

that also assess different transaction fees for non-Penny Pilot options classes as compared to Penny Pilot options classes. The Exchange believes that establishing different pricing for non-Penny Pilot options and Penny Pilot options is reasonable, equitable, and not unfairly discriminatory because Penny Pilot options are more liquid options as compared to non-Penny Pilot options. Additionally, other competing options exchanges differentiate pricing in the similar manner today.⁹

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. The proposal is similar to the transaction fees found on other options exchanges; therefore, the Exchange believes the proposal is consistent with robust competition by increasing the intermarket competition for order flow from market participants. The proposal more closely aligns the fees for Public Customers that is not a Priority Customer and Firms to those of non-MIAX Market Makers and non-Member Broker-dealers. To the extent that there is additional competitive burden on non-member market participants, the Exchange believes that this is appropriate because charging non-members higher transaction fees is a common practice amongst exchanges and Members are subject to other fees and dues associated with their membership to the Exchange that do not apply to non-members. To the extent that there is additional competitive burden on market participants that are Public Customer not Priority Customers or Firms, the Exchange believes that this is appropriate because the proposal should incent Members to direct additional order flow to the Exchange and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. 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 fee 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

Written comments were neither solicited nor 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 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-MIAX-2015-16 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.

All submissions should refer to File Number SR-MIAX-2015-16. 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-MIAX-2015-16 and should be submitted on or before April 7, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Brent J. Fields,
Secretary.

[FR Doc. 2015-06009 Filed 3-16-15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74482; File No. SR-FINRA-2014-050]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Amended, To Require a Member To Identify Transactions With a Non-Member Affiliate and To Change How FINRA Disseminates a Subset of Such Transactions

March 11, 2015

I. Introduction

On November 21, 2014, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

⁹ See NASDAQ OMX PHLX LLC Pricing Schedule, Section II; NYSE Amex Options Fee Schedule, p. 6; Chicago Board Options Exchange, Incorporated, Fee Schedule, p. 1. See also Securities Exchange Act Release No. 68556 (January 2, 2013), 78 FR 1293 (January 8, 2013) (SR-BX-2012-074).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 200.30-3(a)(12).

(“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the FINRA Rule 6700 Series (Trade Reporting and Compliance Engine (TRACE)): (1) To add a new contra-party type to be used in TRACE reports to identify a transaction with a non-member affiliate, and (2) to require a firm to identify when a transaction with a non-member affiliate meets specified conditions, so that FINRA can suppress dissemination of such trade. The proposed rule change was published for comment in the **Federal Register** on December 11, 2014, and the comment period expired on January 2, 2015.³ The Commission received two comments on the proposal.⁴

On January 14, 2015, FINRA granted the Commission an extension of time to act on the proposal until March 11, 2015. On February 24, 2015, FINRA filed Amendment No. 1 with the Commission to respond to the comment letters and to propose modifications and clarifications to its proposal.⁵ The Commission is publishing this notice and order to solicit comments on Amendment No. 1 and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

FINRA has proposed to amend the TRACE rules 6700 Series: (1) To add a new contra-party type to be used in TRACE reports to identify a transaction with a non-member affiliate, and (2) to require a firm to identify when a transaction with a non-member affiliate meets specified conditions, so that FINRA can suppress dissemination of such trade.

FINRA Rule 6730 (Transaction Reporting) sets forth the requirements applicable to members for reporting transactions in TRACE-Eligible Securities. Rule 6730(c) (Transaction Information To Be Reported) describes the items of information that must be included in a TRACE trade report. Among other things, a member must identify the other side (*i.e.*, contra-party

or counterparty) for each transaction.⁶ Where the contra-party is a member, the reporting member must provide the contra-party's designated Market Participant ID (“MPID”) in the trade report. All other contra-parties (including non-member affiliates) can be identified only as a “customer” when reporting the transaction to TRACE.

