

NASDAQ STOCK MARKET INC
Form 8-K/A
January 27, 2006

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K/A
(AMENDMENT NO. 1)

CURRENT REPORT

Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): January 27, 2006 (December 8, 2005)

THE NASDAQ STOCK MARKET, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

000-32651
(Commission File Number)

52-1165937
(I.R.S. Employer
Identification No.)

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One Liberty Plaza, New York, New York 10006

(Address of principal executive offices) (Zip code)

Registrant's telephone number, including area code: (212) 401-8700

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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This Current Report on Form 8-K/A (Form 8-K/A) dated January 27, 2006, amends the Current Report on Form 8-K filed by The Nasdaq Stock Market, Inc. (Nasdaq) on December 14, 2005, which disclosed Nasdaq s acquisition of Instinet Group Incorporated (Instinet) and the immediate sale of Instinet s Institutional Brokerage division (Institutional Broker). As a result of these transactions, Nasdaq owns Instinet Group Incorporated, subsequently renamed Norway Acquisition Corp. (Norway). Norway owns 100.0% of INET Holding Company, Inc. (IHC), which owns 100.0% of INET ATS, Inc. (INET), an electronic communication network (ECN) and Island Execution Services, LLC. Balances acquired for Island Execution Services, LLC were nominal. The purpose of this Form 8-K/A is to provide financial disclosures required by Item 9.01 (Financial Statements and Exhibits) of Form 8-K with respect to the acquisition of Instinet Group Incorporated and the immediate sale of the Institutional Broker to an affiliate of Silver Lake Partners, II, L.P., (Silver Lake Partners or SLP), a private equity firm. In addition, the financial statements of Toll Associates LLC (Toll) as described below are presented. Toll is a holding company that owns a 99.8% interest in Brut LLC (Brut), the owner and operator of the Brut ECN. Toll owns a 100.0% interest in Brut Inc. (Brut Inc.), which owns the remaining 0.2% interest in Brut.

As discussed in Note 1, Description of Transactions and Basis of Presentation, the unaudited pro forma income statement information is presented as if the acquisition of Instinet and the sale of the Institutional Broker occurred on January 1, 2004.

Nasdaq purchased Toll from SunGard Data Systems Inc. (SunGard) on September 7, 2004. As such, the financial information for Toll for the period January 1, 2004 through September 6, 2004 (prior to closing of the acquisition) is also included in the unaudited pro forma condensed combined statement of income for the year ended December 31, 2004 in this Form 8-K/A. Since balance sheet data for Toll is included in Nasdaq s historical balance sheet at September 30, 2005, separate pro forma balance sheet data for Toll is not presented.

Section 9 Financial Statements and Exhibits

Item 9.01 Financial Statements and Exhibits.

- (a) Financial Statements of Businesses Acquired.

Instinet Group Incorporated

Attached as Exhibit 99.1 hereto are the audited consolidated statements of financial condition of Instinet Group Incorporated as of December 31, 2004 and 2003, and the related consolidated statements of operations, changes in stockholders equity, and cash flows for each of the three years in the period ended December 31, 2004 and the related notes to consolidated financial statements.

Attached as Exhibit 99.2 hereto are the unaudited consolidated statements of financial condition of Instinet Group Incorporated as of September 30, 2005 and December 31, 2004, and the related unaudited consolidated statements of operations and cash flows for the three and nine months ended September 30, 2005 and 2004 and the related notes to the unaudited consolidated financial statements.

- (b) Pro Forma Financial Information.

Attached hereto is the:

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Unaudited pro forma condensed combined balance sheet as of September 30, 2005 and the unaudited pro forma condensed combined statement of income for the nine months ended September 30, 2005.

Unaudited pro forma condensed combined statement of income for the year ended December 31, 2004.

Notes to the unaudited pro forma condensed combined financial statements.

(c) Exhibits

Exhibit 23.1 Consent of PricewaterhouseCoopers LLP

Exhibit 99.1 Consolidated Financial Statements and Report of Independent Registered Public Accounting Firm - Instinet Group Incorporated:

Consolidated Statements of Financial Condition as of December 31, 2004 and 2003

Consolidated Statements of Operations for the years ended December 31, 2004, 2003 and 2002

Consolidated Statements of Changes in Stockholders' Equity for the years ended December 31, 2004, 2003 and 2002

Consolidated Statements of Cash Flows for the years ended December 31, 2004, 2003 and 2002

Notes to Consolidated Financial Statements

Exhibit 99.2 Unaudited Consolidated Financial Statements - Instinet Group Incorporated:

Consolidated Statements of Financial Condition as of September 30, 2005 and December 31, 2004

Consolidated Statements of Operations and Cash Flows for the three and nine months ended September 30, 2005 and 2004

Notes to Consolidated Financial Statements

The SEC encourages companies to disclose forward-looking information so that investors can better understand a company's future prospects and make informed investment decisions. This Form 8-K/A and attachments hereto contain these types of statements. We make these statements directly in this Form 8-K/A. Words such as "anticipates," "estimates," "expects," "projects," "intends," "plans," "believes" and words or terms of similar substance used in connection with any discussion of future operating results or financial performance identify forward-looking statements.

These forward-looking statements involve certain risks and uncertainties. Factors that could cause actual results to differ materially from those contemplated by the forward-looking statements include, among others, the following factors:

our operating results may be lower than expected;

our ability to implement our strategic initiatives and any consequences from our pursuit of our corporate strategy;

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competition, economic, political and market conditions and fluctuations, including interest rate risk;

government and industry regulation; or

adverse changes may occur in the securities markets generally.

