

interest where such conflicts might act to the detriment of investors, and to review and approve any transactions where such conflicts have been identified. This should include any material amendment to the management agreement, including any change with respect to the compensation of the manager.

Nasdaq believes that these additional requirements will help protect investors by ensuring that CSCs remain committed to their described investment objectives and strategy; that adequate information will be available to investors on an ongoing basis regarding the value of their underlying investment; and that additional safeguards will exist in the form of independence and oversight of certain activities.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁷ in general and with Sections 6(b)(5) of the Act,⁸ in particular. Section 6(b)(5) requires, among other things, that a registered national securities exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change is consistent with these requirements in that it imposes additional requirements on CSCs, which are designed to protect investors and the public interest and prevent fraudulent and manipulative acts and practices on the part of the CSC and their promoters.

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

Nasdaq 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

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 shall:

- (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 e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2010-134 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-2010-134. 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 such 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-2010-134 and should be submitted on or before November 24, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,
Deputy Secretary.

[FR Doc. 2010-27722 Filed 11-2-10; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63197; File No. SR-NASDAQ-2010-136]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ Stock Market, LLC Relating to Access Service Fees

October 27, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 20, 2010, The NASDAQ Stock Market LLC ("NASDAQ" 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 modify Exchange Rule 7015, related to fees governing pricing for NASDAQ members using The NASDAQ Stock Market LLC and the NASDAQ Options Market ("NOM"), NASDAQ's facility for executing and routing standardized equity and index options, to apply only to The NASDAQ Stock Market LLC. The Exchange also proposes to create a new Rule 7053 which would include Access Services applicable only to NOM.

The text of the proposed rule change is set forth below. Proposed new text is in *italics* and deleted text is in [brackets].

* * * * *

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

7015. Access Services

The following charges are assessed by Nasdaq for connectivity to systems operated by NASDAQ, including the Nasdaq Market Center, the FINRA/NASDAQ Trade Reporting Facility, and FINRA's OTCBB Service. *The following fees are not applicable to the NASDAQ Options Market LLC. For related options fees for Access Services refer to Rule 7053.*

(a) Nasdaq Information Exchange (QIX)

Port pair (plus optional proprietary quote information port).	\$1,200 per month.
ECN direct connection port pair.	\$1,200 per month.
Unsolicited message port.	\$1,000 per month.
(b) Financial Information Exchange (FIX)	
[Options] Ports	Price
FIX Trading Port	\$500/port/month.
FIX Port for Services Other than Trading.	\$500/port/month.

(c) Computer to Computer Interface (CTCI)

Stations

Fee component	Fee
1st Station	\$200/Station/month.
Each Additional Station.	\$600/Station/month.

The bandwidth-based fees in the table below apply to CTCI subscribers that have not transitioned off of Nasdaq-supported circuits.

Bandwidth

Fee component	Fee
Single 56kb line with single hub and router (for remote disaster recovery sites only)	\$900/month.
Option 1: Dual 56kb lines (one for redundancy) and single hub and router	\$1,000/month.
Option 2: Dual 56kb lines (one for redundancy), dual hubs (one for redundancy), and dual router (one for redundancy).	\$1,200/month.
Option 3: Dual T1 lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy). Includes base bandwidth of 128kb.	\$2,500/month.
Bandwidth Enhancement Fee (for T1 subscribers only): Per 64kb increase above 128kb T1 base	\$200/month.
Option 1, 2, or 3 with Message Queue software enhancement	Fee for Option 1, 2, or 3 (including any Bandwidth Enhancement Fee) plus 20%.
Installation Fee	\$2,000 per site for dual hubs and routers. \$1,000 per site for single hub and router.
Relocation Fee (for the movement of TCF/IP-capable lines within a single location)	\$1,700 per relocation.

(d) New Nasdaq Workstation

Nasdaq Workstation Trader	\$475 per user per month (including data entitlement package).
Nasdaq Workstation Post Trade	See Rule 7015(e).

(e) Specialized Services Related to FINRA/NASDAQ Trade Reporting Facility

CTCI fee	\$575/month.
WebLink ACT or Nasdaq Workstation Post Trade	\$375.00/month (full functionality) or \$200.00/month (up to an average of twenty transactions per day each month) (For the purposes of this service only, a transaction is defined as an original trade entry, either on trade date or as-of transactions per month.)
ACT Workstation	\$525/logon/month.

