

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68720; File No. SR-NASDAQ-2013-011]

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

January 24, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 16, 2013, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("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

NASDAQ proposes to list and trade option contracts overlying 10 shares of a security ("Mini Options") applicable to NASDAQ members using The

NASDAQ Options Market ("NOM"), NASDAQ's facility for executing and routing standardized equity and index options.

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. 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 amend Chapter IV, Section 6 (Series of Options Contracts Open for Trading) and Chapter VI, Section 4 (Meaning of Premium Quotes and Orders) to list and trade Mini Options overlying five (5) high-priced securities for which the standard contract overlying the same security exhibits significant liquidity. Specifically, the Exchange proposes to list Mini Options

on SPDR S&P 500 ("SPY"), Apple, Inc. ("AAPL"), SPDR Gold Trust ("GLD"), Google Inc. ("GOOG") and Amazon.com Inc. ("AMZN").<sup>3</sup> The Exchange believes that this proposal would allow investors to select among options on various high-priced and actively traded securities, each with a unit of trading ten times lower than that of the regular-sized options contracts, or 10 shares, similar to other options exchanges. In addition, the Exchange proposes a technical amendment to Chapter III, Section 7 (Position Limits) to make the rule text consistent.

For example, with Apple Inc. ("AAPL") trading at \$605.85 on March 21, 2012, (\$60,585 for 100 shares underlying a standard contract), the 605 level call expiring on March 23 was trading at \$7.65. The cost of the standard contract overlying 100 shares would be \$765, which is substantially higher in notional terms than the average equity option price of \$250.89.<sup>4</sup> Proportionately equivalent mini-options contracts on AAPL would provide investors with the ability to manage and hedge their portfolio risk on their underlying investment, at a price of \$76.50 per contract. In addition, investors who hold a position in AAPL at less than the round lot size would still be able to avail themselves of options to manage their portfolio risk. For example, the holder of 50 shares of AAPL could write covered calls for five mini-options contracts. The table below demonstrates the proposed differences between a mini-options contract and a standard contract with a strike price of \$125 per share and a bid or offer of \$3.20 per share:

|                                       | Standard   | Mini      |
|---------------------------------------|------------|-----------|
| Share Deliverable Upon Exercise ..... | 100 shares | 10 shares |
| Strike Price .....                    | 125        | 125       |
| Bid/Offer .....                       | 3.20       | 3.20      |
| Premium Multiplier .....              | \$100      | \$10      |
| Total Value of Deliverable .....      | \$12,500   | \$1,250   |
| Total Value of Contract .....         | \$320      | \$32      |

The Exchange currently lists and trades standardized option contracts on a number of equities and Exchange-Traded Funds ("ETFs") each with a unit of trading of 100 shares. Except for the

difference in the deliverable of shares, the proposed Mini Options would have the same terms and contract characteristics as regular-sized equity and ETF options, including exercise

style. All existing Exchange rules applicable to options on equities and ETFs would apply to Mini Options. With respect to position<sup>5</sup> and exercise limits, the applicable position and

<sup>24</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> These issues were selected because they are priced greater than \$100 and are among the most actively traded issues, in that the standard contract exhibits average daily volume ("ADV") over the previous three calendar months of at least 45,000 contracts, excluding LEAPS and FLEX series. The

Exchange notes that any expansion of the program would require that a subsequent proposed rule change be submitted to the Commission.

<sup>4</sup> A high priced underlying security may have relatively expensive options, because a low percentage move in the share price may mean a large movement in the options in terms of absolute dollars. Average non-FLEX equity option premium per contract January 1-December 31, 2011. See

<http://www.theocc.com/webapps/monthly-volume-reports?reportClass=equity>.

<sup>5</sup> Position limits applicable to a regular-sized option contract would also apply to the Mini Options on the same underlying security, with 10 Mini Option contracts counting as one regular-sized contract. Positions in both the regular-sized option contract and Mini Options on the same security will be combined for purposes of calculating positions.

exercise limits applicable to NOM Options Participants are those limits permitted by another options exchange.<sup>6</sup> Further, hedge exemptions will apply to NOM Option Participants if such exemption is permitted by another exchange and that exchange's rules apply to the NOM Option Participant pursuant to Chapter III, Section 8.<sup>7</sup>

Also, of note, NYSE Arca, Inc. ("NYSE Arca") lists and trades option contracts overlying a number of shares other than 100.<sup>8</sup> Moreover, the concept of listing and trading parallel options products of reduced values and sizes on the same underlying security is not novel. For example, parallel product pairs on a full-value and reduced-value basis are currently listed on the S&P 500 Index ("SPX" and "XSP," respectively), the Nasdaq 100 Index ("NDX" and "MNX," respectively) and the Russell 2000 Index ("RUT" and "RMN," respectively).

The Exchange believes that the proposal to list Mini Options will not lead to investor confusion. There are two important distinctions between Mini Options and regular-sized options that are designed to ease the likelihood of any investor confusion. First, the premium multiplier for the proposed Mini Options will be 10, rather than 100, to reflect the smaller unit of trading. To reflect this change, the Exchange proposes to add language to Chapter VI, Section 4(a)(i) which notes that bids and offers for an option contract overlying 10 shares would be expressed in terms of dollars per 1/10th part of the total value of the contract. Thus, an offer of ".50" shall represent an offer of \$5.00 on an option contract having a unit of trading consisting of 10 shares. Second, the Exchange intends to designate Mini Options with different trading symbols than those designated for the regular-sized contract. For example, while the trading symbol for regular option contracts for Apple, Inc. is AAPL, the Exchange proposes to adopt AAPL7 as the trading symbol for Mini Options on that same security.

