

Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund or an Actively-Managed Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund or the Actively-Managed Fund, as the case may be, in connection with the investment by the Investing Management Company in the Fund or Actively-Managed Fund, as the case may be, made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

7. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

8. Once an investment by a Fund of Funds in the securities of a Fund or an Actively-Managed Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the board of trustees of the Fund or Actively-Managed Fund ("Board"), including a majority of directors or trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("non-interested Board members"), will determine that any consideration paid by the Fund or the Actively-Managed Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund or the Actively-Managed Fund; (ii) is within the range of consideration that the Fund or the Actively-Managed Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund or an Actively-Managed Fund, as the case may be, and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

9. The Board of a Fund and of an Actively-Managed Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund or the Actively-Managed Fund, as the case may be, in an Affiliated Underwriting,

once an investment by a Fund of Funds in the securities of the Fund or the Actively-Managed Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund or the Actively-Managed Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund or the Actively-Managed Fund, as the case may be; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund or the Actively-Managed Fund, as the case may be, in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders.

10. Each Fund and each Actively-Managed Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund or the Actively-Managed Fund, as the case may be, exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

11. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the non-

interested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund or any Actively-Managed Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

12. No Fund or Actively-Managed Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund or Actively-Managed Fund, as the case may be, to purchase shares of other investment companies for short-term cash management purposes.

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

**Cathy H. Ahn,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64311; File No. SR-NASDAQ-2011-052]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate the Expire Time

April 20, 2011.

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 April 14, 2011, The NASDAQ Stock Market LLC ("NASDAQ" or the "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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

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

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

NASDAQ is filing with the Commission a proposal for the NASDAQ Options Market ("NOM") to amend Chapter VI, Trading Systems, Section 1, Definitions, and Section 6, Acceptance of Quotes and Orders, to eliminate the "Time in Force" designation called "Expire Time."

This change is scheduled to be implemented on NOM on or about August 1, 2011; the Exchange will announce the implementation schedule by Options Trader Alert, once the rollout schedule is finalized.

The text of the proposed rule change is available at [nasdaq.cchwallstreet.com](http://nasdaq.cchwallstreet.com), 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**

The purpose of the proposed rule change is to eliminate the Expire Time. Currently, Chapter VI, Section 1(g) provides that the term "Time in Force" means the period of time that the System will hold an order for potential execution. Time in force conditions, which are listed in subsections 1(g)(1)–(5), include Expire Time, Immediate or Cancel, Good-till-Cancelled and WAIT. At this time, "Expire Time" (or "EXPR") is being eliminated. Expire Time means that, for orders so designated, that if after entry into the System, the order is not fully executed, the order (or the unexecuted portion thereof) shall remain available for potential display and/or execution for the amount of time specified by the entering Participant unless canceled by the entering party. EXPR Orders are currently available for entry from the time prior to market open specified by the Exchange on its Web

site until market close Eastern Time and for execution from 9:30 a.m. until market close. Chapter VI, Section 6, Acceptance of Quotes and Orders, also currently refers to Expire Time in subsection (a)(1), which is also proposed to be amended to eliminate the reference to Expire Time.

The Exchange proposes to eliminate Expire Time, as part of some technological changes to NOM's trading system intended to enhance the system as a whole. The Exchange has determined not to incorporate this functionality into its enhanced trading system, because the same result can be achieved by Participants cancelling their orders directly. Also, the Exchange believes that this proposed rule change as well as other notification to Participants will serve to notify Participants of this change. The other Time in Force conditions will continue to be available.

##### **2. Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>3</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>4</sup> in particular, in that it 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanisms 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 the proposal is appropriate and reasonable, because, although it eliminates a time in force condition, this functionality is not required under the Act; the Exchange has determined to eliminate it and believes that this should have no detrimental effect, because it is not widely used.

#### *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.

<sup>3</sup> 15 U.S.C. 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

### **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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and Rule 19b-4(f)(6)<sup>6</sup> thereunder.

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-2011-052 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-2011-052. 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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</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. The Exchange has satisfied this requirement.

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 offices 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-2011-052 and should be submitted on or before May 17, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64312; File No. SR-NASDAQ-2011-053]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt an Order Price Protection Feature

April 20, 2011.

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 April 14, 2011, The NASDAQ Stock Market LLC ("NASDAQ" or the "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 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 the Substance of the Proposed Rule Change

NASDAQ is filing with the Commission a proposal for the NASDAQ Options Market ("NOM") to amend Chapter VI, Trading Systems, to adopt new Section 18, Order Price Protection.

This change is scheduled to be implemented on NOM on or about August 1, 2011; the Exchange will announce the implementation schedule by Options Trader Alert, once the rollout schedule is finalized.

The text of the proposed rule change is available at [nasdaq.cchwallstreet.com](http://nasdaq.cchwallstreet.com), 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

The purpose of the proposed rule change is to address risks to market participants of human error in entering orders at unintended prices. To that end, the Exchange has developed a program known as Order Price Protection ("OPP"), which would prevent certain orders from executing or being placed on the book at prices outside pre-set standard limits. The System would reject such orders rather than executing them automatically. The operation of the OPP, which is very similar to PHLX Rule 1080.07, would be set forth in new Section 18 of Chapter VI.

The OPP feature would prevent certain day limit, good til cancelled or immediate or cancel orders at prices outside of certain pre-set limits from being accepted by the System. OPP

would apply to all options, but would not apply to market orders or Intermarket Sweep Orders. OPP would be operational each trading day after the opening until the close of trading, except during trading halts. The Exchange would also be able to temporarily deactivate OPP from time to time on an intraday basis at its discretion if it determined that volatility warranted deactivation. Participants would be notified of intraday OPP deactivation due to volatility and any subsequent intraday reactivation by the Exchange through the issuance of system status messages.

The OPP will help Participants control risk by checking each order, before it is accepted into the System, against certain parameters established by new Chapter VI, Section 18. It would compare price instructions on the order against the current contra-side National Best Bid Offer ("NBBO"),<sup>3</sup> and would automatically reject the order if it is priced outside the range established in Section 18.

The range of permissible orders depends on whether the contra-side of an incoming order is greater than \$1.00, or equal to or less than \$1.00. If the NBBO on the contra-side of an incoming order were greater than \$1.00, orders with a limit more than 50% through such contra-side NBBO would be rejected by the System upon receipt. For example, if the NBBO on the offer side were \$1.10, an order to buy options for more than \$1.65 would be rejected. Similarly, if the NBBO on the bid side were \$1.10, an order to sell options for less than \$0.55 would be rejected.

If the NBBO on the contra-side of an incoming order were less than or equal to \$1.00, orders with a limit more than 100% through such contra-side NBBO would be rejected by the System upon receipt. For example, if the NBBO on the offer side were \$1.00, an order to buy options for more than \$2.00 would be rejected. However, if the NBBO of the bid side of an incoming order to sell were less than or equal to \$1.00, the OPP limits set forth above would result in all incoming sell orders being accepted regardless of their limit.

Like the PHLX's OPP, NOM's will be available for Participants' orders, but not for market making.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the

<sup>7</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> See Chapter I, Section 1(a)(33).

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