

submit two test new issues using the NIIDS Web Interface.

The NIIDS Autofeed Interface allows underwriters to establish computer-to-computer connections with DTCC either directly or through a vendor to submit automated files directly to NIIDS. For underwriters planning to use the NIIDS Autofeed Interface, the proposed rule change would require underwriters to submit two test new issues using computer-to-computer connections.

DTCC will monitor underwriter testing and provide status updates to the MSRB. For purposes of determining whether an underwriter has successfully tested the NIIDS Web Interface or the NIIDS Autofeed Interface, underwriters must be able to submit a test new issue in NIIDS and achieve "Trade Eligibility" status in less than two hours. To assist in monitoring whether a test was successful, underwriters should enter a "Time of Formal Award" in NIIDS that reflects the time that the underwriter begins submitting data into NIIDS so that the Time of Formal Award can be compared with the time at which Trade Eligibility status is achieved.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,⁷ which provides that the MSRB's rules shall:

Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because it will allow the municipal securities industry to produce more accurate trade reporting and transparency.

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

The MSRB does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all brokers, dealers and municipal securities dealers.

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 on the proposed rule change.

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

Within 35 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. Please include File Number SR-MSRB-2008-04 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-MSRB-2008-04. 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 the MSRB. 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-MSRB-2008-04 and should be submitted on or before June 12, 2008.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-11434 Filed 5-21-08; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57822; File No. SR-NASDAQ-2008-045]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Opening of Trading on the NASDAQ Options Market

May 15, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 13, 2008, The NASDAQ Stock Market LLC ("Nasdaq" or "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 substantially prepared by the Exchange. Nasdaq has filed the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(5) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(5).

⁷ 15 U.S.C. 78o-4(b)(2)(C).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the opening of trading on the NASDAQ Options Market ("NOM") as set forth in Chapter VI, Section 8 of the Nasdaq Rules governing options trading. The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and <http://nasdaq.complinet.com>.

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 proposes to modify Chapter VI, Section 8 of the rules governing NOM, and in particular governing the opening of trading in that market. Since Nasdaq launched NOM on March 31, 2008, Nasdaq has monitored the operation of the market to identify instances where market efficiency can be enhanced. Nasdaq believes that the opening of the market, while currently quite effective, can be further enhanced.

Nasdaq's current opening processes are set to occur at a fixed time (9:30 a.m.) even when it appears that NOM would open at a price that is away from the prevailing market. Deviation from the prevailing market is somewhat reconciled by automated adjustments that occur within NOM's execution engine, preventing unacceptable harm to investors or NOM participants.

Nonetheless, Nasdaq has determined that the opening of options trading can be enhanced by delaying the opening until such time as the execution of the Opening Cross or, where no Opening Cross will occur, the opening print is in line with the overall marketplace. Specifically, Nasdaq proposes to enhance its opening process by (1) delaying the Opening Cross in the event that after the execution of the Opening Cross the NOM best bid and offer would

be outside certain pre-determined threshold amounts, and (2) delaying the opening of trading if after the opening print the NOM best bid and offer would be outside the same pre-determined threshold amounts in instances where there is insufficient interest available to initiate the Opening Cross.

Nasdaq believes this proposed modification is superior to the current process of opening of trading at a fixed time at a price that is adjusted to fall within the pre-determined threshold. Delaying the opening will allow NOM participants time to enter additional liquidity into the system, resulting in a more efficient opening process and reducing potential volatility around the open. If such a delay were to occur, the Opening Cross, and thus regular market trading, would not commence until such time as it is determined that the width requirements can be met. Nasdaq believes this amendment will increase efficiency of trading around the open. Nasdaq plans to use the threshold amounts prescribed in the obvious error guidelines set forth in Chapter V, Sec. 6 of the NOM rules.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,⁵ in general, and with Section 6(b)(5) of the Act,⁶ in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Nasdaq believes that the proposal is consistent with this standard because the proposed rule change is designed to improve execution quality at the critical opening of the market.

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. To the contrary, Nasdaq believes that by enhancing NOM's opening of trading, the proposed rule change will require competing markets to improve their opening processes and thereby enhance competition between the markets.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

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

Because the proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) have the effect of limiting the access to or availability of an existing order entry or trading system of the Exchange, the foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and Rule 19b-4(f)(5) thereunder.⁸ 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 Number SR-NASDAQ-2008-045 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NASDAQ-2008-045. 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

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(5).

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 the 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-2008-045 and should be submitted on or before June 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E8-11426 Filed 5-21-08; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57826; File No. SR-NASDAQ-2007-001]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment No. 3 to an Order Granting Accelerated Approval to Proposed Rule Change, as Modified by Amendment Nos. 2 and 3 Thereto, To Amend Nasdaq's Clearly Erroneous Rule

May 15, 2008.

