

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75715; File No. SR-NASDAQ-2015-100)

August 17, 2015

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Verifiable Disruption or Malfunction of Exchange Systems

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4² thereunder, notice is hereby given that on August 13, 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 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 is filing with the Commission a proposal to amend Chapter V, Section 6 (Nullification and Adjustment of Options Transactions including Obvious Errors) of the rules of the NASDAQ Options Market (“NOM”) related to a verifiable disruption or malfunction of Exchange systems.

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is italicized and proposed deleted language is [bracketed].

NASDAQ Stock Market Rules
Options Rules

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Chapter V Regulation of Trading on NOM

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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Sec. 6 Nullification and Adjustment of Options Transactions including Obvious Errors

The Exchange may nullify a transaction or adjust the execution price of a transaction in accordance with this Rule. However, the determination as to whether a trade was executed at an erroneous price may be made by mutual agreement of the affected parties to a particular transaction. A trade may be nullified or adjusted on the terms that all parties to a particular transaction agree, provided, however, that such agreement to nullify or adjust must be conveyed to the Exchange in a manner prescribed by the Exchange prior to 8:30 a.m. Eastern Time on the first trading day following the execution. It is considered conduct inconsistent with just and equitable principles of trade for any Participant to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.

(a) – (j) No Change.

(k) Verifiable Disruption or Malfunction of Exchange Systems. Parties to a trade may have a trade nullified or its price adjusted if it resulted from a verifiable disruption or malfunction of Exchange execution, dissemination, or communication systems that caused a quote/order to trade in excess of its disseminated size (e.g. a quote/order that is frozen, because of an Exchange system error, and repeatedly traded). Parties to a trade may have a trade nullified or its price adjusted if it resulted from a verifiable disruption or malfunction of an Exchange dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible

where there is Exchange documentation providing that the member sought to update or cancel the quote/order.

([k]) *Appeals.* A party to a transaction affected by a decision made under this section may appeal that decision to the Nasdaq Review Council. An appeal must be made in writing, and must be received by Nasdaq within thirty (30) minutes after the person making the appeal is given the notification of the determination being appealed. The Nasdaq Review Council may review any decision appealed, including whether a complaint was timely, whether an Obvious Error or Catastrophic Error occurred, whether the correct Theoretical Price was used, and whether an adjustment was made at the correct price.

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The text of the proposed rule change is available from NASDAQ's website at <http://nasdaq.cchwallstreet.com>, at NASDAQ's principal office, 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, NASDAQ 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. NASDAQ 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 is seeking to amend its rules related to obvious errors. Specifically, the Exchange is seeking to amend NOM Chapter V, Section 6 to add new Section 6(k) and provide the Exchange the ability to nullify or adjust transactions arising out of a verifiable disruption or malfunction of Exchange systems.

Similar to NASDAQ OMX PHLX LLC ("Phlx") Rule 1092(k), proposed NOM Chapter V, Section 6(k) would indicate that parties to a trade may have a trade nullified or its price adjusted if it resulted from a verifiable disruption or malfunction of Exchange execution, dissemination, or communication systems that caused a quote/order to trade in excess of its disseminated size (e.g. a quote/order that is frozen, because of an Exchange system error, and repeatedly traded).³ Parties to a trade may have a trade nullified or its price adjusted if it resulted from a verifiable disruption or malfunction of an Exchange dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible where there is Exchange documentation providing that the member sought to update or cancel the quote/order. The Exchange notes that the proposed NOM Chapter V, Section 6(k) language is identical to that of Phlx Rule 1092(k). Per NOM Chapter V, Section 6, transactions that qualify for price adjustment will be adjusted to Theoretical Price, as defined in paragraph (b) of Section 6.

The Exchange believes that it is appropriate to provide the flexibility and authority provided for in the proposed rule so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions. The proposed rule change would provide the

³ There is no reference to open outcry as NOM is all-electronic.

Exchange with the same authority that Phlx and other exchanges have to nullify or adjust trades in the event of a “verifiable disruption or malfunction” in the use or operation of its systems.⁴ For this reason, the Exchange believes that, in the interest of maintaining a fair and orderly market and for the protection of investors, authority to nullify or adjust trades in these circumstances, consistent with the authority on other exchanges, is warranted.

By way of housekeeping, the Exchange proposes to renumber current Section 6(k) of NOM Chapter V to Section 6(l). There are no other changes to Section 6(l), which deals with appeals regarding decisions pursuant to NOM Chapter V, Section 6.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement

⁴ See, e.g., Phlx Rule 1092(k), Chicago Board Options Exchange (“CBOE”) Rule 6.25.05, CBOE C2 (“C2”) Rule 6.15.06, and NYSE Arca, Inc. (“Arca”) Rule 6.89.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and national market system and promote a fair and orderly market because it would provide authority for the Exchange to nullify or adjust trades that may have resulted from a verifiable systems disruption or malfunction. The Exchange believes that it is appropriate to provide the flexibility and authority provided for in the proposed rule so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions that may result in harm to the public. Allowing for the nullification or modification of transactions that result from verifiable disruptions and/or malfunctions of the Exchange's systems will offer market participants on NOM a level of relief presently not available. The Exchange notes that the proposed rule change is the same as the equivalent Phlx rule and substantially similar to the equivalent CBOE, C2, and Arca rules.

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. To the contrary, the Exchange believes that the proposed rule change is pro-competitive because it will align the NOM rules with the rules of other markets, including Phlx, CBOE, C2, and Arca. By adopting the proposed rule, the Exchange will be in a position to treat transactions that are a result of a verifiable systems issue or malfunction in a manner similar to other exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor 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 from 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)⁷ of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸

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 e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2015-100 on the subject line.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

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-2015-100. This file number should be included on the subject line if e-mail 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 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-2015-100, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Robert W. Errett
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).