reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. Under its continued listing standards, the Exchange will consider suspending trading in the Shares or removing them from listing if: (1) After the 12-month period following the commencement of trading on the Exchange, the issuer has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders for 30 or more consecutive days, the issuer has fewer than 50,000 Shares outstanding, or a market value less than $1,000,000; [27] (2) the value of the underlying commodity is no longer calculated or available on at least a 15-second delayed basis or if the sponsor or Exchange stops providing a hyperlink on its Web site to any such unaffiliated commodity value; [28] or (3) the IFV is no longer made available on at least a 15-second delayed basis.[29] With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares.[30] In addition, the Commission notes that if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants pursuant to NYSE Arca Equities Rule 7.34(a)(5).[31]

The Commission also notes that Commentary .02 of Rule 8.200 sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance.

In support of this proposal, the Exchange has made the following representations:

(1) The Shares satisfy the requirements of Commentary .02 of Rule 8.200, which includes the initial and continued listing criteria for Trust Issued Receipts.

(2) All of the facts describing the Funds and the Shares contained in the Amex filings are true and correct as of the date of this filing.

(3) The representations included in the Amex Filings relating to the dissemination and availability of information regarding the Shares will apply to listing and trading of the Shares on the Exchange. To the extent NYSE Alternext U.S. has any affirmative obligations with respect to dissemination of information or key values relating to the Shares, the Exchange will take the place of NYSE Alternext U.S. in such role and discharge such obligations.

(4) The Exchange's surveillance procedures are adequate to properly monitor trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(5) With regard to the Index components, the Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the New York Mercantile Exchange, the InterContinental Exchange and the London Metal Exchange, pursuant to its comprehensive information sharing agreements with each of those exchanges. All of the other trading venues on which current Index components are traded are members of the ISG and the Exchange therefore has access to all relevant trading information with respect to those contracts without any further action being required on the part of the Exchange.

(6) Not more than 10% of the weight of the applicable Index in the aggregate shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

(7) The Exchange will distribute an Information Bulletin, the contents of which are more fully described above, to ETP Holders in connection with the trading of the Shares.

This approval order is based on the Exchange's representations.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[32] for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. Previously, the Commission approved the listing and trading of the Shares on Amex,[33] and the trading of the Shares pursuant to UTP on the Exchange.[34] The Exchange's proposal to list and trade the Shares does not appear to present any novel or significant regulatory issues. As such, the Commission believes that accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for such products.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–NYSEArca–2008–128) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–28241 Filed 11–26–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58992; File No. SR–NASDAQ–2008–088]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding Its Obvious Errors Rule and the Adoption of a Catastrophic Error Provision

November 21, 2008.

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 November 19, 2008, 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 and II below, which Items have been prepared substantially by Nasdaq. Nasdaq has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[27] *See* Commentary .02 (d)(2)(i) to NYSE Arca Equities Rule 8.200.

[28] *See* Commentary .02 (d)(2)(ii) to NYSE Arca Equities Rule 8.200.

[29] *See* Commentary .02 (d)(2)(iii) to NYSE Arca Equities Rule 8.200.

[30] Trading may be halted because of market conditions or for reasons that make trading in the Shares inadvisable, including: (1) The extent to which trading is not occurring in the underlying futures contracts; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. The Exchange will also halt trading pursuant to the Exchange's to NYSE Arca Equities Rule 7.12 during extraordinary market volatility or by the halt or suspension of trading in the underlying futures contracts.

[31] *See* NYSE Arca Equities Rule 7.34(a)(5).

[32] 15 U.S.C. 78s(b)(2).

[33] *See* Amex Filings, *supra*, note 6.

[34] *See* UTP Filings, *supra*, note 7.

