

Commission finds that the proposed rule change is consistent with Section 15A(b)(2) of the Act,<sup>9</sup> 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,<sup>10</sup> 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.<sup>11</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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")<sup>3</sup> 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.<sup>4</sup>

<sup>3</sup> 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.

<sup>4</sup> See Securities Exchange Act Release No. 62420 (June 30, 2010) (SR-Phlx-2010-72) (notice of filing).

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")<sup>5</sup> at \$1 strike price intervals for any class selected for the Program, except as specified in Chapter IV, Supplementary Material .02 to Section 6.<sup>6</sup> 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.<sup>7</sup>

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

<sup>5</sup> 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.

<sup>6</sup> 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).

<sup>7</sup> 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).

<sup>9</sup> 15 U.S.C. 78o-3(b)(2).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</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.

with no substantive problems attributed to the Program or listing and trading options at \$1 strike intervals. This has not changed. Moreover, the number of \$1 strike options traded on the Exchange has continued to increase since the inception of the Program such that these options are now among some of the most popular products traded on the Exchange.

The Exchange now proposes to expand the Program to allow the Exchange to select a total of 150 individual stocks on which option series may be listed at \$1 strike price intervals. The proposal would expand \$1 strike offerings to market participants (e.g. traders and retail investors) and thereby enhance their ability to tailor investing and hedging strategies and opportunities in a volatile market place. The \$1 Strike Program (including the existing restrictions such as not listing any series that would result in strike prices being \$0.50 apart) would otherwise remain unchanged.

As stated in Commission orders approving the initial \$1 strike price pilot programs of options exchanges,<sup>8</sup> the Exchange believes that \$1 strike price intervals provide investors with significantly greater flexibility in the trading of equity options that overlie lower price stocks by allowing investors to establish equity options positions that are better tailored to meet their investment, trading and risk management objectives.

The Exchange notes that, in addition to options classes that are trading pursuant to the \$1 strike programs of options exchanges, there are also options trading at \$1 strike intervals on approximately 282 Exchange Traded Fund Shares ("ETFs"),<sup>9</sup> ETF options trading at \$1 intervals has not, however, negatively impacted the system capacity of the Exchange or OPRA.

With regard to the impact of this proposal on system capacity, the

Exchange has analyzed its capacity and represents that it and OPRA have the necessary systems capacity to handle the potential additional traffic associated with the listing and trading of an expanded number of series in the \$1 Strike Program.

The Exchange believes that the \$1 Strike Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals. For these reasons, the Exchange requests an expansion of the current Program and the opportunity to provide investors with additional strikes for investment, trading, and risk management purposes.

Finally, the proposal also corrects an internal rule reference in subsection (c) of Chapter IV, Supplementary Material .06 to Section 6, to conform the reference to a re-numbering of Supplementary Material .06 in a previous filing.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>11</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. The Exchange believes that expanding the current \$1 Strike Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions in greater number of securities.

### 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.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.<sup>14</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>15</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

## 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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. The Commission has waived the five-day pre-filing requirement in this case.

<sup>14</sup> See Securities Exchange Act Release No. 62420 (June 30, 2010) (SR-Phlx-2010-72) (order approving expansion of \$1 strike program to 150 classes).

<sup>15</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> See Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080) (order approving); 48013 (June 11, 2003), 68 FR 35933 (June 17, 2003) (SR-Phlx-2002-55) (order approving); and 47991 (June 5, 2003), 68 FR 35243 (June 12, 2003) (SR-CBOE-2001-60) (order approving).

<sup>9</sup> Options on ETFs have been trading industry-wide for about a decade. See, e.g., Securities Exchange Act Release Nos. 34- (July 1, 1998), 63 FR 37426 (July 10, 1998) (SR-AMEX-96-44) (approval order regarding, among other things, \$1 strike price intervals for ETFs); and 44055 (March 8, 2001), 66 FR 15310 (March 16, 2001) (SR-Phlx-01-32) (notice of filing and immediate effectiveness regarding, among other things, \$1 strike price intervals for ETFs). See also Chapter IV, Section 6(d), which indicates that strike price intervals for ETF option series may be the same as intervals established on another options exchange prior to the initiation of trading on NOM.

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

Number SR–NASDAQ–2010–083 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–2010–083. This file number should be included on the subject line if e-mail 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–2010–083 and should be submitted on or before August 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010–16990 Filed 7–12–10; 8:45 am]

**BILLING CODE 8010–01–P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–62457; File No. SR–CBOE–2010–063]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend the CBOE Stock Exchange Fee Schedule**

July 6, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on June 25, 2010, the Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On June 30, 2010, CBOE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to modify the CBOE Stock Exchange (“CBSX”) Fee Schedule to expand the application of the fee for any trade that is the stock component of a qualified contingent trade. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's principal office, on the Commission's Web site, and at the Commission.

#### **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 self-regulatory organization 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 parts of such statements.

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> Amendment No. 1 corrected an error in the statutory basis section of the proposed rule change.

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

##### 1. Purpose

The CBSX Fees Schedule currently lists a fee for executions of the stock component of a stock-option cross trade. Stock-option cross trades are only one form of qualified contingent trades. Other forms of qualified contingent trades can include, for example, stock-future trades. CBSX would like to amend its Fees Schedule so that cross trades on CBSX that are the stock component of a larger qualified contingent trade are covered by the \$0.0010 per share fee.

##### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”)<sup>4</sup> and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(4)<sup>6</sup> requirements that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The proposed rule change promotes the equitable allocation of fees by applying a fee on the stock component of all types of qualified contingent cross trades, as opposed to just one form of qualified contingent cross trade.

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

CBOE 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 solicited or received with respect to the proposed rule change.

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

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for

<sup>4</sup> 15 U.S.C. 78s(b)(1) (sic).

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>16</sup> 17 CFR 200.30–3(a)(12).