

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56617; File No. SR-NASDAQ-2007-083]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Annual Membership Fee for Nasdaq Members

October 4, 2007.

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 October 1, 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. Nasdaq filed this proposed rule change pursuant to section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder, 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 increase the annual membership fee for Nasdaq members under Nasdaq Rule 7001. The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and Nasdaq's Web site, <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 is increasing its annual membership fee, which is assessed on all Nasdaq members as of a date determined by Nasdaq in December of each year, from \$1,200 to \$3,000 per year. The fee had initially been set at a level to ease the transition of the Nasdaq Market Center's status as a facility of the Financial Industry Regulatory Authority, Inc. (f/k/a the National Association of Securities Dealers, Inc.) to a facility of a new self-regulatory organization ("SRO"). Now that Nasdaq has an established membership base, Nasdaq believes that the fee increase is warranted to ensure that its annual membership fee funds a greater portion of the cost of regulating the Nasdaq market. Nasdaq believes that even with the fee increase, the cost of Nasdaq membership is generally lower than the cost of membership in other SROs.<sup>5</sup> In this regard, it is particularly notable that unlike other SROs, Nasdaq does not charge annual registration fees for each of a firm's registered representatives.

###### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 6 of the Act,<sup>6</sup> in general, and with section 6(b)(4) of the Act,<sup>7</sup> in particular, in that it provides for an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using any facility or system which Nasdaq operates or controls. Nasdaq believes that an increased annual membership fee is reasonable and equitable method of ensuring that its annual membership fee funds a greater portion of the cost of regulating the Nasdaq market, and that the overall cost of Nasdaq membership is reasonable as

compared with the cost of membership in other SROs.

##### 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 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<sup>8</sup> and Rule 19b-4(f)(2) thereunder,<sup>9</sup> in that the proposed rule change establishes or changes a member due, fee, or other charge imposed by the SRO. 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](mailto:rule-comments@sec.gov). Please include File No. SR-NASDAQ-2007-083 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-2007-083. This file number should be included on the subject line if e-mail is used. To help the

<sup>15</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)(ii).

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

<sup>5</sup> See, e.g., New York Stock Exchange Price List 2007 at <http://www.nyse.com/pdfs/2007pricelist.pdf> (itemizing numerous registration, regulation, and trading rights fees); NASD By-Laws, Schedule A, Section 1 at [http://nasd.complinet.com/nasd/display/display.html?rbid=1189&element\\_id=1159000126](http://nasd.complinet.com/nasd/display/display.html?rbid=1189&element_id=1159000126); Chicago Stock Exchange Fees and Assessments at [http://wallstreet.cch.com/CHXtools/PlatformViewer.asp?SelectedNode=chp\\_1\\_1&manual=/CHX/Admin/chx-feesandassessments/](http://wallstreet.cch.com/CHXtools/PlatformViewer.asp?SelectedNode=chp_1_1&manual=/CHX/Admin/chx-feesandassessments/).

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

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-2007-083 and should be submitted on or before November 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Nancy M. Morris,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56616; File No. SR-NYSEArca-2007-99]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Exchange's Fees for Orders Submitted for Certain NYSE and Nasdaq-Listed Securities

October 4, 2007.

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 September 28, 2007, NYSE Arca, Inc. (the "Exchange"), through its wholly owned subsidiary NYSE Arca Equities,

Inc. ("NYSE Arca Equities"), 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 has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change 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, through its wholly owned subsidiary NYSE Arca Equities, proposes to amend its Schedule of Fees and Charges for Exchange Services (the "Fee Schedule") to revise transaction fees for orders submitted by ETP Holders<sup>5</sup> (including Market Makers<sup>6</sup>) for securities listed on either the New York Stock Exchange LLC ("NYSE") or The NASDAQ Stock Market LLC ("Nasdaq"). The Exchange also proposes to revise its routing fees for Nasdaq-listed securities. While changes to the Fee Schedule pursuant to this proposal were effective upon filing, the Exchange designated the changes operative on October 1, 2007. The text of the proposed rule change is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's Office of the Secretary, and at the Commission.

#### 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. 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

As part of its continuing efforts to enhance participation on the Exchange, NYSE Arca Equities proposes to amend relevant sections of its Fee Schedule that apply to orders submitted for NYSE and Nasdaq-listed securities, excluding Exchange Traded Funds ("ETFs") listed on the NYSE. These changes will narrow the margins of fees received and credits paid by either: (1) For Nasdaq-listed securities, reducing the fees assessed for orders that remove liquidity from the NYSE Arca Equities book, or (2) for NYSE-listed securities (other than ETFs), increasing the credits provided for orders that provide liquidity to the book.

Currently, the fees and credits for round lot orders in NYSE-listed securities are \$0.003 per share and \$0.002 per share, respectively. Pursuant to this proposal, for NYSE-listed securities (excluding ETFs), the Exchange will increase the \$0.002 per share credit to \$0.0025 per share.

Similarly, the fees and credits for round lot orders in Nasdaq-listed securities are \$0.003 per share and \$0.002 per share, respectively. Pursuant to this proposal, for Nasdaq-listed securities, the Exchange will reduce the \$0.003 per share fee to \$0.0025 per share.

Additionally, the Exchange proposes to reduce the fee for round lot and odd-lot orders of Nasdaq-listed securities submitted by ETP Holders routed away from the Exchange, and executed by another market center or participant, from \$0.004 per share to \$0.0035 per share.

By this filing, the Exchange has also made clarifying amendments to the Fee Schedule to reflect: (1) The approval of Nasdaq as a national securities exchange thereby classifying Nasdaq securities as "listed securities," and (2) the dissolution of the Intermarket Trading System.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of section 6 of the Act<sup>7</sup> in general and furthers the objectives of section 6(b)(4) of the Act<sup>8</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its

<sup>10</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)(ii).

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

<sup>5</sup> See NYSE Arca Equities Rule 1.1(n).

<sup>6</sup> See NYSE Arca Equities Rule 1.1(u).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(4).