

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

In SR–NASDAQ–2009–067,<sup>5</sup> which was effective on July 1, 2009, NASDAQ established a new pricing tier for members that (1) add, route, and/or remove an average daily volume of more than 150 million shares of liquidity through the NASDAQ Market Center and (2) add an average daily volume of more than 35 million shares of liquidity to the NASDAQ Market Center. Members meeting these criteria will be charged a “take” rate of \$0.0027 per share executed in the NASDAQ Market Center. Because the availability of the new pricing tier was not made known to market participants until late in the day on July 1, NASDAQ believes that it would be appropriate to exclude one trading day from the month of July when calculating a member's average daily volume for the month; thus, the month will be deemed to have 21 trading days, rather than the actual number of 22 days. Rather than automatically excluding July 1, however, NASDAQ proposes to exclude, for each member, the day in July on which it had its lowest trading volume at NASDAQ. NASDAQ believes that this approach will ensure that members will not be disadvantaged in efforts to attain the pricing tier by low trading volumes on July 1; however, if a member seeking to attain the pricing tier had higher volumes on July 1, NASDAQ would instead exclude another day on which that member had low volumes, to provide members with an equitable opportunity to attain the required volumes.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and with Section 6(b)(4) of the Act,<sup>7</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. In SR–NASDAQ–2009–067, NASDAQ significantly reduced the charge to access liquidity for market participants that both access and provide significant quantities of liquidity. Because

NASDAQ announced this pricing change late in the day of July 1, 2009, NASDAQ is proposing to exclude one trading day from the month of July 2009 to ensure that members wishing to qualify for the price reduction have an equitable opportunity to reach the required volume levels.

*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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b–4 thereunder.<sup>9</sup> 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–2009–068 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2009–068. 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, 100 F Street, NE., Washington, DC 20549, 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 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–2009–068 and should be submitted on or before August 13, 2009.

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

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

[FR Doc. E9–17531 Filed 7–22–09; 8:45 am]

**BILLING CODE 8010–01–P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–60323; File No. SR–NASDAQ–2009–067]

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

July 16, 2009.

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>

<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>5</sup> SR–NASDAQ–2009–067 (July 1, 2009).

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

<sup>9</sup> 17 CFR 240.19b–4(f)(2).

notice is hereby given that on July 1, 2009, 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. Pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> NASDAQ has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective upon filing.

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 pricing for NASDAQ members using the Nasdaq Market Center. NASDAQ will implement this rule change on July 1, 2009. The text of the proposed rule change is available at <http://nasdaqomx.cchwallstreet.com/>, at NASDAQ’s principal office, 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, 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**

NASDAQ is proposing several changes to its transaction services pricing. First, NASDAQ is proposing to lower the per-share fee for executions in the NASDAQ Market Center in securities listed on NASDAQ or on the New York Stock Exchange. Specifically, NASDAQ is establishing a new pricing tier for members that are most active in the NASDAQ Market Center. Currently, NASDAQ’s highest activity tier offers a

rebate of \$0.00295 for members that add an average daily volume of 125 million shares of liquidity to the NASDAQ Market Center, but NASDAQ charges \$0.0030 per share for accessing liquidity.<sup>5</sup> Effective July 1, 2009, NASDAQ will establish a tier that requires members to meet two criteria: (1) Add, route, and/or remove an average daily volume of more than 150 million shares of liquidity through the NASDAQ Market Center and (2) add an average daily volume of more than 35 million shares of liquidity to the NASDAQ Market Center. Members meeting these criteria will be charged a “take” rate of \$0.0027 per share executed in the NASDAQ Market Center.<sup>6</sup> The proposed rule change is designed to attract additional activity to the NASDAQ Market Center and to return to members the efficiencies that are gained when members increase their level of activity at NASDAQ markets. Ultimately, those efficiencies are returned to investors in the form of lower overall trading costs.

