

other quantitative and trading information.

The Commission further believes that the proposal to list and trade the Shares is 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. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.<sup>15</sup> In addition, the Exchange will halt trading in the Shares under the specific circumstances set forth in NYSE Arca Equities Rule 8.600(d)(2)(D) and may halt trading in the Shares if trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.<sup>16</sup> Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.<sup>17</sup> The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees, and neither the Adviser nor the Sub-Adviser is affiliated with a broker-dealer.<sup>18</sup>

<sup>15</sup> See NYSE Arca Equities Rule 8.600(d)(1)(B).

<sup>16</sup> See NYSE Arca Equities Rule 8.600(d)(2)(C)(ii). With respect to trading halts, the Exchange may consider other relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

<sup>17</sup> See NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

<sup>18</sup> See *supra* note 5 and accompanying text. The Commission notes that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 ("Advisers Act"). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

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

(4) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (d) how information regarding the PIV is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading and other information.

(5) For initial and/or continued listing, the Fund will be in compliance with Rule 10A-3 under the Act,<sup>19</sup> as provided by NYSE Arca Equities Rule 5.3.

(6) The Fund will not: (a) Purchase illiquid securities; (b) invest in non-U.S. issues (except for Underlying ETPs that may hold non-U.S. issues); and (c)

implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

<sup>19</sup> See 17 CFR 240.10A-3.

invest in leveraged, inverse, or inverse leveraged Underlying ETPs.

(7) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

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

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>20</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>21</sup> that the proposed rule change (SR-NYSEArca-2011-18) be, and it hereby is, approved.

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

**Cathy H. Ahn,**  
Deputy Secretary.

[FR Doc. 2011-15554 Filed 6-21-11; 8:45 am]

BILLING CODE 8011-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64691; File No. SR-NASDAQ-2011-079]

#### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation Date for Several Rules in Connection With Trading System Enhancements

June 16, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on June 8, 2011, The NASDAQ Stock Market LLC ("Exchange" or "NASDAQ") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II 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.

<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</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.

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

NASDAQ is filing with the Securities and Exchange Commission ("Commission") a proposal for the NASDAQ Options Market ("NOM") to extend the time period where certain rules, in connection with several trading system enhancements, are implemented from May 2011 to August 2011, as described below. The Exchange will announce the specific implementation schedule by Options Trader Alert, once the rollout schedule is finalized.

The text of the proposed rule change is available at <http://nasdaq.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, the Exchange 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. The Exchange 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

The purpose of the proposed rule change is to extend the time period where certain rules, in connection with several trading system enhancements, are implemented from May 2011 to August 2011. The Exchange intends to rollout these enhancements in August 2011.<sup>3</sup> The Exchange will announce the specific implementation schedule by Options Trader Alert, once the rollout schedule is finalized.

Previously, the Exchange filed two proposed rule changes indicating an

<sup>3</sup> The Commission notes that NASDAQ intends to begin implementation of these two rules by August 31, with the specific implementation scheduled to be announced via Options Trader Alert, as stated above. In the event that this does not occur by August 31, NASDAQ has represented that it will file a proposed rule change to establish the revised time period. See e-mail from Edith Callahan, Principal Associate General Counsel, The NASDAQ OMX Group, Inc., to Steve L. Kuan, Special Counsel, Division of Trading and Markets, Commission, on June 16, 2011.

implementation date of May 31, 2011.<sup>4</sup> The first one amended various rules to: (a) Permit market maker assignment by option rather than by series; (b) adopt a \$5 quotation spread parameter; and (c) amend the quoting requirement for Market Makers.<sup>5</sup> The second one modified the procedures for the opening of trading at the start of the trading day and at the resumption of trading following a trading halt on NOM.<sup>6</sup> The implementation of both of those rules is now scheduled for August 2011. At the time the Exchange filed those two filings, the Exchange expected implementation to occur in May. However, since that time, additional enhancements have been finalized and filed as well,<sup>7</sup> all of which are intended to be implemented together. The Exchange needed more time to implement the enhancements. As a result, participants will have additional time to adapt to the enhancements.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>9</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest, because it merely extends an implementation period for two NOM enhancements, which should provide NOM Participants additional time to adapt to the enhancements.

### 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

<sup>4</sup> The Exchange has also filed other proposed rule changes in connection with these enhancements, but established the implementation date as on or about August 1, 2011, such that it does not need to be revised.

<sup>5</sup> Securities Exchange Act Release No. 64054 (March 8, 2011), 76 FR 14111 (March 15, 2011) (SR-NASDAQ-2011-036). The implementation date in the filing was May 31, 2011.

