

### 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>10</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>11</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because such waiver will allow these changes to be implemented as of the date of filing of the proposed rule change with the Commission, thereby minimizing any potential confusion.<sup>12</sup> Therefore, the Commission designates the proposal as operative upon filing.

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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2010-033 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-2010-033. 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. 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-2010-033 and should be submitted on or before April 6, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

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

[FR Doc. 2010-5660 Filed 3-15-10; 8:45 am]

**BILLING CODE 8011-01-P**

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61682; File No. SR-NASDAQ-2010-030]

#### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Provide an Additional Option to the DOTI Routing Strategy

March 10, 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 March 1, 2010, The NASDAQ Stock Market LLC ("NASDAQ" or the "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 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 Substance of the Proposed Rule Change

NASDAQ proposes to amend Rule 4758 to add an additional option to the DOTI routing strategy available in the NASDAQ Market Center ("System"). The text of the proposed rule change is below. Proposed new language is in italics and proposed deletions are in brackets.<sup>3</sup>

\* \* \* \* \*

#### 4758. Order Routing

##### (a) Order Routing Process

(1) The Order Routing Process shall be available to Participants from 7 a.m. until 8 p.m. Eastern Time, and shall route orders as described below. All routing of orders shall comply with Rule 611 of Regulation NMS under the Exchange Act.

##### (A) No Change.

##### (i) No Change.

(ii) *a.* DOTI is a routing option for orders that the entering firm wishes to direct to the NYSE or NYSE Amex without returning to the Nasdaq Market Center. DOTI orders check the System for available shares and then are sent to destinations on the System routing table before being sent to NYSE or NYSE Amex, as appropriate. DOTI orders do not return to the Nasdaq Market Center book after routing.

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

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

<sup>3</sup> Changes are marked to the rules of The NASDAQ Stock Market LLC found at <http://nasdaqomx.cchwallstreet.com>.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> 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).

<sup>13</sup> 17 CFR 200.30-3(a)(12). [sic]

*b. The entering firm may alternatively elect to have DOTI orders check the System for available shares and thereafter be directly sent to NYSE or NYSE Amex as appropriate.*

(iii) through (viii) No Change.

(B) No Change.

(b) and (c) Not applicable.

\* \* \* \* \*

## 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 is amending Rule 4758, to add an additional voluntary option to the DOTI routing strategy. Currently, DOTI orders check the System for available shares and then are sent to destinations on the System routing table before being sent to NYSE or NYSE Amex, as appropriate. DOTI orders do not return to the NASDAQ Market Center book after routing.

NASDAQ is proposing to provide an additional alternative version of DOTI that will first check the System for available shares and thereafter be immediately sent to NYSE or NYSE Amex as appropriate. NASDAQ notes that all of its routing options are voluntary and believes that the additional version of DOTI will provide additional flexibility for market participants that ultimately wish to have their orders be sent to the NYSE or NYSE Amex.

#### 2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>4</sup> in general, and with Sections 6(b)(5) of the Act,<sup>5</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. The proposed change will provide market participants with greater flexibility in routing orders to the NYSE or NYSE Amex.

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

NASDAQ does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### 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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup> Because the 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 prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>8</sup>

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.<sup>9</sup>

## 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2010-030 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-2010-030. 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,<sup>10</sup> 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 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-2010-030 and

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</sup> In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission 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.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>10</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

<sup>4</sup> 15 U.S.C. 78f.

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

should be submitted on or before April 6, 2010.

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

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

[FR Doc. 2010-5661 Filed 3-15-10; 8:45 am]

**BILLING CODE 8011-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35095]

#### **Alaska Railroad Corporation— Construction and Operation Exemption—A Rail Line Extension to Port Mackenzie, AK**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of Availability of Draft Environmental Impact Statement, Notice of Public Meetings.

**SUMMARY:** On December 5, 2008, Alaska Railroad Corporation (ARRC) filed a petition with the Surface Transportation Board (Board) pursuant to 49 United States Code (U.S.C.) 10502 and 10901 for the authority to construct and operate approximately 30 to 45 miles of new rail line. The proposed rail line would connect the Port MacKenzie District in Matanuska-Susitna Borough (MSB) to a point on the existing ARRC main line between Wasilla and just north of Willow, Alaska. Implementation of the proposed rail line would extend ARRC's existing freight rail service to the Port MacKenzie area, and would include construction of related structures, such as communications towers and sidings. Because construction and operation of this proposed rail line has the potential to result in significant environmental impacts, the Board's Section of Environmental Analysis (SEA) and three cooperating agencies prepared a Draft Environmental Impact Statement (Draft EIS). The cooperating agencies include the U.S. Army Corps of Engineers, Alaska District; Federal Railroad Administration; and U.S. Coast Guard, Seventeenth District.

