III. Discussion

Section 19(b)(2)(C) of the Act \(^6\) directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act \(^7\) requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act \(^8\) and the rules and regulations thereunder applicable to ICC. The proposed rule change would provide direct reference within the ICC Rules to the Approved Products List available on the ICC Web site and add additional standards for certain ICC cleared products to assure that Clearing Participants are informed of the ICC approved products, thereby promoting the prompt and accurate clearance and settlement of swaps and security-based swaps transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act \(^9\) and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act \(^10\) that the proposed rule change (File No. SR–ICC–2013–01), as modified by Amendments No. 1 and 2, be, and hereby is, approved. \(^11\)

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

Kevin M. O'Neil,
Deputy Secretary.

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BILLING CODE 8011–01–P

\(^{9}\) Id.
\(^{11}\) In approving the proposed rule change, the Commission considered the proposal’s impact on efficiency, competition and capital formation. 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

March 25, 2013.

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 March 19, 2013, 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 NASDAQ. 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 proposes to amend Chapter XV, entitled “Options Pricing,” at Section 2 governing pricing for NASDAQ members using the NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options. Specifically, NOM proposes to amend its Routing Fees.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on April 1, 2013.


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. 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.

\(^{1}\) 15 U.S.C. 78q(b)(1).
Operating NOS, membership fees at away markets, Options Regulatory Fees ("ORFs") and technical costs associated with routing options. The transaction fee assessed by the Exchange is based on the away market’s actual transaction fee or rebate for a particular market participant at the time that the order was entered into the Exchange’s trading system. This transaction fee is calculated on an order-by-order basis, where different away markets charge different amounts. In the event that there is no transaction fee or rebate assessed by the away market, the only fee assessed is the fixed Routing Fee. With respect to the rebate, the Exchange pays a market participant the rebate offered by an away market where there is such a rebate. Any rebate available is netted against a fee assessed by the Exchange.

C2 recently filed a rule change to amend its transaction fees and rebates for simple, non-complex orders, in equity options classes which became effective on February 1, 2013. As a result of that filing the Exchange amended its Pricing Schedule and today assesses non-Customer simple, non-complex orders in equity options (single stock) that are routed to C2 a Routing Fee which includes a fixed cost of $0.11 per contract plus a flat rate of $0.85 per contract, except with respect to Customers. With respect to Customers, the Exchange does not pass the rebate offered by C2, rather, Customer simple, non-complex orders in equity options (single stock) that are routed to C2 are assessed $0.00 per contract.

The Exchange is proposing to further simplify its Routing Fees by assessing a flat rate of $0.95 per contract on all non-Customer orders routed to any away market. The Exchange would no longer pass any rebate paid by an away market for non-Customer orders. With respect to Customer orders, the Exchange is proposing to continue to assess Customer orders routed to PHXL a fixed fee of $0.05 per contract ("Fixed Fee") in addition to the actual transaction fee assessed by the away market. This fee is not changing. With respect to Customer orders that are routed to BX Options, the Exchange will not assess a Routing Fee and will not pass the rebate. Today, BX Options pays a Customer Rebate to Remove Liquidity as follows: Customers are paid $0.12 per contract in IWM, SPY and QQQ, $0.32 per contract in All Other Penny Pilot Options and $0.70 per contract in Non-Penny Pilot Options. The Exchange is proposing to not assess a Routing Fee when routing orders to BX Options because that exchange pays a rebate. Instead of netting the customer rebate paid by BX Options against the fixed fee, the Exchange would simply not assess a fee. Although market participants routing to BX Options will not receive a credit, as is the case today, market participants will not pay a Customer Routing Fee when their orders are routed to BX Options with this proposal. The Exchange proposes to assess a Customer Routing Fee of $0.11 per contract ("Fixed Fee") in addition to the actual transaction fee when routing to an options exchange other than PHXL and BX Options, as is the case today. The Exchange is amending the payment of rebates and will no longer pay rebates when routing Customer orders to an away market, instead the Exchange will not assess a Routing Fee if a Customer order is routed to an away market that pays a rebate.

As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

2. Statutory Basis
NASDAQ believes that its proposal to amend its pricing is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(4) of the Act, in particular, that it is an equitable allocation of reasonable fees and other charges among its Participants.