<sup>6</sup> Securities Exchange Act Release No. 64463 (May 11, 2011), 76 FR 28257 (May 16, 2011) (SR-NASDAQ-2011-037). The implementation date in the filing was May 31, 2011.

<sup>7</sup> See e.g., Securities Exchange Act Release No. 64312 (April 20, 2011), 76 FR 23351 (April 26, 2011) (SR-NASDAQ-2011-053).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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 either solicited or received.

## 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, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

The Exchange has requested the Commission to waive the 30-day operative delay so that NOM Participants will know that these two rules are not yet implemented. The Exchange noted that it will announce the specific implementation schedule by Options Trader Alert, once the rollout schedule is finalized. The Commission hereby grants the Exchange's request and believes such waiver is reasonable as it would provide notice to NOM participants with respect to the change in implementation date and is consistent with the protection of investors and the public interest.<sup>12</sup> Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

<sup>12</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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-2011-079 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-2011-079. 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-NASDAQ-2011-079 and should be submitted on or before July 13, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2011-15555 Filed 6-21-11; 8:45 am]

**BILLING CODE 8011-01-P**

#### DEPARTMENT OF STATE

##### [Public Notice 7508]

#### Determination Pursuant to the Foreign Missions Act

Pursuant to the authority vested in me under the Foreign Missions Act (FMA), 22 U.S.C. 4301 *et seq.*, and specifically 22 U.S.C. 4304(b) and (c), and by the authority vested in me under the FMA and Delegation of Authority No. 147 of September 13, 1982, and Delegation of Authority No. 198 of September 16, 1992, I hereby determine that it is reasonably necessary on the basis of reciprocity or otherwise to adjust for costs and procedures of obtaining benefits for missions of the United States abroad that the benefit of obtaining zoning approval and permit issuances associated with the construction of the People's Republic of China's diplomatic and consular facilities and residences in the United States, be predicated on the payment of surcharges, calculated by the Department's Office of Foreign Missions (OFM) to reflect the fee the U.S. Embassy in Beijing and its consular posts are required to pay the Beijing Service Bureau for Diplomatic Missions, or its regional counterparts, for the provision of services associated with the filing and approval matters pertaining to the construction of diplomatic or consular facilities in China. The authority to regulate foreign mission benefits under the FMA has been delegated to the Director of the Office of Foreign Missions (Delegation of Authority No. 214).

Dated: June 14, 2011.

**Patrick J. Kennedy,**

*Under Secretary for Management.*

[FR Doc. 2011-15626 Filed 6-21-11; 8:45 am]

**BILLING CODE 4710-43-P**

#### DEPARTMENT OF STATE

##### [Public Notice 7474]

#### U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy will hold a public

meeting from 10 a.m. to 12 p.m. on July 12, 2011, at the Capitol Visitor's Center, room SVC 203-02.

The meeting will include discussions on funding public diplomacy and the Smith-Mundt Act. The Commission welcomes commentary from subject matter experts from several organizations, including the State Department, the Broadcasting Board of Governors, the Congress, and the public on this and other relevant topics.

This meeting is open to the public, Members and staff of Congress, the State Department, Defense Department, the media, and other governmental and non-governmental organizations. To attend or request further information, contact the Commission at (202) 203-7463 or [pdcommission@state.gov](mailto:pdcommission@state.gov) by 3 p.m. on July 11, 2011. Please arrive for the meeting at least 15 minutes early to allow for a prompt meeting start.

The U.S. Advisory Commission on Public Diplomacy is charged with appraising U.S. Government activities intended to understand, inform, and influence foreign publics. The Commission formulates and recommends to the President, the Secretary of State, and Members of Congress, policies and programs to carry out the public diplomacy functions vested in the State Department, Broadcasting Board of Governors and other government entities. The Commission may submit reports to the Congress, the President, and the Secretary of State on public diplomacy programs and activities. The Commission makes reports available to the public in the United States and abroad to develop a better understanding of and support for public diplomacy programs. These reports are subject to the approval of the Chairperson, in consultation with the Executive Director.

The Commission consists of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party. The President designates a member to chair the Commission.

The current members of the Commission are: Mr. William Hybl of Colorado, Chairman; Ambassador Lyndon Olson of Texas, Vice Chairman; Mr. Jay Snyder of New York; Ambassador Penne Korth-Peacock of Texas; Ms. Lezlee Westine of Virginia;

<sup>13</sup> 17 CFR 200.30-3(a)(12).