I. Introduction

On January 22, 2007, The NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Rule 11890, Nasdaq's "Clearly Erroneous Rule," and related Interpretive Material. Nasdaq filed

Amendment Nos. 1 and 2 to the proposal on June 1, 2007 and June 12, 2007, respectively.³ The proposed rule change, as modified by Amendment No. 2, was published for comment in the **Federal Register** on June 27, 2007.⁴ The Commission received two comment letters regarding the proposed rule change.⁵ On May 15, 2008, Nasdaq filed Amendment No. 3 to the proposal.⁶ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment Nos. 2 and 3 and simultaneously is approving the proposed rule change, as modified by Amendment Nos. 2 and 3, on an accelerated basis.

II. Description of the Proposal

Nasdaq proposes several changes to its Clearly Erroneous Rule and related Interpretive Material. Specifically, Nasdaq proposes to: (i) Set forth price-based standards and provide guidance on the application of those standards when Nasdaq considers whether one or more transactions are clearly erroneous under Rule 11890; (ii) modify the numerical threshold as applied to trades occurring outside of the Regular Session;⁷ (iii) amend the time limits for market participants to file for review under Rule 11890(a) in cases where the price of the transaction is significantly different from the applicable inside price; and (iii) make several procedural modifications to the rule.

Nasdaq proposes to amend IM-11890-4 and IM-11890-5 to incorporate objective price-based standards and provide guidance regarding the application of those standards under Rule 11890. Under Rule 11890, Nasdaq is authorized to break trades when the execution price is more than a specified

percentage (*i.e.*, a Numerical Threshold) away from a "Reference Price" that is indicative of prior market conditions. The Reference Price generally used under Rule 11890 would be, for Nasdaq securities, the best bid/best offer ("BBO") in Nasdaq at the time the disputed transactions were first executed (or the national BBO for non-Nasdaq securities) for trading during the Regular Session, and the closing price for the security on its Primary Market for trades outside the Regular Session. Nasdaq, however, may use a different Reference Price in unusual circumstances. Thus, in a case where material news about a security was released after the market close for the security and a trade occurred outside of the Regular Session, Nasdaq may use a Reference Price derived from after-hours trading activity rather than the closing price of the security. Similarly, in the case of several large orders that execute at multiple prices, a Reference Price based on a weighted average of the BBO at relevant times may be used rather than a Reference Price based solely on the BBO immediately prior to the execution of the first share of the order. Nasdaq proposes to amend the Interpretive Material to add examples of cases where Nasdaq may apply alternative Numerical Thresholds in determining which trades to break. Nasdaq also may use different Numerical Thresholds in events that involve other markets in order to coordinate a point beyond which trades would be adjusted or broken that is consistent across markets.

The Interpretive Material would provide that Nasdaq could break or modify all trades in a security if a pervasive mistake resulted in trading that should not have occurred. For example, trades in a security that was incorrectly authorized for trading prior to the date of its actual initial public offering could all be broken. Similarly, if Nasdaq systems executed orders in the Nasdaq opening cross or closing cross at a price that was inconsistent with the rules governing the operation of the crosses, either due to a Nasdaq system error or because an underlying erroneous order resulted in an erroneous opening or closing price, Nasdaq could break or adjust all of the affected trades.

Nasdaq also proposes to amend the Numerical Thresholds under IM-11890-4 for trading outside the Regular Session, to establish wider ranges within which trades would stand. According to Nasdaq, this proposed change reflects the diminished depth of the market during after-hours and pre-market trading sessions. Accordingly,

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced the proposed rule change in its entirety and was withdrawn by Nasdaq on June 14, 2007. Amendment No. 2 replaced the proposed rule change in its entirety.

⁴ See Securities Exchange Act Release No. 55937 (June 21, 2007), 72 FR 35279.

⁵ See letter from Michael T. Dorsey, Managing Director, Trading Services & Compliance, Pink Sheets LLC ("Pink Sheets"), dated July 18, 2007 ("Pink Sheets Letter"), and letter from Barbara Z. Sweeney, Senior Vice President and Corporate Secretary, Financial Industry Regulatory Authority ("FINRA"), dated August 29, 2007 ("FINRA Letter").

⁶ Amendment No. 3 deleted the proposed revisions to the Clearly Erroneous Rule relating to the submission of unauthorized orders and use of an account for manipulative purposes and clarified the manner in which a request for review can be submitted.

⁷ Regular Session means the primary trading session for a particular security on its Primary Market, which is generally 9:30 a.m. through 4 or 4:15 p.m. Primary Market means: (i) For a Nasdaq security, the Nasdaq Market Center; and (ii) for a non-Nasdaq security, the market designated as the primary market under the Consolidated Tape Association Plan.