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–2012–123 and should be submitted on or before November 27, 2012.

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

Kevin M. O’Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Apply the Position Limit Exemption Rules of NASDAQ OMX PHLX LLC For Certain Index Options

October 31, 2012.

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 18, 2012, 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 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 Subsistance of the Proposed Rule Change

The NASDAQ Stock Market LLC [sic] to amend NASDAQ Options Market LLC (“OMX”) Rules at Chapter XIV, Sections 5 (Position Limits for Broad-Based Index Options) and Section 7 (Position Limits for Industry and Micro-Narrow Based Index Options) of the NASDAQ Rules to permit NASDAQ Options Market LLC (“NOM”) Options Participants to utilize position limit exemptions,4 which are currently available on Phlx with respect to certain index options discussed below.

Currently, Chapter XIV, Sections 5 and 7 state that NOM Options Participants shall comply with the applicable rules of the Chicago Board Options Exchange, Incorporated (“CBOE”) with respect to position limits, both for broad-based and industry or micro-narrow index options. The Exchange recently filed to list options on several Phlx proprietary and non-proprietary indexes on NOM, which are not listed on CBOE: MSCI EM, MSCI EAFE, PHLX Oil Service SectorSM Index (OSX), PHLX Semiconductor SectorSM Index (SOX) and PHLX Housing SectorTM Index (HGX) (collectively “MSCI and PHLX Indexes”). In each of these filings, the Exchange sought to list and trade the MSCI and PHLX Indexes on NOM by amending the NOM rules to provide for the same position limits that are applied currently on Phlx for options overlying the MSCI and PHLX Indexes.6 Both filings intended that options on the MSCI and PHLX Indexes would be listed and traded on NOM as they are on Phlx.7 Both filings added new sections to Chapter XIV, Sections 5 and 7 to specify the applicable position limits because options on the MSCI and PHLX Indexes, including specifically position limit exemptions, are not incorporated by reference in NOM’s rules.8 Rather, only the specified position limits for these indexes as set forth in Phlx’s rules are replicated in NOM’s rules.10

The Exchange is proposing to incorporate by reference the entirety of Phlx’s rules relating to position limits with respect to options overlying the MSCI and PHLX Indexes. This would allow NOM Options Participants desiring to trade options on the MSCI and PHLX Indexes to avail themselves of the same exemptions as Phlx members receive today.

To this end, the Exchange is proposing to amend Chapter XIV, Section 5 to state that the applicable Phlx position limit rules would apply to the MSCI EAFE and MSCI EM broad-based index options. Also, the Exchange would amend Chapter XIV, Section 7 to state that the applicable Phlx position limit rules would apply to PHLX Oil Service SectorSM Index (OSX), PHLX Semiconductor SectorSM Index (SOX) and PHLX Housing SectorTM Index (HGX) industry and micro-narrow based index options. The Exchange proposes to remove section (d) of Chapter XIV, 

10 See Phlx Rules [sic] 1001A Position Limits. See also NOM Rules at Chapter XIV, Section 5(d) and Section 7(d) which replicate the Phlx position limits for the MSCI and PHLX Indexes within the NOM Rules.

strike price intervals and position limits for OSX, SOX and HGX).

4 This would include all rules relating to exemptions. See Phlx Rule 1001A Position Limits.
6 Id. Today, this does not include the application of Phlx exemptions.
7 Id.
8 Id.
Section 5 and sections (d) and (e) of Chapter XIV, Section 7 as that rule text is no longer necessary because all applicable Phlx position limit rules and exemptions would apply going forward to the MSCI and PHLX Indexes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act in general, and further the objectives of Section 6(b)(5) of the Act 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, by providing NOM Options Participants that desire to transact options on MSCI and PHLX Indexes the ability to avail themselves of the same position limit rules and exemptions as Phlx members. It was the intent of the Exchange to list and trade options on the MSCI and PHLX Indexes in the same manner as those index options are traded on Phlx. This would include providing the same position limit rules and exemptions on position limits as are permitted on Phlx. The Exchange believes that permitting applicable Phlx position limit exemption rules, in addition to position limits, to be applied will ensure that the same exemptions would apply to options on the MSCI and PHLX Indexes on both NOM and Phlx.

