

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 rule change is designed to facilitate companies' compliance with Nasdaq rules by aligning Nasdaq's disclosure requirements with those of the Commission. Nasdaq notes that the proposed changes to permit disclosure by a Form 8-K will not eliminate or reduce information now available to investors, but will minimize duplicative disclosures.

#### *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 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 No. SR-NASDAQ-2010-006 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 No. SR-NASDAQ-2010-006. 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>21</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 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 Nasdaq. 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 No. SR-NASDAQ-2010-006 and should be submitted on or before March 1, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-2633 Filed 2-5-10; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61466; File No. SR-CBOE-2010-005]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, To Establish Strike Price Intervals and Trading Hours for Options on Index-Linked Securities**

February 2, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 27, 2010, Chicago Board Options Exchange, Incorporated ("CBOE" or "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. On February 2, 2010, CBOE filed Amendment No. 1 to the proposed rule change. 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**

Prior to the commencement of trading options on Index-Linked Securities, CBOE proposes to establish strike price intervals and trading hours for these new products. The text of the proposed rule change is available on CBOE's Web site at (<http://www.cboe.org/legal>), on the Commission's Web site at <http://www.sec.gov>, at CBOE, 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 self-regulatory organization 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 those 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 parts of such statements.

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

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

<sup>21</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov>.

<sup>22</sup> 17 CFR 200.30-3(a)(12).

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Prior to the commencement of trading options on Index-Linked Securities (also known as exchange-traded notes ("ETN")), the Exchange is proposing to establish strike price intervals and trading hours for these new products.

The Commission has approved CBOE's and other option exchanges' proposals to enable the listing and trading of options on Index-Linked Securities.<sup>3</sup> Options trading has not commenced to date and is contingent upon the Commission's approval of The Options Clearing Corporation's ("OCC") proposed supplement to the Options Disclosure Document ("ODD") that will provide disclosure regarding options on Index-Linked Securities.<sup>4</sup>

\$1 Strikes for ETN Options

Prior to the commencement of trading options on Index-Linked Securities, the Exchange is proposing to establish that strike price intervals of \$1 will be permitted where the strike price is less than \$200. Where the strike price is greater than \$200, \$5 strikes will be permitted. These proposed changes are reflected by the proposed addition of new Interpretation and Policy .09 to Rule 5.5.

Without discounting the differences between exchange-traded funds ("ETFs") and Index-Linked Securities, the Exchange seeks to extend the trading conventions applicable to options on ETFs to options on Index-Linked Securities. CBOE contends that the proposed strike price intervals for options on Index-Linked Securities are consistent with the strike price intervals currently permitted for options on ETFs.<sup>5</sup> The Exchange believes that \$1 strike price intervals for options on Index-Linked Securities will provide investors with greater flexibility by allowed [sic] them to establish positions

<sup>3</sup> See e.g., Securities Exchange Act Release Nos. 58204 (July 22, 2008), 73 FR 43807 (July 28, 2008) (approving SR-CBOE-2008-64); 58203 (July 22, 2008), 73 FR 43812 (July 28, 2008) (approving SR-NYSEArca-2008-57); 58985 (November 10, 2008), 73 FR 72538 (November 28, 2008) (approving SR-ISE-2008-86).

<sup>4</sup> OCC previously received Commission approval to clear options based on Index-Linked Securities. See Securities Exchange Act Release No. 60872 (October 23, 2009), 74 FR 55878 (October 29, 2009) (SR-OCC-2009-14).

<sup>5</sup> See Interpretation and Policy .08 to Rule 5.5. See also Securities Exchange Act Release No. 46507 (September 17, 2007), 67 FR 60266 (September 25, 2002) (permitting list of options on ETFs at \$1 strike price intervals) (SR-CBOE-2002-54).

that are better tailored to meet their investment objectives.

The Exchange states that it is seeking to establish \$1 strikes for ETN options (where the strike price is less than \$200) because CBOE believes the marketplace and investors will be expecting ETN options to trade in a similar manner to options on exchange-traded funds ("ETFs").<sup>6</sup> Strike prices for ETF options are permitted in \$1 or greater intervals where the strike price is \$200 or less and \$5 or greater where the strike price is greater than \$200.<sup>7</sup> Accordingly, the Exchange believes that the rationale for permitting \$1 strikes for ETF options equally applies to permitting \$1 strikes for ETN options and the Exchange believes that investors will be better served if \$1 strike price intervals are available for ETN options (where the strike price is less than \$200).<sup>8</sup>

CBOE has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of \$1 strikes (where the strike price is less than \$200) for ETN options.<sup>9</sup>

Trading Hours for ETN Options

Similar to the trading hours for ETF options, the Exchange proposes to amend Interpretation and Policy .03 to Rule 6.1 by adding new subparagraph (b) to provide that options on Index-Linked Securities, as defined under Interpretation and Policy .13 to Rule 5.3, may be traded on the Exchange until 3:15 p.m. each business day. The Exchange is also proposing to make a technical change to Interpretation and Policy .03 to Rule 6.1.

