increase the volume of contracts traded in options listed on NOM. To the extent that this purpose is achieved, all the Exchange’s market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fees levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposal reflects this competitive environment.

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.10 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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–2015–130 on the subject line.

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Chapter XV, Entitled “Options Pricing,” at Section 2 Governing Pricing for NASDAQ Members

November 5, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) 1 and Rule 19b–4 thereunder, notice is hereby given that on October 23, 2015, 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 amend the Exchange’s transaction fees at Chapter XV, Section 2 entitled “NASDAQ Options Market—Fees and Rebates,” which governs pricing for NASDAQ members using the NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on November 2, 2015.

The text of the proposed rule change is available on the Exchange’s Web site at http://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

The Exchange proposes the following two changes to the NOM transaction fees set forth at Chapter XV, Section 2 for executing and routing standardized equity and index options under the Penny Pilot and Non-Penny Pilot options program.

The proposed changes are as follows:

Fees for Removing Liquidity in Penny Pilot Options: the Exchange proposes to:

1. Decrease fees from $0.54 to $0.50 per contract for all Participant categories other than Customer, which remains at $0.48.

2. Removes the Fees for Removing liquidity in SPY, which will be equivalent to other Fees for Removing Liquidity in Penny Pilot Options.

3. Renumber current note “3” as note “1” in Chapter XX [sic], Section 2(1).

Rebate to Add Liquidity in Penny Pilot Options: the Exchange proposes to

1. Remove note “d” of Chapter XV, Section 2(1) because this incentive to reduce certain Fees for Removing Liquidity in Penny Pilot Options is no longer relevant as those fees are being reduced herein.

2. Amend note “e” of Chapter XV, Section 2(1) to reduce one of the incentives being offered to Participants that qualify for Tier 8 of the Customer and Professional Penny Pilot Options Rebates to Add Liquidity and amend qualifications for the rebate to “in a month.”

3. Renumber current note “e” as note “c” in Chapter XV, Section 2(1). Each specific change is described in greater detail below.

Change 1—Fees for Removing Liquidity in Penny Pilot Options

The Exchange proposes, beginning November 2, 2015, to decrease from $0.54 to $0.50 per contract the Fees for Removing Liquidity in Penny Pilot Options for all Participant categories other than Customer, which will remain unchanged at $0.48. This will represent a decrease of $0.04 per contract of liquidity removed in the Professional, Firm, Non-NOM Market Maker, and Broker Dealer categories. The

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7 The term “Firm” or (“F”) applies to any entity that (i) is not a broker or dealer or for the account of a Corporation (“OCC”) which is not for the account of a registered broker or dealer or for the account of a Participant that qualify for Tier 8 of the Customer and Professional Penny Pilot Options Rebates to Add Liquidity in Penny Pilot Options for in a given month will be assessed a Professional, Firm, Non-NOM Market Maker, and Broker Dealer Fee to $0.50 per contract.

The Exchange also proposes to amend note “e” of Chapter XV, Section 2(1) to reduce one of the incentives being offered to Participants that qualify for Tier 8 of the Customer and Professional Penny Pilot Options Rebates to Add Liquidity.

11 Note “e” currently states: Participants that qualify for Customer or Professional Rebate to Add Liquidity in Penny Pilot Options are simply redundant rebates under the Qualified Market Maker (“QMM”) Program set forth in Rule 7014, and the Participant qualifies for rebates under the Qualified Market Maker (“QMM”) Program set forth in Rule 7014.
Participants that [sic] add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or [2] add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or [3] (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.85% of total industry customer equity and ETF option ADV contracts per day from October 22, 2015 through October 30, 2015 and (b) has added liquidity in all securities through one or more of its Nasdaq Market Center MIDPs that represent 1.00% or more of Consolidated Volume from October 22, 2015 through October 30, 2015 will receive an additional $0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options from October 22, 2015 through October 30, 2015. Consolidated Volume shall mean the total consolidated volume reported to all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member’s trading activity, expressed as a percentage of or ratio to Consolidated Volume, the effect of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member’s trading activity.

