SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange’s Options Pricing

August 22, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”), and Rule 19b–4 thereunder, notice is hereby given that on August 9, 2016, 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 chapter XV, entitled “Options Pricing,” at section 2, which governs pricing for Exchange members using the NASDAQ Options Market LLC (“NASDAQ”), the Exchange’s facility for executing and routing standardized equity and index options. The Exchange proposes to amend certain Penny Pilot Options pricing.

The text of the proposed rule change is available on the Exchange’s Web site at http://nasdaq.cboe.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 to amend NOM pricing at chapter XV, section 2(1) to increase the Customer or Professional 5 Penny Pilot Options Fee for Removing Liquidity in SPY Options. The proposed change is discussed below.


The term “Customer” or (“C”) applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation which is not for the account of a broker or dealer or for the account of a “Professional” (as that term is defined in Chapter I, Section 1(a)(48)).

The term “Professional” or (“P”) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

Options overlying Standard and Poor’s Depositary Receipts/SPDRs (“SPY”) are based on the SPDR exchange-traded fund (“ETF”), which is designed to track the performance of the S&P 500 Index.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act, in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act, in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities, and is not designed to permit unfair

Change 1—Penny Pilot Options: Change Fee for Removing Customer and Professional Liquidity in SPY Options

The Exchange currently assesses Customers, Professionals, Firms, Non-NOM Market Makers, NOM Market Makers, and Broker-Dealers a $0.50 per contract Penny Pilot Options Fee for Removing Liquidity in all NOM Penny Pilot Options, except SPY options.

Today, the Exchange assesses a Customer or Professional that removes liquidity in SPY options a Penny Pilot Options Fee for Removing Liquidity of $0.47 per contract. The Exchange proposes to amend note “3” of chapter XV, section 2(1) to increase the Customer or Professional Penny Pilot Options Fee for Removing Liquidity in SPY options from $0.47 to $0.48 per contract. While the Exchange is proposing to increase this fee, the Exchange believes that the lower fee, as compared to $0.50 per contract in other Penny Pilot Options, will continue to incentivize Participants to send Customer and Professional order flow in SPY.
The Exchange’s proposal to amend note “3” of chapter XV, section 2(1) to increase the Customer or Professional Penny Pilot Options Fee for Removing Liquidity in SPY Options from $0.47 to $0.48 per contract is reasonable because the Customer and Professional Penny Pilot Options Fee for Removing Liquidity continues to be lower for SPY as compared to other Penny Pilot Options. The lower fee of $0.48 in SPY, as compared to $0.50 per contract in other Penny Pilot Options, will continue to incentivize Participants to send Customer and Professional order flow in SPY.

The Exchange’s proposal to amend note “3” of chapter XV, section 2(1) to increase the Customer or Professional Penny Pilot Options Fee for Removing Liquidity in SPY options from $0.47 to $0.48 per contract is equitable and not unfairly discriminatory because the Customer and Professional Penny Pilot Options Fee for Removing Liquidity continues to be lower for SPY as compared to other Penny Pilot Options. This lower fee for these market participants is equitable and not unfairly discriminatory because Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Exchange believes that offering a lower fee to Professionals is equitable and not unfairly discriminatory because it serves to attract more liquidity to NOM to the benefit of other market participants. By offering Professionals, as well as Customers, lower fees, the Exchange hopes to simply remain competitive with other venues so that it remains a choice for market participants when posting orders and the result may be additional Professional order flow for the Exchange, in addition to increased Customer order flow. Further, the Exchange initially established Professional pricing in order to “. . . bring additional revenue to the Exchange.” 20 The Exchange noted in the Professional Filing that it believes “. . . that the increased revenue from the proposal would assist the Exchange to recoup fixed costs.” 21 The Exchange does not believe that providing Professionals with the opportunity to obtain lower remove fee in SPY, equivalent to that of a Customer, creates a competitive environment where Professionals would be necessarily advantaged on NOM as compared to NOM Market Makers, Firms, Broker-Dealers or Non-NOM Market Makers.

Change 1—Penny Pilot Options: Change Fee for Removing Customer and Professional Liquidity in SPY Options

The Exchange’s proposal to amend note “3” of chapter XV, section 2(1) to increase the Customer or Professional Penny Pilot Options Fee for Removing Liquidity in SPY options from $0.47 to $0.48 per contract is reasonable because the Customer and Professional Penny Pilot Options Fee for Removing Liquidity continues to be lower for SPY as compared to other Penny Pilot Options. The lower fee of $0.48 in SPY, as compared to $0.50 per contract in other Penny Pilot Options, will continue to incentivize Participants to send Customer and Professional order flow in SPY.

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Change 1—Penny Pilot Options: Change Fee for Removing Customer and Professional Liquidity in SPY Options

The Exchange’s proposal to amend note “3” of chapter XV, section 2(1) to increase the Customer or Professional Penny Pilot Options Fee for Removing Liquidity in SPY options from $0.47 to $0.48 per contract does not create an undue burden on intra-market competition, rather the proposal will incentivize market participants to send additional SPY order flow to NOM because Participants sending Customer and Professional order flow will
The Exchange proposes to [sic] the Exchange’s Schedule of Fees and Charges (“Fee Schedule”) to eliminate the Listing Fee in connection with Exchange listing of certain Exchange Traded Products, effective August 8, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the “Act”) [2] and Rule 19b–4 [3] thereunder, notice is hereby given that, on August 8, 2016, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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

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