The purpose of this Notice of Availability is to notify individuals and agencies interested in or affected by the proposed action of the availability of the Draft EIS for review and comment, and of public meetings on the Draft EIS. The Draft EIS analyzes the potential environmental impacts of the proposed

action and alternatives, including the no-action alternative. The Draft EIS addresses environmental issues and concerns identified during the scoping process. It also contains SEA's preliminary recommendations for environmental mitigation measures, and ARRC's voluntary mitigation measures.

**Public Meetings:** SEA and the cooperating agencies are holding six public meetings on the Draft EIS during which interested parties may make oral comments in a formal setting and/or submit written comments. SEA will begin each meeting with a brief overview of the proposed action and environmental review process. The overview will be followed by a formal comment period during which each interested individual will be given several minutes to address the meeting participants and convey his or her oral comments. A court reporter will be present to record these oral comments. If time permits, the court reporter will be available at the conclusion of the formal segment of the meeting to record oral comments from individuals not interested in addressing the meeting as a whole. The dates, locations and times of the public meetings are shown below:

- April 6, 2010, 6:30–8:30 p.m. at Wilda Marston Theater, 3600 Denali Street, Anchorage, AK.
- April 7, 2010, 6:30–8:30 p.m. at Big Lake Elementary School, 3808 South Big Lake Road, Big Lake, AK.
- April 8, 2010, 6:30–8:30 p.m. at Menard Sports Center, 1001 S Mack Drive, Wasilla, AK.
- April 12, 2010, 6:30–8:30 p.m. at Houston Middle School, 12801 W. Hawk Lane, Houston, AK.
- April 13, 2010, 6:30–8:30 p.m., at Willow Community Center, Mile 70 Parks Highway, Willow, AK.
- April 14, 2010, 6:30–8:30 p.m. at Knik Elementary School Gym, 6350 Hollywood Boulevard, Wasilla, AK.

**Next Steps:** Following the close of the comment period on the Draft EIS (May 10, 2010), SEA and the cooperating agencies will issue a Final Environmental Impact Statement (Final EIS) that considers comments on the Draft EIS. The Board will then issue a final decision based on the Draft and Final EISs and all public and agency comments in the public record for this proceeding. The final decision will address the transportation merits of the proposed project and the entire environmental record. That final decision will take one of three actions: approve the proposed project, deny it, or approve it with mitigation conditions, including environmental conditions.

**Written Comments:** Any interested party may submit written comments on the Draft EIS regardless of whether they participate in any of the six public meetings and provide oral comments. The procedures for submitting written comments are outlined below:

**Mail:** Written comments should be mailed to: David Navecky, STB Finance Docket No. 35095, Surface Transportation Board, 395 E Street, SW., Washington, DC 20423.

**Electronically:** Written comments on the Draft EIS may also be filed electronically on the Board's Web site, <http://www.stb.dot.gov>, by clicking on the "E-FILING" link. Then select "Environmental Comments," which does not require a Login Account. It is not necessary to mail written comments that have been filed electronically.

**DATES:** Written comments on the Draft EIS, which was served March 16, 2010, must be postmarked by May 10, 2010. Electronically filed comments must be received by May 10, 2010.

**FOR FURTHER INFORMATION CONTACT:** David Navecky by mail at the address above, by telephone at 202-245-0294 [FIRS for the hearing impaired (1-800-877-8339)], or by e-mail at [naveckyd@stb.dot.gov](mailto:naveckyd@stb.dot.gov). Further information about the project is also available by calling SEA's toll-free number at 1-888-257-7560, and at the Board's project-specific Web site at <http://www.stbportmacraileis.com>.

By the Board.

**Victoria Rutson,**

*Chief, Section of Environmental Analysis.*

**Kulunie L. Cannon,**

*Clearance Clerk.*

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**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 321X)]

#### **Norfolk Southern Railway Company— Discontinuance of Service Exemption in Hamilton County, OH**

On February 24, 2010, Norfolk Southern Railway Company (NSR) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue service over 5.70 miles of railroad between milepost CT 2.10 and milepost CT 7.80, in Hamilton County, OH. The line traverses United States Postal Service Zip Codes 45209, 45212, 45227, and 45229, and includes the stations of Hyde Park and Mariemont.

<sup>11</sup> 17 CFR 200.30-3(a)(12).