The Exchange proposes to reduce this incentive from $0.05 to $0.03 per contract and amend the time period of October 22, 2015 through October 30, 2015 to “in a month.” The Exchange filed a mid-month amendment for October 2015 which necessitated this rule text. This text is not necessary going forward and will revert to the standard “in a month.” The Exchange believes that despite the decrease, this incentive will continue to encourage market participants to send additional order flow to achieve this incentive.

The Exchange also proposes to renumber current note “e” as note “c” in Chapter XV, Section 2(1) as note “c” was previously eliminated.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,13 in general, and with Section 6(b)(4) and 6(b)(5) of the Act,14 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Change 1—Fees for Removing Liquidity in Penny Pilot Options

Decreasing the Fees for Removing Liquidity in Penny Pilot Options from $0.54 to $0.50 per contract for all Participant categories other than Customer is reasonable because the lower fees should encourage these participants to send additional order flow to the Exchange and the additional order flow should benefit all market participants.

Decreasing the Fees for Removing Liquidity in Penny Pilot Options from $0.54 to $0.50 per contract for all Participant categories other than Customer is equitable and not unfairly discriminatory because the Exchange would uniformly assess all non-Customers a SPY Penny Pilot Options Fee for Removing Liquidity of $0.50 per contract, as is the case today and Customers would continue to be assessed the lowest Penny Pilot Options Fee for Removing Liquidity of $0.48 per contract. Customer order flow increases liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers.

The Exchange’s proposal to remove note “d” as note “1” in Chapter XX [sic]. Section 2(1) is reasonable, equitable and not unfairly discriminatory because it will add order to the pricing schedule.

Change 2—Rebate To Add Liquidity in Penny Pilot Options

The Exchange’s proposal to remove note “d” of Chapter XV, Section 2(1) is reasonable because this incentive to reduce certain Fees for Removing Liquidity in Penny Pilot Options is no longer relevant as those fees are being reduced in this proposal.

The Exchange’s proposal to remove note “d” of Chapter XV, Section 2(1) is equitable and not unfairly discriminatory because this incentive to reduce Fees for Removing Liquidity in Penny Pilot Options will not be offered to any Participant.

The Exchange’s proposal to amend note “e” of Chapter XV, Section 2(1) to reduce one of the incentives being offered to Participants that qualify for Tier 8 of the Customer and Professional Penny Pilot Options Rebates to Add...
Liquidity from an additional $0.05 per contract incentive to $0.03 per contract is reasonable because, despite the reduction in the incentive being offered, the opportunity to earn a higher rebate of $0.51 per contract, provided the qualifications are met, will incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume, which liquidity will benefit other market participants by providing them the opportunity to interact with that liquidity. The Exchange’s proposal to permit Participants to obtain a higher rebate of $0.51 per contract, provided they qualify for the Tier 8 rebate and the new criteria of note “e” by adding volume in a month, which includes the addition of options and equity volume, is reasonable because the Exchange is encouraging market participants to send order flow to both the options and equity markets to receive the rebate. Incentivizing Participants to add liquidity through the payment of an additional rebate is not novel and exists today.17 Today, the Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 includes, as part of the qualifying criteria, a certification for the Investor Support Program18 as set forth in Rule 7014 and qualification in the QMM Program.19 These two programs are equity programs which require participation in the form of adding liquidity. The concept of participating in the equities market as a means to qualify for an options rebate exists today. The Exchange’s proposal would require Participants to add liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume during the month. Consolidated Volume shall mean the total consolidated transaction reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member’s trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member’s trading activity.

The Exchange’s proposal to amend note “e” of Chapter XV, Section 2(1) to reduce one of the incentives being offered to Participants that qualify for Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity from an additional $0.05 per contract incentive to $0.03 per contract is equitable and not unfairly discriminatory because all Participants may qualify for Tier 8 and the additional note “e” incentive. Qualifying Participants will be uniformly paid the rebate provided the requirements are met in a month. The Exchange’s proposal to permit Participants to receive an additional $0.03 per contract rebate in addition to the Tier 8 rebate of $0.48 per contract, provided they qualify for Tier 8 and add options and equity volume as specified in the new note “e” criteria,20 is equitable and not unfairly discriminatory because market participants today may qualify for a comparable or a higher rebate through alternative means that does not require participation in NOM.

