

information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the Board of each Investing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund relying on the section 12(d)(1) relief will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-27001 Filed 11-5-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, November 8, 2012 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, November 8, 2012 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

A litigation matter; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551-5400.

Dated: November 1, 2012.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2012-27128 Filed 11-2-12; 11:15 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68123; File No. SR-NASDAQ-2012-123]

### Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend and Adopt Several NASDAQ Rules To Reflect Changes To Rules of the Financial Industry Regulatory Authority ("FINRA")

October 31, 2012.

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 October 22, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange"), filed with the Securities and Exchange Commission ("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.

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

The Exchange proposes to amend and adopt several NASDAQ rules to reflect changes to rules of the Financial Industry Regulatory Authority ("FINRA"). NASDAQ will implement the proposed rule change thirty days after the date of the filing.

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.

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

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

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

1. Purpose

Many of NASDAQ's rules governing member conduct are based on the rules of FINRA (formerly the National Association of Securities Dealers ("NASD")). During 2008, FINRA embarked on an extended process of moving rules formerly designated as "NASD Rules" into a consolidated FINRA rulebook. In most cases, FINRA has renumbered these rules, and in some cases has substantively amended them. Accordingly, NASDAQ has also been undertaking a process of modifying its rulebook to ensure that NASDAQ rules corresponding to FINRA/NASD rules continue to mirror them as closely as practicable. To the extent possible, NASDAQ will designate a NASDAQ rule that is intended to parallel a FINRA rule with the suffix "A". For example, the NASDAQ rule paralleling FINRA Rule 5320 will be designated as Rule 5320A. In this filing, NASDAQ is amending Rule 3110 (Books and Records) and redesignating it as Rule 3110A to incorporate NASD Rule 3110 (or any successor FINRA rule) by reference. In addition, NASDAQ is deleting IM-3110 (Customer Account Information), and adopting the Rule 4510A Series (Books and Records Requirements). The series includes Rule 4511A (General Requirement), which incorporates FINRA Rule 4511; Rule 4512A (Customer Account Information), which incorporates FINRA Rule 4512; Rule 4513A (Records of Written Customer Complaints), which incorporates FINRA Rule 4513; Rule 4514A (Authorization Records for Negotiable Instruments Drawn from a Customer's Account), which incorporates FINRA Rule 4514; and Rule 4515A (Approval and Documentation of Changes in Account Name or Designation), which incorporates FINRA Rule 4515.<sup>3</sup> NASDAQ notes that in some instances, the amended rules reference rules that are being adopted or renumbered by contemporaneous NASDAQ rule filings that have been filed on an immediately effective basis.<sup>4</sup>

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

the provisions of Section 6 of the Act,<sup>5</sup> in general, and with Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that the proposal 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 regulating, clearing, settling, processing information with 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 changes will conform various NASDAQ Rules to changes made to corresponding FINRA rules (including certain changes resulting in adoption of new rules), thus promoting application of consistent regulatory standards with respect to the rules that FINRA enforces pursuant to its regulatory services agreement with NASDAQ.

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

The Exchange 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*

No written comments were solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>8</sup> in that the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided the self-regulatory organization has given 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.

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 Number SR-NASDAQ-2012-123 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-2012-123. 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

<sup>3</sup> See Securities Exchange Act Release No. 63784 (January 27, 2011), 76 FR 5850 (February 2, 2011) (SR-FINRA-2010-052).

<sup>4</sup> See SR-NASDAQ-2012-122 (October 22, 2012); SR-NASDAQ-2012-124 (October 22, 2012).

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

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–2012–123 and should be submitted on or before November 27, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

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

[FR Doc. 2012–27000 Filed 11–5–12; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68124; File No. SR–NASDAQ–2012–121]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Apply the Position Limit Exemption Rules of NASDAQ OMX PHLX LLC For Certain Index Options

October 31, 2012.

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 October 18, 2012, 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 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.

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

The NASDAQ Stock Market [sic] to amend NASDAQ Options Market LLC (“NOM”)<sup>3</sup> Rules at Chapter XIV, Sections 5 (Position Limits for Broad-Based Index Options) and 7 (Position Limits for Industry and Micro-Narrow Based Index Options) to apply the position limit exemption rules of

NASDAQ OMX PHLX LLC (“Phlx”) for certain broad-based index options and industry and micro-narrow based index options.

