Additional Information or Comments:
To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Kennisha Tucker at (312) 469–2591 or Kennisha.Tucker@rrb.gov. Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to Brian.Foster@rrb.gov. Written comments should be received within 60 days of this notice.

Brian D. Foster,
Clearance Officer.

[FR Doc. 2021–20652 Filed 9–23–21; 8:45 am]
BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations: The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 3, Section 26, Message Traffic Mitigation

September 20, 2021.

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 September 14, 2021, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC ("NOM") Rules at Options 3, Section 26, Message Traffic Mitigation, and Options 3, Section 27 Limitation of Liability.

The Exchange also proposes to amend Options 10, Doing Business With The Public: Section 5, Branch Offices, Section 6, Opening of Accounts, and Section 9, Discretionary Accounts.


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 Options 3, Section 26, Message Traffic Mitigation. The Exchange also proposes to amend Options 10, Doing Business With The Public: Section 5, Branch Offices, Section 6, Opening of Accounts, and Section 9, Discretionary Accounts. Each change is described below.

Options 3, Section 26

The Exchange proposes to amend Options 3, Section 26, Message Traffic Mitigation, to replace its current rule with a rule identical to Nasdaq Phlx LLC ("Phlx") Options 3, Section 26.

Currently, NOM Options 3, Section 26 provides,

For the purpose of message traffic mitigation, based on NOM’s traffic with respect to target traffic levels and in accordance with NOM’s overall objective of reducing both peak and overall traffic:

(a) NOM will periodically delist options with an average daily volume ("ADV") of less than 100 contracts. Nasdaq will, on a monthly basis, determine the ADV for each series listed on NOM and delist the current series and not list the next series after expiration where the ADV is less than 100 contracts. For options series traded solely on NOM, Nasdaq will delay delisting until there is no open interest in that options series.

(b) NOM will implement a process by which an outbound quote message that has not been sent, but is about to be sent, will not be sent if a more current quote message for the same series is available for sending. This replace on queue functionality will be applied to all options series listed on the Nasdaq Options Market in real time and will not delay the sending of any messages.

(c) When the size associated with a bid or offer increases by an amount less than or equal to a percentage (never to exceed 20%) of the size associated with the previously disseminated bid or offer, NOM will not disseminate the new bid or offer.

(d) All message traffic mitigation mechanisms which are used on NOM will be identical for the OPRA “top of the book” broadcast.

With this proposal, the Exchange proposes to provide:

(a) The Exchange shall disseminate an updated bid and offer price, together with the size associated with such bid and offer, when:

(1) the Exchange’s disseminated bid or offer price increases or decreases;

(2) the size associated with the Exchange’s disseminated bid or offer decreases; or

(3) the size associated with the Exchange’s bid (offer) increases by an amount greater than or equal to a percentage (never to exceed 20%) of the size associated with previously disseminated bid (offer). Such percentage, which shall never exceed 20%, will be determined by the Exchange on an issue-by-issue basis and posted on the Exchange’s website.

Current NOM Options 3, Section 26(a) describes how NOM would periodically delist options with an average daily volume of less than 100 contracts. Further, pursuant to Options 3, Section 26(a), NOM would determine the ADV for each series listed on NOM and monthly, delist the current series, and not list the next series after expiration where the ADV is less than 100 contracts.3 Options 3, Section 26(a) was

3 For options series traded solely on NOM, the Exchange will delay delisting until there is no open interest in that options series.

Continued
intended to mitigate message traffic by requiring the Exchange to delist certain options. While, today, NOM does not delist options in accordance with Options 3, Section 26(a), NOM does delist options pursuant to Options 4, Section 5.4 Specifically, NOM periodically delists options across its various listing programs pursuant to Options 4, Section 5.5 The Exchange notes that other Nasdaq affiliated markets also delist according to similar listing rules.6 The Exchange’s process for delisting options pursuant to Options 4, Section 5 accomplishes the same objectives as originally intended for delisting pursuant to subparagraph (a). The current delisting process utilized by NOM ensures mitigation of message traffic. At this time, the Exchange proposes to remove the rule text within Options 3, Section 26(a), as NOM does not delist in that manner today, and, instead, NOM proposes to continue to delist pursuant to Options 4, Section 5. NOM’s message traffic mitigation would not be impacted by the removal of Options 3, Section 26(a) because, today, NOM is not delisting in that manner, rather it delists according to Options 4, Section 5 and will continue to delist in that manner.