FINRA has proposed to amend Rule 6730 to introduce a new contra-party type to identify a non-member affiliate of the member reporting the trade, and to disseminate publicly this contra-party identifier.⁷ Currently, when a member engages in a transaction with a non-member affiliate, that transaction is reported by the member as a trade with a customer.⁸ Thus, the proposal would provide FINRA and market participants with additional identifying information regarding the contra-party in the case of a member trade with a non-member affiliate.⁹

FINRA also proposed to require members to identify a narrow subset of transactions with non-member affiliates. Specifically, a member would need to apply a “Suppression Indicator” to a transaction between itself and a non-member affiliate where: (1) Each party is trading for its own account, and (2) the transaction with the non-member affiliate occurs within the same day, at the same price, and in the same security as a transaction engaged in by the member with a different counterparty (“Suppression Criteria”). Identification of these transactions by members would enable FINRA to suppress the transactions from dissemination on the tape, as FINRA believes that these transactions are not economically distinct from the disseminated transaction between the member and the other contra-party to the trade.

FINRA would suppress dissemination only where a member purchases or sells

a security and then, within the same trading day, engages in a back-to-back trade with its non-member affiliate in the same security at the same price.¹⁰ Because the transaction between the member and its non-member affiliate represents a change in beneficial ownership between different legal entities, it is a reportable transaction and is publicly disseminated under the current rule.

Implementation Schedule

FINRA stated in the Notice of Original Proposal that it would announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval, and that the implementation date would be no later than 90 days following publication of the *Regulatory Notice* announcing Commission approval.

In Amendment No. 1, FINRA revised its implementation schedule in response to commenters' concerns. FINRA stated that it would announce the implementation date in a *Regulatory Notice* to be published no later than 120 days following Commission approval, and the implementation date would be no sooner than 120 days, and no later than 270 days, following publication of the *Regulatory Notice*.¹¹

III. Summary of Comments, FINRA's Response, and Proposed Modifications and Clarifications in Amendment No. 1

As noted above, the Commission received two comment letters concerning the proposal.¹² Although both commenters were generally supportive of FINRA's goal to improve the quality of information reported to and disseminated by TRACE, one commenter supported the proposed requirement to identify and suppress back-to-back trades done with a non-member affiliate on the same day for the same price and in the same security¹³ while the other opposed it.¹⁴

The supporting comment letter acknowledged that continued dissemination of transactions that meet the Suppression Criteria would be

¹⁰ In FINRA's Response Letter, it clarified that, when a member and a non-member affiliate enter into a transaction in a TRACE-eligible security and do not initially include the Suppression Indicator, but meet the Suppression Criteria during the day, the member would not be required to correct the trade report to include the Suppression Indicator. However, if the Suppression Indicator is included but ultimately the transaction does not meet the Suppression Criteria, the member must correct the prior trade report and remove the Suppression Indicator. See FINRA Response Letter at 4–5.

¹¹ See FINRA Response Letter at 5.

¹² See *supra* note 4.

¹³ See SIFMA Letter at 1.

¹⁴ See Thomson Reuters Letter at 3.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 73762 (December 5, 2015), 79 FR 73670 (December 11, 2015) (“Notice of Original Proposal”).

⁴ See Letters to the Commission from Sean C. Davy, Managing Director, Securities Industry and Financial Markets Association, dated December 23, 2014 (“SIFMA Letter”) and Kyle C. Wooten, Deputy Director—Compliance and Regulatory, Thomson Reuters, dated January 2, 2015 (“Thomson Reuters Letter”).

⁵ See FINRA Response to Comments, dated February 24, 2015 (“FINRA Response Letter”). The FINRA Response Letter is included in the public comment file for SR-FINRA-2014-050.

⁶ FINRA Rule 6730(c)(6) provides that each TRACE trade report shall contain the contra-party's identifier.

⁷ The proposed rule change would define “non-member affiliate” in Rule 6710 as a non-member entity that controls, is controlled by, or is under common control with a member. For the purposes of this definition, “control,” along with any derivative thereof, means legal, beneficial, or equitable ownership, directly or indirectly, of 25 percent or more of the capital stock (or other ownership interest, if not a corporation) of any entity ordinarily having voting rights. The term “common control” means the same natural person or entity controls two or more entities.

