

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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-2012-002 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-2012-002. 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 Nasdaq. 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-2012-002 and should be submitted on or before February 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-1045 Filed 1-19-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66158; File No. SR-NASDAQ-2012-006]

### Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Options Fees

January 13, 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 January 6, 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, 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 relocate certain rules in the NASDAQ Rulebook. Specifically, the Exchange proposes to relocate the following Rules: (i) Rule 7007, Collection of Exchange Fees and Other Claims—NASDAQ Options Market; (ii)

Rule 7046, Nasdaq Options Maintenance Tool, (iii) Rule 7050, NASDAQ Options Market—Fees; (iv) Rule 7053, NASDAQ Options Market—Access Services; (v) Rule 7054, NASDAQ Options Market Data Distributor Fees; (vi) Rule 7056, NASDAQ Options Fee Disputes; and (vii) Rule 7059, NASDAQ Options Regulatory Fee. The Exchange is also proposing to relocate a portion of Rule 7002, Sales Fee, which applies to options, by replicating that fee in the new "Options Fees" Chapter. The Exchange is proposing to relocate these Rules to a new Chapter under the Options Rules.

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 create a new Chapter in the NASDAQ Rulebook and relocate certain options fees, which apply only to Options Participants, to this new Chapter to further clarify its fees. Specifically, the Exchange proposes to create a new "Chapter XV," entitled "Options Fees" under the Options Rules portion of the Rulebook. The Exchange proposes to relocate the below listed Rules, currently in the 7000 Series of the Rulebook, to this new Chapter under the Options Rules.<sup>3</sup> This is not a substantive change, but rather merely a relocation of Rule text within the Rulebook.

The Exchange proposes to specifically relocate the following Rules to the

replicate the Sales Fee Rule, specifically relocating paragraphs 7002(b) and (d), applicable to options. Rule 7002(a) and (c) would remain in Rule 7002, as those paragraphs apply to equities.

<sup>33</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> The Exchange is proposing to create two Sales Fee Rules, one for equities and one for options. Rule 7002 will be relocated in part. The Exchange proposes to create a new "Sales Fee—Options" Rule in Section 8 of Chapter XV which Rule would

corresponding Sections of new Chapter XV as follows:

|   |   |
|---|---|
| Rule 7007. Collection of Exchange Fees and Other Claims—NASDAQ Options Market ..... | Section 1.                              |
| Rule 7050. NASDAQ Options Market—Fees .....   | Section 2.                              |
| Rule 7053. NASDAQ Options Market—Access Services .....                              | Section 3.                              |
| Rule 7054. NASDAQ Options Market Data Distributor Fees .....                        | Section 4.                              |
| Rule 7059. Options Regulatory Fee .....   | Section 5.                              |
| Rule 7046. NASDAQ Options Maintenance Tool .....                                    | Section 6.                              |
| Rule 7056. NASDAQ Options Fee Disputes .....  | Section 7.                              |
| Rule 7002. Sales Fee, excluding paragraphs (a) and (c) .....                        | Section 8—renamed “Sales Fees—Options”. |

Options Participants are required, pursuant to Exchange Rules, to become members of the NASDAQ Stock Market LLC.<sup>4</sup> An entity desiring to transact options may apply to become an Options Participant, in addition to a NASDAQ Stock Market member.<sup>5</sup> Because participation in NOM requires Options Participants to also be members of the NASDAQ Stock Market, Options Participants are subject to the charges for membership, services and equipment in the Rule 7000 Series. Certain fees in the Rule 7000 Series apply only to NASDAQ Stock Market members that are Options Participants. In order to distinguish fees applicable to members transacting equities from fees applicable to members transacting options, the Exchange is proposing to relocate the aforementioned Rules to the Options Rules section of the Rulebook. With respect to Rule 7002, the Exchange is proposing to create a new Sales Fee Rule titled “Sales Fee—Options” which would be applicable only to options and which replicates the language in Rule 7002(b) and (d) specifically in new Section 8. Current Rule 7002 will remain in the Rulebook without paragraphs 7002(b) and (d) and the lettering will be changed to (a) and (b) only.

