

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58778A; File No. SR-CBOE-2008-90]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change Related to Trades in Restricted Classes; Correction

October 23, 2008.

In FR Doc. No. E8-24971, for Tuesday, October 21, 2008, on page 62577, third column, first full paragraph, the first sentence is revised to read:

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<sup>4a</sup> and, in particular, the requirements of Section 6(b) of the Act<sup>5</sup> and the rules and regulations thereunder.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority (17 CFR 200.30-(a)(12).

Florence E. Harmon,  
Acting Secretary.

[FR Doc. E8-25627 Filed 10-27-08; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58827; File No. SR-NASDAQ-2008-083]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Nasdaq Options Maintenance Tool and Related Fees

October 21, 2008.

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 October 16, 2008, The NASDAQ Stock Market LLC ("Nasdaq"), 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 Nasdaq. The Exchange filed the

proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</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

Nasdaq proposes to establish a new service and related fees for use on the Nasdaq Options Market. The new Nasdaq Options Maintenance Tool will enable subscribers to query trades, correct trades and/or allocate trades to appropriate accounts and sub-accounts.

The text of the proposed rule change is below. Proposed new language is *italicized*.<sup>5</sup>

\* \* \* \* \*

#### 7039. Nasdaq Options Maintenance Tool

*The Nasdaq Options Maintenance Tool will be available to each user at no cost until October 31, 2008, and for a subscription fee of \$200 per month, per user thereafter.*

\* \* \* \* \*

#### 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 proposes to establish a new service, the Nasdaq Options Maintenance Tool ("OMT"), and establish related fees. The OMT is a new web-based options back-office tool that gives users the ability to query trades, correct trades and/or allocate trades to the appropriate accounts and sub-

accounts for clearing. The Options Clearing Corporation ("OCC") requires firms to provide certain information when submitting a trade for clearing. Currently, other options exchanges make available to firms a tool with which they can correct trade clearing information that is submitted to the OCC.<sup>6</sup> Certain firms have requested that Nasdaq provide a similar tool so that they may correct their trade-related clearing information. In response, Nasdaq has developed the OMT, which will allow users to correct certain OCC-required trade information. Specifically, the OMT will allow a firm to correct a trade's account number or designate a sub-account number, correct a trade's designation as opening or closing, and change the Clearing Member Trade Assignment clearing firm. The OMT will also allow firms to correct a trade's OCC designation as Customer, Firm, or Market Maker.

Nasdaq proposes to offer the OMT at no cost through October 31, 2008, after which Nasdaq proposes to charge a subscription fee of \$200 per month, per user. Nasdaq believes the subscription fee fairly reflects the value of this product. Use of the OMT is voluntary and the subscription fee will be imposed on all purchasers equally based on the number of users selected.

The proposed fee will cover the costs associated with establishing the service, responding to customer requests, configuring Nasdaq's systems, programming to user specifications, and administering the service, among other things. The OMT is responsive to the requests of market participants, some of whom have determined that they could not participate on the Nasdaq Options Platform until they had this functionality was [sic] available.

###### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general, and with Section 6(b)(5) of the Act,<sup>8</sup> in particular, because it is designed to prevent fraudulent and

<sup>6</sup> See e.g., the International Securities Exchange PrecISE, and the Boston Options Exchange Back Office Trade Management Software. Certain firms have requested that Nasdaq provide a similar tool so that they may correct their trade-related clearing information. In response, Nasdaq has developed the OMT, which will allow users to correct certain OCC-required trade information. Specifically, the OMT will allow a firm to correct a trade's account number or designate a sub-account number, correct a trade's designation as opening or closing, and change the Clearing Member Trade Assignment clearing firm. The OMT will also allow firms to correct a trade's OCC designation as Customer, Firm, or Market Maker.

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

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

<sup>4a</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

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

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

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

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

<sup>5</sup> Changes are marked to the rules of The NASDAQ Stock Market LLC found at <http://nasdaqomx.cchwallstreet.com>.