⁸ FINRA's Response Letter indicated that a member may conduct a periodic assessment of its affiliate relationships to determine whether a relationship qualifies for non-member affiliate identification requirements. See FINRA Response Letter at 5.

⁹ The proposal would not change the way that a member reports a trade with an affiliate that also is a member; the reporting member would continue to identify the contra-party by MPID.

undesirable, but asked that FINRA permit members to check for affiliate status at specific or periodic points in time, because the level of ownership interest in an affiliate is subject to change over time.¹⁵ This commenter requested that FINRA better align and coordinate reporting changes both internally and with the MSRB. Coordination was requested to reduce the burden on updating technology and compliance processes by packaging potential changes together, thereby alleviating multiple changes at different times in the same year.¹⁶ This same commenter requested that FINRA and the MSRB work more closely to coordinate and use similar approaches and methodologies for trade reporting that would lower costs of implementation and maintenance.¹⁷

The other commenter was opposed to the proposal's requirement to identify and suppress back-to-back trades done with a non-member affiliate.¹⁸ This commenter believed that the effort and cost to implement the change would be unduly burdensome.¹⁹

Both commenters requested an extension in the implementation timeline of four²⁰ to six²¹ months for technological implementation. One commenter requested the additional time to provide sufficient time for implementation and to be less disruptive to the technology budgets, plans, and priorities for 2015.²² The commenter stated that the proposed timeframe was "too aggressive" and would "add to what already is a collective strain on industry technology and compliance resources and subject matter expertise."²³

FINRA's Response

In response to these comments concerning the implementation and application of the proposed rule change, FINRA filed Amendment No. 1.²⁴ FINRA extended the time period for implementation, as described above, and provided guidance on classifying an entity as a non-member affiliate. FINRA also reaffirmed that it would "continue to coordinate with other regulators, where practicable."²⁵

In addition, FINRA agreed that there are instances where including the Suppression Indicator would cause operational difficulties. Therefore, FINRA clarified that, when a member and a non-member affiliate enter into a transaction in a TRACE-Eligible Security and do not initially include the Suppression Indicator but meet the Suppression Criteria during the day, the member would not be required to correct the trade report to include the Suppression Indicator.²⁶ However, if the Suppression Indicator is included but ultimately the transaction does not meet the Suppression Criteria, the member must correct the prior trade report and remove the Suppression Indicator.²⁷

FINRA indicated that a member may conduct a periodic assessment of its affiliate relationships to determine whether a relationship qualifies for non-member affiliate identification requirements. The member may conduct a periodic assessment, no less than annually, unless the member has undergone an organizational or operational restructuring that would likely impact its prior identification of non-member affiliate relationships.²⁸

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-FINRA-2014-050 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-FINRA-2014-050. 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 the filing will also be available for inspection and copying at the principal office of FINRA. 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 publicly available. All submissions should refer to File Number SR-FINRA-2014-050 and should be submitted on or before April 7, 2015.

V. Commission Findings

After carefully considering the proposed rule change, the comments submitted, and FINRA's response to the comments and Amendment No. 1, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.²⁹ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 15A(b)(6) of the Act,³⁰ which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposal requires a reporting member to include a new "non-member affiliate" identifier in the reports of a transaction in a TRACE-Eligible Security, and to identify a narrow subset

²⁹ In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁰ 15 U.S.C. 78o-3(b)(6).

¹⁵ See SIFMA Letter at 2.

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ See Thomson Reuters Letter at 3.

¹⁹ See *id.*

²⁰ See SIFMA Letter at 1 (requesting an implementation period of four to five months).

²¹ See Thomson Reuters Letter at 2 (requesting an implementation period of "not less than six months. . .").

²² See Thomson Reuters Letter at 2.

²³ *Id.*

²⁴ See *supra* note 5.

²⁵ FINRA Response Letter at note 7.