In addition, the Exchange proposes to add the following language at the beginning of the Chapter to clarify that certain fees in the Rule 7000 series may also be applicable to Options Participants: “NASDAQ Options Market Participants may be subject to the Charges for Membership, Services and Equipment in the Rule 7000 Series as well as the fees in this Chapter XV.” The Exchange also proposes to make corresponding changes to Rules 1002, Qualifications of Nasdaq Members and Associated Persons, 7015, Access Services, and 8320, Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay, to provide updated cross-references to relocated Rules.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>7</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 organizing its Rules in such a way as to distinguish charges applicable to equity members from fees applicable to Options Participants.

The Exchange believes that its proposal to relocate fees applicable only to Options Participants, and not applicable to NASDAQ members transacting equities, to a new Chapter in the Rulebook specific to Options will assist members in locating fees. The Exchange believes that creating a new section and relocating the fees will add greater clarity to NASDAQ's Rules and provide members further guidance on the applicability of those Rules. The Exchange also believes that adding a clarifying sentence to the new Chapter to indicate that the Rule 7000 Series may also be applicable to Options Participants provides a cross-reference for Options Participants to readily locate other charges applicable to them as NASDAQ Stock Market members.

### 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

Pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(1)<sup>9</sup> thereunder, the Exchange has designated this proposal as one that constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the SRO, and therefore has become effective.

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-2012-006 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-2012-006. This file number should be included on the

<sup>4</sup> See Chapter II, Section 1(b)(iii) of Options Rules.

<sup>5</sup> See Chapter II, Section 1 of Options Rules.

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(1).

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-2012-006 and should be submitted on or before February 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

[FR Doc. 2012-1068 Filed 1-19-12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66062; File No. SR-NYSEArca-2011-98]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Deleting NYSE Arca Equities Rule 7.31(w)(1) To Remove the PNP Plus Order Type

December 28, 2011.

#### Correction

In notice document 2011-33715 appearing on pages 313 through 315 in the issue of Wednesday, January 4, 2012, make the following correction:

On page 315, in the second column, in the first paragraph, in the last line

<sup>10</sup> 17 CFR 200.30-3(a)(12).

“January 25, 2011” should read “January 25, 2012”.

[FR Doc. C1-2011-33715 Filed 1-19-12; 8:45 am]

**BILLING CODE 8011-01-D**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66155; File No. SR-Phlx-2012-01]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

January 13, 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 January 3, 2012, 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 Customer and Professional Routing Fees governing pricing for Exchange members using the Phlx XL II system,<sup>3</sup> for routing standardized equity and index option Customer and Professional orders to the BATS Exchange, Inc. (“BATS”) for execution.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, 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

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

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

<sup>3</sup> For a complete description of Phlx XL II, see Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The instant proposed fees will apply only to option orders entered into, and routed by, the Phlx XL II system.

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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to recoup costs that the Exchange incurs for routing and executing Customer and Professional orders in equity and index options to BATS. The Exchange's Fee Schedule includes Routing Fees for routing and executing Customer and Professional orders to away markets. The Exchange currently assesses a Customer Routing Fee of \$0.36 per contract and a Professional Routing Fee of \$0.48 per contract for option orders that are routed to BATS. Recently, BATS announced that it would amend its customer and professional fees to remove liquidity to \$0.44 per contract on January 3, 2012.<sup>4</sup> The Exchange is proposing to amend its Customer and Professional Routing Fees to BATS to \$0.50 per contract to recoup this fee.

In May 2009, the Exchange adopted Rule 1080(m)(iii)(A) to establish Nasdaq Options Services LLC (“NOS”), a member of the Exchange, as the Exchange's exclusive order router.<sup>5</sup> NOS is utilized by the Phlx XL II system solely to route orders in options listed and open for trading on the Phlx XL II system to destination markets. Each time NOS routes to away markets NOS is charged a \$0.06 clearing fee and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange is proposing this amendment in order to recoup clearing and transaction charges incurred by the Exchange when Customer and Professional orders are routed to BATS. The Exchange proposes to recoup the \$0.44 per contract customer and professional taker fee for option orders that are routed to BATS along with the \$0.06 clearing fee which

<sup>4</sup> See BATS (BZX) Exchange Fee Schedule. See also BATS Options Exchange Pricing Update Effective January 3, 2012 (dated December 15, 2011).

<sup>5</sup> See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32).