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] 17 C.F.R. 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[4] and Rule 19b–4 thereunder,[5] The NASDAQ Stock Market LLC (''Nasdaq'') is filing with the Securities and Exchange Commission (''Commission'') a proposal for the NASDAQ Options Market (''NOM'') to modify Chapter V, Section 6 (Obvious Errors) of it options rules to: (1) adopt a catastrophic error provision; and (2) change the notification period for obvious errors from 15 to 20 minutes.

The text of the proposed rule change is below. Proposed new language is in *italics;* proposed deletions are in [brackets].[6]

* * * * *

Chapter V Regulation of Trading on NOM

Sec. 1–5 No change.

Sec. 6 Obvious Errors.

(a) Nasdaq shall either nullify a transaction or adjust the execution price of a transaction that meets the standards provided in this Section.

(b) Definition of Obvious Error. For purposes of this Section only, an Obvious Error will be deemed to have occurred when:

(i) the execution price of a transaction is higher or lower than the Theoretical Price for the series by an amount equal to at least the amount shown below:

Theoretical price	Minimum amount
Below $2	.25
$2 to $5	.40
Above $5 to $10	.50
Above $10 to $20	.80
Above $20	1.00

(ii) the trade resulted in an execution price in a series that was, and for five seconds prior to the execution remained, quoted no bid and at least one strike price below (for calls) or above (for puts) in the same class were quoted no bid at the time of the erroneous execution (in which case the trade shall be nullified). For purposes of this subparagraph, bids and offers of the parties to the subject trade that are in any of the series in the same options class shall not be considered.

(c) Definition of Theoretical Price. For purposes of this Section only, the Theoretical Price of an option series is,

(i) If the series is traded on at least one other options exchange, the mid-point of the National Best Bid and Offer (''NBBO''), just prior to the transaction; or

(ii) If there are no quotes for comparison purposes, as determined by MarketWatch as defined in Chapter I.

(d) Obvious Error Procedure. If a party believes that it participated in a transaction that was the result of an Obvious Error, it must notify MarketWatch via written or electronic complaint within [15] *20* minutes of the execution. Absent unusual circumstances, Nasdaq will not grant relief under this Section unless notification is made within the prescribed periods of time. A designated employee in Nasdaq Regulation that is trained in the application of this rule (''Nasdaq Official'') shall administer the application of this Section.

(e) Adjust or Bust. A Nasdaq Official will determine whether there was an Obvious Error as defined above. If it is determined that an Obvious Error has occurred, MarketWatch shall take one of the actions listed below. Upon taking final action, MarketWatch shall promptly notify both parties to the trade electronically or via telephone.

(i) Where each party to the transaction is an Options Participant, the execution price of the transaction will be adjusted by the Nasdaq Official to the prices provided in subparagraphs (A) and (B) below unless both parties agree to adjust the transaction to a different price or agree to bust the trade within ten (10) minutes of being notified by MarketWatch of the Obvious Error.

(A) Erroneous buy transactions will be adjusted to their Theoretical Price plus $.15 if the Theoretical Price is under $3, or plus $.30 if the Theoretical Price is at or above $3.

(B) Erroneous sell transactions will be adjusted to their Theoretical Price minus $.15 if the Theoretical Price is under $3, or minus $.30 if the Theoretical Price is at or above $3.

(ii) Where at least one party to the Obvious Error is not an Options Participant, the trade will be nullified unless both parties agree to an adjustment price for the transaction within 30 minutes of being notified by MarketWatch of the Obvious Error.

(iii) Trades meeting the Obvious Errors definition in (b)(ii) above shall be nullified.

(iv) Mutual Agreement. The determination as to whether a trade was automatically executed at an erroneous price may be made by mutual agreement of the affected parties to a particular transaction. A trade may be nullified or adjusted on the terms that all parties to a particular transaction agree.

