

of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Fund and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Prior to approving any advisory contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Disinterested Trustees, will find that the advisory fees charged under the advisory contract are based on services provided that are in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Affiliated Underlying Fund or Unaffiliated Funds in which the Fund of Funds may invest. This finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Fund of Funds Advisers will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Fund under rule 12b-1 under the Act) received by the Fund of Funds Adviser, or an affiliated person of the Fund of Funds Adviser, other than any advisory fees paid to the Fund of Funds Adviser or its affiliated person by the Unaffiliated Fund, in connection with the investment by the Fund of Funds in the Unaffiliated Underlying Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received from an Unaffiliated Underlying Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by an Unaffiliated Fund, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. With respect to Registered Separate Accounts that invest in a Fund

of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in rule 2830 of the Conduct Rules of the National Association of Securities Dealers ("NASD"), if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds set forth in rule 2830 of the NASD Conduct Rules.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more affiliated investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-9270 Filed 5-14-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55721; File No. SR-NASDAQ-2007-047]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish an Opening and Closing Cross for Securities Listed on the NYSE, Amex, and Regional Exchanges

May 7, 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 May 1, 2007, The NASDAQ Stock Market LLC

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

("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 the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder, which renders it effective upon filing with the Commission.⁴ 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 a rule change to provide an open and close that matches orders where possible and provides a useful, tradable, robust opening and closing price for all securities listed on the New York Stock Exchange ("NYSE"), the American Stock Exchange ("Amex"), and regional exchanges. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nasdaq.com>.

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's Opening and Closing Crosses are price discovery facilities that cross orders at a single price. Nasdaq proposes to extend the success of Nasdaq's Opening and Closing Cross matching functionality, which has been widely accepted in the industry, for all of the securities listed on the NYSE, Amex, and regional exchanges (the "non-Nasdaq securities") with adjustments, as necessary, to comply with National Market System Plans and SEC rules specific to those securities,

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

such as SEC Rule 10a-1.⁵ Other than the exception described above, the processing will be exactly the same for the non-Nasdaq securities as the current process for Nasdaq securities.⁶

The proposed rule changes would provide Nasdaq with an open and close that matches orders and provides a useful, tradable, robust opening and closing price. Additionally, the process used will add transparency to the open and close in the same orderly process that is used for securities listed on Nasdaq. The same order types currently offered in the opening and closing process will be applied to non-Nasdaq securities, including: "On Open," "Opening Imbalance Only," "On Close," "Closing Imbalance Only," and "Imbalance Only." The methodology used to determine the Opening and Closing Cross prices for non-Nasdaq securities as well as the execution algorithm for determining order priority will be identical to those currently employed for Nasdaq securities. Continuous information regarding the imbalances and indicative prices will be disseminated prior to the Opening and Closing Crosses exactly as it is currently disseminated for Nasdaq securities.

Like the current Opening and Closing Crosses for Nasdaq-listed securities, the Crosses for non-Nasdaq securities will have built in parameters to protect investors against executions that are not in line with normal trading in a given security. For non-Nasdaq securities the benchmark will be adjusted as necessary to account for the fact that a large percentage of share volume is traded on other markets.

Nasdaq will launch the Opening and Closing Crosses for non-Nasdaq securities in a phased manner. Nasdaq's current intention is to begin with less than ten securities and, after determining that it is prudent to proceed, select another larger group of less than one hundred securities and, once again after determining that it is prudent to proceed, continue the roll-out in a prudent manner until the roll-

out is complete. Using a phased-in approach should ensure a smooth and orderly transition from the current opening process to the Nasdaq Opening and Closing Crosses and should be completed within several weeks of its initiation.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁷ in general and with Section 6(b)(5) of the Act,⁸ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change is based on successful experience with the Opening and Closing Cross for Nasdaq listed securities and is consistent with these requirements in that the changes are designed to address market participant input.

