fee applicable to new Participants is calculated. The participation fee is determined by the Participants and is assessed in connection with an Eligible Exchange [6] becoming a new Participant. The Joint Amendment provides that in determining the amount of the participation fee, the Participants shall consider one or both of the following: (i) The portion of costs previously paid by the Participants for the development, expansion, and maintenance of Linkage [7] facilities which, under generally accepted accounting principles, could have been treated as capital expenditures and, if so treated, would have been amortized over the five years preceding the admission of the new Participant (and for this purpose all such capital expenditures shall be deemed to have a five-year amortizable life); and (ii) previous participation fees paid by other new Participants. These standards are substantially consistent with the participation fee standards contained in the Consolidated Tape Association / Consolidated Quotation Plans (''CTA/CQ Plans'').[8] Further, the Participants would no longer be required to calculate the participation fee at least once a year. Instead, the participation fee would be calculated at the time an Eligible Exchange seeks to become a Participant.

III. Discussion

After careful consideration, the Commission finds that the proposed Joint Amendment to the Linkage Plan is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposed Joint Amendment is consistent with Section 11A of the Act and Rule 608 thereunder, in that the revised participation fee calculation methodology appears reasonably designed to provide specific, objective factors for determining entrance fees for new Participants. The Commission also believes that the proposed new standards, if appropriately employed by the Participants, should foster a fair and reasonable method for determining a Linkage participation fee amount.[9] In making this finding the Commission notes that the proposal prescribes participation fee standards that are substantially similar to those standards already in place on the CTA/CQ Plans.[10]

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act [11] and Rule 608 thereunder,[12] that proposed Joint Amendment No. 19 to the Linkage Plan is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Nancy M. Morris,

Secretary.

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[6] *See* Section 2(6) of the Linkage Plan.

[7] *See* Section 2(14) of the Linkage Plan.

[8] *See* Section III(c)(2) of the CTA Plan.

[9] The Commission notes that the amount of the participation fee would be determined in discussions among the Participants and each Eligible Exchange seeking to become a Participant in light of the participation fee standards enumerated in the Linkage Plan.

[10] *See* Section III(c)(2) of the CTA Plan. *See* Securities Exchange Act Release No. 51391 (March 17, 2005), 70 FR 15132 (March 24, 2005) (SR–CTA/CQ–2004–01) (Order approving amendment to the CTA/CQ Plans implementing new participant fees).

[11] 15 U.S.C. 78k–1.

[12] 17 CFR 242.608.

[13] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54352, File No. 4–518]

Joint Industry Plan; Order Approving Amendment To Add the Nasdaq Stock Market LLC as Participant to National Market System Plan Establishing Procedures Under Rule 605 of Regulation NMS

August 23, 2006.

I. Introduction

On April 11, 2006, The Nasdaq Stock Market LLC (''Nasdaq'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') in accordance with Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 of Regulation NMS,[2] a proposed amendment to the national market system plan establishing procedures under Rule 605 of Regulation NMS (''Joint-SRO Plan'' or ''Plan'').[3] Under the proposed amendment, Nasdaq would be added as a participant to the Joint-SRO Plan. Notice of filing and an order granting temporary effectiveness of the proposal through August 25, 2006 was published in the **Federal Register** on April 27, 2006.[4] The Commission did not receive any comments on the proposed amendment. This order approves the amendment on a permanent basis.

II. Discussion

The Joint-SRO Plan establishes procedures for market centers to follow in making their monthly reports required pursuant to Rule 605 of Regulation NMS, available to the public in a uniform, readily accessible, and usable electronic format. The current participants to the Joint-SRO Plan are the American Stock Exchange LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc. (n/k/a National Stock Exchange℠), National Association of Securities Dealers, Inc., New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC), Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.), and Philadelphia Stock Exchange, Inc. The proposed amendment would add Nasdaq as a participant to the Joint-SRO Plan.

Section III(b) of the Joint-SRO Plan provides that a national securities exchange or national securities association may become a party to the Plan by: (i) executing a copy of the Plan, as then in effect (with the only changes being the addition of the new participant's name in Section II(a) of the Plan and the new participant's single-digit code in Section VI(a)(1) of the Plan) and (ii) submitting such executed plan to the Commission for approval. Nasdaq submitted a signed copy of the Joint-SRO Plan to the Commission in accordance with the procedures set forth in the Plan regarding new participants.

The Commission finds that the amendment to the Joint-SRO Plan is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposed amendment is consistent with the requirements of Section 11A of the Act,[5] and Rule 608 of Regulation NMS.[6] The Plan established appropriate procedures for market centers to follow in making their monthly reports required pursuant to Rule 605 of Regulation NMS available to the public in a uniform, readily accessible, and usable electronic format. The amendment to include Nasdaq as a participant in the Joint-SRO Plan should contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] 17 CFR 242.605. On April 12, 2001, the Commission approved a national market system plan for the purpose of establishing procedures for market centers to follow in making their monthly reports available to the public under Rule 11Ac1–5 under the Act (n/k/a Rule 605 of Regulation NMS). *See* Securities Exchange Act Release No. 44177 (April 12, 2001), 66 FR 19814 (April 17, 2001).

