

Required fields are shown with yellow backgrounds and asterisks.

Filing by NASDAQ Stock Market  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action * <input type="checkbox"/> Date Expires * <input type="text"/>			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) <input type="checkbox"/> Section 806(e)(2) <input type="checkbox"/>	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) <input type="checkbox"/>
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Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

A Proposed Rule Change to Permit the Minimum Price Variation for Mini Options to be the Same as Permitted for Standard Options on the Same Security.

**Contact Information**  
Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Jurij	Last Name * Trypupenko
Title * Associate General Counsel	
E-mail * jurij.trypupenko@nasdaqomx.com	
Telephone * (301) 978-8132	Fax (301) 978-8472

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,  
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date 03/14/2013	Executive Vice President and General Counsel
By Edward S. Knight	
(Name *)	Edward S Knight,

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> The NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend the rules of the NASDAQ Options Market (“NOM”) in Chapter IV (Securities Traded on NOM), Supplementary Material .08 to Section 6 (Series of Options Contracts Open for Trading), and Chapter VI (Trading Systems), Section 5 (Minimum Increments) to permit the minimum price variation for Mini Options contracts that deliver 10 shares to be the same as permitted for standard options that deliver 100 shares on the same security.

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).<sup>3</sup>

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange (the “Board”)

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<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)(iii).

on July 10, 2012. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to Jurij Trypupenko, Associate General Counsel, NASDAQ OMX Group, Inc., at (301) 978-8132.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The purpose of this proposal is to change the rules of NOM in Chapter IV, Supplementary Material .08 to Section 6, and Chapter VI, Section 5 to permit the minimum price variation for Mini Options contracts that deliver 10 shares to be the same as permitted for standard options that deliver 100 shares on the same security.

This filing is based on a recent proposal of Chicago Board Options Exchange, Inc. ("CBOE"), with virtually identical rule text in CBOE Rules 6.42 and 5.5.<sup>4</sup>

The Exchange recently amended its rules to allow for the listing of Mini Options that deliver 10 physical shares on SPDR S&P 500 ("SPY"), Apple, Inc. ("AAPL"), SPDR Gold Trust ("GLD"), Google Inc. ("GOOG") and Amazon.com Inc. ("AMZN").<sup>5</sup> Mini Options trading is expected to commence in March 2013. Prior to the commencement of trading Mini Options, the Exchange proposes to establish and permit

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<sup>4</sup> See Securities Exchange Act Release No. 69124 (March 12, 2013)(SR-CBOE-2013-016; SR-ISE-2013-08)(approval order).

<sup>5</sup> See Securities Exchange Act Release No. 68720 (January 24, 2013), 78 FR 6382 (January 30, 2013)(SR-NASDAQ-2013-011)(notice of filing and immediate effectiveness of proposed rule change establishing Mini Options on NOM).

the minimum price variation for Mini Option contracts to be the same as permitted for standard options on the same security. In addition to giving market participants clarity as to the minimum pricing increments for Mini Options, the filing would harmonize penny pricing between Mini Options and standard options on the same security.

Of the five securities on which Mini Options are permitted, four of them (SPY, AAPL, GLD and AMZN) participate in the Penny Pilot Program.<sup>6</sup> Under the Penny Pilot Program:

- the minimum price variation for AAPL, GLD and AMZN options is \$0.01 for all quotations in series that are quoted at less than \$3 per contract and \$0.05 for all quotations in series that are quoted at \$3 per contract or greater; and
- the minimum price variation for SPY options is \$0.01 for all quotations in all series.<sup>7</sup>

In the lead up to the launch of Mini Options trading on an industry-wide basis, firms with customer bases of potential product users have indicated a preference that premium pricing for Mini Options match what is currently permitted for standard options that deliver 100 physical shares on the same securities. The Exchange understands that firms' systems are configured using the "root symbol" of an underlying security and cannot differentiate, for purposes of minimum variation pricing, between contracts on the

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<sup>6</sup> The Penny Pilot was established in March 2008 and was last extended in December 2012. 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 68519 (December 21, 2012), 78 FR 136 (January 2, 2013)(SR-NASDAQ-2012-143)(notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2013).

