

governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,<sup>33</sup> which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last sale information regarding the Fund Shares are disseminated through CTS. Furthermore, an IOPV for each Fund, updated to reflect changes in the amount of the Portfolio Deposit, on a per-Share basis, is calculated and published by a third-party service provider through CTS on a 15-second delayed basis during Nasdaq's regular trading hours. Major market data vendors calculate and disseminate once each trading day the value of each Index and the NAV for each Fund. Amex and NYSE, as applicable, disseminate information with respect to NAV and cash amounts per Creation Unit Aggregation, and the iShares Web site supplies additional trading data for the Shares, both current and historical. If the listing market halts trading in the Shares, or the IOPV or any Index value is not being calculated or disseminated, the Exchange would halt trading in the Shares.

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

In support of this proposal, the Exchange has made the following representations:

(1) The Exchange's surveillance procedures are adequate to address any concerns associated with the trading of the Shares on a UTP basis.

(2) The Exchange would inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares, including suitability recommendation requirements.

(3) The Exchange would require its members to deliver a prospectus or product description to investors purchasing Shares prior to or concurrently with a transaction in such Shares and will note this prospectus delivery requirement in the Information Circular.

This approval order is conditioned on the Exchange's adherence to these representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**.

As noted above, the Commission previously found that the listing and trading of the Shares on NYSE and Amex, as applicable, is consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit that finding or would preclude the trading of the Shares on the Exchange pursuant to UTP. Furthermore, accelerated approval of this proposal will facilitate Nasdaq's ability to continue trading certain non-Nasdaq-listed ETFs as Nasdaq becomes an exchange with respect to non-Nasdaq-listed securities, where there appears to be no regulatory concerns about such trading. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for such Shares.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>34</sup> that the proposed rule change (SR-NASDAQ-2007-002), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>35</sup>

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

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**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55284; File No. SR-NASDAQ-2007-003]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Pricing for Nasdaq Members Using the Nasdaq Market Center

February 13, 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 January 29, 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 prepared substantially by Nasdaq. Pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder, Nasdaq has designated the proposed rule change as establishing or changing a member due, fee, or other charge, 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

Nasdaq proposes to modify the pricing for Nasdaq members using the Nasdaq Market Center ("Center"). Nasdaq will implement this proposed rule change on February 1, 2007. The text of the proposed rule change is available at Nasdaq, [www.nasdaq.com](http://www.nasdaq.com), and the Commission's Public Reference Room.<sup>5</sup>

#### 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

This proposed rule change modifies the pricing schedule for trading securities through the Center. In addition to modifying the level of certain fees, the filing also adds language reflecting the fees to be charged for trading non-Nasdaq securities through the Center. Nasdaq anticipates that such trading will begin on February 12, 2007. The fee schedule reflects the volume of a member's use of the Center and also the ITS/CAES and Inet systems operated by Nasdaq and its

<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> Changes to the proposed rule text are marked to the rule text that appears in the electronic Nasdaq Manual found at [nasdaq.complinet.com/nasdaq/display/index.html](http://nasdaq.complinet.com/nasdaq/display/index.html).

<sup>34</sup> 15 U.S.C. 78s(b)(2).

<sup>35</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>33</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

affiliates as facilities of NASD, in determining applicable fees.<sup>6</sup> The changes proposed by this filing relate to order execution fees for the Nasdaq Market Center and fees for routing to venues other than the New York Stock Exchange ("NYSE"). When the Center begins to route orders to NYSE, the changes will also apply to such routing.

Currently, members with an average daily volume through the Center in all securities during the month of (i) More than 30 million shares of liquidity provided, and (ii) more than 50 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Center in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 60 million shares of liquidity accessed and/or routed, pay a fee of \$0.0027 per share executed when their orders access liquidity on the Center or are routed. Members with lower volumes pay a fee of \$0.0028 or \$0.003, depending on their volumes. The proposed rule change raises the volume thresholds needed to qualify for the \$0.0027 fee, such that it will be available to market participants that (i) Add more than 35 million shares of liquidity per day during the month and route or remove more than 55 million shares of liquidity per day during the month, or (ii) add more than 25 million shares of liquidity per day during the month and route or remove more than 65 million shares of liquidity per day during the month.