Current NOM Options 3, Section 26(b) provides that NOM will implement a replace on queue functionality whereby an outbound quote message that has not been sent, but is about to be sent, will not be sent if a more current quote message for the same series is available for sending. Further, the rule provides that this replace on queue functionality will be applied to all options series listed on NOM in real time and will not delay the sending of any messages. Options 3, Section 26(b) was intended to mitigate message traffic by implementing the replace on queue functionality to reduce the message traffic by disseminating only the most current quote in certain instances where a quote was recently updated. The Exchange did not implement the replace on queue functionality, so it is unavailable and has never been utilized on NOM. To date, NOM has been mitigating quotations by delisting pursuant to Options 4, Section 5 and mitigating pursuant to Options 3, Section 26(c) as described below in greater detail. NOM’s quote mitigation process would remain unchanged with this proposal. Also, NOM’s quote mitigation process is consistent with Phlx’s current process for mitigating quotes. The Exchange believes that despite not implementing the replace on queue functionality, it continues to mitigate quotes in a fair and equitable manner consistent with Phlx’s process for mitigating quotes. At this time, the Exchange proposes to delete Options 3, Section 26(b). NOM’s message traffic mitigation would not be impacted by the removal of Options 3, Section 26(b) because, today, NOM does not have the functionality described within Options 3, Section 26(b) and would not be changing its quote mitigation practice as a result of deleting the rule text.

Current Options 3, Section 26(c) provides that when the size associated with a bid or offer increases by an amount less than or equal to a percentage (never to exceed 20%) of the size associated with the previously disseminated bid or offer, NOM will not disseminate the new bid or offer. Options 3, Section 26(c) was intended to mitigate message traffic by disseminating quotes only when the size associated with a bid or offer increases by an amount greater than or equal to a certain percentage established by the Exchange. Today, the Exchange’s System is not disseminating quotes as specified within Options 3, Section 26(c), rather NOM is disseminating quotes as specified in Phlx Options 3, Section 26. The Exchange’s current practice is aligned with the original intent. Today, NOM mitigates quotes by disseminating them only when the size associated with a bid or offer increases by an amount greater than or equal to a certain percentage established by the Exchange. At this time, the Exchange proposes to update NOM Options 3, Section 26 to reflect NOM’s current practice, which is identical to Phlx’s practice, and adopt rule text identical to Phlx Options 3, Section 26. Because NOM is not amending its practice with respect to the dissemination of quotes, the Exchange notes that there would be no change in the number of quotes that will be disseminated by the Exchange and the proposed change aligns with the original intent of the rule. NOM’s rule also proposes to adopt rule text identical to Phlx to permit it to determine the percentage by which it will disseminate an updated bid or offer price based on the size on an issue-by-issue basis.7 Phlx Options 3, Section 26(a)(3) permits it to determine the percentage in this matter. NOM proposes to amend its rule to provide for the same flexibility as Phlx to permit it to determine the way it will mitigate quotes among options. Also, with this proposed change, NOM would commence posting the percentage specified within proposed Options 3, Section 26(a)(3) on the Exchange’s website. The Exchange believes that posting the percentage will provide transparency to Participants.

Finally, Options 3, Section 26(d) provides that all message traffic mitigation mechanisms which are used on NOM will be identical for the OPRA “top of the book” broadcast. The text of Options 3, Section 26(d) is unnecessary as OPRA publishes messages disseminated by each options exchange in a similar fashion. Further, NOM Options 5, Section 1(17) describes the type of information disseminated by OPRA.

Today, and over the years, Phlx’s number of listed underlyings exceeds the underlyings listed on NOM and, therefore, utilizing a different protocol identical to Phlx Options 3, Section 26(c) would permit NOM to sufficiently mitigate quotes.

