

underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

## II. Notice of Filings

The Commission establishes Docket Nos. MC2011-18 and CP2011-57 to consider the Request pertaining to the proposed Priority Mail Contract 35 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than January 12, 2011. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2011-18 and CP2011-57 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than January 12, 2011.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2011-129 Filed 1-6-11; 8:45 am]

**BILLING CODE 7710-FW-P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2011-17 and CP2011-56; Order No. 634]

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recently-filed Postal Service request to add Priority Mail Contract 34 to the competitive product list. This notice

addresses procedural steps associated with this filing.

**DATES:** *Comments are due:* January 12, 2011.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov) or 202-789-6820.

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. Notice of Filing
- III. Ordering Paragraphs

#### I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 34 to the competitive product list.<sup>1</sup> Priority Mail contracts enable the Postal Service to provide Priority Mail service to an individual customer at customized rates.<sup>2</sup> The Postal Service asserts that Priority Mail Contract 34 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2011-17.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.*, Attachment B. The instant contract has been assigned Docket No. CP2011-56.

*Request.* To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 09-6, authorizing certain Priority Mail contracts, and a certification of the Governors' vote;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Contract 34 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, December 30, 2010 (Request).

<sup>2</sup> Decision of the Governors of the United States Postal Service on Establishment of Rates and Classes Not of General Applicability for Priority Mail Contract Group, April 27, 2009, at 1 (Governors' Decision No. 09-6).

competitive product list that would add Priority Mail Contract 34 under Domestic Negotiated Service Agreements;

- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract, customer-identifying information, and related financial information under seal.

In the Statement of Supporting Justification, Josen Punnoose, Manager, Shipping Support (A), Shipping Services, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.*, Attachment D at 1. Mr. Punnoose contends there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

*Related contract.* The Postal Service included a redacted version of the related contract with the Request. *Id.*, Attachment B. The contract is scheduled to become effective 1 business day after the Commission issues all necessary regulatory approvals. *Id.*, at 2. The contract will expire 3 years from the effective date unless, among other things, either party terminates the agreement upon 30 days' written notice to the other party. *Id.* at 3. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.*, Attachment D.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information should remain confidential. *Id.* at 2-3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

## II. Notice of Filings

The Commission establishes Docket Nos. MC2011-17 and CP2011-56 to consider the Request pertaining to the proposed Priority Mail Contract 34 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 12, 2011. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

### III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2011-17 and CP2011-56 for consideration of the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than January 12, 2011.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**  
Secretary.

[FR Doc. 2011-95 Filed 1-6-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63628; File No. SR-NASDAQ-2010-154]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the NASDAQ Stock Market LLC To Enhance the Investor Support Program

January 3, 2011.

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 December 21, 2010, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") 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 the self-regulatory organization. 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 changes to the fee provisions of Rule 7014 (Investor Support Program) to enhance the Investor Support Program in respect of: Certain assumed Baseline Participation Ratio values for firms that did not add liquidity in August 2010; the addition of liquidity through Indirect Order Flow; liquidity executed at or above \$1; and a certification provision.

The text of the proposed rule change is available at <http://nasdaq.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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange is proposing changes to the fee provisions of Rule 7014 to enhance the Investor Support Program in respect of: Certain assumed Baseline Participation Ratio values for firms that did not add liquidity in August 2010; the addition of liquidity through Indirect Order Flow; liquidity executed at or above \$1; and a certification provision.

The Exchange established an Investor Support Program ("ISP") that enables NASDAQ members to earn a monthly fee credit for providing additional liquidity to NASDAQ and increasing the NASDAQ-traded volume of what are generally considered to be retail and institutional investor orders in exchange-traded securities ("targeted liquidity").<sup>3</sup> The goal of the ISP is to

incentivize members to provide such targeted liquidity to the NASDAQ Market Center.<sup>4</sup> The Exchange noted in the ISP Filing that maintaining and increasing the proportion of orders in exchange-listed securities executed on a registered exchange (rather than relying on any of the available off-exchange execution methods) would help raise investors' confidence in the fairness of their transactions and would benefit all investors by deepening NASDAQ's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

The Exchange now proposes several adjustments to the Investor Support Program. The primary objective in making these adjustments is to moderate the ability of members (firms), on a prospective basis, from gaining ISP fee credits without effectively adding targeted liquidity to NASDAQ. This proposal clearly furthers the ISP goal of incentivizing members to provide targeted liquidity to the Exchange.

First, the ISP generally compares a member's Participation Ratio for the current month to the same member's Participation Ratio in August 2010 (known as the "Baseline Participation Ratio").<sup>5</sup> This ratio is determined by

of filing and immediate effectiveness)(the "ISP Filing"). See also Securities Exchange Act Release No. 76505 (December 2, 2010), 75 FR 76505 (December 8, 2010) (NASDAQ-2010-153)(notice of filing and immediate effectiveness regarding exclusion of partial trading days from certain ISP calculations).

<sup>4</sup> The Commission has recently expressed its concern that a significant percentage of the orders of individual investors are executed at over the counter ("OTC") markets, that is, at off-exchange markets; and that a significant percentage of the orders of institutional investors are executed in dark pools. Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (Concept Release on Equity Market Structure, "Concept Release"). In the Concept Release, the Commission has recognized the strong policy preference under the Act in favor of price transparency and displayed markets. The Commission published the Concept Release to invite public comment on a wide range of market structure issues, including high frequency trading and un-displayed, or "dark," liquidity. See also Mary L. Schapiro, *Strengthening Our Equity Market Structure* (Speech at the Economic Club of New York, Sept. 7, 2010) ("Schapiro Speech," available on the Commission Web site)(comments of Commission Chairman on what she viewed as a troubling trend of reduced participation in the equity markets by individual investors, and that nearly 30 percent of volume in U.S.-listed equities is executed in venues that do not display their liquidity or make it generally available to the public).

<sup>5</sup> The term "Participation Ratio" is defined as: For a given member in a given month, the ratio of (i) the number of shares of liquidity provided in orders entered by the member through any of its NASDAQ ports and executed in the NASDAQ Market Center during such month to (ii) the consolidated volume of shares of System Securities in executed orders

<sup>3</sup> For a detailed description of the Investor Support Program, see Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ-2010-141) (notice

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

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