

Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2012-115. 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 20549-1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at CBOE's principal office and on its Internet Web site. 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-CBOE-2012-115, and should be submitted on or before January 2, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68378; File No. SR-NASDAQ-2012-043]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Withdrawal of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, To Establish the Market Quality Program

December 6, 2012.

On March 23, 2012, The NASDAQ Stock Market LLC ("Exchange" or "NASDAQ") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934¹ and Rule 19b-4 thereunder,² a proposed rule change to establish the Market Quality Program ("MQP"). On March 29, 2012, the Exchange submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on April 12, 2012.³ The Commission initially received fifteen comment letters on the proposed rule change.⁴ On May 18, 2012, the Commission extended the time period in which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change, to July 11, 2012.⁵ The Commission subsequently received three additional comment letters on the proposed rule change and a response letter from the Exchange.⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 66765 (April 6, 2012), 77 FR 22042.

⁴ See Letter from Frank Choi, dated April 13, 2012; Letter from Christopher J. Csicsko, dated April 14, 2012; Letter from Jeremiah O'Connor III, dated April 14, 2012; Letter from Dezso J. Szalay, dated April 15, 2012; Letter from Kathryn Keita, dated April 18, 2012; Letter from Anonymous, dated April 18, 2012; Letter from Mark Connell, dated April 19, 2012; Letter from Timothy Quast, Managing Director, Modern Networks IR LLC, dated April 26, 2012; Letter from Daniel G. Weaver, Ph.D., Professor of Finance, Rutgers Business School, dated April 26, 2012; Letter from Amber Anand, Associate Professor of Finance, Syracuse University, dated April 29, 2012; Letter from Albert J. Menkveld, Associate Professor of Finance, VU University Amsterdam, dated May 2, 2012; Letter from James J. Angel, Associate Professor of Finance, Georgetown University, dated May 2, 2012; Letter from Ari Burstein, Senior Counsel, Investment Company Institute, dated May 3, 2012; Letter from Gus Sauter, Managing Director and Chief Investment Officer, Vanguard, dated May 3, 2012; and Letter from Leonard J. Amoroso, General Counsel, Knight Capital Group, Inc., dated May 4, 2012.

⁵ See Securities Exchange Act Release No. 67022 (May 18, 2012), 77 FR 31050 (May 24, 2012).

⁶ See Letter from Gary L. Gastineau, Managing Member, ETF Consultants LLC, dated June 11, 2012;

On July 11, 2012, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.⁷ The Commission thereafter received six comment letters and two response letters and one email response from the Exchange.⁸ On October 2, 2012, the Commission issued a notice of designation of longer period for Commission action on proceedings to determine whether to disapprove the proposed rule change.⁹ On November 6, 2012, the Exchange submitted Amendment No. 2 to the proposed rule change.¹⁰ On December 6, 2012, the

Letter from Rey Ramsey, President & CEO, TechNet, dated June 20, 2012; and Letter from Stuart J. Kaswell, Executive Vice President & Managing Director, General Counsel, Managed Funds Association, dated July 3, 2012. See also Letter from Joan C. Conley, Senior Vice President & Corporate Secretary, NASDAQ, dated July 6, 2012.

⁷ See Securities Exchange Act Release No. 67411, 77 FR 42052 (July 17, 2012).

⁸ See Letter from Joseph Cavatoni, Managing Director, and Joanne Medero, Managing Director, BlackRock, Inc., dated July 11, 2012; Letter from Stanislav Dolgoplov, Assistant Adjunct Professor, UCLA School of Law, dated August 15, 2012; Letter from James E. Ross, Global Head, SPDR Exchange Traded Funds, State Street Global Advisors, dated August 16, 2012; Letter from Ari Burstein, Senior Counsel, Investment Company Institute, dated August 16, 2012; Letter from F. William McNabb, Chairman and Chief Executive Officer, Vanguard, dated August 16, 2012; and Letter from Andrew Stevens, Legal Counsel, IMC Chicago, LLC d/b/a IMC Financial Markets, dated August 16, 2012. See also Letters from Joan C. Conley, Senior Vice President & Corporate Secretary, NASDAQ OMX LLC, dated August 30, 2012 and Jurij Trypupenko, Esq., NASDAQ, dated September 7, 2012, and email from Ed Knight, NASDAQ, dated September 19, 2012.

