

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.⁷ 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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 email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2013-009 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-2013-009. This file number should be included on the subject line if email 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 the 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 available publicly. All submissions should refer to File Number SR-NASDAQ-2013-009 and should be submitted on or before February 7, 2013.

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

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013-00922 Filed 1-16-13; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68624; File No. SR-NASDAQ-2013-002]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees for Certain Co-Location Services

January 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on January 2, 2013, 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 NASDAQ. 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 the Substance of the Proposed Rule Change

The NASDAQ Stock Market LLC proposes to reduce the fees assessed under NASDAQ Rule 7034 for certain

co-location services. While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on January 2, 2013.

The text of the proposed rule change is available on the Exchange's Web site at <http://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. 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

The Exchange proposes to amend NASDAQ Rule 7034 to reduce the monthly recurring cabinet ("MRC") fees assessed for the installation of certain new co-location cabinets. The reduced MRC fees will apply to new cabinets ordered by customers using the CoLo Console³ during the months of January and February of 2013, provided that such cabinets are fully operational by May 31, 2013. The reduced fee shall apply to any cabinet that increases the number of dedicated cabinets beyond the total number dedicated to that customer as of December 31, 2012 ("Baseline Number"), for so long as the total number of dedicated cabinets exceeds that customer's Baseline Number. The reduced MRC fees will apply for a period of 24 months from the date the new cabinet becomes fully operational under NASDAQ rules, provided that the customer's total number of cabinets continues to exceed the Baseline Number.

The Exchange proposes to reduce the applicable fees as follows:

⁷ 15 U.S.C. 78s(b)(3)(a)(ii).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The "CoLo Console" is NASDAQ's web-based ordering tool, and it is the exclusive means for ordering colocation services.

Cabinet type	Current ongoing monthly fee	Reduced ongoing monthly fee
Low Density	\$4,000	\$2,000
Medium Density	5,000	2,500
Medium-High Density	6,000	3,500
High Density	7,000	4,500
Super High Density	13,000	8,000

New cabinets shall be assessed standard installation fees.

NASDAQ proposes to reduce colocation cabinet fees by different amounts to maintain a sliding scale of

lower fees for higher density cabinets on a per kilowatt basis. The chart below reflects this scale:

Cabinet type	Max kW	Reduced MRC fee	Discount (%)	Fee per KW
Low Density	2.88	\$2,000	50.00	\$694.44
Medium Density	5	2,500	50.00	500.00
Medium-High Density	7	3,500	41.67	500.00
High Density	10	4,500	35.71	450.00
Super High Density	17	8,000	38.46	470.59

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and with Section 6(b)(4) of the Act,⁵ 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 the Exchange operates or controls. The proposed reduced fee will be assessed equally on all customers that place an order for a new cabinet during the designated period. The proposed amendments will provide an incentive for customers to avail themselves of the designated co-location services.

NASDAQ's proposal to reduce fees by differing amounts is fair and equitable because it reflects the economic efficiency of higher density colocation cabinets. First, the underlying costs for co-location cabinets consists [sic] of certain fixed costs for the data center facility (space, amortization, etc.) and certain variable costs (electrical power utilized and cooling required). The variable costs are in total higher for the higher power density cabinets, as reflected in their higher current prices. Second, the higher density cabinets were introduced later than the lower density cabinets (High Density cabinet was introduced in 2009 and the Super High Density cabinet was introduced in 2011). Due to the competitive pressures that existed in 2011 and 2012, the fees for Super High Density cabinets were further reduced in 2012 to be more

comparable with the lower fee per kilowatt of the High Density cabinet. As a result of these already-reduced rates on higher density cabinets, NASDAQ has greater flexibility to discount fees for lower density cabinets, on a per kilowatt basis.

NASDAQ operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. NASDAQ believes that the proposed rule change reflects this competitive environment because it is designed to ensure that the charges for use of the NASDAQ colocation facility remain competitive.

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

The Exchange 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. To the contrary, the Exchange's voluntary fee reduction is a response to increased competition for colocation services by other exchanges and trading venues. As more venues offer colocation services, competition drives costs lower. The Exchange, in order to retain existing orders and to attract new orders, is forced to offer a lower effective rate for aggregate cabinet demand. This competition benefits users, members, [sic] and investors by lowering the

average aggregate cost of trading on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,⁶ NASDAQ has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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.

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4).

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 email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2013-002 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-2013-002. This file number should be included on the subject line if email 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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 available publicly. All submissions should refer to File Number SR-NASDAQ-2013-002, and should be submitted on or before February 7, 2013.

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

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013-00867 Filed 1-16-13; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68630; File No. SR-NYSEMKT-2013-01]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List With Respect to Regulatory Fees Related to the Central Registration Depository, Which Are Collected by the Financial Industry Regulatory Authority, Inc.

January 11, 2013.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on January 2, 2013, NYSE MKT LLC (the "Exchange" or "NYSE MKT") 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 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

The Exchange proposes to amend its Price List (the "Price List") with respect to regulatory fees related to the Central Registration Depository ("CRD system"), which are collected by the Financial Industry Regulatory Authority, Inc. ("FINRA"). The Exchange proposes to implement the fee changes on January 2, 2013. The text of the proposed rule change is available on the Exchange's Web site at www.nyse.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 self-regulatory organization 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. The Exchange 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Price List with respect to regulatory fees related to the CRD system, which are collected by FINRA.⁴ The Exchange proposes to implement the fee changes on January 2, 2013.

Certain of the regulatory fees provided in the Price List are collected and retained by FINRA via the CRD system for the registration of employees of member organizations of the Exchange that are not FINRA members ("Non-FINRA Member Organizations"). The Exchange originally adopted fees for use of the CRD system in 2003.⁵ FINRA recently amended certain of the fees assessed for use of the CRD system, and those amendments will become effective January 2, 2013.⁶

The CRD system fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA Member Organization. Accordingly, the Exchange is proposing to amend the fees in the Price List to mirror those assessed by FINRA, which will be implemented concurrently with the amended FINRA fees on January 2, 2013.⁷ The proposed changes are as follows:⁸

⁴ The CRD system is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

⁵ See Securities Exchange Act Release No. 48066 (June 19, 2003), 68 FR 38409 (June 27, 2003) (SR-Amex-2003-49).

⁶ See Securities Exchange Act Release No. 67247 (June 25, 2012), 77 FR 38866 (June 29, 2012) (SR-FINRA-2012-030).

⁷ The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA Member Organizations when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE MKT-only member organizations.

⁸ The Exchange is proposing to delete the current fees and descriptions in their entirety and replace them with the updated fees and descriptions in a separate table that will include all the fees applicable to Non-FINRA Member Organizations, as discussed further below (corresponding footnotes in the Price List would also be designated as "reserved"). In this regard, the Exchange is proposing a new subheading in the "Regulatory Fees" section of the Price List to differentiate between those fees that are applicable to all member organizations and those fees that are applicable

Continued

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁷ 17 CFR 200.30-3(a)(12).