

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 the CBOE. 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-CBOE-2007-83 and should be submitted on or before September 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

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

[FR Doc. E7-15901 Filed 8-14-07; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56225; File No. SR-ISE-2007-32]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving Proposed Rule Change as Modified by Amendment No. 1 Thereto To Remove Certain Rules From Its Rulebook

August 8, 2007.

On May 9, 2007, the International Securities Exchange, LLC (the "Exchange" or the "ISE"), filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to remove certain ISE rules. On June 8, 2007, ISE filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on June 27, 2007.<sup>3</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered securities exchange.<sup>4</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires,

among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The ISE proposes to remove Rule 403 (Nominal Employment), Rule 605 (Other Affiliations of Registered Persons), and Rule 615 (Addressing of Communications to Customers). The Exchange believes that the concern addressed by Rule 403, which prohibits members from obtaining business by employing a person in a nominal position, is adequately addressed in existing Rule 406, which limits gratuities.<sup>6</sup> The Exchange also believes that Rule 605, which effectively prohibits registered persons of its members from engaging in outside business activities unless approved by the Exchange or the member's designated examining authority, is no longer necessary given significant market structure changes.<sup>7</sup> Lastly, the Exchange believes that Rule 615 is unnecessary as ISE members are also subject to ISE Rules 600 and 2114, which effectively require ISE members that do a public business to be registered with FINRA, and the Exchange believes that the FINRA rules pertaining to the customer communication policies for its members conducting a public business should sufficiently address the topic covered by Rule 615. The Commission therefore believes it is consistent with the Act for the Exchange to delete these rules.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-ISE-2007-32), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

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

[FR Doc. E7-15902 Filed 8-14-07; 8:45 am]

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<sup>6</sup> Rule 406 prohibits a member from giving any compensation or gratuity in any one year in excess of \$50.00 to any employee of the Exchange or in excess of \$100.00 to any employee of any other member or of any non-member broker, dealer, bank or institution, without the prior consent of the employer and of the Exchange.

<sup>7</sup> The Exchange also notes that rules of the Financial Industry Regulatory Authority Inc. ("FINRA") (f/k/a the National Association of Securities Dealers, Inc.) governing its members' dealing with the public do not have a comparable provision.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56228; File No. SR-NASDAQ-2007-056]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change and Amendment No. 2 Thereto, To Modify Pricing for Nasdaq Members Using the Nasdaq Market Center

August 8, 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 June 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 prepared by Nasdaq. On July 27, 2007, Nasdaq filed Amendment No. 1. On August 6, 2007, Nasdaq withdrew Amendment No. 1 and filed Amendment No. 2, which replaced the text of the original filing in its entirety. The Commission is publishing this notice to solicit comment 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

Nasdaq proposes to modify pricing for the Nasdaq Market Center. Nasdaq will make the proposed rule change effective retroactively as of February 12, 2007.

The text of the proposed rule change appears below. Proposed new language is italicized and proposed deletions are in brackets.<sup>3</sup>

\* \* \* \* \*

#### 7013. Consolidated Quotation Service and Exchange-Listed Securities Transaction Credit

(a) No change.

(b) Nasdaq members that trade securities listed on [the NYSE ("Tape A") and] Amex ("Tape B") through Nasdaq may receive from Nasdaq transaction credits based on the number

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

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

<sup>3</sup> Changes are marked to the rule text that appears in the electronic Nasdaq Manual found at <http://nasdaq.complinet.com>.

<sup>12</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> See Securities Exchange Act Release No. 55936 (June 21, 2007), 72 FR 35276 ("Notice").

<sup>4</sup> In approving this proposal, the Commission considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

of transactions attributed to them. A transaction is attributed to a member if the transaction is executed through the Nasdaq Market Center, and the member acts as liquidity provider (*i.e.*, the member sells in response to a buy order or buys in response to a sell order). A Nasdaq member may earn credits from [one or both] a pool[s] maintained by Nasdaq, each pool representing 50% of the revenue paid by the Consolidated Tape Association to Nasdaq for [each of Tape A and] Tape B transactions after deducting the amount that Nasdaq pays to the Consolidated Tape Association for capacity usage. A Nasdaq member may earn credits from the pool[s] according to the member's pro rata share of transactions attributed to Nasdaq members in [each of Tape A and] Tape B for each calendar quarter. Liquidity providers executing transactions in Tape B securities through the Nasdaq Market Center will receive credits with respect to such transactions on an estimated monthly basis; all other credits under this rule will be paid on a quarterly basis].

