

SR-ISE-2010-15 and should be submitted on or before July 16, 2010.

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

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62326; File No. SR-NASDAQ-2010-068]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Establish a Revenue Sharing Program With Correlix, Inc.

June 18, 2010.

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 June 8, 2010, The NASDAQ Stock Market LLC (the “Exchange” or “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 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 filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to establish a revenue sharing program with Correlix, Inc. (“Correlix”). The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com>, at the Exchange’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, 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 is filing a proposed rule change to establish a revenue sharing program with Correlix.<sup>3</sup> NASDAQ has entered into an agreement with Correlix to provide to users of the NASDAQ Market Center real-time analytical tools to measure the latency of orders to and from that System. Under the agreement, NASDAQ will receive 30% of the total monthly subscription fees received by Correlix from parties who have contracted directly with Correlix to use their RaceTeam latency measurement service for the NASDAQ Market Center. NASDAQ will not bill or contract with any Correlix RaceTeam customer directly.

Pricing for the Correlix RaceTeam product for the NASDAQ market varies depending on the number of unique MPIDs and ports selected by the customer for monitoring by Correlix. For NASDAQ (including the NASDAQ Options Market), the fee will be an initial \$3,000 monthly base fee for the first unique MPID monitored. For each additional unique MIPD [sic] sought to be monitored, an additional monthly charge of \$1,000 will be assessed. The monthly price for each unique MPID includes the monitoring of up to 25 NASDAQ port connections associated with that particular MPID. Customers that wish to exceed 25 ports per-MPID for monitoring can purchase additional 25 port blocks for an additional fee of \$1000 per month per MPID.

Under the program, Correlix will see an individualized unique NASDAQ-generated identifier that will allow Correlix RaceTeam to determine round trip order time,<sup>4</sup> from the time the order reaches the NASDAQ extranet, through the NASDAQ matching engine, and back out of the NASDAQ extranet. The RaceTeam product offering does not measure latency outside of the NASDAQ extranet. The unique identifier serves as a technological information barrier so that the RaceTeam data collector will only be

<sup>3</sup> If approved, this program shall commence upon termination of the free 60-day trial period for Correlix services [sic] proposed in SR-NASDAQ-2009-069 [sic].

<sup>4</sup> The product measures latency of orders whether the orders are rejected, executed, or partially executed.

able to view data for Correlix RaceTeam subscriber firms related to latency. Correlix will not see subscriber’s individual order detail such as security, price or size. Individual RaceTeam subscribers’ logins will restrict access to only their own latency data. Correlix will see no specific information regarding the trading activity of non-subscribers.

NASDAQ believes that above arrangement will provide users of the NASDAQ Market Center greater transparency into the processing of their trading activity and allow them to make more efficient trading decisions.

##### 2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of section 6 of the Act,<sup>5</sup> in general, and with sections 6(b)(5) of the Act,<sup>6</sup> in particular, in that the proposal 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. In particular, the proposal will provide greater transparency into trade and information processing and thus allow market participants to make better-informed and more efficient trading decisions.

In addition, NASDAQ believes that the proposed rule change is consistent with the provisions of section 6 of the Act,<sup>7</sup> in general, and with section 6(b)(4) of the Act,<sup>8</sup> 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. In particular, NASDAQ notes that it operates in a highly competitive market in which market participants can readily direct orders to competing venues and that use of the Correlix RaceTeam product is completely voluntary. Further, NASDAQ makes the RaceTeam product uniformly available pursuant to a standard non-discriminatory pricing schedule offered by Correlix.

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

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

### *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.

### *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**

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, as amended, 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2010-068 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-2010-068. 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 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 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-2010-068 and should be submitted on or before July 16, 2010.

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

**Florence E. Harmon,**  
Deputy Secretary.

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62318; File No. SR-FINRA-2010-021]

### **Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Amend FINRA Rule 8210 To Require Information Provided via Portable Media Device Be Encrypted**

June 17, 2010.

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 June 2, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 FINRA. 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**

FINRA is proposing to amend FINRA Rule 8210 to require that information provided via portable media device pursuant to a request under the rule be encrypted.

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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

FINRA Rule 8210 (Provision of Information and Testimony and Inspection and Copying of Books) confers on FINRA staff the authority to compel a member, person associated with a member, or other person over whom FINRA has jurisdiction, to produce documents, provide testimony, or supply written responses or electronic data in connection with an investigation, complaint, examination or adjudicatory proceeding. The rule applies to all members, associated persons, and other persons over which FINRA has jurisdiction, including former associated persons subject to FINRA's jurisdiction as described in the FINRA By-Laws.<sup>3</sup> FINRA Rule 8210(c) provides that a member's or person's failure to provide information or testimony or to permit an inspection and copying of books, records, or accounts is a violation of the rule.

FINRA is proposing to amend FINRA Rule 8210 to require that information provided via a portable media device pursuant to a request under the rule be encrypted, as discussed further below.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See FINRA By-Laws, Article V, Section 4(a) (Retention of Jurisdiction).