

subscribers equally based on the number of test ports subscribed. This proposed charge would apply to both members that obtain test ports for direct access and non-member service bureaus that act as a conduit for orders entered by NASDAQ members that are their customers. The proposed fees will cover the costs associated with separately offering the service, responding to customer requests, configuring NASDAQ's systems, programming to user specifications, and administering the service, among other things, and may provide NASDAQ with a profit to the extent costs are covered. NASDAQ believes that the proposed fee structure strikes a balance between covering these costs, and providing incentives to subscribers to make efficient use of Test Facility ports.

#### *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 Regarding 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>5</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>6</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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-2010-145 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-2010-145. 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 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-2010-145 and should be submitted on or before December 3, 2010.

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

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

[FR Doc. 2010-28466 Filed 11-10-10; 8:45 am]

**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63256; File No. SR-FINRA-2010-055]

#### **Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Amend FINRA Rule 6140 (Other Trading Practices)**

November 5, 2010.

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> notice is hereby given that on October 29, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 FINRA. 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**

FINRA is proposing to amend FINRA Rule 6140 to eliminate the provisions regarding the handling of stop orders, delete definitions relating to stop stock transactions and to relocate the definition of "initial public offering."

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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 the Statutory Basis for, the Proposed Rule Change*

#### **1. Purpose**

FINRA Rule 6140(h) (the "Rule") addresses the handling of stop orders in

<sup>5</sup> 15 U.S.C. 78s(b)(3)(a)(ii).

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

NMS stocks, as defined in Rule 600(b)(47) of SEC Regulation NMS.<sup>3</sup> Specifically, the Rule provides that members may, but are not obligated to, accept stop orders. The Rule further provides that a stop order becomes a market order (or a stop limit order becomes a limit order) when a transaction takes place at or above the stop price (in the case of a buy stop order) or at or below the stop price (in the case of a sell stop order). Thus, as defined in the Rule, a stop order cannot be triggered by the publication of a quotation at the stop price (only by a transaction). However, members have stated that they believe quotations may be a better indicator of the current price of a security than transactions, and requested that FINRA provide members the flexibility to determine whether the trigger of a stop order will be based on transactions or quotations in the subject security at the stop price.

FINRA rules do not typically define the parameters of the various order types that members may accept and we agree that members should have the ability to define the triggering event for stop orders as well as to design their systems consistent with such determination.<sup>4</sup> Therefore, FINRA is proposing to delete Rule 6140(h). FINRA is also deleting Rule 6140(i), which defines the terms “stop stock price” and “stop stock transaction.”

Members that also are members of another self-regulatory organization (“SRO”) will continue to be subject to any applicable provisions adopted by such other SRO with respect to the handling of stop orders. FINRA expects that, irrespective of whether a transaction or quotation is used as the trigger for a customer stop order, each member will apply the approach consistently firm-wide to all customer orders and fully disclose its practice to its customers.

FINRA also is proposing to move the definition of “initial public offering” from Rule 6220 (Definitions) to Rule 6130 (Transactions Related to Initial Public Offerings).<sup>5</sup> FINRA is not

proposing substantive changes to the definition of “initial public offering.” FINRA believes that Rule 6130 is the more appropriate location for the definition of “initial public offering” and that relocating this definition, as proposed, will reduce confusion for members.

FINRA will announce the implementation date of the proposed rule change no later than 30 days following Commission approval. The implementation date will be no more than 60 days following Commission approval.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>6</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA believes that adopting the proposed rule change will provide members with the flexibility to determine whether the execution of stop orders will be triggered by transactions or quotations in the subject security without compromising investor protection. In addition, FINRA believes that relocating the definition of “initial public offering” to Rule 6130 is appropriate and will reduce member confusion.

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

FINRA 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.

### 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 45 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2010-055 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-FINRA-2010-055. 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,<sup>7</sup> 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that

<sup>3</sup> Stop buy orders generally are entered by investors with short positions to limit losses should the stock price increase. Stop sell orders generally are entered in a stock whose price has increased substantially in order to protect the investor's profits should the stock price decline.

<sup>4</sup> These requirements were initially adopted by NASD (and the national securities exchanges) in 1975. See *Notice to Members* 75-42 (June 10, 1975) (Rules Governing Reporting of Transactions to Consolidated Tape).

<sup>5</sup> For the purposes of Rule 6130(a), “initial public offering” means: (1) The offering of the security is registered under the Securities Act; and (2) the issuer of the security, immediately prior to filing the registration statement with respect to such

offering, was not subject to the reporting requirements of Section 13 or 15(d) of the Act.

<sup>6</sup> 15 U.S.C. 78o-3(b)(6).

<sup>7</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2010-055 and should be submitted on or before December 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-28462 Filed 11-10-10; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63253; File No. SR-NASDAQ-2010-144]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ Stock Market, LLC Relating To Access Service Fees**

November 5, 2010.

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 October 28, 2010, The NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. 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**

The Exchange proposes to modify Exchange Rule 7053, related to fees governing pricing for NASDAQ members using the NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options. Specifically, the Exchange proposes to adopt a tiered fee structure for certain Access Services fees.

While fee changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on November 1, 2010.

The text of the proposed rule change is set forth below. Proposed new text is underlined and deleted text is in brackets.

\* \* \* \* \*

**7053. NASDAQ Options Market—Access Services**

The following charges are assessed by Nasdaq for connectivity to the NASDAQ Options Market.

(a) Financial Information Exchange (FIX)

[Ports]	[Price]
[FIX Trading Port] .....	[\$500/port/month].
[FIX Port for Services Other than Trading].	[\$500/port/month].

Ports	Quantity	Price
FIX Trading Port .....	First 25 ports .....	\$500/port/month.
	Additional ports above 25 .....	\$250/port/month.
FIX Port for Services Other than Trading .....	First 25 ports .....	\$500/port/month
	Additional ports above 25 .....	\$250/port/month.

(b) TradeInfo

• Members not subscribing to the Nasdaq Workstation using TradeInfo will be charged a fee of \$95 per user per month.

(c) Other Port Fees

The following port fees shall apply in connection with the use of other trading telecommunication protocols:

- \$500 per month for each port pair.]

Quantity	Price
First 25 ports .....	\$500 per month for each port pair.
Additional ports above 25.	\$250 per month for each port pair.

\* \* \* \* \*

The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nasdaq.cchwallstreet.com>, at the principal office of the Exchange, 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 Exchange 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. The Exchange 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 to amend Rule 7053, titled NASDAQ Options Market—

Access Services, to create a tiered fee structure for its Financial Information Exchange (“FIX”) <sup>3</sup> Fees and Other Port Fees <sup>4</sup> pricing.

Currently Rule 7053 contains fees assessed by Nasdaq for connectivity to NOM. Access Services fees relate to ports used to: Enter orders into the NASDAQ trading systems; receive market data; and enter quotes.

The Exchange proposes to amend the current FIX fees, which are currently \$500 per month/per port for a Fix Trading Port or a FIX Port for Services Other than Trading. The Exchange proposes to assess the following tiered fees:

<sup>8</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> FIX is a protocol used by NOM market participants for order entry, modification and cancellation and message transmittal.

<sup>4</sup> Other Port Fees refer to non-Fix ports used by NOM market participants for order entry and quotes.