

four calendar months, for each Profile transaction submitted by a participant in order to offset the up-front remuneration made by DTC to DRS Limited Participants. DTC will eliminate the surcharge at the end of twenty-four calendar months or sooner if the total amount of up-front remuneration paid by DTC is collected before the twenty-four month period has expired.

DTC also proposed to charge participants \$.75 per Profile transaction to offset the on-going cost to DRS Limited Participants of supporting the "move all" function. The transaction fee will be adjusted annually to reflect DRS Profile transactional volume changes. The proposed rule change will require DRS Limited Participants that wish to receive a transaction fee to submit their project plan by September 1, 2008. The DRS Limited Participants represented on the DRS Ad Hoc Committee have agreed that the monthly transactional fee will be no more than \$25,000 per year per DRS Limited Participant. DTC will pay each eligible DRS Limited Participant with 2,000 or more Profile transactions monthly a set monthly amount of \$2,080, or \$24,960 annually. DTC will pay each eligible DRS Limited Participant with at least 200 transactions monthly but less than 2,000 transactions monthly a set monthly amount of \$800, or \$9,600 annually. DTC will not pay DRS Limited Participants with less than 200 transactions a month.

#### *c. Proposed DRS Limited Participant Eligibility Requirements*

DTC proposes to amend its DRS Limited Participant rules to require transfer agents to be able to process Profile instructions requesting the "move all" options and instructions including dual TIN or Social Security numbers. To maintain eligibility as a DRS Limited Participant, all current DRS Limited Participants must provide "move all" and dual TIN or Social Security number processing capability by no later than December 31, 2008.

#### 2. Statutory Basis

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act, as amended,<sup>9</sup> and the rules and regulations thereunder because it improves efficiency and reduces risks associated with processing DRS transaction through Profile and improves the standards relating to the eligibility of transfer agents effecting DRS transactions.

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

DTC 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*

DTC has neither solicited nor received written comments on the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty-five 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 ninety 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](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2008-07 in the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-DTC-2008-07. 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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3:30 p.m. Copies of such filings also will be available for inspection and copying at the principal office of the DTC and on the DTC's Web site, <http://www.dtcc.com>. 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-DTC-2008-07 and should be submitted on or before September 2, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

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#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-58298; File No. SR-NASDAQ-2008-055]

#### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change Regarding Fees for Orders Routed Via the Options Intermarket Linkage**

##### **I. Introduction**

On June 18, 2008, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change regarding fees for orders routed via the Options Intermarket Linkage ("Options Linkage"). The proposed rule change was published for comment in the

<sup>10</sup> 15 U.S.C. 78q-1.

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

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

<sup>9</sup> 15 U.S.C. 78q-1.

**Federal Register** on July 1, 2008.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

Nasdaq proposes to amend its fees related to orders routed to the NASDAQ Options Market ("NOM") via the Options Linkage to establish a Linkage Fee Pilot Program that is effective through July 31, 2009 and to clarify the application of options transaction fees for trades executed through Options Linkage on the Exchange. Under this pilot, the fees applicable to Nasdaq members entering orders directly into NOM systems will apply to Nasdaq members and non-members that enter orders into other options exchanges that are then routed to Nasdaq via the Options Linkage and executed on NOM.

Under the Exchange's current Rule 7050(1), members are charged a fee of \$0.45 per executed contract for orders entered and then executed on the NOM. Nasdaq's current rule does not differentiate between orders entered directly into the NOM via Nasdaq systems and orders received by Nasdaq via the Linkage. Since the launch of the NOM, Nasdaq has been assessing the same fee for all orders executed on behalf of members on its market regardless of whether such orders were entered directly into Nasdaq systems or via the Options Linkage.

## III. Discussion and Commission Findings

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 national securities exchange.<sup>4</sup> In particular, the Commission finds that the proposal is consistent with section 6(b)(4) of the Act,<sup>5</sup> which requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

Under the Exchange's current rule, the fee for members entering an order that executes on the NOM is \$0.45 per executed contract. Nasdaq's current rule does not specifically provide that the same \$0.45 options transaction fee is charged for trades routed to Nasdaq via the Options Linkage. The Exchange's proposal would establish a Linkage Fee

Pilot Program, for a period ending July 31, 2009, that would charge \$0.45 per executed contract to members or non-members entering orders via the Options Linkage that execute in NOM. Accordingly, the Commission believes that the Exchange's proposed rule change and Linkage Fee Pilot Program clearly sets forth the fees imposed on Linkage Orders.

Because the Exchange may have assessed the options transaction fee on Linkage Orders prior to this approval and, therefore, without authority, any parties assessed the options transaction fee for Linkage Orders prior to the approval of this proposed rule change may seek reimbursement. In addition, the Commission notes that the Options Linkage fees are assessed pursuant to a pilot scheduled to end July 31, 2009 and that the Commission is continuing to evaluate whether such fees are appropriate and consistent with the Act.

## IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-NASDAQ-2008-055) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58305; File No. SR-NASDAQ-2008-063]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Rules Governing the Requirements for Market Maker Quotations on the NASDAQ Options Market

August 5, 2008.

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 15, 2008, 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. NASDAQ has

designated the proposed rule change as constituting a non-controversial rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> which renders the proposal 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 Chapter VII, Section 6 of the Nasdaq rules governing the requirements for market maker quotations on the NASDAQ Options Market ("NOM"). The text of the proposed rule change is below. Proposed new language is *italicized*; proposed deletions are in brackets.<sup>4</sup>

\* \* \* \* \*

#### *Chapter VII, Sec. 6 Market Maker Quotations*

(a) Size Associated with Quotes. A Market Maker's bid and offer for a series of options contracts shall be accompanied by the number of contracts at that price the Market Maker is willing to buy or sell. The best bid and best offer entered by a Market Maker must have a size of at least [ten (10)] *one (1)* contract[s].

(b)-(e) No Change.

\* \* \* \* \*

### 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

On March 12, 2008, the Commission approved SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080, proposals to create the NASDAQ Options Market or

<sup>3</sup> See Securities Exchange Act Release No. 58014 (June 24, 2008), 73 FR 37520.

<sup>4</sup> In approving this proposed rule change, the Commission has 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)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</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> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> Changes are marked to the rule text that appears in the electronic Nasdaq Manual found at <http://nasdaq.complinet.com>.