<sup>7</sup> Chapter VI, Section 5(a)(3).

same security. Mini Options will be loaded into firms' systems using the same "root symbol" that is used for standard options on the same security. As a result, it is believed that existing systems will not be able to assign different minimum pricing variations to different contracts on the same security. As a result, firms have indicated their preference that there be matched pricing between Mini Options and standard options on the same security because their systems, which are programmed using "root symbols," would not be able to assign different minimum pricing variations to Mini Options and standard options on the same security.

Because Mini Options are a separate class from standard options on the same security, Mini Options would have to qualify separately for entry into the Penny Pilot Program. This, however, is not possible by product launch (or possibly ever) for a number of reasons. First, there is a six calendar month trading volume criteria for entry into the Penny Pilot Program, which Mini Options cannot satisfy prior to launch. Second, even if Mini Options met the trading volume criteria, replacement classes are only added to the Penny Pilot Program on the second trading day following January 1 and July 1 in a given year. Finally, there is a price test for entry into the Penny Pilot Program which excludes "high premium" classes, which are defined as classes priced at \$200 per share or higher at the time of selection. As of the date of this filing, three of the five securities (AAPL, AMZN and GOOG) eligible for Mini Options would be excluded as "high premium" classes, even though two of those securities (AAPL and AMZN) are in

the Penny Pilot Program for standard options. The Exchange notes that GOOG is not in the Penny Pilot Program.<sup>8</sup>

The Exchange, therefore, is proposing to establish a pricing regime for Mini Options separate from the Penny Pilot Program that permits the minimum price variation for Mini Option contracts to be the same as permitted for standard options on the same security, which would encompass penny pricing for Mini Option contracts on securities that participate in the Penny Pilot Program.<sup>9</sup>

As to the Penny Pilot Program, the Exchange believes that there are several good reasons to allow penny pricing for Mini Options on securities that currently participate in the Penny Pilot Program, without requiring Mini Options to separately qualify for the Penny Pilot Program. First, the Penny Pilot Program applies to the most actively-traded, multiply-listed option classes. Likewise, the five securities which may underlie Mini Options were chosen because of the significant liquidity in standard options on the same security. The Exchange also believes that the marketplace and investors will be expecting the minimum price variation for contracts on the same security to be the same.

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<sup>8</sup> The minimum price variation for standard options on GOOG is \$0.05 for all quotations in series that are quoted at less than \$3 per contract and \$0.10 for all quotations in series that are quoted at \$3 per contract or greater. See Chapter VI, Section 5(a).

<sup>9</sup> As noted in the Exchange's original Mini Option filing, Mini Options are limited to five securities and any expansion of the program would require that a subsequent proposed rule change be submitted to the Commission. The current proposal is limited to the five securities originally approved to underlie Mini Options. The Exchange anticipates that a similar minimum pricing variation regime would be included in any rule change to expand the Mini Option program. See Securities Exchange Act Release No. 68720 (January 24, 2013), 78 FR 6382 (January 30, 2013)(SR-NASDAQ-2013-011)(notice of filing and immediate effectiveness of proposed rule change establishing Mini Options on NOM).

Second, one of the primary goals of the Penny Pilot Program is to narrow the bid-ask spreads of exchange-traded options to reduce the cost of entering and exiting positions. This same goal can similarly be accomplished by permitting penny pricing for Mini Option contracts on securities that already participate in the Penny Pilot Program. Finally, the Exchange believes that penny pricing for Mini Options is desirable for a product that is geared toward retail investors. Mini Options are on high priced securities and are meant to be an investment tool with more affordable and realistic prices for the average retail investor. Penny pricing for Mini Options on securities that are currently in the Penny Pilot Program would benefit the anticipated users of Mini Options by providing more price points. The Exchange notes that it is not requesting penny pricing for all of the five securities eligible for Mini Options trading; but rather is seeking to permit matched penny pricing for Mini Options on those securities for which standard options already trade in pennies.

To effect the current proposed rule changes, the Exchange proposes to add new language in Chapter IV, Supplementary Material .08 to Section 6, and in Chapter VI, Section 5. As to Chapter VI, Section 5, the Exchange proposes adding new subsection (a)(4) that has an internal cross reference to new proposed Chapter IV, Supplementary Material .08(d) to Section 6 as the provision that sets forth the minimum price variation for bids and offers for Mini Options. As to Supplementary Material .08 to Section 6, the Exchange proposes adding new subsection (d), which would provide as follows:

The minimum price variation for bids and offers for Mini Options shall be the same as permitted for standard options on the same security. For example, if a security participates in the Penny Pilot Program, Mini Options on the same underlying security may be quoted in the same minimum increments, e.g., \$0.01 for all quotations in series that are quoted at less than \$3 per contract and \$0.05 for all



quotations in series that are quoted at \$3 per contract or greater, \$0.01 for all SPY option series, and Mini Options do not separately need to qualify for the Penny Pilot Program.

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 this proposal. The Exchange does not believe that this increased traffic will become unmanageable since Mini Options are limited to a fixed number of underlying securities.

b. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.<sup>10</sup> In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that investors and other market participants would benefit from the current rule proposal because it would clarify and establish the

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<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

minimum price variation for Mini Options prior to the commencement of trading. The Exchange believes that the marketplace and investors will be expecting the minimum price variation for contracts on the same security to be the same. As a result, the Exchange believes that this change would lessen investor and marketplace confusion because Mini Options and standard options on the same security would have the same minimum price variation.

While price protection between Mini Options and standard options on the same security is not required, the Exchange believes that consistency between Mini Options and standard options as to the minimum price variation is desirable and is designed to promote just and equitable principles of trade. Matching the minimum price variation between Mini Options and standard options on the same security would help to eliminate any unnecessary arbitrage opportunities that could result from having contracts on the same underlying security traded in different minimum price increments. Similarly, matched minimum pricing would hopefully generate enhanced competition among liquidity providers. The Exchange believes that matched pricing for Mini Options and standard options on the same security would attract additional liquidity providers who would make markets in Mini Options and standard options on the same security. In addition to the possibility of more liquidity providers, the Exchange believes that the ability to quote Mini Options and standard options on the same security in the same minimum increments would hopefully result in more efficient pricing via arbitrage and possible price improvement in both contracts on the same security. The Exchange also believes that allowing penny pricing for Mini Options on securities that currently participate in the Penny Pilot Program (without Mini Options having to qualify separately

for entry into the Penny Pilot Program) will benefit the marketplace and investors because penny pricing in Mini Options may also accomplish one of the primary goals of the Penny Pilot Program, which is to narrow the bid-ask spreads of exchange-traded options to reduce the cost of entering and exiting positions. Finally, the proposed rule would be beneficial from a logistical perspective since firms' existing systems are configured using the "root symbol" of an underlying security and would not be able to assign different minimum pricing variations to Mini Options and standard options on the same security.

4. 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. Specifically, since Mini Options are permitted on multiply-listed classes, other exchanges that have received approval to trade Mini Options will have the opportunity to similarly establish the minimum price variation for Mini Options prior to the anticipated launch on or about March 18, 2013. The Exchange also believes that the proposed rule change will enhance competition by allowing products on the same security to be priced in the same minimum price increments.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A)<sup>12</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

The Exchange asserts that the proposed rule change effects a change that (i) does not significantly affect the protection of investors or the public interest, (ii) does not impose any significant burden on competition, and (iii) by its terms, does not become operative for 30 days after its filing date, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, 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 period to the extent necessary for uniform industry-wide implementation of the proposed pricing for Mini Options. The Exchange believes that the changes proposed herein (i.e., establishment of minimum price variation for Mini Options) should be effective prior to or on the anticipated launch date of March 18, 2013 in order to minimize confusion and to provide clarity. Waiver would allow for a consistent pricing regime for Mini Options across options exchanges, so that Mini Options do not begin trading at inconsistent prices. The Exchange believes that such an outcome could create confusion and should be avoided. As a result, the Exchange

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

believes that good reason exists for the Commission to waive the operative delay.

Waiver of the operative delay is consistent with the protection of investors and the public interest because clarifying the rules would harmonize the Exchange's rules internally as well as with the rules of other options exchanges including CBOE. This would eliminate potential confusion and be beneficial to the Exchange and its traders, market participants, and public investors in general.

Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

For the foregoing reasons, the Exchange believes the rule filing qualifies for expedited effectiveness as a "non-controversial" rule change under Rule 19b-4(f)(6) of the Act.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The rule change is, as noted, based on CBOE Rules 6.42 and 5.5.<sup>14</sup> There are no material differences between the proposed rules and the CBOE rules on which they are based.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

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<sup>14</sup> See Securities Exchange Act Release No. 69124 (March 12, 2013)(SR-CBOE-2013-016; SR-ISE-2013-08)(approval order).

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.

5. Text of the proposed rule change.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-NASDAQ-2013-047)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Permit the Minimum Price Variation for Mini Options to be the Same as Permitted for Standard Options on the Same Security

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 March 14, 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, II, and III 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the rules of the NASDAQ Options Market (“NOM”) in Chapter IV (Securities Traded on NOM), Supplementary Material .08 to Section 6 (Series of Options Contracts Open for Trading), and Chapter VI (Trading Systems), Section 5 (Minimum Increments) to permit the minimum price variation for Mini Options contracts that deliver 10 shares to be the same as permitted for standard options that deliver 100 shares on the same security.

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

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

The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at the Exchange's principal office, 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 this proposal is to change the rules of NOM in Chapter IV, Supplementary Material .08 to Section 6, and Chapter VI, Section 5 to permit the minimum price variation for Mini Options contracts that deliver 10 shares to be the same as permitted for standard options that deliver 100 shares on the same security.

This filing is based on a recent proposal of Chicago Board Options Exchange, Inc. ("CBOE"), with virtually identical rule text in CBOE Rules 6.42 and 5.5.<sup>3</sup>

The Exchange recently amended its rules to allow for the listing of Mini Options that deliver 10 physical shares on SPDR S&P 500 ("SPY"), Apple, Inc. ("AAPL"),

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<sup>3</sup> See Securities Exchange Act Release No. 69124 (March 12, 2013)(SR-CBOE-2013-016; SR-ISE-2013-08)(approval order).



SPDR Gold Trust (“GLD”), Google Inc. (“GOOG”) and Amazon.com Inc. (“AMZN”).<sup>4</sup> Mini Options trading is expected to commence in March 2013. Prior to the commencement of trading Mini Options, the Exchange proposes to establish and permit the minimum price variation for Mini Option contracts to be the same as permitted for standard options on the same security. In addition to giving market participants clarity as to the minimum pricing increments for Mini Options, the filing would harmonize penny pricing between Mini Options and standard options on the same security.

Of the five securities on which Mini Options are permitted, four of them (SPY, AAPL, GLD and AMZN) participate in the Penny Pilot Program.<sup>5</sup> Under the Penny Pilot Program:

- the minimum price variation for AAPL, GLD and AMZN options is \$0.01 for all quotations in series that are quoted at less than \$3 per contract and \$0.05 for all quotations in series that are quoted at \$3 per contract or greater; and
- the minimum price variation for SPY options is \$0.01 for all quotations in all series.<sup>6</sup>

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<sup>4</sup> See Securities Exchange Act Release No. 68720 (January 24, 2013), 78 FR 6382 (January 30, 2013)(SR-NASDAQ-2013-011)(notice of filing and immediate effectiveness of proposed rule change establishing Mini Options on NOM).

<sup>5</sup> The Penny Pilot was established in March 2008 and was last extended in December 2012. 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 68519 (December 21, 2012), 78 FR 136 (January 2, 2013)(SR-NASDAQ-2012-143)(notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2013).

<sup>6</sup> Chapter VI, Section 5(a)(3).

In the lead up to the launch of Mini Options trading on an industry-wide basis, firms with customer bases of potential product users have indicated a preference that premium pricing for Mini Options match what is currently permitted for standard options that deliver 100 physical shares on the same securities. The Exchange understands that firms' systems are configured using the "root symbol" of an underlying security and cannot differentiate, for purposes of minimum variation pricing, between contracts on the same security. Mini Options will be loaded into firms' systems using the same "root symbol" that is used for standard options on the same security. As a result, it is believed that existing systems will not be able to assign different minimum pricing variations to different contracts on the same security. As a result, firms have indicated their preference that there be matched pricing between Mini Options and standard options on the same security because their systems, which are programmed using "root symbols," would not be able to assign different minimum pricing variations to Mini Options and standard options on the same security.