(f) *Catastrophic Errors*

(i) Definition. For purposes of this Section only, a Catastrophic Error will be deemed to have occurred when the execution price of a transaction is higher or lower than the Theoretical Price for the series by an amount equal to at least the amount shown below:

Theoretical price	*Minimum amount ($)*
Below $2	*1*
$2 to $5	*2*
Above $5 to $10	*5*
Above $10 to $50	*10*
Above $50 to $100	*20*
Above $100	*30*

(ii) Catastrophic Error Procedure. If a party believes that it participated in a transaction that qualifies as a Catastrophic Error, it must notify MarketWatch via a written or electronic complaint by 8:30 am ET, on the first trading day following the execution. For transactions in an expiring options series that take place on an expiration day, a party must notify MarketWatch by 5:00 pm ET that same day.

Nasdaq will not grant relief under this Section unless notification is made within the prescribed periods of time. Relief will not be granted if MarketWatch has previously rendered a decision with respect to the transaction in question pursuant to this Section. A Nasdaq Official, as defined in paragraph (d) above, shall administer the application of this Section.

(iii) Adjust or Bust. A Nasdaq Official will determine whether there was a Catastrophic Error as defined above. If it is determined that a Catastrophic Error has occurred, whether or not each party to the transaction is an Options Participant, MarketWatch shall adjust the execution price of the transaction, unless both parties agree to adjust the transaction to a different price, to the theoretical price (i) plus the adjustment value provided below for erroneous buy transactions, and (ii) minus the adjustment value provided for erroneous sell transactions:

Theoretical price	*Minimum amount ($)*
Below $2	*1*
$2 to $5	*2*
Above $5 to $10	*3*
Above $10 to $50	*5*
Above $50 to $100	*7*
Above $100	*10*

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] Changes are marked to the rule text that appears in the electronic Nasdaq Manual found at *http://nasdaqomx.cchwallstreet.com.*

Upon taking final action, MarketWatch shall promptly notify both parties to the trade electronically or via telephone.

(g) Review by the Market Operations Review Committee (''MORC'')

(i) A party to a transaction affected by a decision made under this section may appeal that decision to the MORC. An appeal must be made in writing, and must be received by Nasdaq within thirty (30) minutes after the person making the appeal is given the notification of the determination being appealed. The MORC may review any decision appealed, including whether a complaint was timely, whether an Obvious Error *or Catastrophic Error* occurred, whether the correct Theoretical Price was used, and whether an adjustment was made at the correct price.

(ii) A MORC panel will be comprised minimally of representatives of one (1) member engaged in Market Making and two (2) industry representatives not engaged in Market Making. At no time should a review panel have more than 50% members engaged in Market Making.

(iii) The MORC, pursuant to the standards set forth in this rule, shall affirm, modify, or reverse the determination.

(iv) The decision of the MORC pursuant to an appeal, or a determination by a Nasdaq Official that is not appealed, shall be final and binding upon all parties and shall constitute final Nasdaq action on the matter in issue. Any determination by a Nasdaq Official or the MORC shall be rendered without prejudice as to the rights of the parties to the transaction to submit their dispute to arbitration.

(v) The party initiating the appeal shall be assessed a $500.00 fee if the MORC upholds the decision of the Nasdaq Official. In addition, in instances where Nasdaq, on behalf of an Options Participant, requests a determination by another market center that a transaction is clearly erroneous, Nasdaq will pass any resulting charges through to the relevant Options Participant.

Sec. 7–9 No change.

* * * * *

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 proposing to amend NOM's Obvious Errors Rule to adopt a catastrophic error provision to address egregious trading errors and thereby help NOM participants better manage their risk. The current rule governing obvious errors is being amended to define a catastrophic error and establish procedures for granting relief from trades that result from a Catastrophic Error, as defined therein. Specifically, similar to NOM's existing obvious error provision, the proposal defines a Catastrophic Error by comparing the execution price to the Theoretical Price;[7] if they differ by the amount indicated in the chart in proposed new paragraph (f), the procedures for Catastrophic Errors in that paragraph can be invoked. Accordingly, the proposal sets forth objective criteria for determining when a catastrophic error has occurred. The proposed amounts for catastrophic errors are significantly higher than the amounts for obvious errors, which Nasdaq believes should limit the application of the catastrophic error provision to errors involving significant losses.

