proposed changes will align the Exchange's rules with rules of other market centers that were recently amended to address the type of sudden price declines that the market experienced on the afternoon of May 6, 2010.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

The Exchange has requested that the Commission waive the 30-day operative delay to permit the Exchange to commence operations as a national securities exchange with rules substantively identical to the equity trading rules of BATS Exchange. The Commission finds that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver will align the Exchange's rules with recently amended rules of BATS Exchange. Therefore, the Commission designates the proposal operative upon commencement of Exchange operation, which the Exchange anticipates will be October 15, 2010.[15]

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 proposal 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 No. SR–BYX–2010–002 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 No. SR–BYX–2010–002. 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,[16] 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 changes 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. Copies of such filing will also 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 No. SR–BYX–2010–002 and should be submitted on or before November 10, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–26335 Filed 10–19–10; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov/.*

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63101; File No. SR–NASDAQ–2010–130]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Fees for the Clearly Erroneous Module

October 14, 2010.

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 7, 2010, The NASDAQ Stock Market LLC ("NASDAQ"), 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 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

NASDAQ proposes to establish fees for the Clearly Erroneous Module. The text of the proposed rule change is below. Proposed new language is underlined.

7024. *Clearly Erroneous Module* [Reserved]

The Clearly Erroneous Module, which provides real-time clearly erroneous surveillance alerts and reports, is available to subscribers for a fee of $400 per MPID, per month for the first 15 MPIDs subscribed, and for a fee of $100 per MPID, per month for each MPID subscribed in excess of 15.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes to offer the Clearly Erroneous Module, which is currently available as part of a Regulation Reconnaissance subscription, as a stand-alone service with a tiered fee structure. The Clearly Erroneous Module provides subscribers with trade alerts of potentially erroneous trades on NASDAQ, the ability to electronically submit clearly erroneous reports with NASDAQ MarketWatch and to anonymously negotiate erroneous trades with contra-parties, real-time erroneous filing status, and access to the subscriber's historical clearly erroneous data. Access to the Clearly Erroneous Module will be available as an add-on to the NASDAQ Workstation and Weblink ACT 2.0 or the Clearly Erroneous Viewer.

The Clearly Erroneous Module and the Reg NMS Module are the core functions of the Regulation Reconnaissance service.[3] The Regulation Reconnaissance service is offered to subscribers at a cost of $1,000 per MPID, per month.[4] Certain member firms that possess many MPIDs have informed NASDAQ that the current price structure for subscription to the Clearly Erroneous Module through the Regulation Reconnaissance service is cost prohibitive as it does not provide a tiered fee schedule based on the number of MPIDs subscribed. These member firms require multiple MPIDs due to the nature of their businesses and have a need to monitor clearly erroneous compliance for each MPID. In addition, certain member firms may not desire the full functionality of Regulation Reconnaissance, yet currently must pay for a full subscription. To make the service more cost effective for all member firms, including those that possess a large number of MPIDs, NASDAQ is proposing to offer the Clearly Erroneous Module as a stand-alone service for a fee of $400 per MPID per month for any member firm that subscribes 15 or fewer MPIDs and for a fee of $100 per MPID per month for each MPID subscribed in excess of 15.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Section 6(b)(5) of the Act,[6] in particular, because it 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Clearly Erroneous Module is designed to assist firms with monitoring their clearly erroneous compliance and, as such, is an important tool that members may use to help maintain the regulatory integrity of the markets. NASDAQ believes that offering the module as a stand-alone service at a reduced fee will encourage wider use of this regulatory tool that is otherwise cost-prohibitive to member firms, particularly those that possess a large number of MPIDs.

NASDAQ also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act[7] 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 NASDAQ operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers. NASDAQ is offering the Clearly Erroneous Module at a rate lower than the Regulation Reconnaissance service, which includes both the Clearly Erroneous Module and the Reg NMS Module. As such, member firms are provided an option to pay for only the service they desire at a discounted rate. Use of Clearly Erroneous Module is voluntary, and member firms will continue to have access to the Clearly Erroneous Module through a Regulation Reconnaissance subscription if they so choose.