The Exchange believes that its proposal to amend its non-Customer Routing Fees from a fixed fee plus actual transaction charges to a flat rate is reasonable because the flat rate makes it easier for market participants to anticipate the Routing Fees which they would be assessed at any given time. The Exchange believes that assessing all non-Customer orders the same flat rate will provide market participants with certainty with respect to Routing Fees. While, each destination market’s transaction charge varies and there is a
cost incurred by the Exchange when routing orders to away markets, including clearing costs, administrative and technical costs associated with operating NOS, membership fees at away markets, ORFs and technical costs associated with routing options, the Exchange believes that the proposed Routing Fees will enable it to recover the costs it incurs to route non-Customer orders to away markets. Other exchanges similarly assess a fixed rate fee to route non-Customer orders. The Exchange believes that its proposal to amend the non-Customer Routing Fees from a fixed fee plus actual transaction charges to a flat rate is equitable and not unfairly discriminatory because the Exchange would uniformly assess the same Routing Fees to all non-Customer market participants. Under its flat rate structure, taking all costs to the Exchange into account, the Exchange may operate at a slight gain or a slight loss for non-Customer orders routed to and executed at away markets. The proposed Routing Fee for non-Customer orders is an approximation of the maximum fees the Exchange will be charged for such executions, including costs, at away markets. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services for non-Customer orders. The Exchange believes that the fixed rate non-Customer Routing Fee is equitable and not unfairly discriminatory because market participants have the ability to directly route orders to an away market and avoid the Routing Fee. Participants may choose to mark the order as ineligible for routing to avoid incurring these fees. The Exchange routes orders to away markets where the Exchange’s disseminated bid or offer is inferior to the national best bid (best offer) (“NBBO”) price and based on price first. The Exchange believes that its proposal to not pass a rebate that is offered by an away market for non-Customer orders is reasonable because to the extent that another market is paying a rebate, the Exchange will assess a $0.95 per contract fee as its total cost in each instance. The Routing Fee is transparent and simple. If a market participant desires the rebate, the market participant has the option to direct the order to that away market. Other options exchanges today do not pass the rebate. The Exchange believes that its proposal to not pass a rebate that is offered by an away market for non-Customer orders is equitable and not unfairly discriminatory because the Exchange would not pay such a rebate on any non-Customer order. The Exchange believes that amending the Customer Routing Fee to BX Options from $0.05 per contract in addition to the actual transaction fee to $0.00 is reasonable, because, unlike PHXL and BX Options pays a Customer Rebate to Remove Liquidity and orders that are routed to other away markets, other than PHXL and BX Options, a Fixed Fee of $0.11 per contract because the cost, in terms of actual cash outlay by the Exchange to route to PHXL (and BX Options) is lower. For example, costs related to routing to PHXL are lower as compared to other away markets because NOS is utilized by all three exchanges to route orders. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to continue to assess Customer orders that are routed to PHXL a Fixed Fee of $0.05 per contract and orders that are routed to other away markets, other than PHXL and BX Options.
non-Customer orders because the Exchange has traditionally assessed lower fees to Customers as compared to non-Customers. Customers will continue to receive the lowest fees or no fees when routing orders, as is the case today. Other options exchanges also assess lower Routing Fees for customer orders as compared to non-customer orders.

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

NASDAQ 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. The Exchange does not believe that the proposal creates intra-market competition because the Exchange is applying the same Routing Fees and credits to all market participants in the same manner dependent on the routing venue, with the exception of Customers. The Exchange has proposed separate Customer Routing Fees. Customers will continue to receive the lowest fees or no fees when routing orders, as is the case today. Other options exchanges also assess lower Routing Fees for customer orders as compared to non-customer orders.

The Exchange’s proposal would allow the Exchange to recoup its costs when routing orders to away markets when such orders are designated as available for routing by the market participant. The Exchange is passing along savings realized by leveraging NASDAQ OMX’s infrastructure and scale to market participants when those orders are routed to PHLX and is providing those saving to all market participants. Participants may choose to mark the order as ineligible for routing to avoid incurring these fees. Today, other options exchanges also assess fixed routing fees to recoup costs incurred by the Exchange to route orders to away markets.

The Exchange operates in a highly competitive market, comprised of eleven exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Accordingly, the fees that are assessed by the Exchange must remain competitive with fees charged by other venues and therefore must continue to be reasonable and equitably allocated to those Participants that opt to direct orders to the Exchange rather than competing venues.

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)(i) of the Act.27 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 email to rule-comments@sec.gov. Please include File Number SR–NASDAQ–2013–051 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–2013–051 on the subject line.

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

Elizabeth M. Murphy, Secretary.

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and an extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency’s burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer.