

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61580; File No. SR-NASDAQ-2010-016]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Pricing for the NASDAQ Options Market ("NOM")

February 24, 2010.

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 January 27, 2010, The NASDAQ Stock Market LLC ("NASDAQ") filed with the Securities and Exchange Commission (the "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 Act³ and Rule 19b-4(f)(2) thereunder,⁴ 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 Options Market ("NOM"). NASDAQ will make the proposed rule change effective on February 1, 2010. 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 those 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 parts 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 modifying NASDAQ Rule 7050, the fee schedule for NOM, to establish pricing for two newly-listed products, the NASDAQ 100 Index Option (NDX) and the Mini NASDAQ 100 Index Option (MNX). Specifically, Nasdaq is establishing a fee of \$0.50 per executed contract for Customers, Firms, and Non-NOM Market Makers to remove liquidity in NDX and MNX options and \$0.40 per executed contract for NOM Market Makers to remove liquidity.⁵ Nasdaq is also proposing to offer a rebate of \$0.10 per executed contract for Customers, Firms, and Non-NOM Market Makers and \$0.20 per executed contract for NOM Market Makers.

The proposed fee schedule distinguishes between firms that register to and actually make markets on NOM and firms that make markets on other options markets. This pricing convention, which is currently employed by the International Securities Exchange and other exchanges, recognizes the substantial value that registered market makers add to a given marketplace by guaranteeing to provide regular two-sided quotes and to maintain minimum liquidity.⁶ Nasdaq seeks to encourage continued market making on NOM and to attract additional market making by establishing this new fee schedule. To receive NOM Market Maker pricing, the firm must be registered as a NOM Market Maker in the specified security.

Nasdaq believes that the proposed fees are competitive, fair and reasonable, and non-discriminatory in that they apply equally to all similarly situated members and customers. As with all fees, Nasdaq may adjust these proposed fees in response to competitive conditions by filing a new proposed rule change. If the proposed fee schedule is successful in establishing vibrant markets in NDX and MNX options on NOM, Nasdaq may expand this pricing model to other options in the future.

⁵ NOM Market Makers must be registered as such pursuant to Chapter VII, Section 2 of the Nasdaq Options Rules, and must also remain in good standing pursuant to Chapter VII, Section 4. Non-NOM Market Makers are registered market makers on another options market that append the market maker designation to orders routed to NOM.

⁶ See ISE Fee Schedule. http://www.ise.com/assets/documents/OptionsExchange/legal/fee/fee_schedule.pdf.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁷ in general, and with Section 6(b)(4) of the Act,⁸ 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. Consistent with past practice, the proposed change identifies a class of person subject to transaction execution fees based on the role of that class in bringing order flow to NASDAQ.

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 Act⁹ and subparagraph (f)(2) of Rule 19b-4 thereunder.¹⁰ 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. Please include File

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78s(b)(3)(a)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

Number SR–NASDAQ–2010–016 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–2010–016. 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 Web site viewing and printing 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 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 publicly available. All submissions should refer to File Number SR–NASDAQ–2010–016 and should be submitted on or before March 24, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–4367 Filed 3–2–10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on November 24, 2009 [74 FR 61404]. The docket number is NHTSA 2009–0180.

DATES: Comments must be submitted on or before April 2, 2010.

FOR FURTHER INFORMATION CONTACT: Lori Summers, National Highway Traffic Safety Administration, Office of Rulemaking, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590. Ms. Summers' telephone number is (202) 366–1740.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Part 585—Advanced Air Bag Phase-In Reporting Requirements.

OMB Number: 2127–0599.

Type of Request: Extension of a currently approved collection.

Abstract: 49 U.S.C. 30111 authorizes the issuance of Federal motor vehicle safety standards (FMVSS) and regulations. The agency, in prescribing a FMVSS or regulation, considers available relevant motor vehicle safety data, and consults with other agencies, as it deems appropriate. Further, the statute mandates that in issuing any FMVSS or regulation, the agency considers whether the standard or regulation is “reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed,” and whether such a standard will contribute to carrying out the purpose of the Act. The Secretary is authorized to invoke such rules and regulations as deemed necessary to carry out these requirements.

Using this authority, the agency issued FMVSS No. 208, “Occupant crash protection,” to aid the agency in

achieving many of its safety goals. This notice requests comments on the extension of the phase-in reporting requirements of this FMVSS related to the implementation of advanced air bags. Phase 1 of the advanced air bag phase-in began September 1, 2003 with 100 percent compliance by September 1, 2005. Phase 2 of the advanced air bag phase-in begins September 1, 2007 with 100 percent compliance by September 1, 2009. Phase 3 of the advanced air bag phase-in began September 1, 2009 with 100 percent compliance by September 1, 2011.

NHTSA needs this information to ensure that vehicle manufacturers are certifying their applicable vehicles as meeting the new advanced air bag requirements of FMVSS No. 208. NHTSA will use this information to determine whether a manufacturer has complied with the amended requirements during the phase-in period.

Affected Public: Individuals, households, business, other for-profit, not-for-profit, farms, Federal Government and State, Local or Tribal Government.

Estimated Total Annual Burden: 1,342 hours (22 affected manufacturers × 61 hours).

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on February 25, 2010.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 2010–4336 Filed 3–2–10; 8:45 am]

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¹¹ 17 CFR 200.30–3(a)(12).