NASDAQ believes that offering the Clearly Erroneous Module at a further discounted rate applicable to each MPID subscribed in excess of 15 is consistent with Section 6(b)(4) of the Act.[8] As noted, use of the Clearly Erroneous Module is voluntary and the subscription fees will be imposed on all purchasers equally based on the number of MPIDs subscribed. In this regard, the proposed reduced per MPID fee is available to any member that subscribes more than 15 MPIDs, with the reduced fee applying only to each MPID in excess of 15. The Clearly Erroneous Module it [sic] is a useful regulatory tool that, because it is bundled with Regulation Reconnaissance, is cost prohibitive to member firms that possess many MPIDs due to the nature of their businesses. As such, offering the service at a discounted rate to members that subscribe many MPIDs will allow these members to receive the benefit of the service that, under a non-tiered fee structure, only firms with fewer MPIDs could justify. Further, NASDAQ receives greater incremental benefits, both tangible and intangible, from providing multiple subscriptions to its members notwithstanding the reduced fee. NASDAQ notes that it currently provides other services with a tiered fee structure based on the on the number of users or subscribers.[9]

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 making this useful regulatory tool cost effective for all member firms.

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.

[3] For a description of the Regulation Reconnaissance service, *see http://www.nasdaqtrader.com/TraderP.aspx?id=RegRecon.*

[4] *See* Rule 7041(a).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(4).

[8] *Id.*

[9] For example, NASDAQ's InterACT service is offered for subscription fee of $300 per month, per user, for the first three users, and $100 per month, per user, for each additional user, with a maximum fee of $1,500 per month, per member firm. *See* Rule 7049.

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 rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10] 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 e-mail to *rule-comments@sec.gov.* Please include File No. SR–NASDAQ–2010–130 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 No. SR–NASDAQ–2010–130. 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 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 No. SR–NASDAQ–2010–130 and should be submitted on or before November 10, 2010.

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

Florence E. Harmon,

Deputy Secretary.

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[10] 15 U.S.C. 78s(b)(3)(a)(ii).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63113; File No. 4–616]

Self-Regulatory Organizations; Order Approving Minor Rule Violation Plan for BATS Y–Exchange, Inc.

October 15, 2010.

On September 10, 2010, BATS Y–Exchange, Inc. ("BATS Y–Exchange" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") a proposed minor rule violation plan ("MRVP") pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (the "Act") [1] and Rule 19d–1(c)(2) thereunder.[2] The proposed MRVP was published for public comment on September 23, 2010.[3] The Commission received no comments on the proposal. This order approves BATS Y–Exchange's proposed MRVP.

BATS Y–Exchange's MRVP specifies those uncontested minor rule violations with sanctions not exceeding $2,500 which would not be subject to the provisions of Rule 19d–1(c)(1) of the Act [4] requiring that a self-regulatory organization promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.[5] In accordance with Rule 19d–1(c)(2) under the Act, the Exchange proposed to designate certain specified rule violations as minor rule violations, and requested that it be relieved of the reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis. BATS Y–Exchange included in its proposed MRVP the policies and procedures currently included in BATS Y–Exchange Rule 8.15 ("Imposition of Fines for Minor Violation(s) of Rules") and the rule violations included in BATS Y–Exchange Rule 8.15.01.[6]

Pursuant to the Exchange's proposed MRVP, under Rule 8.15, the Exchange may impose a fine (not to exceed $2,500) on a member or an associated person of a member, or a registered or non-registered employee of a member with respect to any rule listed in Rule 8.15.01. The Exchange shall serve the person against whom a fine is imposed with a written statement setting forth the rule or rules violated, the act or omission constituting each such violation, the fine imposed, and the date by which such determination becomes final or by which such determination

[1] 15 U.S.C. 78s(d)(1).

[2] 17 CFR 240.19d–1(c)(2).

[3] *See* Securities Exchange Act Release No. 62924 (September 16, 2010), 75 FR 58011. The notice was published under File No. 10–198 used for BATS Y–Exchange's Form 1 application, however the order will be published under File No. 4–616.

[4] 17 CFR 240.19d–1(c)(1).

[5] The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow self-regulatory organizations ("SROs") to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with the Commission shall not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

[6] On August 13, 2010, the Exchange's application for registration as a national securities exchange, including the rules governing the BATS Y–Exchange, was approved. *See* Securities Exchange Act Release No. 62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (File No. 10–198). In the approval order, the Commission noted that BATS Y–Exchange Rule 8.15 provides for the imposition of fines for minor rule violations pursuant to a minor rule violation plan. Accordingly, the Commission noted that as a condition to the operation of BATS Y–Exchange, the Exchange must file a minor rule violation plan with the Commission. BATS Y–Exchange represented that modifications may be made to Rule 8.15.01 in the future. BATS Y–Exchange proposed that, when amendments to Rule 8.15.01 are made pursuant to a rule filing submitted pursuant to Rule 19b–4 under the Act, such filing would automatically be deemed a request by BATS Y–Exchange for Commission approval of a modification to its MRVP.