Because Mini Options are a separate class from standard options on the same security, Mini Options would have to qualify separately for entry into the Penny Pilot Program. This, however, is not possible by product launch (or possibly ever) for a number of reasons. First, there is a six calendar month trading volume criteria for entry into the Penny Pilot Program, which Mini Options cannot satisfy prior to launch. Second, even if Mini Options met the trading volume criteria, replacement classes are only added to the Penny Pilot Program on the second trading day following January 1 and July 1 in a given year. Finally, there is a price test for entry into the Penny Pilot Program which excludes "high premium" classes, which are defined as classes priced at \$200 per

share or higher at the time of selection. As of the date of this filing, three of the five securities (AAPL, AMZN and GOOG) eligible for Mini Options would be excluded as “high premium” classes, even though two of those securities (AAPL and AMZN) are in the Penny Pilot Program for standard options. The Exchange notes that GOOG is not in the Penny Pilot Program.<sup>7</sup>

The Exchange, therefore, is proposing to establish a pricing regime for Mini Options separate from the Penny Pilot Program that permits the minimum price variation for Mini Option contracts to be the same as permitted for standard options on the same security, which would encompass penny pricing for Mini Option contracts on securities that participate in the Penny Pilot Program.<sup>8</sup>

As to the Penny Pilot Program, the Exchange believes that there are several good reasons to allow penny pricing for Mini Options on securities that currently participate in the Penny Pilot Program, without requiring Mini Options to separately qualify for the Penny Pilot Program. First, the Penny Pilot Program applies to the most actively-traded, multiply-listed option classes. Likewise, the five securities which may underlie Mini

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<sup>7</sup> The minimum price variation for standard options on GOOG is \$0.05 for all quotations in series that are quoted at less than \$3 per contract and \$0.10 for all quotations in series that are quoted at \$3 per contract or greater. See Chapter VI, Section 5(a).

<sup>8</sup> As noted in the Exchange’s original Mini Option filing, Mini Options are limited to five securities and any expansion of the program would require that a subsequent proposed rule change be submitted to the Commission. The current proposal is limited to the five securities originally approved to underlie Mini Options. The Exchange anticipates that a similar minimum pricing variation regime would be included in any rule change to expand the Mini Option program. See Securities Exchange Act Release No. 68720 (January 24, 2013), 78 FR 6382 (January 30, 2013)(SR-NASDAQ-2013-011)(notice of filing and immediate effectiveness of proposed rule change establishing Mini Options on NOM).

Options were chosen because of the significant liquidity in standard options on the same security. The Exchange also believes that the marketplace and investors will be expecting the minimum price variation for contracts on the same security to be the same. Second, one of the primary goals of the Penny Pilot Program is to narrow the bid-ask spreads of exchange-traded options to reduce the cost of entering and exiting positions. This same goal can similarly be accomplished by permitting penny pricing for Mini Option contracts on securities that already participate in the Penny Pilot Program. Finally, the Exchange believes that penny pricing for Mini Options is desirable for a product that is geared toward retail investors. Mini Options are on high priced securities and are meant to be an investment tool with more affordable and realistic prices for the average retail investor. Penny pricing for Mini Options on securities that are currently in the Penny Pilot Program would benefit the anticipated users of Mini Options by providing more price points. The Exchange notes that it is not requesting penny pricing for all of the five securities eligible for Mini Options trading; but rather is seeking to permit matched penny pricing for Mini Options on those securities for which standard options already trade in pennies.

To effect the current proposed rule changes, the Exchange proposes to add new language in Chapter IV, Supplementary Material .08 to Section 6, and in Chapter VI, Section 5. As to Chapter VI, Section 5, the Exchange proposes adding new subsection (a)(4) that has an internal cross reference to new proposed Chapter IV, Supplementary Material .08(d) to Section 6 as the provision that sets forth the minimum price variation for bids and offers for Mini Options. As to Supplementary Material .08 to Section 6, the Exchange proposes adding new subsection (d), which would provide as follows:

The minimum price variation for bids and offers for Mini Options shall be the same as permitted for standard options on the same security. For example, if a security participates in the Penny Pilot Program, Mini Options on the same underlying security may be quoted in the same minimum increments, e.g., \$0.01 for all quotations in series that are quoted at less than \$3 per contract and \$0.05 for all quotations in series that are quoted at \$3 per contract or greater, \$0.01 for all SPY option series, and Mini Options do not separately need to qualify for the Penny Pilot Program.