**7014. [Nasdaq Market Center for Non-Nasdaq Securities] Reserved.**

[The charges to be paid by members using the Nasdaq Market Center for trading non-Nasdaq exchange-listed securities through the Nasdaq Market Center shall consist of a fixed service charge of \$200 per member per month, transaction charges as provided in Nasdaq Rule 7018 and equipment-related charges as provided elsewhere in the Rule 7000 Series.]

\* \* \* \* \*

**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 III below, and is set forth in Sections A, B, and C below.

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

**1. Purpose**

Nasdaq proposes two retroactive changes to its fee schedule to address transition issues arising from its commencing operations as a national securities exchange for trading non-Nasdaq securities on February 12, 2007. First, Nasdaq proposes to eliminate a

monthly fixed fee for trading non-Nasdaq securities through the Nasdaq Market Center, as provided in Rule 7014. That rule states that members trading such securities will pay a fixed service charge of \$200 per member per month, transaction charges as provided in Nasdaq Rule 7018, and equipment-related charges as provided elsewhere in the Rule 7000 Series. Prior to February 12, 2007, Nasdaq's parent corporation, The Nasdaq Stock Market, Inc. ("Nasdaq Inc."), operated multiple platforms for trading non-Nasdaq securities, and charged a \$200 monthly service fee under NASD rules. On February 12, 2007, Nasdaq began to trade non-Nasdaq securities as an exchange on a single platform, but Nasdaq Inc. continued to operate a separate platform for trading non-Nasdaq securities under NASD rules until March 5, 2007. Accordingly, the charge under NASD rules remained in place until March 5, 2007.

Because trading all securities on a single platform governed by a common set of trading rules reduces Nasdaq's costs, and because Nasdaq's pricing now makes few distinctions between the trading of Nasdaq-listed and non-Nasdaq securities, Nasdaq believes that it is appropriate to eliminate the \$200 monthly service charge. Nasdaq seeks to make the change retroactive to February 12, 2007, the date when Nasdaq began trading these securities as an exchange. Making the change retroactive to February 12, 2007 will also ensure that members are not charged duplicative fees (a fee under NASD rules and a fee under Nasdaq rules) for the period from February 12, 2007 to March 5, 2007.

The rule's reference to equipment related charges is now obsolete, since trading through Nasdaq is no longer reliant on equipment provided by Nasdaq for use on the premises of its market participants. Finally, although transaction charges under Rule 7018 are applicable, Nasdaq believes that it is unnecessary to cross-reference them in a separate rule. Accordingly, the rule is being deleted in its entirety.

Second, Nasdaq proposes to correct an oversight with regard to the text of Rule 7013 that arose when Nasdaq began to operate as an exchange for trading non-Nasdaq securities on February 12, 2007. Prior to that time, and until March 5, 2007, Nasdaq Inc. shared market data revenue with NASD members trading non-Nasdaq stocks pursuant to former NASD Rule 7010(c)(2). For the period from February 1, 2006 through March 5, 2007, the text of that rule read as follows:

NASD members that trade securities listed on the NYSE ("Tape A") and Amex ("Tape

B") in over-the-counter transactions may receive from the NASD transaction credits based on the number of transactions attributed to them. A transaction is attributed to a member if (i) For Tape B securities, the transaction is executed through CAES, ITS, or Nasdaq's Brut or Inet Facilities, and the member acts as liquidity provider (*i.e.*, the member sells in response to a buy order or buys in response to a sell order) or (ii) for Tape A and Tape B securities, the transaction is not executed through CAES, ITS, or Nasdaq's Brut or Inet Facilities, and the member is identified as the executing party in a trade report submitted to the NASD that the NASD submits to the Consolidated Tape Association. An NASD member may earn credits from one or both pools maintained by the NASD, each pool representing 50% of the revenue paid by the Consolidated Tape Association to the NASD for each of Tape A and Tape B transactions after deducting the amount that the NASD pays to the Consolidated Tape Association for capacity usage. An NASD member may earn credits from the pools according to the member's pro rata share of all over-the-counter transactions attributed to NASD members in each of Tape A and Tape B for each calendar quarter.

