

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65775; File No. SR-NASDAQ-2011-138)

November 17, 2011

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change Expanding the Short Term Option Series Program

I. Introduction

On September 28, 2011, The NASDAQ Stock Market LLC (“NASDAQ”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to expand the Short Term Option Program (“Program”) to allow the NASDAQ Options Market (“NOM” or “Exchange”) to: (1) select up to 30 option classes on which Short Term Option Series (“STO Series”) may be listed; and (2) allow the Exchange to open Short Term Option Series that are opened by other securities exchanges in option classes selected by such exchanges under their respective short term option rules. The proposed rule change was published for comment in the Federal Register on October 17, 2011.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

NASDAQ proposed to amend Chapter IV, Section 6 and Chapter XIV, Section 11 the Short Term Option Series Program (“STO Program” or “Program”) to: (1) increase from 15 to 30 the number of option classes on which STO Series may be opened; and (2) allow the Exchange to open STO Series that are opened by other securities exchanges (the “STO

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 65528 (October 11, 2011), 76 FR 64142 (“Notice”).

Exchanges”) in option classes selected by such exchanges under their respective short term option rules.

In the Notice, the Exchange stated that the principal reason for the proposed expansion is market demand for additional STO classes and series. NASDAQ stated that the Exchange has had to turn away STO customers because it could not list, or had to delist, STO Series or could not open adequate STO Series because of restrictions in the STO Program.

The Exchange also stated that it has analyzed its capacity, and represented that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Program.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁵ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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. The Commission believes that the proposal strikes a reasonable balance between the Exchange’s desire to offer a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

In approving this proposal, the Commission notes that Exchange has represented that it and OPRA have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Program. The Commission expects the Exchange to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-NASDAQ-2011-138) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Kevin M. O'Neill
Deputy Secretary

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).