Options 3, Section 27

The Exchange proposes to update a citation to Rule 4626 within Options 3, Section 27, Limitation of Liability. The Exchange relocated Rule 4626 to Equity Section 17 in a prior rule change.8

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4 NOM currently delists options pursuant to Options 4, Section 5 at Supplementary Material .01(d), Supplementary Material .03(d), and Supplementary Material .04(f). In addition, NOM recently filed to delist additional intervals across its weekly programs to further reduce message traffic.5 The Exchange notes that other Nasdaq affiliated markets also delist according to similar listing rules.6 The Exchange’s process for delisting options pursuant to Options 4, Section 5 accomplishes the same objectives as originally intended for delisting pursuant to subparagraph (a). The current delisting process utilized by NOM ensures mitigation of message traffic. At this time, the Exchange proposes to remove the rule text within Options 3, Section 26(a), as NOM does not delist in that manner today, and, instead, NOM proposes to continue to delist pursuant to Options 4, Section 5. NOM’s message traffic mitigation would not be impacted by the removal of Options 3, Section 26(a) because, today, NOM is not delisting in that manner, rather it delists according to Options 4, Section 5 and will continue to delist in that manner.

Current NOM Options 3, Section 26(b) provides that NOM will implement a replace on queue functionality whereby an outbound quote message that has not been sent, but is about to be sent, will not be sent if a more current quote message for the same series is available for sending. Further, the rule provides that this replace on queue functionality will be applied to all options series listed on NOM in real time and will not delay the sending of any messages. Options 3, Section 26(b) was intended to mitigate message traffic by implementing the replace on queue functionality to reduce the message

4 NOM currently delists options pursuant to Options 4, Section 5 at Supplementary Material .01(d), Supplementary Material .03(d), and Supplementary Material .04(f).


6 See Phlx, Nasdaq ISE, LLC (“ISE”), Nasdaq GEMX, LLC (“GEMX”) and Nasdaq MRX, LLC (“MRX”) Options 4, Section 5.

7 Current Options 3, Section 26(c) refers to an amount “less than or equal to a percentage.” The phrase “equal to” is incorrect. Today, when the size associated with a bid or offer increases by an amount greater than or equal to 20% of the size associated with the previously disseminated bid or offer, NOM does not and will not disseminate the new bid or offer. This substantive change also adopts rule text identical to Phlx Options 3, Section 26.

8 NOM’s current rule is silent regarding the Exchange’s ability to set the percentage on an issue-by-issue basis and post the percentage to its website. Today, Phlx and NOM both specify the percentage on the Exchange’s website. Today, the Exchange has set the same percentage for all options listed on NOM.

The Exchange proposes to update the erroneous citation. The proposed amendment is non-substantive.

Options 10, Sections 5, 6 and 9

In 2018, NOM’s registration requirements were updated to mirror changes made by FINRA to its qualification rules. At that time, NOM Options 10, Sections 5, 6 and 9 should have been amended to update certain terminology to align with General 4 terminology. At this time, the Exchange proposes to update the terminology within Options 10, Sections 5, 6 and 9 so that it is consistent with General 4 terminology. The proposed amendments are non-substantive. Specifically, with respect to Options 10, Section 5, Branch Offices, the manager must be registered as an Options Principal or General Securities Sales Supervisor in accordance with Nasdaq General 4, Section 1220(a)(8) and Supplementary Material .04 of that rule. The Exchange proposes to replace the qualification “Registered Options and Security Futures Principal” with “Registered Options Principal or General Securities Sales Supervisor.” With respect to Options 10, Section 6, Opening of Accounts and Options 10, Section 9, Discretionary Accounts, the Exchange proposes to replace the qualification “Registered Options and Security Futures Principal” with “Registered Options Principal” to align with the current terminology with General 4, Rule 1220.

2. Statutory Basis
The Exchange believes that its proposal is consistent with Section 6(b) of the Act, general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

Options 3, Section 26

The Exchange’s proposal to amend Options 3, Section 26, Message Traffic Mitigation, to replace its current rule with a rule identical to Phlx Options 3, Section 26 is consistent with the Act. The proposal will harmonize NOM’s Options 3, Section 26 with Phlx’s Options 3, Section 26 without an impact to the way NOM mitigates message traffic today.

Removing current Options 3, Section 26(a), which describes how NOM would periodically delist options with an average daily volume of less than 100 contracts and determine the ADV for each series listed on NOM and monthly, delist the current series and not list the next series after expiration where the ADV is less than 100 contracts, is consistent with the Act. Options 3, Section 26(a) was intended to mitigate message traffic by requiring the Exchange to delist certain options. While, today, NOM does not delist options in accordance with Options 3, Section 26(a), NOM does delist options pursuant to Options 4, Section 5. In addition, NOM recently filed to delist additional intervals across its weekly programs to further reduce message traffic. The Exchange notes that other Nasdaq affiliated markets also delist according to similar rules. The Exchange’s process for delisting options pursuant to Options 4, Section 5 protects investors and the public interest because it accomplishes the same objectives as originally intended for delisting pursuant to subparagraph (a) and ensures mitigation of message traffic by delisting according to Options 4, Section 5.

