



SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-76298; File No. SR-NASDAQ-2015-126]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Nasdaq Rule 7018

October 29, 2015

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 October 22, 2015, The NASDAQ Stock Market LLC (“Nasdaq” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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 the Substance of the Proposed Rule Change

Nasdaq is proposing changes to amend Nasdaq Rule 7018(a), governing fees and credits assessed for execution and routing of securities.

The text of the proposed rule change is available at nasdaq.cchwallstreet.com at Nasdaq 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Nasdaq Rule 7018, governing fees and credits assessed for execution and routing of securities on Nasdaq,³ listed on the New York Stock Exchange ("NYSE")⁴ and listed on exchanges other than Nasdaq and NYSE⁵ (collectively, the "Tapes").

Specifically, the Exchange proposes to amend the criteria for a member to be eligible for the \$0.0030 per share executed credit. Nasdaq proposes to amend romanette (i) across all Tapes in order to reduce the Consolidated Volume requirement during the month for a member from 0.60% to 0.20%. The Exchange also proposes to amend romanette (ii) across all Tapes in order to include NOM Market Maker volume as part of the qualifying volume and to reduce the volume threshold in Penny Pilot and Non-Penny Pilot Options from 1.25% to 0.90%.

Nasdaq also proposes to add new subsection (4) to Nasdaq Rule 7018(a) and entitle it "Fees and Credits for Execution of Orders in Select Symbols".⁶ This new subsection will state that for members receiving less than a \$0.0029 per share executed credit in paragraphs (1) through (3) of Nasdaq Rule 7018(a) for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity for certain enumerated securities, Nasdaq will

³ Nasdaq Rule 7018(a)(1).

⁴ Nasdaq Rule 7018(a)(2).

⁵ Nasdaq Rule 7018(a)(3).

⁶ This is not related to the previous Select Symbols program. See Securities Exchange Act Release No. 73967 (December 30, 2014), 80 FR 594 (January 6, 2015) (SR-NASDAQ-2014-128) (creating the unrelated Select Symbol program); see also Securities Exchange Act Release No. 75261 (June 22, 2015), 80 FR 36877 (June 26, 2015) (SR-NASDAQ-2015-062) (eliminating the unrelated Select Symbol program).

provide a credit of \$0.0029 per share executed for the enumerated securities: EEM, EWJ, GDX, IWM, NUGT, SPY, UWTI, VXX, XIV and XLF.

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 Sections 6(b)(4) and 6(b)(5) 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 and is 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 securities, 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; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Nasdaq believes that the proposed changes to Nasdaq Rule 7018(a)(1), (2) and (3) are reasonable because broadening the above criteria so that this credit is applicable to more members falls within the Exchange's efforts to draw additional order flow to the Exchange to improve market quality for all market participants. The Exchange also believes that the proposed rule change is equitable and not unfairly discriminatory because the amended credit criteria applies uniformly to securities across all Tapes and makes it easier for members to satisfy the requirements for this credit tier.

Nasdaq believes that the proposed credits of no less than \$0.0029 per share executed for displayed orders to members for trading in the Select Symbols are reasonable and equitably

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4) and (5).

allocated as all members are eligible for the credits and the Exchange believes it will improve market quality, specifically in the trading of these symbols. These credits for adding displayed liquidity only replace the credits provided in paragraphs (1) through (3) of Nasdaq Rule 7018(a) when a member would otherwise receive a credit of less than \$0.0029 per share executed. The Select Symbols include EEM, EWJ, GDX, IWM, NUGT, SPY, UWTI, VXX, XIV and XLF. If members qualify for credits under Nasdaq Rule 7014, such credits will continue to apply to these symbols.

Nasdaq also believes that the proposed changes are not unfairly discriminatory because they will apply uniformly to all member firms that trade in the Select Symbols. Moreover, the proposed minimum credit for all member firms that trade in the Select Symbols is not unfairly discriminatory because the Exchange seeks to provide incentives to member firms to direct order flow away from off-exchange venues and on to Nasdaq and to improve the markets for these symbols. Additionally, members that trade in the Select Symbols may still qualify for higher credits in trading in these symbols and all members are entitled to determine whether or not to trade in these Select Symbols. Also, members will still be able to receive the credits they are otherwise entitled to in other symbols and can only benefit from this additional credit.

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

Nasdaq does not believe that the proposed rule change will result in a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.⁹ Nasdaq notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee and credit levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In

⁹ 15 U.S.C. 78f(b)(8).

such an environment, Nasdaq must continually adjust its fees and credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, Nasdaq believes that the degree to which changes to credits in this market may impose a burden on competition is extremely limited or even non-existent. In this instance, the changes to Nasdaq Rule 7018 to amend criteria to qualify for credits do not impose a burden on competition because Nasdaq's execution services are voluntary and subject to extensive competition both from other exchanges and from off-exchange venues.

Additionally, the Exchange does not believe the addition of credits available to members that execute shares in Select Symbols will impose a burden on competition, but rather may promote competition among exchanges in trading in the Select Symbols. Moreover, the proposed changes are reflective of the competition that exists between exchanges and off-exchange venues that are subject to lesser regulatory burdens than the exchanges, including transparency. Lastly, the proposed changes are designed to enhance market quality.

While the Exchange does not believe that the proposed changes will result in burden on competition, if the changes proposed herein are unattractive to market participants it is likely that Nasdaq will lose market share as a result.

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 change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁰. 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. Please include File Number SR-NASDAQ-2015-126 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2015-126. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

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 website 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 10:00 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-2015-126, and should be submitted on or before [INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

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

Robert W. Errett,
Deputy Secretary.

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¹¹ 17 CFR 200.30-3(a)(12).

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