each other, common directors, and/or common officers.

18. However, one of the conditions enumerated in Rule 17a–7 requires that the transaction be a purchase or sale for no consideration other than cash payment against prompt delivery of a security for which market quotations are readily available. If the proposed In-Kind Transactions are viewed as purchases and sales of securities, the consideration in the proposed redemptions of shares of the Removed Portfolio and the proposed purchases of shares of the Replacement Portfolio would not be cash, but rather, the portfolio securities received from the Removed Portfolio.

19. The Section 17 Applicants will ensure that the Trust will carry out the proposed In-Kind Transactions in conformity with the conditions of Rule 17a–7, except that the consideration paid for the securities being purchased or sold will not be cash.

20. For the reasons stated above, the Section 17 Applicants submit that the terms of the proposed In-Kind Transactions, including the consideration to be paid and received, as described in the application, are reasonable and fair and do not involve overreaching on the part of any person concerned. Furthermore, the Section 17 Applicants represent that the proposed In-Kind Transactions will be consistent with the policies of the Removed and corresponding Replacement Portfolios, as recited in their respective current registration statements, and that the proposed In-Kind Transactions are consistent with the general purposes of the 1940 Act and do not present any conditions or abuses that the 1940 Act was designed to prevent.

Conclusion

For the reasons set forth in the application, the Applicants each respectively request that the Commission issue an order of approval pursuant to Section 26(c) of the 1940 Act and an order of exemption pursuant to Section 17(b) of the 1940 Act.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16987 Filed 7–12–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62441; File No. SR–FINRA–2010–027]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change Relating to the Restated Certificate of Incorporation of Financial Industry Regulatory Authority, Inc.

July 2, 2010.

On May 21, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Restated Certificate of Incorporation of FINRA ("Certificate of Incorporation") to specify its quorum requirements. The proposed rule change was published for comment in the **Federal Register** on June 1, 2010.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

The proposed rule change would amend FINRA's Certificate of Incorporation to specify the quorum required for a meeting of FINRA members and the quorum required to take action on a matter where a separate vote by a class or group is required.[4] FINRA has represented that it has proposed this rule change in order to preserve FINRA's current quorum requirements in anticipation of amendments to the General Corporation Law of the State of Delaware (the "General Corporation Law") that will take effect on August 1, 2010.

Section 215(c) of the General Corporation Law, as currently in effect, provides that the certificate of incorporation or bylaws of a nonstock corporation may specify the number of members having voting power who shall be present or represented by proxy at any meeting in order to constitute a quorum for the transaction of any business and, that in the absence of such specification, one-third of the members of such corporation shall constitute a quorum at a meeting of such members.[5] FINRA is a nonstock corporation and neither FINRA's Certificate of Incorporation nor its By-Laws specify the quorum required at a meeting of its members. Accordingly, pursuant to Section 215(c) of the General Corporation Law, attendance in person or by proxy of one-third of FINRA's members currently constitutes a quorum at a meeting of such members.[6]

On August 1, 2010, the General Corporation Law will be amended to, among other things, add new Section 215(c)(4), which section will add a new default quorum requirement for instances where a separate vote by a class or group of members is required. Specifically, effective August 1, 2010, unless the certificate of incorporation or bylaws of a nonstock corporation provides otherwise, where a separate vote by a class or group of members is required, a majority of the members of such class or group shall constitute a quorum entitled to take action with respect to the vote on such matter.[7]

In anticipation of the foregoing amendment to the General Corporation Law, FINRA has proposed to amend its Certificate of Incorporation to set forth quorum requirements for its meetings of members, including in instances where a separate vote by a class or group is required. Specifically, FINRA has proposed that, at all meetings of its members, the presence in person or by proxy of one-third of the members entitled to vote at the meeting shall constitute a quorum; provided, however, where a separate vote by a class or group of members is required, the presence in person or by proxy of one-third of the members of such class or group shall constitute a quorum with respect to the vote on that matter. By incorporating these quorum requirements into the Certification of Incorporation, FINRA has represented that the proposed rule change would maintain FINRA's current one-third quorum requirement where a separate vote of classes or groups of members is required instead of resorting to the default requirement in the General Corporation Law.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[8] In particular, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62160 (May 24, 2010), 75 FR 30457.

[4] Pursuant to FINRA's Certificate of Incorporation and By-Laws, FINRA members vote as three distinct classes, based upon firm size, for the election of members to the Board of Governors, *i.e.,* Small Firm Governors, Mid-Size Firm Governor, and Large Firm Governors.

[5] Del. Code Ann. tit. 8 § 215(c) and (c)(1) (2010).

[6] *See id.*

[7] Del. H.B. 341, 145th Gen. Assem. § 19 (2010).

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission finds that the proposed rule change is consistent with Section 15A(b)(2) of the Act,[9] which requires, among other things, that FINRA be so organized and have the capacity to be able to carry out the purposes of the Act, to comply with the Act, and to enforce compliance by FINRA members and persons associated with members with the Act, the rules and regulations thereunder, and FINRA rules.