Removing current NOM Options 3, Section 26(b), which describes how NOM will implement a replace on queue functionality whereby an outbound quote message that has not been sent, but is about to be sent, will not be sent if a more current quote message for the same series is available for sending is consistent with the Act. Options 3, Section 26(b) was intended to mitigate message traffic by implementing the replace on queue functionality to reduce the message traffic by disseminating only the most current quote in certain instances where a quote was recently updated. While the Exchange did not implement the replace on queue functionality, NOM has been mitigating quotations by delisting pursuant to Options 4, Section 5 and mitigating pursuant to Options 3, Section 26(c). The proposal would protect investors and the public interest because NOM’s quote mitigation process would remain unchanged with this proposal. Also, NOM’s quote mitigation process is consistent with Phlx’s current process for mitigating quotes. The Exchange believes that despite not implementing the replace on queue functionality, it continues to mitigate quotes in a fair and equitable manner consistent with Phlx’s process for mitigating quotes.

Amending current Options 3, Section 26(c), as described above, is consistent with the Act because Options 3, Section 26(c)
The Exchange’s proposal to amend Options 10, Sections 5, 6 and 9 to conform the terminology to General 4 terminology does not impose and undue burden on competition, rather it will bring greater clarity to the current registration requirements. These amendments are non-substantive.

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 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 on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act and subparagraph (f)(6) of Rule 19b–4 thereunder.22

A proposed rule change filed under Rule 19b–4(f)(6)23 normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)24 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 requested that the Commission waive the operative delay to permit the Exchange to immediately amend Options 3, Section 26 to adopt a rule identical to Phlx’s current rule, which would reflect NOM’s current quote mitigation practice. According to the Exchange, current Options 3, Section 26 does not correctly explain the way NOM mitigates quote messages and the Exchange believes its proposal will provide clarity regarding how NOM currently mitigates quote messages.

Further, the Exchange believes that updating the citations and terminology within Options 3, Section 27 and Options 10, Sections 5, 6 and 9

The Exchange’s proposal to amend Options 10, Sections 5, 6, and 9 to conform the terminology to General 4 terminology does not impose and undue burden on competition, rather it will bring greater clarity to the current registration requirements. These amendments are non-substantive.

22 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.
Options 10, Sections 5, 6 and 9 will clarify its Rulebook.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to immediately implement changes to its Rulebook that are designed to reflect the Exchange’s current practice with respect to quote mitigation. According to the Exchange, the proposal will not impact NOM’s current quote mitigation practice and therefore will neither alter the quantity of quotes the Exchanges disseminates, nor the manner in which the Exchange disseminates quote messages. In addition, the Commission believes the proposed changes to Options 3, Section 27, and Options 10, Sections 5, 6, and 9 are designed to bring greater clarity to the Exchange’s Rulebook. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing. 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–2021–074 on the subject line.

Paper Comments
• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2021–074 and should be submitted on or before October 15, 2021.

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

J. Matthew DeLesDernier, Assistant Secretary.

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Partial Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Partial Amendment No. 1 To Remove ID Net Transactions From the Required Fund Deposit Calculations and Make Other Changes to the Rules

September 20, 2021.

I. Introduction


4 Partial Amendment No. 1 made clarification corrections to the description of the proposed rule change, namely the insertion of a legend noting the changes to the Rules have been approved but not yet implemented.

3 Partial Amendment No. 1 to the proposed rule change, to make clarifications and corrections to the proposed rule change.

9 The proposed rule change was published for public comment in the Federal Register on August 11, 2021, and the Commission has received comments on the changes proposed therein. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

NSCC is proposing to revise the margin methodology set forth in its Rules & Procedures (“Rules”) to remove institutional delivery (“ID”) transactions that are processed through the ID Net Service from the calculation of its members’ required margin. The ID Net Service is a joint service of NSCC and Depository Trust Company (“DTC”) that allows subscribers to the service,