The rule text reflected the fact that Nasdaq Inc. provided both electronic transaction execution systems similar to those currently provided by Nasdaq, and over-the-counter trade reporting services similar to those now provided by the NASD/NASDAQ Trade Reporting Facility ("TRF") and TRFs operated by other exchanges. For both Tape A and Tape B securities, the rule provided for sharing of revenues associated with over-the-counter trade reports,<sup>4</sup> but the rule provided for sharing of revenues associated with electronic system trades for Tape B securities only.<sup>5</sup> The rule was amended effective February 1, 2006 to eliminate sharing of revenues associated with electronic system trades for Tape A securities.<sup>6</sup>

Following transition to exchange operation on February 12, 2007, Nasdaq intended to maintain the status quo with respect to revenue sharing. Thus, NASD Rule 7001B, which applies to the NASD/NASDAQ TRF, continues to provide for sharing of revenues associated with over-the-counter trade reports, on terms comparable to those provided under former NASD Rule 7010(c)(2). By contrast, the text of Nasdaq Rule 7013, which was originally adopted through Nasdaq's Form 1

<sup>4</sup> "[F]or Tape A and Tape B securities, the transaction is not executed through CAES, ITS, or Nasdaq's Brut or Inet Facilities. \* \* \* ITS/CAES, Brut and Inet were electronic trading systems operated by Nasdaq Inc.

<sup>5</sup> "[F]or Tape B securities, the transaction is executed through CAES, ITS, or Nasdaq's Brut or Inet Facilities. \* \* \*"

<sup>6</sup> Securities Exchange Act Release No. 53256 (February 8, 2006), 71 FR 8020 (February 15, 2006) (SR-NASD-2006-013).

application for registration as a national securities exchange,<sup>7</sup> was not amended to reflect the elimination of Tape A sharing prior to the time when Nasdaq began to trade non-Nasdaq securities as an exchange on February 12, 2007. The proposed rule change will rectify this oversight, and thereby allow Nasdaq to maintain the status quo with respect to market data revenue sharing, as had been Nasdaq's intent. Nasdaq has not distributed any Tape A revenues for system trades.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(4) of the Act,<sup>9</sup> 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. Nasdaq believes that the change will eliminate an unnecessary charge with respect to trading of non-Nasdaq securities and thereby make Nasdaq's fees for trading these securities more reasonable. Nasdaq further believes that the change with respect to revenue sharing will allow Nasdaq to maintain the status quo with respect to Tape A revenue sharing that had existed prior to Nasdaq beginning to operate as a national securities exchange for trading non-Nasdaq securities.

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

Nasdaq does not believe that the proposed rule change will impose 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 on the proposed rule change 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, as amended; or
- B. Institute proceedings to determine whether the proposed rule change, as amended, 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, as amended, 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-2007-056 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-2007-056. 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 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 the Exchange. 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-2007-056 and should be submitted on or before August 30, 2007.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-15965 Filed 8-14-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56224; File No. SR-NYSEArca-2007-76]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Shares of the streetTRACKS® Gold Trust

August 8, 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 July 27, 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 and II below, which Items have been substantially prepared by the Exchange. On August 7, 2007, the Exchange submitted Amendment No. 1 to the proposal rule change. This order provides notice of the proposed rule change and approves the proposed rule change, as amended, on an accelerated basis.

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

The Exchange proposes to list and trade shares ("Shares") of the streetTRACKS® Gold Trust ("Trust")<sup>3</sup> pursuant to NYSE Arca Equities Rule 5.2(j)(5). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

<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> streetTRACKS® is a registered service mark of State Street Corporation, an affiliate of State Street Global Markets, LLC, the marketing agent of the Trust.

<sup>7</sup> Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10-131).

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).