Second, NASDAQ is proposing to increase the fee it charges for Market-on-Close and Limit-on-Close orders executed in its closing cross, from \$0.0005 per share executed to \$0.0007 per share executed. NASDAQ will continue to charge no fee for other quotes and orders executed in the closing cross. NASDAQ has not modified this fee since it first began to operate as a national securities exchange in 2006, and believes that an increase is now warranted to provide for additional revenue to mitigate the impact of the significant reduction to fees to access liquidity otherwise provided by this filing. The fee remains far lower than the fees charged to access liquidity during regular market hours, which are themselves subject to reduction under this proposal.

##### **2. Statutory Basis**

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general, and with Section 6(b)(4) of the Act,<sup>8</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among

<sup>5</sup> The fees and rebates described in this filing apply to securities priced at \$1 or more per share. Fees and rebates applicable to lower-priced securities remain unchanged.

<sup>6</sup> Firms that add average daily volume of 125 million shares currently receive a rebate of \$0.00295 per share, the highest rebate available to NASDAQ members. Members meeting that criteria will continue to receive that rebate regardless of whether they also qualify for the new “take” rate tier.

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(4).

members and issuers and other persons using any facility or system which NASDAQ operates or controls. NASDAQ is significantly reducing the charge to access liquidity for market participants that both access and provide significant quantities of liquidity. This aspect of the proposal is aimed at recognizing the value to the market of its most active participants, and is similar to volume-based discounts that have long been in effect at NASDAQ and other trading venues. NASDAQ is also increasing its fee for Market-on-Close and Limit-on-Close orders to allocate a greater proportion of overall fees to members that benefit from using these valuable and popular order types. The overall impact of this fee increase is modest in comparison with the corresponding reductions.

The impact of the changes upon the net fees paid by a particular market participant will depend upon a number of variables, including its monthly volume, the order types it uses, and the prices of its quotes and orders (*i.e.*, its propensity to add or remove liquidity and to set the best bid and offer). NASDAQ notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. NASDAQ is reducing fees for many of its market participants to remain competitive with those charged by other venues and therefore strongly believes that its fees are reasonable and equitably allocated to those members that opt to direct orders to NASDAQ rather than competing venues.

#### *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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>10</sup> At any time within 60

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

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

<sup>9</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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-2009-067 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2009-067. 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, 100 F Street, NE., Washington, DC 20549, 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 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-2009-067 and should be submitted on or before August 13, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-17530 Filed 7-22-09; 8:45 am]

**BILLING CODE 8010-01-P**

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## DEPARTMENT OF STATE

### [Public Notice 6707]

#### **Culturally Significant Objects Imported for Exhibition Determinations: "The Moon: Houston, Tranquility Base here. The Eagle has landed."**

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "The Moon: Houston, Tranquility Base here. The Eagle has landed," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Houston, TX, in celebration of the fortieth anniversary of the first men walking on the moon, from on or about September 27, 2009, until on or about January 10, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202/453-8048). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

Dated: July 14, 2009.

**C. Miller Crouch,**

*Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E9-17547 Filed 7-22-09; 8:45 am]

**BILLING CODE 4710-05-P**

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## DEPARTMENT OF TRANSPORTATION

### **National Highway Traffic Safety Administration**

#### **Petition for Exemption from the Vehicle Theft Prevention Standard; Mercedes-Benz**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).  
**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the Mercedes-Benz USA, LLC's (MBUSA) petition for exemption of the SLK Class Line Chassis (SLK-Class) vehicle line in accordance with 49 CFR part 543, *Exemption from the Theft Prevention Standard*. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

**DATES:** The exemption granted by this notice is effective beginning with the 2010 model year.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43-302, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Proctor's phone number is (202) 366-0846. Her fax number is (202) 493-0073.

**SUPPLEMENTARY INFORMATION:** In a petition dated June 19, 2009, MBUSA requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the SLK-Class Line Chassis vehicle line, beginning with the 2010 model year. The petition has been filed pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, MBUSA provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the SLK-Class Chassis vehicle line. MBUSA stated that