

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR-FINRA-2010-022 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-FINRA-2010-022. 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, 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 FINRA. 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-FINRA-2010-022 and should be submitted on or before June 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

[FR Doc. 2010-12625 Filed 5-25-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62138; File No. SR-NASDAQ-2010-059]

### 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

May 19, 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 May 14, 2010, The NASDAQ Stock Market LLC ("NASDAQ") 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 NASDAQ. Pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> NASDAQ has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective upon filing. 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 the 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 May 17, 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 proposing to modify its fees for orders that execute at prices below \$1. Currently, NASDAQ charges 0.2% (20 basis points) of the total dollar value of the execution to members accessing liquidity; provides a rebate of 0.1% (10 basis points) of the total dollar value to members providing liquidity; and charges a fee for routing of 0.3% (30 basis points) of the total dollar value. Through this filing, NASDAQ will modify the rebate paid to members providing liquidity. Specifically, the rebate will be \$0.00009 per share executed for securities priced at \$0.05 or more but less than \$1, and there will be no rebate for securities priced at less than \$0.05. Depending upon the price of the stock, the change will result in a decrease in the rebate in most cases but an increase in some cases. The change is designed to provide a constant per share rebate and to result in a closer alignment between the size of the rebate and the average quoted spread for securities trading below \$1.<sup>5</sup>

##### 2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and with Section 6(b)(4) of the Act,<sup>7</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. The impact of the price changes upon the net fees paid by a particular market participant will depend upon a number of variables, including the relative availability of liquidity on NASDAQ and other venues, the prices of the market participant's quotes and orders relative to the national best bid and offer (*i.e.*, its propensity to add or remove liquidity), and the types and prices of the securities that it trades. NASDAQ believes that the proposed changes are reasonable and equitable in that they

<sup>5</sup> The change is similar to changes recently made to the rebates offered by other trading venues. See Securities Exchange Act Release No. 62050 (May 6, 2010), 75 FR 27029 (May 13, 2010) (SR-ISE-2010-37); Securities Exchange Act Release No. 62051 (May 6, 2010), 75 FR 27034 (May 13, 2010) (SR-ISE-2010-38); Securities Exchange Act Release No. 61996 (April 28, 2010), 75 FR 23829 (May 4, 2010) (SR-NSX-2010-04).

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

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

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

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

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

<sup>10</sup> 17 CFR 200.30-3(a)(12).

apply uniformly to all similarly situated members.

#### *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. Because the market for order execution and routing is extremely competitive, members may readily direct orders to NASDAQ's competitors if they object to the proposed rule change.

#### *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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>9</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.

### **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-2010-059 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-2010-059. 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 offices 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-2010-059, and should be submitted on or before June 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62139; File No. SR-CBOE-2010-018]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade CBOE Gold ETF Volatility Index Options**

May 19, 2010.

#### **I. Introduction**

On March 18, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to list and trade options on the CBOE Gold ETF Volatility Index ("GVZ"). On March 22, 2010, CBOE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on April 14, 2010.<sup>4</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

#### **II. Description**

CBOE proposes to amend certain of its rules to allow the listing and trading of cash-settled, European-style options on GVZ.

#### *Index Design and Calculation*

The calculation of GVZ is based on the VIX methodology applied to options on the SPDR Gold Trust ("GLD"). GVZ is an up-to-the-minute market estimate of the expected volatility of GLD calculated by using real-time bid/ask quotes of CBOE listed GLD options. GVZ uses nearby and second nearby options with at least 8 days left to expiration and then weights them to yield a constant, 30-day measure of the expected (implied) volatility.

For each contract month, CBOE will determine the at-the-money strike price. The Exchange will then select the at-the-money and out-of-the-money series with non-zero bid prices and determine the midpoint of the bid-ask quote for each of these series. The midpoint quote of each series is then weighted so that the further away that series is from the at-the-money strike, the less weight that is accorded to the quote. To compute the index level, CBOE will calculate a volatility measure for the nearby options and then for the second nearby options, using the weighted mid-point of the prevailing bid-ask quotes for all included option series with the same expiration date. These volatility measures are then interpolated to arrive at a single, constant 30-day measure of volatility.

CBOE will compute values for GVZ underlying option series on a real-time basis throughout each trading day, from 8:30 a.m. until 3 p.m. (CT). GVZ levels will be calculated by CBOE and disseminated at 15-second intervals to major market data vendors.

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

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

<sup>3</sup> In Amendment No. 1, CBOE made technical corrections to the rule text.

<sup>4</sup> See Securities Exchange Act Release No. 61859 (April 7, 2010), 75 FR 19439.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(a)(ii). [sic]

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).