In connection with our acquisition of Instinet, and the immediate sale of the Institutional Broker, factors that may cause actual results to differ materially from those contemplated by such forward-looking statements include, but are not limited to, the following: (i) expected cost savings and other synergies from the acquisition cannot be fully realized or realized within the expected time frame; (ii) costs or difficulties related to the integration of the INET ECN and/or the separation and sale of the Institutional Broker are greater than expected; (iii) revenues following the acquisition are lower than expected; and (iv) regulation related to the integration; and (v) general economic conditions are less favorable than expected.

Most of these factors are difficult to predict accurately and are generally beyond our control. You should consider the uncertainty and risk resulting from such uncertainty in connection with any forward-looking statements that may be made herein. Readers are cautioned not to place undue reliance on these forward-looking statements and to carefully review the risk factors and other information detailed in Nasdaq's annual report on Form 10-K and periodic reports filed with the U.S. Securities and Exchange Commission. Except for our ongoing obligations to disclose material information under the federal securities laws, we

undertake no obligation to release publicly any revisions to any forward-looking statements, to report events or to report the occurrence of unanticipated events. For any forward-looking statements contained in any document, we claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995.

Independent valuation specialists assisted Nasdaq management in determining the fair values of the net assets acquired and the intangible assets in both the Instinet and Toll acquisitions. The work performed by the independent valuation specialists has been considered by management in determining the fair values reflected in these unaudited pro forma condensed combined financial statements. The valuations are based on the actual assets acquired and liabilities assumed at the acquisition dates and management's consideration of the independent valuation specialists work.

The unaudited pro forma condensed combined financial information is presented for informational purposes only. The pro forma data is not necessarily indicative of what Nasdaq's financial position or results of operations actually would have been had Nasdaq completed the acquisition at the dates indicated. In addition, the unaudited pro forma condensed combined financial information does not purport to project the future financial position or operating results of the combined company.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: January 27, 2006

THE NASDAQ STOCK MARKET, INC.

By /s/ David P. Warren

David P. Warren

Executive Vice President

and Chief Financial Officer

The Nasdaq Stock Market, Inc.

Unaudited Pro Forma Condensed Combined Statement of Income

Nine Months Ended September 30, 2005

(in thousands, except per share amounts)

	Nasdaq	Norway	Pro Forma Adjustments	Note 5	Pro Forma Combined
Revenues					
Market Services	\$ 453,390	\$ 368,336	\$ (43,936)	(a)	\$ 777,790
Issuer Services	166,748				166,748
Other	206				206
Total revenues	620,344	368,336	(43,936)		944,744
Cost of revenues					
Liquidity rebates	169,373	216,305			385,678
Brokerage, clearance and exchange fees	63,588	76,752	(62,569)	(a), (b), (c)	77,771
Total cost of revenues	232,961	293,057	(62,569)		463,449
Gross margin	387,383	75,279	18,633		481,295
Expenses					
Compensation and benefits	110,404	12,324			122,728
Marketing and advertising	4,842	406			5,248
Depreciation and amortization	46,765	5,323	5,498	(d), (g-3)	57,586
Professional and contract services	21,451	1,289			22,740
Computer operations and data communications	47,498	3,937			51,435
Provision for bad debts	(41)	(395)			(436)
Occupancy	21,337	2,003			23,340
General and administrative	23,373	7,772	(7,393)	(e-3)	23,752
Total direct expenses	275,629	32,659	(1,895)		306,393
Support costs from related parties, net	31,311				31,311
Investment income		(3,471)	3,471	(g-6)	
Total expenses	306,940	29,188	1,576		337,704
Operating income	80,443	46,091	17,057		143,591
Interest income	8,549	1,872			10,421
Interest expense	(12,236)		(28,327)	(e-1), (f-3, 4, 5)	(40,563)
Minority interest	44				44
Pre-tax operating income	76,800	47,963	(11,270)		113,493
Income tax provision	32,256	20,931	(8,666)	(g-7)	44,521
Net income	\$ 44,544	\$ 27,032	\$ (2,604)		\$ 68,972
Net income applicable to common stockholders:					
Net income	\$ 44,544	\$ 27,032	\$ (2,604)		\$ 68,972

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Preferred stock:				
Dividends declared	(2,506)			(2,506)
Accretion of preferred stock	(3,047)			(3,047)
	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Net income applicable to common stockholders	\$ 38,991	\$ 27,032	\$ (2,604)	\$ 63,419
	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Basic and diluted earnings per share:				
Basic	\$ 0.49			0.79
	<u> </u>			<u> </u>
Diluted	\$ 0.42			0.65
	<u> </u>			<u> </u>
Weighted average common shares used to calculate earnings per share:				
Basic	79,890			79,890
Diluted	107,442			107,442

See Notes to the Unaudited Pro Forma Condensed Combined Financial Statements.

The Nasdaq Stock Market, Inc.

Unaudited Pro Forma Condensed Combined Statement of Income

Nine Months Ended September 30, 2005

Norway

(in thousands)

	<u>Instinet Reported</u>	<u>Less Institutional Broker</u>	<u>Pro Forma and Other Adjustments</u>	<u>Note 6</u>	<u>Norway</u>
Revenues					
Market Services	\$ 771,000	\$ 414,146	\$ 11,482	(a)	\$ 368,336
Interest income	22,522	20,650	(1,872)	(c)	
Interest expense	(3,005)	(3,005)			
Other		7,069	7,069	(b)	
Total revenues	<u>790,517</u>	<u>438,860</u>	<u>16,679</u>		<u>368,336</u>