⁹ See Securities Exchange Act Release No. 67961, 77 FR 61452 (October 9, 2012).

¹⁰ In Amendment No. 2, the Exchange proposed to amend its proposed rule text to: (i) Add provisions requiring it to disclose on its Web site: (a) The dates that MQP Securities commence participation in and withdraw or are terminated from the MQP, (b) a statement about the MQP that sets forth a general description of the MQP as implemented on a pilot basis and a fair and balanced summation of the potentially positive aspects of the MQP (e.g., enhancement of liquidity and market quality in MQP Securities) as well as the potentially negative aspects and risks of the MQP (e.g., possible lack of liquidity and negative price impact on MQP Securities that withdraw or are terminated from the MQP), and indicates how interested parties can get additional information about products in the MQP, and (c) when it receives notification that an MQP Company or MQP Market Maker intends to withdraw from the MQP, and the date of actual withdrawal or termination from the MQP; (ii) add a requirement that during such time that an MQP Company lists an MQP Security, the MQP Company must, on a product-specific Web site for each product, indicate that the product is in the MQP and provide the link to the Exchange's MQP Web page; (iii) add a provision clarifying that the MQP Fee in respect of an ETF shall be paid by the sponsor(s) of such ETF, and the MQP Fee in respect of a TIR shall be paid by the sponsor(s) of such TIR, as applicable; (iv) amend the termination provision to provide that the MQP will terminate in respect of an MQP Security if such MQP Security sustains an average daily trading volume

⁷ 17 CFR 200.30-3(a)(12).

Exchange withdrew the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto (SR–NASDAQ–2012–043).

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

Kevin M. O'Neill,

Deputy Secretary.

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(consolidated trades in all U.S. markets) (“ATV”) of 1.0 million shares or more for three consecutive months (the previously proposed termination threshold was average daily trading volume of 2.0 million shares or more traded on NASDAQ for three consecutive months); and (v) amend the definition of “MQP Company” to clarify that such term means a fund sponsor or issuer, as applicable, that lists an MQP Security on the Exchange pursuant to the MQP (the previously proposed definition defined an “MQP Company” as a fund sponsor or “other entity” that lists an MQP Security on the Exchange pursuant to the MQP).

In Amendment No. 2, the Exchange further proposed to amend the filing to state that while the Exchange originally proposed a termination threshold of 2.0 million shares or more ATV for three consecutive months, it is scaling back the threshold to better provide an opportunity to observe the impact, if any, on MQP Securities that exceed the threshold and “graduate” from the MQP. The Exchange notes that it has compiled statistics indicating that “graduation” from the MQP may occur more frequently at a 1.0 million ATV threshold than at a 2.0 million ATV threshold, and includes a chart showing from years 2001 to 2012 the number of ETFs that would have graduated from the MQP under the 2.0 million and 1.0 million ATV thresholds. Finally, in Amendment No. 2, the Exchange proposed to amend the filing to make the following additional representations: (i) the Exchange represents that it will post on its Web site the monthly reports that it provides to the Commission relating to the MQP during the pilot period; (ii) the Exchange represents that it will endeavor to provide similar data to the Commission about comparable products that are listed on the Exchange that are not in the MQP and any other MQP-related data and analysis requested by Commission staff for the purpose of evaluating the efficacy of the MQP; and (iii) the Exchange represents that it will issue to its members an information bulletin about the MQP prior to operation of the MQP.

¹¹ 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68368; File No. SR–ODD–2012–02]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Accelerated Delivery of Supplement to the Options Disclosure Document Reflecting Certain Changes to Disclosure Regarding Adjustments for Cash Dividends and Distributions in Respect of Options Overlying Less than 100 Shares To Accommodate the Trading of Mini Options

December 6, 2012.

