

crossing quotations will enhance the usefulness of quotation information in the over-the-counter market, facilitate more fair and orderly markets and support market efficiency.

Where wide disparities in access fees are permitted, the prices of quotations are less useful and accurate. Therefore, FINRA believes that a cap on access fees would improve the usefulness and accuracy of quotations and address the potential distortions caused by substantial, disparate fees. Finally, FINRA believes that applying limit order display requirements to OTC Equity Securities would improve transparency in the OTC equity market and advance the goal of the public availability of quotation information, as well as fair competition, market efficiency, best execution and disintermediation.

FINRA believes that the proposed extension of the specified Regulation NMS protections to quoting and trading in OTC Equity Securities will prevent fraudulent and manipulative acts and practices in this market, promote just and equitable principles of trade, and protect investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *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**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2009-054 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-FINRA-2009-054. 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 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will 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-2009-054 and should be submitted on or before September 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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<sup>18</sup> 17 CFR 200.30-3(a)(12).

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-60521; File No. SR-NASDAQ-2009-076]

### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Processing of Orders on the NASDAQ Options Market**

August 18, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 13, 2009, The NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by Nasdaq. Nasdaq has designated the proposed rule change as effecting a change described under Rule 19b-4(f)(6) under the Act,<sup>3</sup> which renders the proposal effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change**

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in [brackets].<sup>4</sup>

\* \* \* \* \*

#### **Chapter VI Trading Systems**

##### **Sec. 1 Definitions**

The following definitions apply to Chapter VI for the trading of options listed on NOM.

(a)-(d) No change.

(e) The term "Order Type" shall mean the unique processing prescribed for designated orders that are eligible for entry into the System, and shall include:

(1)-(7) No Change.

[(8) "Additional Exposure Orders" are orders that are priced at the National Best Offer, for buys, and the National Best Bid, for sells. The order is exposed on the System Book Feed for a time determined by the Exchange, not to exceed one second. At the end of the exposure period, if still unexecuted, the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> Changes are marked to the rules of The NASDAQ Stock Market LLC found at <http://nasdaqomx.cchwallstreet.com>.

order will be routed to the market(s) at the NBBO, cancelled back to the entering party, or posted on the book pursuant to Section 7 of Chapter VI.

Any update to the NBBO that improves the exposed order price will cause an immediate end to the exposure period. Any unexecuted portion of the order will be routed to the market(s) at the NBBO, cancelled back to the entering party or posted on the book pursuant to Section 7 of Chapter VI.

Any update to the NBBO that unlocks the exposed order price will cause an immediate end to the exposure period. Any unexecuted portion of the order will be executed against contra interest on the book, routed to the market(s) at the NBBO, cancelled back to the entering party or posted on the book pursuant to Section 7 of Chapter VI.]

\* \* \* \* \*

## Sec. 6 Acceptance of Quotes and Orders

All bids or offers made and accepted on NOM in accordance with the NOM Rules shall constitute binding contracts, subject to applicable requirements of the Rules of the Exchange and the Rules of the Clearing Corporation.

(a) General—A System order is an order that is entered into the System for display and/or execution as appropriate. Such orders are executable against marketable contra-side orders in the System.

(1) All System Orders shall indicate limit price and whether they are a call or put and buy or sell. Systems Orders can be designated as Immediate or Cancel (“IOC”), Good-till-Cancelled (“GTC”), Day (“DAY”), WAIT or Expire Time (“EXPR”).

(2) A System order may also be designated as a Reserve Order, a Limit Order, a Minimum Quantity Order, a Discretionary Order, a Market Order, a Price Improving Order, or an Exchange Direct Order[, or an Additional Exposure Order].

\* \* \* \* \*

## Sec. 11 Order Routing

(a) For System securities, the order routing process shall be available to Participants from 9:30 a.m. Eastern Time until market close, and shall route orders as follows. Participants can designate orders as either available for routing or not available for routing. Orders designated as not available for routing shall follow the book processing rules set forth in Section 10 above. Orders designated as available for routing, will first check the System for available contracts for execution. After checking the System for available contracts, orders are sent to other available market centers for potential

execution, per entering firm’s instructions. When checking the book, the System will seek to execute at the price at which it would send the order to a destination market center. [Orders designated as Additional Exposure Orders, as defined in Chapter VI, Section 1, will be exposed on the System Book Feed prior to routing to other markets.] If contracts remain unexecuted after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. With the exception of the Minimum Quantity order type, all time-in-force parameters and order types may be used in conjunction with this routing option.

