SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67301; File No. SR-NASDAQ-2012-077)

June 28, 2012

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Correcting Various NASDAQ Options Market Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4[2] thereunder, notice is hereby given that on June 26, 2012, The NASDAQ Stock Market LLC ("NASDAQ") 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 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 Substance of the Proposed Rule Change

NASDAQ is filing with the Commission a proposal for the NASDAQ Options Market ("NOM") to amend the following provisions: Chapter I, Section 3 to add additional exchanges to the list of those rules incorporated by reference; Chapter V, Section 3 to provide that market maker interest is cancelled during a halt; Chapter VI, Section 1(d) to delete Attributable and Non-Attributable orders; Chapter VI, Section 1(e)(3) to provide that Minimum Quantity Orders are treated as having a time-in-force designation of Immediate or Cancel ("IOC");Chapter VI, Section 1(e)(8), to provide that Intermarket Sweep Orders ("ISOs") may have any time-in-force designation except WAIT; Chapter VI, Section 2(a) to provide that option contracts on certain fund shares or broad-based indexes may close as of 4:15 p.m.; Chapter VI, Section 6(a)(1) to make clear that Market Orders are accepted; Chapter VI, Section 11, to provide that routing is

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

2 17 CFR 240.19b-4.

limited to System Securities; and Chapter VII, Section 12, Commentary .03 to update the reference to non-displayed trading interest. NASDAQ also proposes minor typographical changes to several rules, as explained further below.

The text of the proposed rule change is available from NASDAQ's website at http://nasdaq.cchwallstreet.com/Filings/ , at NASDAQ'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, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes to correct and clarify various provisions in NOM rules. Specifically, NASDAQ proposes to amend Chapter I, Section 3, to add to the list of those rules incorporated by reference. Currently, the rule refers to the Financial Industry Regulatory Authority ("FINRA"), but not to the Chicago Board Options Exchange nor to the New York Stock Exchange, which are now proposed to be added. NASDAQ believes that the proposed change is not controversial, because it merely codifies two additional exchanges into the provision that covers rules that are incorporated by reference.

NASDAQ proposes to amend Chapter V, Section 3, to provide that market maker interest is cancelled during a halt. Currently, this provision states that during a halt, the Exchange will maintain existing orders on the book, accept orders, and process cancels. However, Market Maker interest entered pursuant to the obligations contained in Chapter VII, Section 5 is cancelled. Therefore, NASDAQ proposes to add this language to the rule to more accurately reflect what occurs during a halt. Furthermore, it is not reasonable for a Market Maker to determine an option's price without taking into account the event that caused the halt in that option, and it is not beneficial to the market to maintain the quotes of Market Makers when an option halts. Therefore, NASDAQ believes that the proposed change is not controversial.

NASDAQ proposes to amend Chapter VI, Section 6(a)(1) to delete reference to a limit price to be clear that market orders are accepted. NASDAQ believes that this proposal is not controversial, because another rule already provides that market orders are accepted.[3] Specifically, it will now provide that all System orders shall indicate whether they are a call or put and buy or sell and a price, if any.

NASDAQ also proposes to amend Chapter VI, Section 1(e)(3), to provide that Minimum Quantity Orders are treated as having a time-in-force designation of Immediate or Cancel ("IOC"). The current language of Chapter VI, Section 1(e)(3) states that Minimum Quantity Orders may only be entered with a time-in-force designation of IOC; however, in actuality, Minimum Quantity Orders with any time-in-force designation may be entered and will be treated as IOC. Accordingly, the provision should say that Minimum Quantity Orders are treated as having a time-in-force designation of IOC, regardless of the time-in-force designation on the order. This has been the case since NOM launched in 2008 and NASDAQ recently realized that

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[3] See Chapter VI, Section 1(e)(5).

the language should be corrected. NASDAQ does not believe that this is a controversial change to NOM's rules, because it accurately described the operation of the System, and, NASDAQ notes that the System has been accepting *more* orders, which is useful to order entry firms. In addition, treating a Minimum Quantity Order as IOC regardless of the time-in-force designation on the order is akin to how NOM handles All-or-None orders today, which are very similar.[4]

NASDAQ proposes to amend Chapter VI, Section 1(d) to delete Attributable and Non-Attributable Orders. Attributable orders are orders that are designated for display (price and size) next to the Participant's MPID.[5] Non-Attributable Orders are orders that are entered by a Participant that is designated for display (price and size) on an anonymous basis in the order display service of the System. NOM no longer offers Attributable Orders, such that, as of September 29, 2011, all orders on NOM are non-attributable. NASDAQ does not believe that this is controversial, because Attributable Orders were rarely used on NOM.[6]