(f) TradeInfo
Members not subscribing to the Nasdaq Workstation using TradeInfo will be charged a fee of \$95 per user per month.

(g) Other Port Fees
The following port fees shall apply in connection with the use of other trading telecommunication protocols:
• \$500 per month for each port pair, other than Multicast ITCH® data feed

pairs, for which the fee is \$,000 per month.
• An additional \$200 per month for each port used for entering orders or quotes over the Internet.
• An additional \$600 per month for each port used for market data delivery over the Internet.
(h) VTE Terminal Fees
• Each ID is subject to a minimum commission fee of \$100 per month

unless it executes a minimum of 100,000 shares.
• Each ID receiving market data is subject to pass-through fees for use of these services. Pricing for these services is determined by the exchanges and/or market center.
• Each ID that is given web access is subject to a \$100 monthly fee.
* * * * *

7053. NASDAQ Options Market—Access Services

The following charges are assessed by Nasdaq for connectivity to the NASDAQ Options Market.

(a) Financial Information Exchange (FIX)

Ports	Price
FIX Trading Port	\$500/port/month.
FIX Port for Services Other than Trading.	\$500/port/month.

(b) TradeInfo

• Members not subscribing to the Nasdaq Workstation using TradeInfo will be charged a fee of \$95 per user per month.

(c) Other Port Fees

The following port fees shall apply in connection with the use of other trading telecommunication protocols:

- \$500 per month for each port pair.

* * * * *

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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to separate its equity and options fees which are assessed for connectivity to systems operated by NASDAQ.

Currently Rule 7015, titled Access Services, contains fees assessed by Nasdaq for connectivity to systems operated by NASDAQ, including the Nasdaq Market Center, the FINRA/NASDAQ Trade Reporting Facility, and FINRA's OTCBB Service. Rule 7015 applies to both The NASDAQ Stock Market LLC members, conducting an

equities business, and NOM members, conducting an options business. Access Services fees relate to ports used to: Enter orders into the NASDAQ trading systems; receive market data; enter quotes; and enter trade reports into the FINRA/NASDAQ Trade Reporting Facility.

The Exchange is proposing to add the following language to Rule 7015 so that it applies solely to The NASDAQ Stock Market LLC members: "The following fees are not applicable to the NASDAQ Options Market LLC. For related options fees for Access Services refer to Rule 7053." The Exchange is proposing to list those Access Service Fees which would apply to NOM members in a separate Rule.

The Exchange proposes to create a new Rule 7053, titled "NASDAQ Options Market—Access Services" which would apply to NOM members conducting an options business. Specifically, this proposed new Rule would include pricing for the Financial Information Exchange or "FIX", TradeInfo and pricing for Other Port Fees. The pricing in Rule 7053 would be the same pricing that is currently assessed to NOM members today in Rule 7015 for FIX pricing,³ TradeInfo⁴ and applicable portion of Other Fees.⁵

The Exchange also proposes to make a technical amendment to Rule 7015 in section (b), titled Financial Information Exchange (FIX), to change the word "Options" to the word "Ports" to clarify information contained in that section does not relate to options trading but rather that term is used to define the fee categories in that section.

The remaining sections of Rule 7015 which are not proposed in new Rule 7053 do not apply to NOM members.

³ For FIX pricing, the Exchange would assess: A Fix Trading Port fee of \$500 per month per port; and a FIX Port for Services Other than Trading fee of \$500 per month, per port.

⁴ Currently, NOM members not subscribing to the Nasdaq Workstation using TradeInfo are charged a fee of \$95 per user per month. TradeInfo allows users to scan for their Nasdaq-listed orders submitted in Nasdaq. Users can then perform actions on their orders. Users can scan for all orders in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.). For example, after scanning for open orders the user is then able to select an open order and is allowed to make corrections to the order or cancel the order. TradeInfo also allows the users to scan other orders, such as executed, cancelled, broken, rejected and suspended orders.

⁵ Currently, NOM members are assessed the \$500 per month fee for each port pair. The remaining "Other Port Fees" are not applicable to NOM members today; those fees apply to members of The NASDAQ Stock Market LLC. To further clarify, only certain features are available on the NOM system. The Other Port Fees that exist in Rule 7015 that were not duplicated in new proposed Rule 7053 are not available on the NOM system but rather are available to members transacting equities only.

