

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65718; File No. SR-NASDAQ-2011-147]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Option Fee Disputes

November 9, 2011.

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 November 1, 2011, The NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”) 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

The NASDAQ Stock Market LLC proposes to create a new Rule 7056 entitled “NASDAQ Options Fee Disputes” to specify the requirements to dispute fees. The Exchange also proposes to rename Rule 7050 entitled “NASDAQ Options Market.”

While fee changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on January 3, 2012.

The text of the proposed rule change is set forth below. Proposed new text is in italics and deleted text is in brackets.

\* \* \* \* \*

#### 7050. NASDAQ Options Market—Fees

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market for all securities.

\* \* \* \* \*

#### 7056. NASDAQ Options Fee Disputes

(a) *All fee disputes concerning fees which are billed by the Exchange must be submitted to the Exchange in writing and must be accompanied by supporting documentation.*

(b) *All fee disputes must be submitted no later than sixty (60) days after receipt of a billing invoice.*

(c) *This Rule applies to the following NASDAQ Options Market fees:*

(1) *Rule 7050 “NASDAQ Options Market—Fees”; and*

(2) *Rule 7053 “NASDAQ Options Market—Access Services,” with the exception of the TradeInfo Fee.*

\* \* \* \* \*

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, 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. 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes a new Rule 7056 entitled “NASDAQ Options Fee Disputes” to require all fee disputes to be submitted to the Exchange in writing<sup>3</sup> and accompanied by supporting documentation within sixty days of receipt of an invoice. The sixty days would first apply to invoices related to transactional billing in January 2012 and would apply thereafter.<sup>4</sup> The Exchange proposes to apply this new Rule 7056 to the fees in Rule 7050 entitled “NASDAQ Options Market” and Rule 7053 entitled “NASDAQ Options Market—Access Services” with the exception of the TradeInfo Fee. The Exchange believes that this practice will conserve Exchange resources which are expended when untimely billing disputes require staff to research applicable fees and order information beyond two months after the transaction occurred.

The Exchange believes that NOM Participants should be aware of any billing errors within two months of receiving an invoice. The Exchange provides NOM Participants with the ability to sign-up to receive certain daily reports.<sup>5</sup> These reports allow NOM

<sup>3</sup> The Exchange invoice specifies the Exchange contact persons with whom to dispute the invoice.

<sup>4</sup> This proposal would not apply to invoices related to December 2011 billing.

<sup>5</sup> These reports include, but are not limited to, daily traded against report and daily cancel fee reports.

Participants to view trade data and fees prior to receiving a billing invoice. In addition, NOM Participants have access to a password protected Web site, which provides NOM Participants an electronic copy of current and historical invoices, as well as the supporting details for assessed charges.<sup>6</sup> NOM Participants have the ability to retrieve trade information from this Web site on a T +1 basis. The Exchange is excluding the TradeInfo Fee, which is billed separately to NOM Participants and is not included in the reports described herein.

In addition, the Exchange proposes to amend the title of Exchange Rule 7050 from “NASDAQ Options Market” to “NASDAQ Options Market—Fees.” The Exchange believes that the proposed title provides a more specific description of Rule 7050 and will assist NOM Participants in locating these fees within the Rules.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</sup> in particular, in that it is designed to promote just and equitable principles of trade, 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, by providing a uniform practice for disputing fees.

The Exchange believes the requirement that all fee disputes, for certain specified fees, must be submitted to the Exchange within sixty days from receipt of the invoice will provide its members with guidance on disputing fees. The Exchange’s members are provided with ample tools to properly and timely monitor and account for various charges incurred in a given month. The proposal equally applies to all NOM Participants who have the ability to access the aforementioned reports. Also, the Exchange’s administrative costs would be lowered as a result of this policy.

The Exchange believes that the proposal to rename Rule 7050 from “NASDAQ Options Market” to “NASDAQ Options Market—Fees” will assist NOM Participants in locating those fees within the Rules.

<sup>6</sup> The Web site is MyNASDAQOMX.com. See Options Trader Alert #2011-60.

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

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

### 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

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6)<sup>10</sup> thereunder.

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.

### 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2011-147 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-2011-147. This file number should be included on the subject line if email 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 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-2011-147 and should be submitted on or before December 7, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65720; File No. SR-Phlx-2011-147]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Complex Order Rebates and Fees for Adding and Removing Liquidity

November 9, 2011.

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 November 1, 2011, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") 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 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

The Exchange proposes to amend its Complex Order Fees in Section I of its Fee Schedule entitled "Rebates and Fees for Adding and Removing Liquidity in Select Symbols."

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqtrader.com/micro.aspx?id=PHLXfilings>, at the principal office of the Exchange, on the Commission's Web site at <http://www.sec.gov>, 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.

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

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

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 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. The Exchange has satisfied this requirement.

<sup>11</sup> 17 CFR 200.30-3(a)(12).