In addition, NASDAQ proposes to amend Chapter VI, Section 1(e)(8), to provide that ISOs may have any time-in-force designation except WAIT. The current language implies that all ISOs have a time-in-force designation of IOC, but that is not the case. ISOs can have a time-in-force of Day, GTC or IOC; ISOs that are marked as Day or GTC lose the ISO designation once posted on the book, meaning the order is no longer considered an ISO when posted on the book. If an entering firm cancel/replaces that resting Day ISO order, the replacement order cannot be marked as ISO. NASDAQ does not believe that this is controversial, because it is

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4 See Securities Exchange Act Release No. 64983 (July 28, 2011), 76 FR 46869 (August 3, 2011)(SR-NASDAQ-2011-098).

5 See NASDAQ Rule 4611(d), which, among other things, defines an MPID.

6 Since NOM stopped offering them, no one has requested Attributable Orders. At least one other exchange, Phlx, does not have attributable orders.

useful to order entry firms to be able to submit ISOs other than IOC and another exchange also permits this.[7]

NASDAQ also proposes to amend Chapter VI, Section 2(a) to provide that option contracts on certain fund shares or broad-based indexes will close as of 4:15 p.m., not all fund shares. Many options on fund shares stop trading at 4:00 p.m. both on NOM as well as other options exchanges.[8] Thus, the rule is more accurate, as proposed to be amended. NASDAQ does not believe that this is controversial, because NASDAQ provides product-specific notice of the trading hours on its website.

Further, NASDAQ proposes to amend Chapter VI, Section 11, to provide that routing is limited to System Securities. System Securities are all options that are currently trading on NOM pursuant to Chapter IV. All other options are Non-System Securities.[9] At one time, NOM offered routing of Non-System Securities but has not offered such routing since November 30, 2011. NASDAQ notes that this routing feature was rarely used and was discontinued.[10] Currently, NOM only routes securities that are listed on NOM. Accordingly, the language relating to routing of Non-System Securities is being deleted. Specifically, NASDAQ proposes to delete Section 11(b), which pertains solely to the routing of Non-System Securities. In addition, the portion of Section 11(e) describing NASDAQ Options Services LLC's ("NOS") role in routing Non-System Securities is being deleted. NASDAQ does not believe that this is

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7 See CBOE Rule 6.53(p).

8 http://www.nasdaqtrader.com/dynamic/SymDir/options.txt for a list of products traded on NOM with the indicator "N" for a 4 p.m. closing.

9 See Chapter VI, Section 1(b).

10 At least one other exchange only routes securities that trade on that exchange. See e.g., Phlx Rule 1080(m).

controversial, because most exchanges do not offer this feature, the feature was rarely used and, in general, exchanges are not required to route orders in securities they do not offer for trading.

NASDAQ also proposes to amend Chapter VII, Section 12, Commentary .03 to delete the reference to non-displayed trading interest. NOM no longer has any order types with non-displayed interest; previously, NOM offered Discretionary Orders and Reserve Orders on NOM, but both have been eliminated.[11] NASDAQ notes that although NOM still offers Price Improving Orders, such orders do not have non-displayed interest.[12] Chapter VII, Section 12, Commentary .03 will now provide that respecting Price Improving Orders, the exposure requirement of subsection (i) is satisfied if the displayable portion of the order is displayed at its displayable price for one second.[13] NASDAQ does not believe that this is controversial, because it merely corrects rule language to be more specific to the only relevant order type that remains.

NASDAQ also proposes minor typographical changes to the following rules: Chapter III, Section 13(c) (Mandatory Systems Testing); Chapter III, Section 14(a) (Limit on Outstanding Uncovered Short Positions); Chapter III, Section 15(g) (Significant Business Transactions of Options Clearing Participants); Chapter IV, Section 6(g) (Series of Options Contracts Open for

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11 See Securities Exchange Act Release No. 65873 (December 2, 2011), 76 FR 76786 (December 8, 2011)(SR-NASDAQ-2011-164).

12 "Price Improving Orders" are orders to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders may be entered in increments as small as one cent. Price Improving Orders that are available for display shall be displayed at the minimum price variation in that security and shall be rounded up for sell orders and rounded down for buy orders. See Chapter VI, Section 1(e)(6).

13 The order exposure requirement is that, with respect to orders routed to NOM, Options Participants may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on NOM for at least one (1) second or (ii) the Options Participant has been bidding or offering on NOM for at least one (1) second prior to receiving an agency order that is executable against such bid or offer. See Chapter VII, Section 12.

