interpretation addressed in the *Regulatory Notice* to determine whether the original scheduled effective date might cause certain unintended and potentially harmful consequences. FINRA then asked the Commission to delay the effective date of paragraph (c) of Rule 2821, approved in SR–NASD–2004–183, until August 4, 2008. FINRA explained that all other parts of Rule 2821 approved in SR–NASD–2004–183 would become effective as scheduled on May 5, 2008. Finally, FINRA stated that if, based on this additional review, FINRA concluded that further rulemaking was warranted, FINRA would file a separate rule change with the Commission. On January 29, 2008, the Commission granted FINRA's proposed rule change to delay implementation of certain FINRA rule changes approved in SR–NASD–2004–183 until August 4, 2008.[6]

FINRA has now concluded its review and will soon propose substantive amendments to Rule 2821, as discussed above. FINRA is filing this proposed rule change to delay the effective dates of paragraphs (c) and (d) of Rule 2821 until 180 days following the SEC's approval or disapproval of the substantive amendment that FINRA plans to file in the near future. FINRA has filed this proposed rule change as a ''non-controversial'' rule change that is effective upon filing. FINRA is proceeding in this manner to give firms notice that they will not need to comply with these provisions until a later date. Paragraphs (a), (b), and (e) of Rule 2821, as approved in SR–NASD–2004–183, will become effective as scheduled on May 5, 2008.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The rule change will promote investor protection because it will allow firms to better prepare procedures and systems to implement paragraphs (c) and (d) of Rule 2821 and will allow the Commission to more fully consider the new substantive rule change that FINRA intends to file in the near future.

[6] *See* Securities Exchange Act Release No. 57228 (Jan. 29, 2008), 73 FR 7017 (Feb. 6, 2008) (Order approving SR–FINRA–2007–040).

[7] 15 U.S.C. 78o–3(b)(6).

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

FINRA 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 were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

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.

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–FINRA–2008–015 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–FINRA–2008–015. 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, NW., 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 FINRA.

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–FINRA–2008–015 and should be submitted on or before May 29, 2008.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harman,

Deputy Secretary.

[FR Doc. E8–10253 Filed 5–7–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57753; File No. SR–NASDAQ–2008–036]

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

May 1, 2008.

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 24, 2008, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'')

[10] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

the proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by Nasdaq. Pursuant to Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) [4] thereunder, Nasdaq has designated this proposal as establishing or changing a member due, fee, or other charge, which renders the proposed rule change effective immediately upon filing.

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 May 1, 2008. The text of the proposed rule change is available at *http://nasdaq.complinet.com,* Nasdaq, and 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, 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

Nasdaq is adopting a more unified pricing schedule for fees charged for order execution and routing of orders that check the Nasdaq Market Center book prior to routing.[5] The new fees apply to (i) Execution and routing of orders for securities listed on Nasdaq (''Nasdaq Trades''); (ii) execution of securities listed on the New York Stock Exchange (''NYSE''), routing of NYSE-listed securities to venues other than the NYSE, and routing of NYSE-listed exchange-traded funds to the NYSE (collectively, ''Covered NYSE Trades''); and (iii) execution and routing of orders for securities listed on exchanges other than Nasdaq and NYSE (''Regional Trades''). The changes are designed to promote Nasdaq as a liquid and transparent venue for executing all exchange-listed securities by, in general, increasing the credit provided to members providing displayed liquidity through Nasdaq and decreasing the credit provided to members providing non-displayed liquidity. Nasdaq is also increasing the fees to access and/or route liquidity using orders that check the Nasdaq book prior to routing. Fees for routing orders that do not check the Nasdaq book prior to routing will remain unchanged, as will the fees for routing orders other than exchange-traded funds to the NYSE. Similarly, fees for securities priced at less than $1, fees for routing odd-lots, and fees for routing orders that are charged a fee by exchange specialists are not changing.