On October 2, 2012, The Options Clearing Corporation (“OCC”) submitted to the Securities and Exchange Commission (“Commission”), pursuant to Rule 9b–1 under the Securities Exchange Act of 1934 (“Act”),¹ five preliminary copies of a supplement (“November 2012 Supplement”) to amend the options disclosure document (“ODD”) to reflect certain changes to disclosure regarding adjustments for cash dividends and distributions in respect of options overlying less than 100 shares to accommodate the trading of mini options.² On November 14, 2012, the OCC submitted to the Commission definitive copies of the November 2012 Supplement.³

The ODD currently contains general disclosures on the characteristics and risks of trading standardized options. In September 2012, the Commission approved proposed rule changes that permitted the International Securities Exchange, LLC and NYSE Arca, Inc. to list and trade mini options (“Mini Options”) overlying 10 shares of SPDR S&P 500 ETF, Apple Inc., SPDR Gold Trust, Google Inc., and Amazon.com, Inc.⁴ Subsequently, NASDAQ OMX PHLX LLC filed a proposed rule change to list and trade these Mini Options.⁵ The current proposed November 2012

¹ 17 CFR 240.9b–1.

² See letter from Jean M. Cawley, Senior Vice President, Deputy General Counsel and Chief Compliance Officer, OCC, to Sharon Lawson, Senior Special Counsel, Division of Trading and Markets (“Division”), Commission, dated October 1, 2012.

³ See letter from Jean M. Cawley, Senior Vice President, Deputy General Counsel and Chief Compliance Officer, OCC, to Sharon Lawson, Senior Special Counsel, Division, Commission, dated November 9, 2012.

⁴ See Securities Exchange Act Release No. 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (SR–NYSEArca–2012–64 and SR–ISE–2012–58).

⁵ See Securities Exchange Act Release No. 68132 (November 1, 2012), 77 FR 66904 (November 7, 2012) (SR–Phlx–2012–126) (notice of filing and immediate effectiveness of proposed rule change to list and trade Mini Options).

Supplement amends the ODD disclosure to accommodate adjustments for cash dividends and distributions in respect of options overlying less than 100 shares.⁶ This change will help to ensure that Mini Options are adjusted when the corresponding standard-sized options are adjusted. Specifically, the November 2012 Supplement would make clear that no adjustment will normally be made for any cash dividend or distribution that amounts to less than \$0.125 per underlying share. In addition, for contracts originally listed with a unit of trading larger than 100 shares, the November 2012 Supplement will continue to provide that no adjustment normally would be made for any cash dividend or distribution that amounts to less than \$12.50 per contract. The proposed supplement is intended to be read in conjunction with the more general ODD, which discusses the characteristics and risks of options generally.⁷

Rule 9b–1(b)(2)(i) under the Act⁸ provides that an options market must file five copies of an amendment or supplement to the ODD with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise, having due regard to the adequacy of the information disclosed and the public interest and protection of investors.⁹ In addition, five copies of the definitive ODD, as amended or supplemented,

⁶ The Commission recently approved a proposed rule change by the OCC to make similar changes to its By-Laws. See Securities Exchange Act Release Nos. 67917 (September 24, 2012), 77 FR 59687 (September 28, 2012) (“OCC Notice”) and 68104 (October 25, 2012), 77 FR 65917 (October 31, 2012) (SR–OCC–2012–16). In its filing, the OCC stated that without the By-Law amendments, some cash dividends or distributions that would exceed the adjustment threshold in the case of standard options would not exceed the adjustment threshold in the case of a Mini Option because the per contract distribution on the Mini Option would be only 1/10th of the distribution on the standard option and the adjustment threshold was stated on a per contract basis rather than a per share basis. Therefore, the OCC amended, with Commission approval, the adjustment threshold from \$12.50 per contract to \$0.125 per share. In its filing, the OCC also stated that it did not intend for the rule change to affect options contracts that were originally listed with units of trading in excess of 100 shares.

⁷ The Commission notes that the options markets must continue to ensure that the ODD is in compliance with the requirements of Rule 9b–1(b)(2)(i) under the Act, 17 CFR 240.9b–1(b)(2)(i), including when changes regarding Mini Options are made in the future. Any future changes to the rules of the options markets concerning Mini Options would need to be submitted to the Commission under Section 19(b) of the Act. 15 U.S.C. 78s(b).

⁸ 17 CFR 240.9b–1(b)(2)(i).

⁹ This provision permits the Commission to shorten or lengthen the period of time which must elapse before definitive copies may be furnished to customers.