdaq has filed this proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule

<sup>12</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.

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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

19b-4(f)(5) thereunder,<sup>4</sup> which renders the proposal 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 the Substance of the Proposed Rule Change**

Nasdaq proposes to trade the common stock of United-Guardian, Inc. on Nasdaq using the two-character symbol "UG".

### **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**

Historically, securities listed on Nasdaq have traded using four or five character symbols.<sup>5</sup> In 2005, however, Nasdaq announced its intent to allow companies listed on Nasdaq to also use one, two or three character symbols beginning on January 31, 2007.<sup>6</sup> This announcement was designed to provide market participants and vendors the time needed to make required changes to their own systems that may be affected by the change. Since February 20, 2007, Nasdaq has had the ability to accept and distribute Nasdaq-listed securities with one, two or three character symbols. Nasdaq reminded

market participants about this change again on March 1, 2007, stressing that "[a]ll customers should have completed their coding and testing efforts to ensure their readiness to support 1-, 2- and 3-character NASDAQ-listed issues,"<sup>7</sup> and on March 22, 2007, Delta Financial Corporation transferred to Nasdaq from the American Stock Exchange and maintained its three-character symbol, DFC.<sup>8</sup> Subsequently, the Commission approved a rule change to permit any company to transfer from another exchange to Nasdaq and maintain its three-character symbols.<sup>9</sup> During 2008, several companies transferred from the New York Stock Exchange and the American Stock Exchange (now NYSE Amex) and maintained their two-character symbols.<sup>10</sup> There have been no trading problems reported to Nasdaq as a result of listing securities on Nasdaq with two-character or three-character symbols.

Nasdaq now proposes to allow United-Guardian, Inc., which currently trades on NYSE Amex with the two-character symbol UG, to transfer its common stock to Nasdaq and continue using that two-character symbol. Nasdaq believes that allowing this company to maintain its symbol will reduce investor confusion and promote competition among exchanges. Specifically, allowing United-Guardian to maintain its trading symbol will reduce investor confusion associated with its transfer to Nasdaq because investors will continue to be able to obtain quotations and execute trades using the same familiar symbol and will allow the issuer to maintain a symbol that has become a part of its identity to investors.<sup>11</sup> Further, Nasdaq

believes that permitting United-Guardian to maintain its symbol will enhance competition among exchanges by removing concerns about investor confusion surrounding its symbol from the factors a company must consider when choosing where to list its equities. This proposal is also consistent with the historical practice of allowing companies to maintain their symbols when they switch among national securities exchanges<sup>12</sup> and with the Commission's recent approval of a national symbology plan, which, when operative, will permit the portability of symbols.<sup>13</sup>

Given the foregoing, Nasdaq believes that market participants were provided adequate notice of this change and are prepared to accommodate the trading of this company on Nasdaq using the symbol UG. Further, Nasdaq believes that any change to the symbol will cause confusion among investors and market participants. As such, Nasdaq proposes to begin trading the common stock of United-Guardian, Inc. on Nasdaq using the symbol UG on March 16, 2009.

##### **2. Statutory Basis**

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act, in general and with Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest. As described above, the proposed rule change will reduce investor confusion and encourage competition between national securities exchanges.

#### **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.

withdrawal, via a press release and, if it has a publicly accessible Web site, on that Web site. See Exchange Act Rule 12d2-2(c)(2)(iii), 17 CFR 240.12d2-2(c)(2)(iii).

<sup>12</sup> See, e.g., Darwin Professional Underwriters, Inc. (from NYSE Arca to NYSE keeping the symbol DR), Chile Fund, Inc. (from NYSE to Amex keeping the symbol CH), and iShares NYSE 100 (from NYSE to NYSE Arca keeping the symbol NY).

<sup>13</sup> See Securities Exchange Act Release No. 58904 (November 6, 2008) 73 FR 67218 (November 13, 2008) (File No. 4-533, approving the National Market System Plan for the selection and reservation of securities symbols).

<sup>4</sup> 17 CFR 240.19b-4(f)(6) [sic].

<sup>5</sup> This includes securities listed on Nasdaq's predecessor market, operated as a facility of the NASD.