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

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) does not become operative for 30 days from the date of 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) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ As required by Rule

19b-4(f)(6)(iii), Nasdaq provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission. 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 e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2007-047 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-2007-047. 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. Copies of such filing will also 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

⁵ Nasdaq Rule 3350, which governs short sales in Nasdaq securities, uses the latest bid change to determine the validity of a short sale. SEC Rule 10a-1, which governs short sales in non-Nasdaq securities, uses the last sale change to determine the validity of a short sale. Nasdaq will ensure that the Opening and Closing Crosses for non-Nasdaq securities comply with SEC Rule 10a-1. This difference will not impact the way orders are entered, displayed, priced or executed within the crosses; it is entirely a change that is internal to Nasdaq.

⁶ Nasdaq Rule 4752 currently limits the Opening Cross to Nasdaq-listed securities. Nasdaq proposes to remove that restriction and leave the substance of the rule unchanged. Nasdaq Rule 4754, governing the Closing Cross, contains no parallel restriction, therefore no change to Rule 4754 is required.

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File number SR-NASDAQ-2007-047 and should be submitted on or before June 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-9249 Filed 5-14-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55718; File No. SR-NYSEArca-2007-42]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the \$1 Strike Pilot Program for an Additional Year

May 7, 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 May 3, 2007, NYSE Arca, Inc. ("NYSE Arca" 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 NYSE Arca. The Exchange has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act³ 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

NYSE Arca proposes to amend its rules to extend the \$1 strike pilot program ("Pilot Program") for an additional year. The text of the proposed rule change is available at NYSE Arca, the Commission's Public Reference Room, and www.nysearca.com.

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 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

The Exchange proposes to extend its Pilot Program for one year. The current Pilot Program expires on June 5, 2007. NYSE Arca notes that OTP Firms have expressed a continued interest in listing additional strike prices on low-priced stocks so that they can provide their customers with greater flexibility in their investment choices. For this reason, the Exchange proposes to extend the Pilot Program. The Exchange notes that the Pilot Program will remain unchanged in all material respects, including: The procedures for adding \$1 strike intervals; the procedures for phasing out \$2.50 strike price intervals; the prohibition against listing long-term options ("LEAPS") in equity option classes at \$1 strike intervals; the procedures for adding expiration months; and the procedures for deleting \$1 strike intervals. In support of the Exchange's proposal to extend the Pilot Program until June 5, 2008, the Exchange is submitting a report to the Commission ("Pilot Program Report"), attached as Exhibit 3 to the proposal, offering detailed data from, and analysis of, the Pilot Program.

2. Statutory Basis

The Exchange believes that the continuing the Pilot Program will stimulate customer interest in options overlying lower-priced stocks by creating greater trading opportunities and flexibility. The Exchange further believes that continuing the Pilot Program will provide customers with the ability to more closely tailor investment strategies to the precise movement of the underlying security. For these reasons, the Exchange believes the proposed rule change is consistent

with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶ in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in the 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

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). Rule 19b-4(f)(6) also requires the self-regulatory organization to give the Commission 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 filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE Arca has satisfied the five-day pre-filing requirement. As set forth in the Commission's initial approval of the Pilot Program and in its order extending the operation of the Pilot Program through June 5, 2005, if NYSE Arca proposes to: (1) extend the Pilot Program; (2) expand the number of options eligible for inclusion in the Pilot Program; or (3) seek permanent approval of the Pilot Program, it must submit a Pilot Program report to the Commission along with the filing of its proposal to extend, expand, or seek permanent approval of the Pilot Program. NYSE Arca must file any proposal to expand or seek permanent approval of the Pilot Program and the Pilot Program report with the Commission at least 60 days prior to the expiration of the Pilot Program. The Pilot Program report must cover the entire time the Pilot Program was in effect and must include: (1) data and written analysis on the open interest and trading volume for options (at all strike price intervals) selected for the Pilot Program; (2) delisted options series (for all strike price intervals) for all options selected for the Pilot Program; (3) an assessment of the appropriateness of \$1 strike price intervals for the options NYSE Arca selected for the Pilot Program; (4) an assessment of the impact of the Pilot Program on the capacity of NYSE Arca's,

¹¹ 17 CFR 200.30-3(a)(12).

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).