Under the revised pricing schedule, a member with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 35 million shares of liquidity provided, and (ii) more than 55 million shares of liquidity accessed and/or routed will pay $0.0029 per share executed,[6] and other members will pay $0.003. However, a member that would otherwise pay $0.003 to execute trades in the Nasdaq Market Center will instead pay $0.00295 if it accesses a daily average of more than 55 million shares of liquidity through the Nasdaq Market Center in the month.[7]

Members that provide an average daily volume through the Nasdaq Market Center in all securities during the month of more than 35 million shares of liquidity provided will receive a credit of $0.0028 per share for executions against displayed liquidity and $0.0015 per share for executions against non-displayed liquidity.[8] Members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 20 million shares of liquidity provided (but that do not qualify for the higher credit described in the preceding sentence) will receive a credit of $0.0025 per share for executions against displayed liquidity and $0.001 per share for executions against non-displayed liquidity.[9] Other members will receive a credit of $0.002 per share for executions against displayed liquidity and $0.001 per share for executions against non-displayed liquidity.[10] Nasdaq is also eliminating a program under which certain ''low-volume securities'' listed on exchanges other than Nasdaq or NYSE qualified for an enhanced liquidity provider credit of $0.004 for displayed liquidity and $0.0039 for non-displayed liquidity. When Nasdaq introduced this program, it also amended Rule 7013 to eliminate market data revenue sharing for these low-volume securities. Accordingly, Nasdaq is against amending this rule to reinstate revenue sharing for transactions in these securities executed through the Nasdaq Market Center, at the same 50% level previously in effect.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general, and with Section 6(b)(4) of the Act,[12] 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 impact of the changes upon the net fees paid by a particular market participant will depend upon a number of variables, including its monthly volume, the order types it uses, and the prices of its quotes and orders (*i.e.*, its propensity to add or remove liquidity). Nasdaq notes that it

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

[4] 17 CFR 240.19b–4(f)(2).

[5] The proposed rule change also corrects typographical errors in Rule 7018(a)(2).

[6] Currently, members with an average daily volume of (i) more than 20 million shares of liquidity provided and (ii) more than 35 million shares of liquidity accessed and/or routed, pay $0.0028 per share executed for Nasdaq Trades, $0.0029 per share executed for Covered NYSE Trades, $0.0028 per share executed for Regional Trades executed at Nasdaq, and $0.0029 for routing Regional Trades. Members with an average daily volume of more than 35 million shares of liquidity provided and (ii) more than 55 million shares of liquidity accessed and/or routed; or with an average daily volume of (i) more than 25 million shares of liquidity provided, and (ii) more than 65 million shares of liquidity accessed and/or routed currently pay $0.0026 per share executed for Nasdaq Trades, $0.0028 per share executed for Covered NYSE Trades, $0.0026 for Regional Trades executed at Nasdaq, and $0.0028 per share executed for routing Regional Trades. Other members currently pay $0.003 per share executed.

[7] Currently, a member that accesses an average of 55 million shares of liquidity or more through the Nasdaq Market Center in a month pays $0.00265 for Nasdaq Trades and Regional Trades executed in the Nasdaq Market Center and $0.00285 for NYSE Covered Trades executed in the Nasdaq Market Center unless the member qualifies for a better rate.

[8] Currently, members at these volume levels receive $0.0025 for displayed Nasdaq Trades and Regional Trades, $0.024 for non-displayed Nasdaq Trades and Regional Trades, $0.0027 for displayed Covered NYSE Trades, and $0.0026 for non-displayed Covered NYSE Trades.

[9] Currently, members at these volume levels receive $0.0023 for displayed Covered NYSE Trades, $0.0022 for non-displayed Covered NYSE Trades, $0.0022 for displayed Nasdaq Trades and Regional Trades, and $0.0021 for non-displayed Nasdaq Trades and Regional Trades.

[10] Currently, members at these volume levels receive $0.002 for displayed trades in all securities and $0.0019 for non-displayed trades in all securities.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Although the proposed rule change increases order execution and routing fees and decreases liquidity provider credits for non-displayed liquidity, it also increases credits for displayed liquidity. Nasdaq believes that its fees remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to Nasdaq rather than competing venues.

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 were neither solicited nor received.

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

The foregoing proposed rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act [13] and Rule 19b–4(f)(2) thereunder,[14] in that the proposed rule change establishes or changes a member due, fee, or other charge imposed by the self-regulatory organization. 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.

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:

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

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–2008–036 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–2008–036. 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 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–2008–036 and should be submitted on or before May 29, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–10211 Filed 5–7–08; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57759; File No. SR–NYSEArca–2008–44]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Rule 6.62 To Include an Opening Only Order

May 1, 2008.

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 April 23, 2008, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared substantially by NYSE Arca. NYSE Arca filed the proposed rule change as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) 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

The Exchange proposes to amend NYSE Arca Rule 6.62 to include an additional order type, known as the Opening Only Order, to provide investors greater flexibility. The text of the proposed rule change is available at *http://www.nyse.com*, the principal office of NYSE Arca, and 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, NYSE Arca 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. NYSE Arca has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[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)(6).