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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63083; File No. SR-NASDAQ-2010-127]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify NASDAQ's Order Routing Rule

October 13, 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 October 1, 2010, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") 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. 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 is filing this proposed rule change to amend Rule 4758 to modify the SAVE routing option to reflect the expected launch of NASDAQ OMX PSX ("PSX") as a new venue for trading NMS stocks on October 8, 2010. NASDAQ proposes to implement the proposed rule change on October 8, 2010, or, if the Commission does not waive the 30-day waiting period specified in Rule 19b-4(f)(6)(iii),<sup>3</sup> on a date that is 30 days after the date of this filing. The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at the Exchange'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. The text of these statements may be examined at the places specified in Item III below, and is set forth in Sections A, B, and C below.

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

###### 1. Purpose

NASDAQ is amending Rule 4758, which describes its order routing processes, to modify the existing SAVE routing option. Under the SAVE routing option, a market participant may specify that an order will either (i) route to NASDAQ OMX BX ("BX"), check the NASDAQ book, and then route to other venues on the SAVE System routing table, or (ii) check the NASDAQ book first and then route to destinations on the SAVE System routing table.<sup>4</sup> Under the second option, the applicable routing table includes BX, and as is the case with all market destinations, the placement of BX on the routing table depends on NASDAQ's ongoing assessments of factors such as latency, fill rates, reliability, and cost. If shares remain un-executed after routing, they are posted to the NASDAQ book and do not route out again. All routing complies with the requirements of Rule 611 of Regulation NMS. Under Rule 7018, NASDAQ passes through, without modification, applicable BX fees or rebates. In the case of BX, this means that NASDAQ passes through the \$0.0001 per share executed credit paid by BX to market participants when

<sup>4</sup> Under Rule 4758, the "System routing table" is defined as the proprietary process for determining the specific trading venues to which the NASDAQ System routes orders and the order in which it routes them. The definition reflects the fact that NASDAQ, like other trading venues, maintains different routing tables for different routing options and modifies them on a regular basis to reflect assessments about the destination markets. Such assessments consider factors such as a destination's latency, fill rates, reliability, and cost. Accordingly, the definition specifies that NASDAQ reserves the right to maintain a different routing table for different routing options and to modify routing tables at any time without notice. At present, all System routing tables include NASDAQ OMX BX ("BX"), and it is expected that they will be modified also to include PSX. Thus, all routed orders have the opportunity to route to this venue, with the exception of DOT orders routed directly to the NYSE or NYSE Amex opening or closing processes and directed orders that are directed to route to venues other than BX.

accessing liquidity. Thus, the routing strategy provides market participants with the option of routing to a venue with a negative execution cost before accessing liquidity on NASDAQ and other venues. Market participants that wish to access NASDAQ before routing to BX may also use the SAVE strategy, and will receive the same pricing as those that opt to route to BX first, subject to the fact that they are likely to have more shares executed on NASDAQ, at a higher cost, than those that use SAVE to route to BX first.

NASDAQ is amending the SAVE strategy to provide that in circumstances where a market participant [sic] opts to route to BX before checking the NASDAQ book, the order will also route to PSX after BX but before checking NASDAQ. PSX will be charging \$0.0013 per share executed to access liquidity, a higher rate than BX, but half the fee charged by NASDAQ itself to access liquidity. Moreover, NASDAQ recently amended Rule 7018 to provide that orders routed to PSX using the SAVE strategy will receive a pass-through of applicable charges. Accordingly, NASDAQ believes that it is appropriate to amend the strategy, to give market participants the option of routing to these two low cost venues before accessing NASDAQ. As is currently the case, however, members will also have option of checking NASDAQ first using the strategy, in which case they will still receive pass through pricing if their orders are subsequently routed to BX or PSX.

###### 2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>5</sup> in general, and with Sections 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 change to modify the SAVE routing will provide market participants with greater flexibility in routing orders to BX and PSX, as low cost trading venues.

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

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

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

### 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

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: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>9</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. NASDAQ requests that the Commission waive the 30-day operative delay because it currently has the technological changes ready to support the proposed rule change, and believes that the benefits of providing members with an additional option for routing to a new low cost trading venue should not be delayed. The Commission believes that waiving the 30-day operative delay<sup>10</sup> is consistent with the protection of investors and the public interest and designates the proposal operative upon filing.

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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2010-127 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-2010-127. 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,<sup>11</sup> 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, 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-2010-127 and should be submitted on or before November 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63096; File No. SR-CBOE-2010-077]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change To List Series With Up to 12 Expiration Months for Broad-Based Security Index Options Upon Which the Exchange Calculates a Volatility Index

October 13, 2010.

#### I. Introduction

On August 24, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to allow the Exchange to list series with up to 12 expiration months for options that overlie broad-based security indexes for which options are used by the Exchange to calculate a volatility index. On September 2, 2010, the Exchange filed Amendment No. 1, which replaced the original filing in its entirety. The proposed rule change, as amended, was published for comment in the **Federal Register** on September 10, 2010.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

CBOE has proposed to amend Rule 24.9(a)(2), Terms of Index Options, to allow the Exchange to list series with up to 12 expiration months for broad-based security index options upon which the Exchange calculates a volatility index. Currently, Rule 24.9(a)(2) permits the Exchange to list series with only seven

<sup>12</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> Securities Exchange Act Release No. 62847 (September 3, 2010), 75 FR 55383 ("Notice").

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

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. Nasdaq has satisfied this requirement.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</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>11</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.