Currently, members adding more than 30 million shares of liquidity per day during the month receive a liquidity provider credit of \$0.0025 per share executed; members providing less liquidity receive a credit of \$0.002. The proposed rule change would raise the threshold needed to qualify for the \$0.0025 rebate to 35 million shares per day. However, the proposed rule change also introduces an intermediate credit of \$0.0022 per share executed for members that provide more than 20 million shares of liquidity during the month.

Nasdaq announced the fees reflected in this proposed rule change on November 30, 2006,<sup>7</sup> as part of a market-

wide evolution in the pricing structure for non-Nasdaq listed securities and an effort by Nasdaq to adopt consistent pricing for all types of securities. Previously, the fees charged by Nasdaq and other venues for non-Nasdaq securities had been characterized by low execution and routing fees and no credits for liquidity providers. During the Fall of 2006, however, other markets began to adopt higher execution fees, coupled with liquidity provider credits, thereby moving towards a structure that had long been in effect for Nasdaq-listed securities. As of January 2, 2007, NASD filed fees for ITS/CAES and Inet that reflected this evolving pricing structure, and Nasdaq adopted comparable fees for Nasdaq-listed securities traded through the Center.<sup>8</sup> However, the fees filed for January were intended as a one-month transition away from the previous structure, and therefore included lower thresholds to qualify for favorable pricing. In addition, the new higher thresholds reflecting the growing volumes of orders for NYSE-listed securities that are executed or routed through Inet and ITS/CAES, and are intended to encourage further usage.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>9</sup> in general, and with Section 6(b)(4) of the Act,<sup>10</sup> in particular, in that the proposed rule change 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. Nasdaq believes that the fees are reasonably allocated among members based on their usage of the trading systems operated by Nasdaq, and are generally consistent with fees charged by other market centers for comparable services.<sup>11</sup>

<sup>8</sup> See Securities Exchange Act Release No. 55129 (January 18, 2007), 72 FR 3894 (January 26, 2007)(SR-NASD-2006-137). See also Securities Exchange Act Release No. 55137 (January 19, 2007), 72 FR 3452 (January 25, 2007) (SR-NASDAQ-2006-068).

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> NYSE Arca's fees are structured the same as Nasdaq's fees; Nasdaq's fees are generally the same or slightly lower. See <http://www.nyse.com/productservices/nysearcaequities/1157018931977.html>. BATS fees are also structured similarly, and are generally lower. See [http://www.batstrading.com/subscriber\\_resources/BATS\\_Fee\\_Schedule\\_20070201.pdf](http://www.batstrading.com/subscriber_resources/BATS_Fee_Schedule_20070201.pdf). NYSE uses a different pricing model, but recently made changes to its fees that are reflected in Nasdaq's fees for routing to NYSE. See <http://www.nyse.com/Frameset.html?nyseref=&displayPage=/press/PressReleases.html> (November 30, 2006 press release). February 12, 2007 email from John Yetter, Nasdaq, to Joseph Morra, Commission.

## 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>12</sup> and Rule 19b-4(f)(2) thereunder,<sup>13</sup> in that the proposed rule change establishes or changes a member due, fee, or other charge. 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 Number SR-NASDAQ-2007-003 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2007-003. 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

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

<sup>6</sup> The consideration of volumes through ITS/CAES and Inet is a function of the phased transition of Nasdaq from an operator of NASD facilities to a separate national securities exchange. As such, NASD fees schedules will be amended to remove all references to Nasdaq shortly after the time when Nasdaq begins to trade non-Nasdaq exchange-listed securities as an exchange. NASD is submitting a comparable filing to modify fees for non-Nasdaq exchange-listed securities, which likewise considers trading volumes through the Center.

<sup>7</sup> See Nasdaq Head Trader Alert #2006-199 (November 30, 2006) (available at <http://www.nasdaqtrader.com/trader/news/2006/headtraderalerts/hta2006-199.stm>).