Fees which are currently contained in Rule 7015 that were not duplicated in new proposed Rule 7053 are not available on the NOM system. Those fees are available to members transacting equities only.⁶ Today, the Exchange only assesses the applicable fees contained in Rule 7015 that apply to The NASDAQ Stock Market LLC members and/or NOM members, respectively. In other words, members transacting options only are assessed fees available on the NOM system. In creating this new Rule 7053, the Exchange is not changing which members are assessed certain fees, but rather the Exchange is proposing to separate the equities and options fees into two separate Rules.

The Exchange believes that creating two separate Rules for Access Service pricing, one related to The NASDAQ Stock Market LLC and one related to NOM, would provide more clarity for members as well as ease of reference.

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,⁷ in general, and with Section 6(b)(4) of the Act,⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls.

The Exchange believes the proposed amendments to Rule 7015 and the addition of proposed new Rule 7053 provides more clarity to The NASDAQ Stock Market LLC and NOM members as to the Access Service Fees which are applicable to each market. The Exchange believes that creating different Rules applicable to the equities and options markets for Access Service Fees provides ease of reference for members of each market. Also, the technical amendment should serve to avoid confusion.

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.

⁶ The Commission notes that this is illustrated in note 5. See *supra* note 5 (clarifying that only certain features are available on the NOM system).

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.⁹ 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. Please include File Number SR-NASDAQ-2010-136 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2010-136. 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 website 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 such 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 publicly available. All submissions should refer to File Number SR-NASDAQ-2010-136 and should be submitted on or before November 24, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010-27688 Filed 11-2-10; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63202; File No. SR-CBOE-2010-080]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Trade Options on Leveraged Exchange-Traded Notes and To Broaden the Definition of "Futures-Linked Securities"

October 28, 2010.

I. Introduction

On August 31, 2010, the Chicago Board Options Exchange ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"), and Rule 19b-4 thereunder,² a proposed rule change to: (a) Permit the trading of options on leveraged (multiple or inverse) exchange-traded notes ("ETNs"), and (b) broaden the definition of "Futures-Linked Securities." On September 9, 2010, the Exchange filed Amendment

No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on September 16, 2010.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change as modified by Amendment No. 1.

II. Description of the Proposal

The purpose of CBOE's proposed rule change is to amend Interpretation and Policy .13 to Rule 5.3 to: (a) Permit the trading of options on leveraged (multiple or inverse) ETNs,⁴ and (b) broaden the definition of "Futures-Linked Securities."

Leveraged ETN Options

Multiple leveraged ETNs seek to provide investment results that correspond to a specified multiple of the percentage performance of a particular Reference Asset on a given day. Inverse leveraged ETNs seek to provide investment results that correspond to the inverse (opposite) of the percentage performance of a particular Reference Asset by a specified multiple on a given day. Multiple leveraged ETNs and inverse leveraged ETNs differ from traditional ETNs in that they do not merely correspond to the performance of a given Reference Asset, but rather attempt to match a multiple or inverse of a Reference Asset's performance.

The Barclays Long B Leveraged S&P 500 TR ETN ("BXUB"), the Barclays Long C Leveraged S&P 500 TR ETN ("BXUC") and the UBS AG 2x Monthly Leveraged Long Exchange Traded Access Securities ("E-TRACS") linked to the Alerian MLP Infrastructure Index due July 9, 2040 ("MLPL") currently trade on the NYSE Arca Stock Exchange and are examples of multiple leveraged ETNs. In addition, the Barclays ETN + Inverse S&P 500 VIX Short-Term Futures ETN ("XXV") currently trades on the NYSE Arca Stock Exchange and is an example of an inverse leveraged ETN.

Currently, Interpretation and Policy .13 to Rule 5.3 provides that securities deemed appropriate for options trading

³ See Securities Exchange Release No. 62880 (September 9, 2010), 75 FR 56628.

⁴ ETNs are also known as "Index-Linked Securities," which are designed for investors who desire to participate in a specific market segment by providing exposure to one or more identifiable underlying securities, commodities, currencies, derivative instruments, or market indexes of the foregoing. Index-Linked Securities are non-convertible debt of an issuer that have a term of at least one year but not greater than thirty years. Index-Linked Securities are traded as a single, exchange-listed security. As such, rules pertaining to the listing and trading of standard equity options apply to Index-Linked Securities.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).