Today the CBOE rules are applied on NOM in the same manner as the Exchange proposes to apply Phlx rules relating to position limits and exemptions. Those index options which trade on CBOE and NOM are subject to applicable CBOE rules with respect to index option position limits and exemptions. The Exchange believes that because NOM does not have its own rules governing exemptions, applying the CBOE position limit rules, including exemptions, ensures that NOM Options Participants are able to trade index options in much the same manner as they are traded on CBOE, subject to the same regulatory requirements. The Exchange is proposing to similarly apply Phlx rules in the same manner with respect to the MSCI and PHLX Indexes. The Exchange believes that this filing is non-controversial because it seeks to apply the rules of another self-regulatory organization to NOM Options Participants in the same way as those rules apply today to Phlx members trading the MSCI and PHLX Indexes.

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.

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

Because the 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.14

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act 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. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that doing so would provide NOM Participants with the ability to utilize position limit exemptions for the MSCI and PHLX Indexes and trade options on those indexes in the same manner as Phlx members. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.17

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 email to rule-comments@sec.gov. Please include File Number SR–NASDAQ–2012–121 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–2012–121. This file number should be included on the subject line if email 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 10:00 a.m. and 3:00 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

14 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change along with a brief description and the 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.
17 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).
Section 503(c)(2)(A) of the 1974 Act sets out the two CNLs. When the President determines that a BDC has exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year ($155 million for 2012), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of that article from all countries (the “50 percent CNL”), the President must terminate GSP duty-free treatment for that article from that BDC by no later than July 1 of the next calendar year.

Under section 503(c)(2)(F) of the 1974 Act, the President may waive the 50 percent CNL with respect to an eligible article imported from a BDC, if the value of total imports of that article from all countries during the calendar year did not exceed the applicable de minimis amount for that year ($21 million for 2012). Further, under section 503(c)(2)(C) of the 1974 Act, if imports of an eligible article from a BDC ceased to receive duty-free treatment due to exceeding a CNL in a prior year, the President may redesignate such an article for duty free treatment if imports in the most recently completed year did not exceed the CNLs.

II. Implementation of Competitive Need Limitations

Exclusions from GSP duty-free treatment where CNLs have been exceeded will be effective July 1, 2013, unless the President grants a waiver before the exclusion goes into effect. Exclusions for exceeding a CNL will be based on full 2012 calendar-year import statistics.

III. Interim 2012 Import Statistics

In order to provide advance notice of articles that may exceed the CNLs for 2012, interim import statistics for the first eight months of 2012 relating to CNLs can be viewed at: http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preferences-gsp/current-review. Full calendar-year 2012 data for individual tariff subheadings will be available in February 2013 on the Web site of the U.S. International Trade Commission at http://dataweb.usitc.gov/.

The interim 2012 import statistics are organized to show, for each article, the Harmonized Tariff Schedule of the United States (HTSUS) subheading and BDC of origin, the value of imports of the article from the specified country for the first eight months of 2012, and the corresponding share of total imports of that article from all countries. The list includes the GSP-eligible articles from BDCs that, based on interim eight-month 2012 data, exceed $87 million dollars, or an amount greater than 42 percent of the total value of U.S. imports of that product and therefore may be on track to exceed the applicable thresholds. In all, the following twelve products met the criteria to be placed on the list:

- 4409.10.05—Coniferous wood continuously shaped along any of its ends (Brazil)
- 7202.99.20—Calcium silicon ferroalloys (Brazil)
- 7202.30.00—Ferrosilicon manganese (Georgia)
- 2924.29.95—Other nonaromatic cyclic amides and their derivatives (India)
- 2934.99.47—Nonaromatic drugs of other heterocyclic compounds (India)
- 7307.21.50—Stainless steel, not cast, flanges for tubes/pipes (India)
- 7307.91.50—Iron or steel (other than stainless), not cast, flanges for tubes/pipes (India)
- 6911.10.37—Porcelain or non-bone china, household table & kitchenware sets (Indonesia)
- 2927.00.15—1,1′-Azobisformamide (Indonesia)
- 7202.21.50—Ferrosilicon containing between 55% and 80% of silicon (Russia)
- 2106.90.99—Miscellaneous food preparations not canned or frozen (Thailand)
- 9506.70.40—Ice skates w/footwear permanently attached (Thailand)
- 9506.70.40—Ice skates w/footwear permanently attached (Thailand)