data. Nasdaq believes that this proposed rule change will encourage the broader redistribution of the Nasdaq depth of book information, thus improving transparency and thereby benefiting the investing public.

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. As a general matter, the Commission has long held the view that ''competition and innovation are essential to the health of the securities markets. Indeed, competition is one of the hallmarks of the national market system.'' [10] The Commission has also stated ''that the notion of competition is inextricably tied with the notion of economic efficiency, and the Act seeks to encourage market behavior that promotes such efficiency, lower costs, and better service in the interest of investors and the general public. [11]

The Commission goes on to state its belief ''that the appropriate analysis to determine a proposal's competitive impact is to weigh the proposal's overall benefits and costs to competition based on the particular facts involved, such as examining whether the proposal would promote economically efficient execution of securities and fair competition between and among exchange markets and other market centers, as well as fair competition between the participants of a particular market.[12]

The proposed rule change is designed to increase transparency and the efficiency of executions by enabling vendors to provide additional market data in a cost efficient manner. There is significant competition for the provision of market data to broker-dealers and other market data consumers, as well as competition for the orders that generate the data. Nasdaq fully expects its competitors to quickly respond to this proposal as they have responded to other Nasdaq data products in the past.

Moreover, market forces have shaped the market data fees that Nasdaq has charged for this product in the past and will continue to shape those fees in the future. As noted above, the Commission originally approved a fee of $150 for TotalView. Nasdaq lowered that fee to $70 and $14 in response to the lack of demand by vendors and users. Vendors simply will only utilize the service unless and until they conclude that it is economically beneficial to them and to their users.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

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 No. SR–NASDAQ–2006–049 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–2006–049. 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 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–2006–049 and should be submitted on or before April 6, 2007.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–4811 Filed 3–15–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55444; File No. SR–NASDAQ–2007–006]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Establish Daily Share Volume Service and Fees for the Service

March 12, 2007.

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 February 7, 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 by Nasdaq. 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 establish fees to make Nasdaq Daily Share Volume

[10] Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001) (SR–NASD–99–53).

[11] Securities Exchange Act Release No. 54155 (July 14, 2006), 71 FR 41291, 41298 (July 20, 2006) (SR–NASDAQ–2006–001).

[12] *Id.*

[13] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

information available via a Web-based data product that will provide daily traded share volume by issue for participating market participants on a T+1 basis. The text of the proposed rule change is available at Nasdaq, *http://www.nasdaq.com,* and the Commission's Public Reference Room.[3]

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. 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 proposes to establish the Nasdaq Daily Share Volume Service (''Service'') and to establish fees for the Service, to make information available via a Web-based data product that will provide daily traded share volume by issue for participating market participants on a T+1 basis. Currently, Nasdaq provides a share volume product on a monthly basis called the NASDAQ Monthly Market Maker Share Volume Report. Nasdaq has received numerous requests for a comparable daily product based on trades executed by, or reported to, Nasdaq systems.

Vendors and other exchanges also currently make daily broker volume reports available. Specifically, the New York Stock Exchange (''NYSE'') provides a daily NYSE Broker Volume Report based on trades reported to the NYSE. Access to the NYSE reports via the web costs $300/month. Access to the full dataset via FTP costs $3,000/month.

In response to this demand, Nasdaq proposes to establish the Service. The Service will provide subscribers with the ability to view volume reports on a T+1 basis. One level of service (''web subscribers'') will enable users to access the product through a web service that will allow a single subscriber to construct a variety of custom queries and view and print the results. Another level of service (''FTP subscribers'') will have FTP access to the full underlying data set to create custom reports and enable redistribution, but a distributor agreement will also be required.

The volume data will include trades from the Nasdaq Execution System and internalized prints from the Nasdaq/NASD Trade Report Facility. Nasdaq proposes to charge:

• Web subscribers $240/month for individual access to view and print the reports; or

• FTP subscribers $2,500/month for FTP access to the underlying data for redistribution.

These prices fairly reflect the value of this data. The Service is responsive to the requests of market participants seeking an alternative to the NYSE product and other commercial products. However, Nasdaq believes that the Service is aggressively priced and that the prices of the Service are designed to respond to customer demand, while recognizing the challenge of establishing a new product in the marketplace.