The Exchange proposes to add rule text to Supplementary Material to Chapter IV, Section 6 to reflect that after an option class on a stock, Exchange-Traded Fund Share, Trust Issued Receipt, Exchange Traded Note, and other Index Linked Security with a 100 share deliverable has been approved for listing and trading on the Exchange,

series of option contracts with a 10 share deliverable on that stock, Exchange-Traded Fund Share, Trust Issued Receipt, Exchange Traded Note, and other Index Linked Security may be listed for all expirations opened for trading on the Exchange. Also, the Exchange is amending Supplementary Material to Chapter IV, Section 6 to reflect that strike prices for Mini Options shall be set at the same level as for regular options. For example, a call series strike price to deliver 10 shares of stock at \$125 per share has a total deliverable value of \$1,250, and the strike price will be set at 125. Further, the Exchange proposes to add rule text to Supplementary Material to Chapter IV, Section 6 to not permit the listing of additional series of Mini Options if the underlying is trading at \$90 or less to limit the number of strikes once the underlying is no longer a high priced security. The Exchange proposes a \$90.01 minimum for continued qualification so that additional series of Mini Options that correspond to standard strikes may be added even though the underlying has fallen slightly below the initial qualification standard. In addition, the underlying security must be trading above \$90 for five consecutive days before the listing of Mini Option contracts in a new expiration month. This restriction will allow the Exchange to list strikes in Mini Options without disruption when a new expiration month is added even if the underlying has had a minor decline in price. The same trading rules applicable to existing equity and ETF options would apply, including Market Maker obligations, to Mini Options.<sup>9</sup>

The Exchange notes that by listing the same strike price for Mini Options as for regular options, the Exchange seeks to keep intact the long-standing relationship between the underlying security and an option strike price thus allowing investors to intuitively grasp the option's value, *i.e.*, option is in the money, at the money or out of the money. The Exchange believes that by not changing anything but the multiplier and the option symbol, as discussed above, retail investors will be able to grasp the distinction between regular option contracts and Mini Options. The Exchange notes that The Options Clearing Corporation ("the OCC") Symbolology is structured for contracts that have a deliverable of other than 100 shares to be designated with a numeric added to the standard trading symbol. Further, the Exchange believes that the contract characteristics of Mini

Options are consistent with the terms of the Options Disclosure Document.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the potential additional traffic associated with the listing and trading of Mini Options. The Exchange has further discussed the proposed listing and trading of Mini Options with the OCC, which has represented that it is able to accommodate the proposal. In addition, the Exchange would file a proposed rule change to adopt transaction fees specific to Mini Options for listing and trading Mini Options. The current options pricing in Chapter XV would not apply to Mini Options.

The Exchange is also proposing to amend Chapter III, Section 7 (Position Limits) to add parentheses to certain subsections for consistency with other NASDAQ Rules. These filings are [sic] similar to filings by NYSE Arca, Inc. ("NYSE Arca") and the International Securities Exchange LLC ("ISE") to list and trade options contracts overlying 10 shares of certain securities.<sup>10</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of [sic] Act,<sup>11</sup> in general, and with Section 6(b)(5) of the Exchange Act,<sup>12</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 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 Exchange believes that investors would benefit from the introduction and availability of Mini Options by making options on high priced securities more readily available as an investing tool at more affordable prices, particularly for average retail investors, who otherwise may not be able to participate in trading options on high priced securities. The Exchange intends to adopt a different trading symbol to distinguish Mini Options from its currently listed option contracts and therefore, eliminate investor confusion with respect to

<sup>6</sup> See Chapter III, Sections 7 (Position Limits) and 9 (Exercise Limits).

<sup>7</sup> See Chapter III, Section 8 (Exemptions from Position Limits).

<sup>8</sup> See Securities Exchange Act Release No. 44025 (February 28, 2001) 66 FR 13986 (March 8, 2001) (approving SR-PCX-01-12).

<sup>9</sup> See Chapter VII, Section 6(d).

<sup>10</sup> See Securities Exchange Act Release No. 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (SR-NYSEArca-2012-64) (SR-ISE-2012-58). NYSE Arca and ISE received approval to list and trade options contracts overlying 10 shares of certain securities.

<sup>11</sup> 15 U.S.C. 78f.

<sup>12</sup> 15 U.S.C. 78f(b)(5).

product distinction. Moreover, the proposed rule change is designed to protect investors and the public interest by providing investors with an enhanced tool to reduce risk in high priced securities. In particular, Mini Options would provide retail customers who invest in SPY, AAPL, GLD, GOOG and AMZN in lots of less than 100 shares with a means of protecting their investments that is currently only available to those who have positions of 100 shares or more. Further, the proposed rule change is limited to just five high priced securities to ensure that only securities that have significant options liquidity and therefore, customer demand, are selected to have Mini Options listed on them.

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

The Exchange does not believe that the rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to recently approved NYSE Arca and ISE filings. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

#### *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**

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</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 Exchange has fulfilled this requirement.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that it can list and trade the proposed mini options as soon as it is able.<sup>15</sup> The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>16</sup> The Commission notes the proposal is substantively identical to proposals that were recently approved by the Commission, and does not raise any new regulatory issues.<sup>17</sup> For these reasons, the Commission designates the proposed rule change as 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.

### **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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2013-011 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-2013-011. 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-NASDAQ-2013-011 and should be submitted on or before February 20, 2013.

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

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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<sup>15</sup> The Commission notes that the Exchange's current options pricing will not apply to the trading of Mini Options, and the Exchange will not commence trading of Mini Options until transaction fees specific to Mini Options have been filed with the Commission.

<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>17</sup> See Securities Exchange Act Release No. 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (SR-NYSEArca-2012-64 and SR-ISE-2012-58).

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