The Exchange’s proposal to amend the time period of October 22, 2015 through October 30, 2015 to “in a month” is reasonable because unlike last month when the the [sic] Exchange filed a mid-month amendment for October 2015, the amended language is intended to capture the entire month going forward.

The Exchange’s proposal to amend the time period of October 22, 2015 through October 30, 2015 to “in a month” is equitable and not unfairly discriminatory because the note “e” qualifications would be uniformly calculated for a month for all Participants.

The Exchange’s proposal to remunerate current note “e” as note “c” in Chapter XX [sic]. Section 2(1) is reasonable, equitable, and not unfairly discriminatory because it will add order to the pricing schedule.

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

The Exchange does not believe that the proposed rule change will impose any inter-market burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. Additionally, new competitors have entered the market and still others are reportedly entering the market shortly. These market forces ensure that the Exchange’s fees and rebates remain competitive with the fee structures at other trading platforms. In that sense, the Exchange’s proposal is actually pro-competitive because the Exchange is simply responding to competition by adjusting rebates and fees in order to remain competitive in the current environment.

Decreasing the Fees for Removing Liquidity in Penny Pilot Options from $0.54 to $0.50 per contract for all Participant categories other than Customer does not create an intra-market undue burden on competition because all Participants would be

17 Tier 8 pays a rebate of $0.48 per contract and the additional rebate proposed for note “e” (new note “e”) would be $0.03 per contract for a total of $0.51 per contract.
18 The note “e” incentive being amended requires Participants to (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.85% of total industry customer equity and ETF option ADV contracts per day in a month in liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month in order to receive an additional $0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity. This is the incentive as proposed in this rule change.
19 Note “e” provides two other opportunities, aside from the incentive which is being amended, to earn a higher rebate. Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month receive an additional $0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction with Penny Pilot Options in that month; Participants may add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month to receive an additional $0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month.
assessed the same fee, except Customers. Customer order flow is unique in that it enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers.

The elimination of the SPY Fees for Removing Liquidity in Penny Pilot Options does not create an intra-market undue burden on competition because all Penny Pilot Options will be assessed the same [sic] as the Fees for Removing Liquidity.

The Exchange’s proposal to remove note “d” of Chapter XV, Section 2(1) does not create an intra-market undue burden on competition because this incentive to reduce certain Fees for Removing Liquidity in Penny Pilot Options is no longer relevant as those fees are being reduced in this proposal. The Exchange’s proposal to amend note “e” of Chapter XV, Section 2(1) to reduce one of the incentives being offered to Participants that qualify for Tier 8 of the Customer and Professional Penny Pilot Options Rebates to Add Liquidity from an additional $0.05 per contract incentive to $0.03 per contract does not create an intra-market undue burden on competition because all Participants may qualify for Tier 8 and the additional incentive.

The Exchange’s proposal to amend the time period of October 22, 2015 through October 30, 2015 to “in a month” does not create an intra-market undue burden on competition because the amended language is intended to capture the entire month going forward and was previously intended to reflect the effectiveness of a prior rule change.

The remaining renumbering changes do not create an intra-market undue burden on competition because the amendments are non-substantive in nature.

G. 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.21 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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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);
- Send an email to rule-comments@sec.gov. Please include File Number SR–NASDAQ–2015–127 on the subject line.

Paper Comments
- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. All submissions should refer to File Number SR–NASDAQ–2015–127. 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 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–2015–127, and should be submitted on or before December 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.22

Robert W. Errett,
Deputy Secretary.

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BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; NASDAQ OMX PHXL LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Business Continuity and Disaster Recovery Plans Testing Requirements

November 5, 2015.

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 November 2, 2015, NASDAQ OMX PHXL LLC (“Phlx” 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 Substance of the Proposed Rule Change

The Exchange proposes to adopt business continuity and disaster recovery plans (“BC/DR Plans”) testing requirements for certain Exchange Member Organizations3 and PSX Participants4 (“Participants”) in