If a party believes that it participated in a transaction that qualifies as a Catastrophic Error, it must notify MarketWatch via a written or electronic complaint by 8:30 a.m. ET, on the first trading day following the execution. For transactions in an expiring options series that take place on an expiration day, a party member must notify MarketWatch by 5 p.m. ET that same day. This is similar to the current obvious error rule, except the timeframes are increased to reflect the egregious nature of a catastrophic error; the proposed timeframes are the same as those of other exchanges.[8]

A Nasdaq Official will determine whether there was a Catastrophic Error as defined above. If it is determined that a Catastrophic Error has occurred, whether or not each party to the transaction is an Options Participant, MarketWatch shall adjust the execution price of the transaction, unless both parties agree to adjust the transaction to a different price, to a price specified in the rule, which is identical to the rules of the other exchanges.[9] The adjustment value is significantly higher for catastrophic errors than for obvious errors, in light of the egregious nature of the error.

Under the proposal, relief will not be granted if MarketWatch has previously rendered a decision with respect to the transaction in question pursuant to this Section. Catastrophic error decisions are appealable to the Market Operations Review Committee (''MORC'') pursuant to renumbered paragraph (g), just like obvious error decisions. Nasdaq believes that the proposal establishes a specific and objective process for catastrophic error handling.

Lastly, Nasdaq proposes to change to notification period for obvious errors (as opposed to the proposed new catastrophic errors) from 15 to 20 minutes in order to afford participants additional time to enter a complaint under the obvious error procedure. The 20-minute notification period is the same as certain other options exchanges.[10]

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general, and with Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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, because it will allow a longer opportunity to seek relief from errors that result in large losses.

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.

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[7] The current definition of Theoretical Price in paragraph (c) continues to apply.

[8] *See e.g.*, ISE Rule 720(d)(1) and PHLX Rule 1092(f)(i).

[9] *See e.g.*, ISE Rule 720(d)(3) and PHLX Rule 1092(f)(iii).

[10] *See* PHLX Rule 1092(e)(i) respecting member organizations entering orders from off the floor (the notification period for specialists and Registered Options Traders remains 15 minutes); *see also* ISE Rule 720(b)(1) respecting Electronic Access Members (market makers have five minutes) and similar provisions in NYSE Arca Rule 6.87(a)(3)(A) and BSE Section 20(d)(i) [sic].

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

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. However, Nasdaq received one e-mail in support of the extension of the notification period for obvious errors to 20 minutes.

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 [13] and Rule 19b–4(f)(6) thereunder.[14]

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.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6) [16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Nasdaq requests that the Commission waive the 30-day operative delay to immediately offer market participants on Nasdaq the same potential for relief that is available at other options exchanges for catastrophic errors. The Exchange argued that the proposed changes should serve to help market participants seek relief from egregious errors and better manage their risk. The Commission believes that waiving the 30-day operative delay [17] is consistent with the protection of investors and the public interest. Given that the Exchange's proposed rule change is substantially similar to the rules of other exchanges previously approved by the Commission, the proposal does not appear to present any novel regulatory issues. Therefore, the Commission designates the proposal operative upon filing.

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–2008–088 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2008–088. 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 inspection and copying 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 publicly available. All submissions should refer to File Number SR–NASDAQ–2008–088 and should be submitted on or before December 19, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–28219 Filed 11–26–08; 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) 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. Nasdaq has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

[17] 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).

[18] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6441]

Culturally Significant Objects Imported for Exhibition Determinations: ''Carvers and Collectors: The Lasting Allure of Ancient Gems''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the object to be included in the exhibition ''Carvers and Collectors: The Lasting Allure of Ancient Gems,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Getty Villa, Malibu, CA, from on or about March 19, 2009, until on or about September 7, 2009, at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit object, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202–453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: November 20, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–28319 Filed 11–26–08; 8:45 am]

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