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 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-2007-003 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-3093 Filed 2-22-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55299; File No. SR-NYSE-2007-01]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change to Amend Listing and Annual Fees Applicable to Investment Company Units, Currency Trust Shares, Commodity Trust Shares and streetTRACKS® Gold Shares

February 15, 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 January 24, 2007, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I, II and III below, which Items have been substantially prepared by the NYSE. The Commission is publishing this notice to solicit comments on the

proposed rule changes from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The Exchange proposes to amend initial listing fees and annual fees applicable to Investment Company Units ("ICUs"), Currency Trust Shares, Commodity Trust Shares and streetTRACKS® Gold Shares in Section 902.07 of the NYSE Listed Company Manual ("Manual"), and to make conforming amendments to Sections 902.02 and 902.03 of the Manual. The text of the proposed rule change is available at the Commission's Public Reference Room, at the NYSE, and at its Web site: <http://www.nyse.com/Frameset.html?displayPage=http://apps.nyse.com/commdata/pub19b4.nsf/rulefilings?openview>.

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

In filings with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE 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 amend the Listing Fees and Annual Fees in Section 902.07 of the Manual applicable to Investment Company Units listed under Section 703.16, and to apply such fees to Currency Trust Shares as defined in Exchange Rule 1300A, Commodity Trust Shares as defined in Exchange Rule 1300B, and streetTRACKS® Gold Shares as defined in Exchange Rule 1300. The Exchange also proposes to make conforming amendments to Sections 902.02 (General Information on Fees) and 902.03 (Fees for Listed Equity Securities) of the Manual.

###### Listing Fees

The Exchange currently imposes a flat Original Listing Fee of \$5,000 in connection with listing a series of Investment Company Units. The Exchange proposes to amend Section 902.07 to specify that a \$5,000 Listing Fee will also be imposed in connection

with the initial listing of each issue of Currency Trust Shares as defined in NYSE Rule 1300A and Commodity Trust Shares as defined in NYSE Rule 1300B. In addition, the proposed amendment reflects the \$5,000 Listing Fee applicable to the currently-listed streetTRACKS® Gold Trust.<sup>3</sup> The Exchange has previously specified in its filings pursuant to Rule 19b-4<sup>4</sup> under the Act with respect to Currency Trust Shares and Commodity Trust Shares that a \$5,000 initial listing fee applies,<sup>5</sup> and the Exchange believes it is appropriate to include such fee in the Exchange's Listing Fee schedule in Section 902.07.

###### Annual Fees

The Exchange currently imposes a flat Annual Fee of \$2,000 for each series of ICUs listed on the Exchange. The Exchange has previously specified in its filings pursuant to Rule 19b-4 with respect to streetTRACKS® Gold Shares, Currency Trust Shares and Commodity Trust Shares that a \$2,000 annual fee applies,<sup>6</sup> and the Exchange believes it is appropriate to include the Annual Fee, as proposed to be amended, in the Exchange's Listing Fee schedule in Section 902.07.

The proposed Annual Fee will be tiered based on the number of shares outstanding of each issue of ICUs, Currency Trust Shares or Commodity Trust Shares, and to streetTRACKS® Gold Shares as follows:

Number of Shares Outstanding (each issue)	Annual Fee
Less than 25 million .....	\$2,000
25 million up to 50 million .....	4,000
50 million up to 99,999,999 .....	8,000
100 million up to 249,999,999 ..	15,000
250 million up to 499,999,999 ..	20,000
500 million and over .....	25,000

The Annual Fee will be billed each calendar quarter and will be apportioned based on the number of shares outstanding for an issue at the end of the preceding calendar quarter, as described below.

<sup>3</sup> The Commission approved Exchange listing of streetTRACKS® Gold Shares in Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR-NYSE-2004-22). The Exchange indicated in such filing that the listing fee for the streetTRACKS® Gold Trust was \$5,000.

<sup>4</sup> 17 CFR 240.19b-4.

<sup>5</sup> See, e.g., Securities Exchange Act Release No. 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR-NYSE-2006-35) (Listing of Six CurrencyShares Trusts).

<sup>6</sup> *Id.*

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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