Nasdaq will provide eligible market participants with the opportunity to choose whether to advertise their trade volume by market participant ID code and issue. Participation by eligible market participants will be completely voluntary.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(4) of the Act,[5] 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, and it does not unfairly discriminate between customers, issuers, brokers or dealers. Use of the Service is voluntary and the subscription fees will be imposed on all purchasers equally based on the level of service selected. The proposed fees will cover the costs associated with establishing the Service, responding to customer requests, configuring Nasdaq's systems, programming to user specifications, and administering the Service, among other things.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

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 No. SR–NASDAQ–2007–006 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–2007–006. 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

[3] Changes are marked to the rule text that appears in the electronic NASDAQ Manual found at *http://www.nasdaqtrader.com.*

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

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–2007–006 and should be submitted on or before April 6, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–4814 Filed 3–15–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55439; File No. SR–NYSE–2007–16]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate the Individual Investor Express Delivery Service

March 9, 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 February 14, 2007, the New York Stock Exchange LLC (''Exchange'' or ''NYSE'') 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 Commission is publishing this notice to solicit comment 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 is proposing to amend Exchange Rule 123B, ''Exchange Automated Order Routing Systems,'' by eliminating the functionality of the Individual Investor Express Delivery Service® (''IIEDS''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, 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 NYSE 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 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

IIEDS is an order processing service that, in certain situations, provides priority delivery to the specialist's post through SuperDOT® for simple round-lot market orders and market GTC (''good 'til canceled'') orders that are for an amount up to 2,099 shares and are for the account of an individual investor[3] as identified by the member organization or its customer, if enabled by the member organization, entering the order. Market orders to buy minus, sell plus, sell short, buy or sell stop, as well as limit orders are not eligible for IIEDS. In addition, a limit order that is cancelled and replaced with a market order when entered as a single cancel/replacement order is not eligible for IIEDS. IIEDS was adopted in the wake of the 1987 market correction to enable retail-sized orders to avoid being negatively impacted by a sudden and significant influx of non-retail orders such as what generally happens when automated program trading benchmarks are reached.

IIEDS provides eligible orders with priority systematized delivery, ahead of other orders, to the specialist's post only when a queue of orders, which is caused by extraordinarily high levels of message traffic, exists in the Common Message Switch (''CMS'').[4] Where no queue exists in CMS, IIEDS-eligible orders received by the Exchange are routed to the specialist's post through SuperDOT, along with all other orders received by CMS, in the normal sequence in which they are received. Once an IIEDS order reaches the specialist's post, whether it received priority delivery or not in arriving there, all normal Exchange market procedures, including rules related to priority and parity, are applied in executing the order.

The NYSE is proposing to eliminate the functionality of IIEDS because it is no longer necessary due to systems capacity upgrades made to CMS that the Exchange has implemented over time. In addition, IIEDS is infrequently used, and orders eligible for the service represent a very small percentage of order flow received on the Exchange. Finally, the service is no longer needed in light of the increased speed and efficiency of order executions that will occur as a result of the NYSE HYBRID MARKET℠ initiative.[5]

Due to capacity increases made to CMS on an annual basis over the years, the Exchange rarely experiences order queues, a condition precedent for an IIEDS order to be sent to the specialist's post ahead of another order. Historically, the Exchange has maintained ''message per second'' system capacity for CMS equaling approximately two times the highest Floor-wide five-minute average message per second rate experienced during the year. Thus, for example, during 2005, the Exchange experienced a peak five-minute average message per second rate of 6,043, while the actual CMS system capacity for year end 2005 was increased to handle approximately 13,000 messages per second. Year-to-year evaluation of actual message per second rate coupled with attendant proportional increases in CMS capacity has enabled the Exchange to experience a statistically insignificant number of order queues, thereby obviating the need for IIEDS.

The Exchange is also proposing to eliminate IIEDS because the service is seldom used by its customers; less than two-tenths of 1% (approximately .18%) of order flow received by the Exchange is eligible for IIEDS processing. The average number of IIEDS-eligible orders is approximately 64,000 orders per day, out of approximately 35.36 million

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[6] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] The term ''individual investor'' is defined to parallel the concept of ''natural person'' contained in Section 11(a)(1)(E) of the Act, 15 U.S.C. 78k(a)(1)(E), including the interpretations made by the Commission pursuant to that section.

[4] CMS is the central communications hub between member organizations and the NYSE. CMS receives, validates, and passes orders and administrative inquiries from member organizations to other NYSE systems, including SuperDOT. In addition, CMS sends execution reports, responses to administrative inquiries, and status messages back to member organizations.

[5] The Hybrid Market initiative was proposed in SR–NYSE–2004–05 and Amendments No. 1, 2, 3, 5, 6, 7, and 8 thereto, approved on March 22, 2006. *See* Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006).