The Commission notes that the proposed rule change would codify FINRA's current quorum requirements. By clearly specifying FINRA's quorum requirements in its Certificate of Incorporation, the Commission believes that the proposed rule change would provide greater transparency about FINRA's deliberative and voting processes, which should facilitate the ability of FINRA's members to conduct business at meetings and exercise their voting rights. Therefore, the Commission believes that the proposed rule change is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–FINRA–2010–027), be, and hereby is, approved.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16988 Filed 7–12–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62451; File No. SR–NASDAQ–2010–083]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The NASDAQ Stock Market LLC To Expand its $1 Strike Program

July 6, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on July 2, 2010, The NASDAQ Stock Market LLC (the "Exchange" or "NASDAQ") 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

NASDAQ is filing with the Commission a proposal for the NASDAQ Options Market ("NOM" or "Exchange") to amend Chapter IV, Supplementary Material .02 to Section 6 (Series of Options Contracts Open for Trading) to expand the Exchange's $1 Strike Price Program (the "$1 Strike Program" or "Program")[3] to allow the Exchange to select 150 individual stocks on which options may be listed at $1 strike price intervals; and to correct a reference.

The text of the proposed rule change is available from NASDAQ's Web site at *http://nasdaq.cchwallstreet.com/Filings/,* 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, NASDAQ 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. NASDAQ 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

This proposed rule change is based on a filing of NASDAQ OMX PHLX, Inc. ("Phlx") that was recently approved by the Commission.[4]

Currently, the $1 Strike Program allows the Exchange to select a total of 55 individual stocks on which option series may be listed at $1 strike price intervals. In order to be eligible for selection into the Program, the underlying stock must close below $50 in its primary market on the previous trading day. If selected for the Program, the Exchange may list strike prices at $1 intervals from $1 to $50, but no $1 strike price may be listed that is greater than $5 from the underlying stock's closing price in its primary market on the previous day. The Exchange may also list $1 strikes on any other option class designated by another securities exchange that employs a similar Program under their respective rules.

The restrictions in the current $1 Strike Program remain and are not proposed to be modified by this filing. The Exchange may not list $1 strike intervals on any issue where the strike price is greater than $50. The Exchange may not list long-term option series ("LEAPS")[5] at $1 strike price intervals for any class selected for the Program, except as specified in Chapter IV, Supplementary Material .02 to Section 6.[6] The Exchange is also restricted from listing series with $1 intervals within $0.50 of an existing strike price in the same series, except that strike prices of $2, $3, and $4 shall be permitted within $0.50 of an existing strike price for classes also selected to participate in the $0.50 Strike Program.[7]

The $1 Strike Program has been extremely successful since it was initiated as a pilot program in 2008,

[9] 15 U.S.C. 78*o*–3(b)(2).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The $1 Strike Program was initially approved as a pilot on March 12, 2008. *See* Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521(March 18, 2008)(SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080)(order approving). The program was subsequently made permanent and expanded. *See* Securities Exchange Act Release No. 58093 (July 3, 2008), 73 FR 39756 (July 10, 2008)(SR–NASDAQ–2008–057)(notice of filing and immediate effectiveness). The program was last expanded in 2009. *See* Securities Exchange Act Release No. 59588 (March 17, 2009), 74 FR 12410 (March 24, 2009)(SR–NASDAQ–2009–025)(notice of filing and immediate effectiveness). The $1 Strike Program is in Chapter IV, Section 6.

[4] *See* Securities Exchange Act Release No. 62420 (June 30, 2010)(SR–Phlx–2010–72)(notice of filing).

[5] Long-Term Equity Anticipation Securities (LEAPS) are long term options that generally expire from twelve to thirty-nine months from the time they are listed. Chapter IV, Section 8. Long-term index options are considered separately in Chapter XIV, Section 11. For purposes of the Program, long-term options (LEAPS) are considered to be option series having greater than nine months until expiration. Chapter IV, Supplementary Material .02 to Section 6.

[6] Subsection (c) of Chapter IV, Supplementary Material .02 to Section 6 states that: The Exchange may list $1 strike prices up to $5 in any series having greater than nine months until expiration (LEAPS(R)) in up to 200 option classes on individual stocks. *See* Securities Exchange Act Release No. 61347 (January 13, 2010), 75 FR 3513 (January 21, 2010)(SR–NASDAQ–003)(notice of filing and immediate effectiveness).

[7] Regarding the $0.50 Strike Program, which allows $0.50 strike price intervals for options on stocks trading at or below $3.00, *see* Chapter IV, Supplementary Material .05 to Section 6 and Securities Exchange Act Release No. 60952 (November 6, 2009), 74 FR 59277 (November 17, 2009)(SR–NASDAQ–2009–099)(notice of filing and immediate effectiveness). *See also* Securities Exchange Act Release No. 61736 (March 18, 2010), 75 FR 14229 (March 24, 2010)(SR–NASDAQ–2010–038)(notice of filing and immediate effectiveness allowing concurrent listing of $3.50 and $4 strikes for classes that participate in both the $0.50 Strike Program and the $1 Strike Program).