²⁶ See FINRA Response Letter at 4-5 (stating that "where a member does not append the non-member affiliate—principal transaction indicator to a trade report reflecting a transaction with a non-member affiliate that ultimately proved to have been the initial leg of a same day, same price trade with another contra-party, the member would not be required to correct the prior trade report solely for the purpose of appending the indicator so long as the member did not reasonably expect (at the time of the initial trade report) to engage in a subsequent same day, same price transaction in the same security with another contra-party").

²⁷ See FINRA Response Letter at 5.

²⁸ See *id.*

of such transactions that meet the Suppression Criteria. FINRA stated that this additional information would facilitate a more effective surveillance program and improve post-trade transparency. The Commission believes that these new requirements are reasonably designed to carry out these objectives and are therefore consistent with the Act. Furthermore, the Commission does not believe that commenters raised any issue that would preclude approval of this proposal, and that FINRA reasonably responded to the comments in Amendment No. 1.

VI. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,³¹ for approving the proposed rule change, as modified by Amendment No. 1 thereto, prior to the 30th day after publication of Amendment No. 1 in the *Federal Register*. Amendment No. 1 responds to the specific issue regarding the implementation timeframe raised by both comment letters. Furthermore, Amendment No. 1 clarifies when the Suppression Indicator should be included as well as when to determine non-member affiliate status. The Commission notes that the rest of the proposed rule change is not being amended and was subject to a full notice-and-comment period. These revisions add clarity to the proposal and do not raise any novel regulatory concerns. Accordingly, the Commission finds that good cause exists to approve the proposal, as modified by Amendment No. 1, on an accelerated basis.

VII. Conclusion

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act³² that the proposed rule change (SR-FINRA-2014-050), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

Brent J. Fields,
Secretary.

[FR Doc. 2015-06012 Filed 3-16-15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74475; File No. SR-NASDAQ-2015-019]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Penny Pilot Options

March 11, 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 February 27, 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 proposes to modify Chapter XV, entitled “Options Pricing,” at Section 2 governing pricing for NASDAQ members using the NASDAQ Options Market (“NOM”),³ NASDAQ’s facility for executing and routing standardized equity and index options. Specifically, NOM proposes to amend certain Fees for Removing Liquidity.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on March 2, 2015.

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

NASDAQ proposes to modify Chapter XV, entitled “Options Pricing,” at Section 2(1) governing the fees assessed for option orders entered into NOM. Specifically, the Exchange proposes to increase the Professional,⁴ Firm,⁵ NOM Market Maker,⁶ Non-NOM Market Maker,⁷ and Broker-Dealer⁸ Penny Pilot Options⁹ Fees for Removing Liquidity.

⁴ The term “Professional” 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. The Exchange initially established Professional pricing in order to “. . . bring additional revenue to the Exchange.” See Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR-NASDAQ-2011-066). In this filing, the Exchange addressed the perceived favorable pricing of Professionals who were assessed fees and paid rebates like a Customer prior to the filing; and noted that a Professional, unlike a retail Customer, has access to sophisticated trading systems that contain functionality not available to retail Customers.

⁵ The term “Firm” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation (“OCC”).

⁶ The term “NOM Market Maker” means a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security. See Chapter XV. “Participant” means a firm, or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of participating in options trading on NOM as a “Nasdaq Options Order Entry Firm” or “Nasdaq Options Market Maker”. See Chapter I, Section (a)(40).

⁷ The term “Non-NOM Market Maker” is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

⁸ The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

⁹ The Penny Pilot was established in March 2008 and was last extended in 2014. See Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR-NASDAQ-2008-026) (notice of filing and immediate effectiveness establishing Penny Pilot); and 73686 (November 25, 2014), 79 FR 71477 (December 2, 2014) (SR-NASDAQ-2014-115) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2015). All Penny Pilot Options listed on the Exchange can be found at <http://www.nasdaqtrader.com/Micro.aspx?id=phlx>.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ NOM is a facility of NASDAQ. References in this proposal to Chapter and Series refer to NOM rules, unless otherwise indicated.

³¹ 15 U.S.C. 78s(b)(2).

³² 15 U.S.C. 78s(b)(2).

³³ 17 CFR 200.30-3(a)(12).