[4] *See* Securities Exchange Act Release No. 53691 (April 20, 2006), 71 FR 24875.

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 242.608.

by facilitating the uniform public disclosure of order execution information by all market centers. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow Nasdaq to become a participant in the Joint-SRO Plan. The Commission finds, therefore, that approving the amendment to the Joint-SRO Plan is appropriate and consistent with Section 11A of the Act.[7]

III. Conclusion

It is therefore ordered, pursuant to Section 11A(a)(3)(B) of the Act[8] and Rule 608 of Regulation NMS,[9] that the amendment to the Joint-SRO Plan to add Nasdaq as a participant is approved and Nasdaq is authorized to act jointly with the other participants to the Joint-SRO Plan in planning, developing, operating, or regulating the Plan as a means of facilitating a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Nancy M. Morris,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54340; File No. SR–ISE–2006–40]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Establishment of the Second Market

August 21, 2006.

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 July 5, 2006, the International Securities Exchange, Inc. (''ISE'' 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 prepared by the ISE. On August 16, 2006, ISE filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments 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

The ISE is proposing to adopt Second Market rules for the listing and trading of low-volume options classes. The text of the proposed rule change, as amended, is available on the ISE's Web site (*http://www.iseoptions.com*), at the principal office of the ISE, and at 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, the ISE 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 ISE 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 ISE currently trades options on approximately 900 equity securities that qualify for options trading pursuant to the listing standards contained in ISE Rule 502. The listing standards for underlying securities are uniform across all of the options exchanges, and there are many additional underlying equity securities that qualify for options trading under these standards which the ISE does not currently list for trading, but are traded on one or more of the other options exchanges. In general, the Exchange has chosen not to list and trade these options classes based on the low average daily trading volume (''ADV'') they have on the other options exchanges. The purpose of this proposal is to adopt rules for the listing and trading of these low-volume options classes that qualify for listing under ISE Rule 502 in a ''Second Market.'' Establishing the Second Market would allow the Exchange to provide an opportunity for additional members to provide liquidity as market makers, and to apply a modified fee structure to this segment of the options market.

Under the proposal, the Exchange would initially list eligible equity options classes (excluding options on exchange traded funds) that trade on another options exchange and that have an ADV below 500 contracts over a six-month period in the Second Market and those with an ADV of over 1500 contracts in the existing market (the ''First Market''). The proposed rules allow the Exchange to list such options classes with an ADV between 500 and 1500 contracts initially in either market, which is necessary to take into account other factors to ensure that options classes are placed in the appropriate market (*e.g.*, whether the volume trend over the six-month period is up or down, or whether the underlying security is going to be or has been part of a corporate action). Starting one year after the Second Market initiates trading,[4] the Exchange would review the market in which options classes are listed every three months, and options classes would be moved from the First to the Second Market when their ADV in the prior six-month period falls below 300 contracts,[5] and moved from the Second to the First Market when their ADV in the prior six-month period exceeds 750 contracts.

Under the proposal, all members approved to operate ISE market maker memberships would be eligible to be Competitive Market Makers in the Second Market. In addition, members that are only approved as Electronic Access Members may also register as Competitive Market Makers in the Second Market,[6] but would pay a $0.10 transaction surcharge over those market makers that own or lease ISE market maker memberships. The Exchange believes that providing greater access to

[7] 15 U.S.C. 78k–1.

[8] 15 U.S.C. 78k–1(a)(3)(B).

[9] 17 CFR 242.608.

[10] 17 CFR 200.30–3(a)(29).

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

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaces and supersedes the original filing in its entirety.

[4] Initially, the Exchange intends to add options classes to the Second Market over several months. The Exchange believes it is important to provide participants in the Second Market a period of continuity in Second Market products before moving options between the First Market and Second Market. Therefore, if for example, the Exchange were to initiate trading in September 2006, it would not conduct the first review to move options classes from the First Market to the Second Market, and vise versa, until September 2007. The first review would look at the industry ADV of each options class over the previous 6 months. Three months later, the Exchange would again review the industry ADV of each options class over the previous 6 months, and repeat this same review every three months thereafter.

[5] Such options classes would remain in the Second Market for at least twelve (12) months before being returned to the First Market.

[6] Under proposed ISE Rule 902, members that are only Electronic Access Members that want to become Competitive Market Makers in the Second Market would be required to complete the same market maker application and meet the same standards that are applied to Competitive Market Makers under the Exchange's existing rules. Members that are only Electronic Access Members are not eligible to be Primary Market Makers in the Second Market.