It is expected that other options exchanges that have adopted rules providing for the listing and trade of options on Index-Linked Securities will submit similar proposals.

2. Statutory Basis

Because the Exchange believes that the current rule proposal will lessen investor confusion by having strike price intervals and trading hours established prior to the commencement of trading in options on Index-Linked Securities, the Exchange believes the rule proposal is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>10</sup> Specifically, the Exchange

<sup>6</sup> See Amendment No. 1.

<sup>7</sup> See *supra* note 5.

<sup>8</sup> See Amendment No. 1.

<sup>9</sup> See *Id.*

<sup>10</sup> 15 U.S.C. 78f(b).

believes that the proposed rule change is consistent with the Section 6(b)(5) Act<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

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

CBOE 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*

No written comments were solicited or received with respect to the proposed rule change.

**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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comment**

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 No. SR-CBOE-2010-005 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

<sup>11</sup> 15 U.S.C. 78f(b)(5).

All submissions should refer to File Number SR-CBOE-2010-005. 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, 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-CBOE-2010-005 and should be submitted on or before February 23, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

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

[FR Doc. 2010-2632 Filed 2-5-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61467; File No. SR-NASDAQ-2010-020]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the NASDAQ Market Center

February 2, 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 February 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 modify pricing for NASDAQ members using the NASDAQ Market Center. NASDAQ will implement the proposed change on February 1, 2010. The text of the proposed rule change is available at <http://nasdaqomx.cchwallstreet.com/>, 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

NASDAQ is introducing pricing for its SAVE routing strategy, which was recently filed on an immediately effective basis in SR-NASDAQ-2010-018.<sup>3</sup> In the SAVE strategy, at the option of the entering party, orders either route to NASDAQ OMX BX ("BX"), check the NASDAQ book, and then route to other destinations on the routing table for SAVE, or check the NASDAQ book first and then route to routing table destinations, which may include BX. For orders pursuing this routing approach, NASDAQ will pass through all fees assessed and rebates offered by BX, charge \$0.0010 per share executed for orders that execute at the New York Stock Exchange ("NYSE"), and charge \$0.0026 per share executed for orders that execute in other away venues.

Orders that execute in the NASDAQ Market Center will be charged the normal NASDAQ execution charges.

NASDAQ is also amending its fee schedule to reflect recent modifications to Rule 4758, which governs order routing. NASDAQ amended that rule to describe various routing options with greater specificity than had previously been provided by the rule. Whereas the NASDAQ fee schedule contained in Rule 7018 had previously contained descriptive references to the routing parameters of particular routing options, the schedule is now being amended to refer to specific order routing options by the same name used in Rule 4758, such as SCAN, DOT, or TTTY. NASDAQ believes that this change will increase the clarity of both its routing rule and its fee schedule. The amended fee schedule also clarifies that TTTY, MOPP, SAVE, and directed orders are not counted for purposes of determining a member's shares of liquidity routed under provisions that base certain discounts on the number of shares of liquidity routed, removed and/or provided.

NASDAQ is also removing several unnecessary provisions from Rule 7018. Specifically, NASDAQ is deleting references to (i) orders in NASDAQ-listed securities that execute at BX prior to routing to NYSE or NYSE Amex, since neither venue trades NASDAQ-listed securities, and (ii) "other orders" that execute at BX without attempting to execute at NASDAQ, since all possible execution parameters for orders that execute at BX without checking the NASDAQ book are covered by other fee provisions.

###### 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 Section 6(b)(4) of the Act,<sup>5</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. NASDAQ is introducing fees for the new SAVE routing option, under which members pay a low fee to route to the NYSE and other destinations to encourage members to make greater use of NASDAQ's routing services. The changes will result in a reduction of fees paid by members that make use of SAVE, as compared with currently

<sup>12</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> Securities Exchange Act Release No. 34-61460 (February 1, 2010) (SR-NASDAQ-2010-018).

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

<sup>5</sup> 15 U.S.C. 78f(b)(4).