

distinguishing between Complex electronic auctions and non-Complex electronic auctions. In addition, the Exchange proposes to pay rebates and assess fees for the opening process as a non-Complex auction. The opening process would not involve a Complex Order and therefore would be paid rebates and assessed fees consistent with the Exchange's proposal to assess electronic auctions based on whether it relates to a Complex Order. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to pay the rebates and assess the fees in Part A, related to single contra-side orders, for the opening process.

The Exchange believes that the technical amendments proposed herein are reasonable, equitable and not unfairly discriminatory because they would add clarity to the Fee Schedule.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the fees it charges and rebates it pays for options overlying the various Select Symbols remain competitive with fees and rebates charged/paid by other venues and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

#### *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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>21</sup> 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-Phlx-2011-162 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-Phlx-2011-162. 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 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 No. SR-Phlx-2011-

162 and should be submitted on or before January 6, 2012.

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

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

[FR Doc. 2011-32220 Filed 12-15-11; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-65931; File No. SR-NASDAQ-2011-168]**

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

December 9, 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 November 30, 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 the 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 amend Rule 7056 entitled "NASDAQ Options Fee Disputes" to specify that the Options Regulatory Fee is subject to Rule 7056.

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

\* \* \* \* \*

#### **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]

<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.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

(2) Rule 7053 “NASDAQ Options Market—Access Services,” with the exception of the TradeInfo Fee[.]; and  
(3) Rule 7059 “NASDAQ Options Regulatory Fee.”

\* \* \* \* \*

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

#### 1. Purpose

NASDAQ proposes to amend Rule 7056 entitled “NASDAQ Options Fee Disputes” to list Rule 7059 entitled “NASDAQ Options Regulatory Fee” as a fee subject the fee dispute Rule.<sup>3</sup> Currently, Rule 7056 requires NOM Participants to submit all fee disputes to the Exchange in writing<sup>4</sup> and accompanied by supporting documentation within sixty days of receipt of an invoice.<sup>5</sup> Exchange Rule 7056 applies 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 is now proposing to also apply Rule 7056 to the Options Regulatory Fee.<sup>6</sup>

The Exchange believes that this practice will conserve Exchange

<sup>3</sup> The Exchange recently filed a proposed rule change to adopt an Options Regulatory Fee operative on January 3, 2012. See SR-NASDAQ-2011-163.

<sup>4</sup> The Exchange invoice specifies the Exchange contact persons with whom to dispute the invoice.

<sup>5</sup> Rule 7056 will be operative on January 3, 2012 and would first apply to invoices related to transactional billing in January 2012 and would apply thereafter. See Securities Exchange Act Release No. 65718 (November 9, 2011), 76 FR 71088 (November 16, 2011) (SR-NASDAQ-2011-147).

<sup>6</sup> NASDAQ OMX PHLX LLC (“Phlx”) applies the same fee dispute rule to its Options Regulatory Fee. See Phlx’s Fee Schedule.

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>7</sup> These reports allow NOM 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>8</sup> NOM Participants have the ability to retrieve trade information from this Web site on a T +1 basis.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>10</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 that it is reasonable, equitable and not unfairly discriminatory to impose a requirement on the ORF, similar to other fees, concerning fee disputes. 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 is reasonable because the Exchange provides ample tools to properly and timely monitor and account for various charges incurred in a given month.<sup>11</sup> The proposal is equitable and not unfairly discriminatory because it equally applies to all NOM Participants who have the ability to access various reports, which include the information concerning ORF. Phlx has a similar rule

<sup>7</sup> These reports include, but are not limited to, daily traded against report and daily cancel fee reports.

<sup>8</sup> The Web site is MyNASDAQOMX.com. See Options Trader Alert #2011-60.

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> The Exchange provides NOM Participants with the ability to sign-up to receive certain daily reports. These reports allow NOM Participants to view trade data and fees prior to receiving a billing invoice.

which is applicable to its ORF fees.<sup>12</sup> Also, the Exchange’s administrative costs would be lowered as a result of this policy.

### 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>13</sup> and Rule 19b-4(f)(6)<sup>14</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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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:

<sup>12</sup> See Securities Exchange Act Release No. 62661 (August 6, 2010), 75 FR 49544 (August 13, 2010) (SR-Phlx-2010-110). See also Phlx’s Fee Schedule.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</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.

*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–2011–168 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–2011–168. 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 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–2011–168 and should be submitted on or before January 6, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

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

[FR Doc. 2011–32238 Filed 12–15–11; 8:45 am]

**BILLING CODE 8011–01–P**

**DEPARTMENT OF STATE****[Public Notice 7717]****Meeting of Advisory Committee on International Communications and Information Policy**

The Department of State's Advisory Committee on International Communications and Information Policy (ACICIP) will hold a public meeting on January 12, 2012 from 9 a.m. to 12 p.m. in the Loy Henderson Auditorium of the Harry S. Truman Building of the U.S. Department of State. The Truman Building is located at 2201 C Street NW., Washington, DC 20520.

The committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communications services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country issues.

The meeting will be led by ACICIP Chair Mr. Thomas Wheeler of Core Capital Partners and Ambassador Philip L. Verveer, U.S. Coordinator for International Communications and Information Policy. The meeting's agenda will include discussions pertaining to various upcoming international telecommunications meetings and conferences, as well as bilateral and multilateral meetings that have taken place recently. In addition, the Committee will discuss key issues of importance to U.S. communications policy interests including privacy, and security and law enforcement access issues related to cloud computing, as well as recent private sector efforts focused on the ICT aspects of international disaster response.

Members of the public may submit suggestions and comments to the ACICIP. Comments concerning topics to be addressed in the agenda should be received by the ACICIP Executive Secretary (contact information below) at least ten working days prior to the date of the meeting. All comments must be submitted in written form and should not exceed one page. Resource limitations preclude acknowledging or replying to submissions.

While the meeting is open to the public, admittance to the Department of State building is only by means of a pre-clearance. For placement on the pre-

clearance list, please submit the following information no later than 5 p.m. on Tuesday, January 10, 2012. (Please note that this information is not retained by the ACICIP Executive Secretary and must therefore be re-submitted for each ACICIP meeting):

- I. State That You Are Requesting Pre-Clearance to a Meeting
- II. Provide the Following Information
  1. Name of meeting and its date and time.
  2. Visitor's full name.
  3. Date of birth.
  4. Citizenship.
  5. Acceptable forms of identification for entry into the U.S. Department of State include:
    - U.S. driver's license with photo
    - Passport
    - U.S. government agency ID
  6. ID number on the form of ID that the visitor will show upon entry.
  7. Whether the visitor has a need for reasonable accommodation. Such requests received after January 4, 2012, might not be possible to fulfill.

Send the above information to Joseph Burton by fax (202) 647–7407 or email [BurtonKJ@state.gov](mailto:BurtonKJ@state.gov).

All visitors for this meeting must use the 23rd Street entrance. The valid ID bearing the number provided with your pre-clearance request will be required for admittance. Non-U.S. government attendees must be escorted by Department of State personnel at all times when in the building.

Personal data is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Privacy Impact Assessment for VACS–D at <http://www.state.gov/documents/organization/100305.pdf> for additional information.

For further information, please contact Joseph Burton, Executive Secretary of the Committee, at (202) 647–5231 or [BurtonKJ@state.gov](mailto:BurtonKJ@state.gov). General information about ACICIP and the mission of International Communications and Information Policy is available at: <http://www.state.gov/e/eb/adcom/acicip/index.htm>.

<sup>15</sup> 17 CFR 200.30–3(a)(12).