Trading); Chapter XII, Section 3(b) (Locked and Crossed Markets); and Chapter XIV, Section 3(b)(12) (Designation of a Broad-Based Index).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(5) of the Act[15] in particular, in that it is designed to promote just and equitable principles of trade by making various deletions and corrections that each contributes to the maintenance of fair and orderly markets. Adding reference to which exchange rules are incorporated by reference helps Participants better understand what rules apply, which should promote just and equitable principles of trade. Cancelling Market Maker interest during a trading halt helps Market Makers reasonably manage their risk, consistent with just and equitable principles of trade. Leaving a Market Maker's quote in the market during a halt could lead to dislocated prices when the security resumes trading after the halt, which would be confusing to investors. NASDAQ believes it is better to remove Market Maker quotes so that Market Makers can re-enter a fresh set of two-sided quotes that reflect the information that was disseminated during the halt. These fresh quotes should provide investors and the market as a whole with better and more accurate prices. Treating Minimum Quantity Orders as having a time-in-force designation of IOC also promotes just and equitable principles of trade by helping order entry firms manage their risk. Furthermore, allowing Minimum Quantity Orders to rest on the book potentially introduces complexity and confusion without adding value, because investors who might see Minimum Quantity Orders through a data feed may not understand why they are not able to trade with those orders. If an incoming order is smaller than the minimum quantity designated on the resting Minimum Quantity Order, it will

[14] 15 U.S.C. 78f(b).

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

not execute. Accordingly, NASDAQ believes that it is simpler for investors to interact with the market if Minimum Quantity Orders are treated as IOC.

In addition, making clearer that Market Orders are accepted should promote just and equitable principles of trade, by removing an inconsistency between two rules so firms know that such orders are permitted. Furthermore, accepting Market Orders in addition to Limit Orders provides investors with additional tools for market participation. Additional order choices helps Participants achieve their investment objectives when interacting with the market. At least one other exchange recognizes this and allows both limit and market orders.[16]

Deleting the terms Attributable Order and Non-Attributable Order also promotes just and equitable principles of trade by making clear that all orders are non-attributable. NASDAQ experienced no demand for the ability to provide attribution to orders. Neither consumers of NASDAQ data, nor the providers of orders requested attribution functionality. As such, NASDAQ removed this ability to simplify its systems and the related rules.

Permitting ISOs to have a time-in-force designation other than IOC assists order entry firms in managing ISOs, because some firms may seek to have such orders post on the book if they do not immediately execute, which promotes just and equitable principles of trade. Allowing a Participant to post an ISO, after having properly submitted the required ISOs to other exchanges with equal or better prices, should provide the market and investors with superior prices. It also helps the Participant who submitted the ISO to more accurately reflect the value they assign to the security designated on the order.

Specifying that option contracts on certain fund shares or broad-based indexes may close at 4:15 p.m. is intended to correct the rule to be clear that some such products close at 4:00 p.m.,

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16 See e.g., Phlx Rule 1080(b).

which should promote just and equitable principles of trade. Generally, the more information that is available to the market, the better it is for investors. In particular, the more accurate the information is, the better market participants can manage their objectives. Correcting this language will make it clear to investors that some products close at 4:00 p.m. and some close at 4:15 p.m. The ability to get the closing times for specific funds from the NOM website will provide participants with the precise information they need.

Limiting routing to System Securities is common, such that eliminating the routing of Non-System Securities should not have a significant effect on Participants and correcting the rule makes this clear, which should promote just and equitable principles of trade. As stated above, it is common practice for options exchanges to only route orders for securities that are listed on the exchange. In fact, it is NASDAQ's understanding that NOM was the only exchange that offered routing for securities not listed on NOM. NOM experimented with the feature to explore whether there was an underserved customer segment and discovered that the feature often led to confusion and operational headaches for Participants and thus was rarely used.

Deleting the reference to non-displayed trading interest is merely a correction to address that previously available order types are no longer covered by this provisions, which provides better clarity, and thereby promotes just and equitable principles of trade. As discussed above, this reference was in place to reflect how NOM viewed the exposure rule in relation to Reserve Orders., which were eliminated. NASDAQ inadvertently left this language in the rulebook which created confusion for members. Clarity with respect to the exposure rule provides Participants with a better understanding of how to comply with this rule.

Accordingly, NASDAQ believes that all of the changes proposed herein should promote just and equitable principles of trade, consistent with Section 6(b)(5).

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

The Exchange 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 believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)[17] of the Act and Rule 19b-4(f)(6)(iii) thereunder[18] 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.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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.

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17 15 U.S.C. 78s(b)(3)(A).

18 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

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-2012-077 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-2012-077. 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 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 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-2012-077 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.[19]

Kevin M. O'Neill
Deputy Secretary

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[19] 17 CFR 200.30-3(a)(12).