III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act, that the proposed rule change (SR–OCC–2017–001) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.14

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations: The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Billing Ports and Other Services


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 21, 2017, 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 Chapter XV, entitled "Options Pricing," at Section 3, which governs pricing for Exchange members using the NASDAQ Options Market ("NOM"), the Exchange’s facility for executing and routing standardized equity and index options. The Exchange proposes to clarify that NOM port fees and other services in Chapter XV, Section 3 of NOM Rules are not prorated.

The text of the proposed rule change is available on the Exchange’s Web site at http://nasdaq.cmwallst.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 purpose of the proposed rule change is to include language within Chapter XV, Section 3 to clarify that the port fees and other services noted in this section are not subject to proration.

Chapter XV, Section 3, entitled "NASDAQ Options Market—Ports and Other Services" includes pricing for TradeInfo,3 various port fees and RemoteITCH to Trade Options (ITTO) Wave Ports.4 The port fees include

3 TradeInfo allows an Options Participant to scan for all orders it submitted to NOM in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.) [sic]. Also, it permits a participant to cancel open orders at the port or firm mnemonic level. TradeInfo allows a NOM Participant to manage its order flow and mitigate risk by giving users the ability to view its orders and executions, as well as the ability to perform cancels at the port or firm mnemonic level. Finally, TradeInfo has the ability to download records of orders and executions for recordkeeping purposes.

4 These are wireless networks through which Nasdaq provides ITTO market data. A Remote Wave Port is a physical port located in Nasdaq’s space within a third-party’s (remote) data center that receives data delivered by Nasdaq via a wireless network, which is then simultaneously distributed to Wave Ports within that location. Clients must separately subscribe to the data received by the Remote Wave Port service.
Exchange does not prorate any of these per month fees. The Exchange proposes to add a clarifying sentence to make clear that fees are assessed in full month increments and are not prorated, to avoid any confusion.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act, in general, and further the objectives of Section 6(b)(5) of the Act, in particular, that it is designed to promote just and equitable principles of trade, 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, by clearly specifying in Chapter XV, Section 3 to all Options Participants in a uniform manner.

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 Exchange will uniformly assess the fees in Chapter XV, Section 3 to all Options Participants in a uniform manner.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b–4(f)(6) thereunder. Because the 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, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b–4(f)(6)(iii) so that the Exchange may implement the change upon filing specifying that the fees in Chapter XV, Section 3 of the Exchange’s Options Pricing rule will not be prorated. The Commission believes that adding the sentence to Chapter XV, Section 3 of the Exchange’s Options Pricing rule to state that fees are assessed in full-month increments, i.e., they are not prorated, will avoid confusion and thus serve to protect investors and the public interest. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed 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 change 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–NASDQ–2017–022 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–NASDQ–2017–022. 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 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–NASDQ–2017–022 and should be submitted on or before March 30, 2017.

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

Eduardo A. Aleman,  
Assistant Secretary.

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