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.

#### 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

The Exchange is proposing to amend Chapter XIV, Sections 5 (Position Limits for Broad-Based Index Options) and Section 7 (Position Limits for Industry and Micro-Narrow Based Index Options) of the NASDAQ Rules to permit NASDAQ Options Market LLC (“NOM”) Options Participants to utilize position limit exemptions,<sup>4</sup> which are currently available on Phlx with respect to certain index options discussed below.

Currently, Chapter XIV, Sections 5 and 7 state that NOM Options Participants shall comply with the applicable rules of the Chicago Board Options Exchange, Incorporated (“CBOE”) with respect to position limits, both for broad-based and industry or micro-narrow index options. The Exchange recently filed to list options on several Phlx proprietary and non-proprietary indexes on NOM, which are not listed on CBOE: MSCI EM, MSCI EAFE, PHLX Oil Service Sector<sup>SM</sup> index (OSX), PHLX Semiconductor Sector<sup>SM</sup> Index (SOX) and PHLX Housing Sector<sup>TM</sup> Index (HGX)<sup>5</sup> (collectively “MSCI and PHLX

Indexes”). In each of these filings, the Exchange sought to list and trade the MSCI and PHLX Indexes on NOM by amending the NOM rules to provide for the same position limits that are applied currently on Phlx for options overlying the MSCI and PHLX Indexes.<sup>6</sup> Both filings intended that options on the MSCI and PHLX Indexes would be listed and traded on NOM as they are on Phlx.<sup>7</sup> Both filings added new sections to Chapter XIV, Sections 5 and 7 to specify the applicable position limits because options on the MSCI and PHLX Indexes were not listed on another exchange other than Phlx.<sup>8</sup>

Unlike index options that are listed on CBOE, where applicable CBOE rules relating to position limits, including exemptions from position limits, are incorporated by reference in NOM’s rules, all applicable Phlx rules relating to position limits for the MSCI and PHLX Indexes, including specifically position limit exemptions, are not incorporated by reference in NOM’s rules.<sup>9</sup> Rather, only the specified position limits for these indexes as set forth in Phlx’s rules are replicated in NOM’s rules.<sup>10</sup>

The Exchange is proposing to incorporate by reference the entirety of Phlx’s rules relating to position limits with respect to options overlying the MSCI and PHLX Indexes. This would allow NOM Options Participants desiring to trade options on the MSCI and PHLX Indexes to avail themselves of the same exemptions as Phlx members receive today.

To this end, the Exchange is proposing to amend Chapter XIV, Section 5 to state that the applicable Phlx position limit rules would apply to the MSCI EAFE and MSCI EM broad-based index options. Also, the Exchange would amend Chapter XIV, Section 7 to state that the applicable Phlx position limit rules would apply to PHLX Oil Service Sector<sup>SM</sup> index (OSX), PHLX Semiconductor Sector<sup>SM</sup> Index (SOX) and PHLX Housing Sector<sup>TM</sup> Index (HGX) industry and micro-narrow based index options. The Exchange proposes to remove section (d) of Chapter XIV,

strike price intervals and position limits for OSX, SOX and HGX).

<sup>6</sup> *Id.* Today, this does not include the application of Phlx exemptions.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> See Phlx Rules [sic] 1001A Position Limits. See also NOM Rules at Chapter XIV, Section 5(d) and Section 7(d) which replicate the Phlx position limits for the MSCI and Phlx Indexes within the NOM Rules.

<sup>10</sup> See Phlx Rules [sic] 1001A Position Limits. See also NOM Rules at Chapter XIV, Section 7(d) and (e) which replicate the Phlx position limits for Phlx Indexes within the NOM Rules.

<sup>9</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> NOM is NASDAQ’s facility for executing and routing standardized equity and index options.

<sup>4</sup> This would include all rules relating to exemptions. See Phlx Rule 1001A Position Limits.

<sup>5</sup> See Securities Exchange Act Release Nos. 67582 (August 2, 2012), 77 FR 47455 (August 8, 2012) (SR–NASDAQ–2012–092) (an immediately effective filing relating to option [sic] on the MSCI EM and MSCI EAFE Index [sic]) and 67105 (June 4, 2012), 77 FR 34110 (June 8, 2012) (SR–NASDAQ–2012–065) (an immediately effective filing relating to