\* \* \* \* \*

## 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

Nasdaq has not yet implemented a recently approved rule change to the NOM rules, which would provide marketable orders an additional opportunity for execution on the NOM when NOM is not part of the NBBO.<sup>5</sup> Upon further review, Nasdaq proposes to eliminate this additional opportunity for execution on the NOM.

#### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and with Sections 6(b)(5) of the Act,<sup>7</sup> in particular, in that the proposal is 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.

### B. Self-Regulatory Organization’s Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

### 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 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) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> See Securities Exchange Act Release No. 60335 (July 17, 2009), 74 FR 36790 (July 24, 2009) (SR-NASDAQ-2009-066).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of 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 Commission deems this requirement to have been met.

*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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2009-076 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2009-076. 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 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 inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 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-2009-076 and should be submitted on or before September 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**DEPARTMENT OF STATE****[Public Notice 6738]**

**Notice of Issuance of a Presidential Permit for the Proposed Enbridge Energy Alberta Clipper Pipeline Project**

August 26, 2009.

**AGENCY:** Department of State.

**ACTION:** Notice of Issuance of a Presidential Permit for the Proposed Enbridge Energy Alberta Clipper Pipeline Project.

**SUMMARY:** This notice announces that on August 20, 2009, the Department of State issued a Presidential Permit to Enbridge Energy, Limited Partnership ("Enbridge") authorizing it to construct, connect, operate, and maintain facilities at the border of the United States and Canada for the transport of crude oil between the United States and Canada across the international boundary.

On May 15, 2007, Enbridge submitted an application to the U.S. Department of State (DOS) for construction, connection, operation, and maintenance of an oil pipeline and associated facilities at the U.S.-Canada border to enable Enbridge to import heavy crude oil from Canada (the Alberta Clipper Project).

Executive Order 13337 of April 30, 2004, as amended, delegates to the Secretary of State the President's authority to receive applications for permits for the construction, connection, operation, or maintenance of facilities, including pipelines, for the exportation or importation of petroleum, petroleum products, coal, or other fuels at the border of the United States and to issue or deny such Presidential Permits upon a national interest determination. The functions assigned to the Secretary have been further delegated within the Department of State to, inter alia, the Deputy Secretary of State.

Consistent with the National Environmental Policy Act of 1969 ("NEPA"), 42 U.S.C. 4321-4370f, the Council of Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR parts 1500-1508, and the Department's regulations for the implementation of NEPA, 22 CFR part 161, an Environmental Impact Statement (EIS) on potential issuance of a Presidential Permit for the construction, connection, operation, and maintenance of the pipeline was prepared by Entrix, Inc., a contractor selected by the Department of State.

The Department of State published in the **Federal Register** a Notification of Receipt of the Enbridge Application for

a permit on May 25, 2007 (72 FR 29360). That notification solicited public comment on the application for a 30-day period. Thereafter, the Department published in the **Federal Register** a Notification of Intent to Prepare an Environmental Impact Statement on March 31, 2008 (73 FR 16920). The Department's Notice of Availability of the Draft EIS and request for public comment was published in the **Federal Register** on December 5, 2008 (73 FR 74221), seeking comments by January 30, 2009. The Department received 850 public comments in response to this notice and took them into account in making its determination on the Enbridge application.

As required by Executive Order 13337, the Enbridge pipeline application and a Draft Environmental Impact Statement were transmitted to Federal agencies for their review and comment on December 5, 2008. The Department of State received no objections from Federal agencies regarding the issuance of a permit. The Department published a notice of the availability of the Final Environmental Impact Statement in the **Federal Register** on June 8, 2009 (74 FR 27229).

Consistent with its authority under Executive Order 13337, the Department reviewed all of the available information and documentation, including comments submitted by Federal and State agencies and the public. On August 3, 2009, the Secretary's Delegate, Deputy Secretary James B. Steinberg, signed the Record of Decision and National Interest Determination, which states that issuance of the Presidential Permit for the Alberta Clipper Pipeline Project would serve the national interest.

Executive Order 13337 requires that Secretaries or Heads of certain agencies be notified of the Department's proposed determination concerning issuance of the Presidential Permit. Any agency required to be consulted under section 1(g) of the Order that disagrees with the proposed determination may notify the Secretary of State within 15 days of being notified that it disagrees with the determination and request that the Secretary refer the application to the President. On August 4, 2009, as required under section 1(g) of the Executive Order, the Department notified all agencies of its intent to issue the Permit. The Department received no objections from notified agencies.

On August 3, 2009, Deputy Secretary of State James B. Steinberg, signed the Presidential Permit, and on August 20, 2009, the Department issued the Permit to Enbridge.

<sup>10</sup> 17 CFR 200.30-3(a)(12).