<sup>6</sup> See Head Trader Alert 2005-133 (November 14, 2005), available at: <http://www.nasdaqtrader.com/TraderNews.aspx?id=hta2005-133> and Vendor Alert 2005-070 (November 14, 2005), available at: <http://www.nasdaqtrader.com/TraderNews.aspx?id=nva2005-070>. See also Head Trader Alert 2006-144 (September 29, 2006), available at: <http://www.nasdaqtrader.com/TraderNews.aspx?id=hta2006-144>, Head Trader Alert 2006-193 (November 16, 2006), available at: <http://www.nasdaqtrader.com/TraderNews.aspx?id=hta2006-193> and Vendor Alert 2006-065 (October 4, 2006), available at: <http://www.nasdaqtrader.com/TraderNews.aspx?id=nva2006-065>.

<sup>7</sup> Head Trader Alert 2007-050 (March 1, 2007), available at: <http://www.nasdaqtrader.com/TraderNews.aspx?id=hta2007-050>.

<sup>8</sup> See Securities Exchange Act Release No. 55519 (March 26, 2007) 72 FR 15737 (April 2, 2007) (SR-NASDAQ-2007-025).

<sup>9</sup> See Securities Exchange Act Release No. 56028 (July 9, 2007), 72 FR 38639 (July 13, 2007) (approving SR-NASDAQ-2007-031). Over 45 companies with three-character symbols have listed on Nasdaq.

<sup>10</sup> See Securities Exchange Act Release No. 57696 (April 22, 2008) 73 FR 22987 (April 28, 2008) (SR-NASDAQ-2008-034 relating to CA, Inc. listing on Nasdaq using the symbol CA); Exchange Act Release No. 57875 (May 27, 2008) 73 FR 31524 (June 2, 2008) (SR-NASDAQ-2008-047 relating to Hawaiian Holdings, Inc. listing on Nasdaq using the symbol HA); Exchange Act Release No. 58684 (September 30, 2008.) 73 FR 58281 (October 6, 2008) (SR-NASDAQ-2008-075 relating to Tech/Ops Sevcon, Inc. listing on Nasdaq using the symbol TO).

<sup>11</sup> A market transfer will still be transparent to investors because, under the Commission's rules, a company must announce the transfer of its listing on a Form 8-K. See Form 8-K, item 3.01(d). In addition, the issuer must publish notice of its intent to withdraw a class of securities from listing and/or registration, along with its reasons for such

*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) of the Act<sup>14</sup> and Rule 19b-4(f)(5) thereunder<sup>15</sup> in that it effects a change to an order-entry or trading system that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system. As such, this proposed rule change is effective upon the Commission's receipt of this filing.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the 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-2009-023 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-2009-023. 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-2009-023 and should be submitted on or before April 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-59607; File No. SR-NSCC-2009-02]

**Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Tiered Trade Netting Fee**

March 19, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 27, 2009, National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC. NSCC filed the proposed rule change

pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>2</sup> and Rule 19b-4(f)(2)<sup>3</sup> thereunder so that the proposal was 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**

The proposed rule change amends the methodology of the calculation of NSCC's tiered trade netting fee from being computed on the basis of daily average volume to a monthly volume basis.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>4</sup>

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to amend NSCC's fee structure as set forth in Addendum A to NSCC's Rules to change the methodology of the calculation of NSCC's tiered trade netting fee from being calculated on the basis of daily average volume to the basis of monthly volume. The current tiered structure for the netting fee became effective on January 2, 2009;<sup>5</sup> however, that calculation methodology caused systems difficulties that will be remedied by computing the charge on the basis of monthly volume. This change will not have a material impact on the total fee amounts charged members on their monthly billing statements. NSCC will commence use of the revised methodology for billing statements reflecting February 2009 activity.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations

<sup>2</sup> 15 U.S.C. 78s-1(b)(3)(A)(ii).

<sup>3</sup> 17 CFR 240.19b-4(f)(2).

<sup>4</sup> The Commission has modified parts of these statements.

<sup>5</sup> Securities Exchange Act Release No. 59285 (January 23, 2009), 74 FR 5875 (February 2, 2009) (File No. SR-NSCC-2008-13).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(5).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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