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 this proposal. The Exchange does not believe that this increased traffic will become unmanageable since Mini Options are limited to a fixed number of underlying securities.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.<sup>9</sup> In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that investors and other market participants would benefit from the current rule proposal because it would clarify and establish the minimum price variation for Mini Options prior to the commencement of trading. The Exchange believes that the marketplace and investors will be expecting the minimum price variation for contracts on the same security to be the same. As a result, the Exchange believes that this change would lessen investor and marketplace confusion because Mini Options and standard options on the same security would have the same minimum price variation.

While price protection between Mini Options and standard options on the same security is not required, the Exchange believes that consistency between Mini Options and standard options as to the minimum price variation is desirable and is designed to promote just and equitable principles of trade. Matching the minimum price variation between Mini Options and standard options on the same security would help to eliminate any unnecessary arbitrage opportunities that could result from having contracts on the same underlying security traded in different minimum price increments. Similarly, matched minimum pricing would hopefully generate enhanced competition among liquidity providers. The Exchange believes that matched pricing for Mini Options and standard options on the same security would attract additional liquidity providers who would make markets in Mini Options and standard options on the same security. In addition to the possibility of more liquidity providers, the Exchange believes that the ability to quote Mini Options and standard options on the same security in the same

minimum increments would hopefully result in more efficient pricing via arbitrage and possible price improvement in both contracts on the same security. The Exchange also believes that allowing penny pricing for Mini Options on securities that currently participate in the Penny Pilot Program (without Mini Options having to qualify separately for entry into the Penny Pilot Program) will benefit the marketplace and investors because penny pricing in Mini Options may also accomplish one of the primary goals of the Penny Pilot Program, which is to narrow the bid-ask spreads of exchange-traded options to reduce the cost of entering and exiting positions. Finally, the proposed rule would be beneficial from a logistical perspective since firms' existing systems are configured using the "root symbol" of an underlying security and would not be able to assign different minimum pricing variations to Mini Options and standard options on the same security.

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. Specifically, since Mini Options are permitted on multiply-listed classes, other exchanges that have received approval to trade Mini Options will have the opportunity to similarly establish the minimum price variation for Mini Options prior to the anticipated launch on or about March 18, 2013. The Exchange also believes that the proposed rule change will enhance competition by allowing products on the same security to be priced in the same minimum price increments.

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 foregoing 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>11</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>12</sup>

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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:

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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 satisfied this requirement.



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-2013-047 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-2013-047. 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 website viewing and printing in the Commission's Public Reference Room 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 offices 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-2013-047, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

Deleted text is [bracketed]. New text is underlined.

**NASDAQ Stock Market Rules****Options Rules**

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**Chapter IV Securities Traded on NOM**

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**Supplementary Material to Section 6**

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**.08 Mini Options Contracts**

- (a) 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. Mini Option contracts may currently be listed on SPDR S&P 500 ("SPY"), Apple Inc. ("AAPL"), SPDR Gold Trust ("GLD"), Google Inc. ("GOOG") and Amazon.com Inc. ("AMZN").
- (b) 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 \$1250, and the strike price will be set at 125.
- (c) No additional series of Mini Options may be added if the underlying security is trading at \$90 or less. The underlying security must trade above \$90 for five consecutive days prior to listing Mini Options contracts in an additional expiration month.
- (d) The minimum price variation for bids and offers for Mini Options shall be the same as permitted for standard options on the same security. For example, if a security participates in the Penny Pilot Program, Mini Options on the same underlying security may be quoted in the same minimum increments, e.g., \$0.01 for all quotations in series that are quoted at less than \$3 per contract and \$0.05 for all quotations in series that are quoted at \$3 per contract or greater, \$0.01 for all SPY option series, and Mini Options do not separately need to qualify for the Penny Pilot Program.

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## Chapter VI Trading Systems

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### Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on NOM. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

- (1) If the options series is trading at less than \$3.00, five (5) cents;
- (2) If the options series is trading at \$3.00 or higher, ten (10) cents; and
- (3) For a pilot period scheduled to expire on June 30, 2013, if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than \$3.00, five (5) cents if the options series is trading at \$3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert ("OTA") posted on the Exchange's web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity for the six month period beginning June 1, 2012, and ending November 30, 2012. The replacement issues may be added to the pilot on the second trading day following January 1, 2013.

- (4) All Mini Options contracts shall have a minimum price variation as set forth in Chapter IV, Supplementary Material .08 to Section 6.

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