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Page 1 of \* 18

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR 2021 - \* 095

Amendment No. (req. for Amendments \*)

Filing by The Nasdaq Stock Market LLC

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"/>
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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 checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) \*

Section 806(e)(2) \*

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934  
Section 3C(b)(2) \*

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

### Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

A Proposed Rule Change to Amend the Pricing Schedule at Options 7, Section 1, General Provisions

### 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 \* Angela Last Name \* Dunn

Title \* Principal Associate General Counsel

E-mail \* Angela.Dunn@Nasdaq.com

Telephone \* (215) 496-5692 Fax

### Signature

Pursuant to the requirements of the Securities Exchange of 1934, The Nasdaq Stock Market LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 11/30/2021


(Title \*)

By John A. Zecca

EVP and Chief Legal Officer

(Name \*)

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

 Date: 2021.11.30 17:45:01 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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SR-NASDAQ-2021-095 19b-4.doc

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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SR-NASDAQ-2021-095 Exhibit 1.doc

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 Advanced 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 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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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 Sent As Paper Document

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

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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 Sent As Paper Document

**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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SR-NASDAQ-2021-095 Exhibit 5.doc

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) The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”), 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> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend The Nasdaq Options Market LLC’s (“NOM”) Pricing Schedule at Options 7, Section 1, General Provisions.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on December 1, 2021.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. 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 (the “Board”) on November 5, 2020. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Angela Saccomandi Dunn  
Principal Associate General Counsel  
Nasdaq, Inc.  
(215) 496-5692

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

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

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

a. Purpose

NOM proposes to amend its Pricing Schedule at Options 7, Section 1, General Provisions. Specifically, NOM proposes to amend the way an Exchange Participant indicates its participation in the Affiliated Entity Program. Specifically, the Exchange proposes to amend the description of "Affiliated Entity" within Options 7, Section 1, General Provisions. Currently, the term "Affiliated Entity" is described as,

a relationship between an Appointed MM and an Appointed OFP for purposes of aggregating eligible volume for pricing in Options 7, Sections 2(1) and 2(6) for which a volume threshold or volume percentage is required to qualify for higher rebates or lower fees. NOM Market Makers and OFPs are required to send an email to the Exchange to appoint their counterpart at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing in Options 7, Sections 2(1) and 2(6). Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity Relationship will terminate after a one (1) year period, unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Affiliated Entity relationships must be renewed annually. Participants under Common Ownership may not qualify as a counterparty comprising an Affiliated Entity. Each Participant may qualify for only one (1) Affiliated Entity relationship at any given time.

Today, Participants are required to annually renew their Affiliate Entity relationship at the end of one year if they desire to continue the relationship. The parties must both send an email to the Exchange to avoid termination of the relationship, provided the relationship was not terminated earlier in the year. The Exchange believes that this process is burdensome for Participants that desire to remain in the program. The consequence of not renewing is termination. The Exchange desires to remove the administrative burden associated with the requirement to annually renew and instead

provide that the Affiliated Entity relationship will automatically renew each month, unless otherwise terminated. The proposed new rule text would provide,

The term “**Affiliated Entity**” is a relationship between an Appointed MM and an Appointed OFP for purposes of aggregating eligible volume for pricing in Options 7, Sections 2(1) and 2(6) for which a volume threshold or volume percentage is required to qualify for higher rebates or lower fees. NOM Market Makers and OFPs are required to send an email to the Exchange to appoint their counterparty at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing in Options 7, Sections 2(1) and 2(6). Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity Relationship will automatically renew each month until or unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Participants under Common Ownership may not qualify as a counterparty comprising an Affiliated Entity. Each Participant may qualify for only one (1) Affiliated Entity relationship at any given time.

As is the case today, parties to the Affiliated Entity relationship may decide to terminate the relationship during any month by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Cboe Exchange, Inc. (“Cboe”) has a similar automatic renewal process for its Appointed OFP and Appointed Market-Maker Program.<sup>3</sup> The Exchange believes that this amendment will

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<sup>3</sup> See Cboe’s Fees Schedule at footnote 23 “A Market-Maker may designate an Order Flow Provider (“OFP”) as its “Appointed OFP” and an OFP may designate a Market-Maker to be its “Appointed Market-Maker” for purposes of qualifying for credits under AVP. In order to effectuate the appointment, the parties would need to submit the Appointed Affiliate Form to the Exchange by 3:00 p.m. CST on the first business day of the month in order to be eligible to qualify for credits under AVP for that month. The Exchange will recognize only one such designation for each party once every calendar month, which designation will automatically renew each month until or unless the Exchange receives an email from either party indicating that the appointment has been terminated. A Market-Maker that has both an Affiliate OFP and Appointed OFP will only qualify based

streamline the workflow for Participants by not requiring Participants to renew each year to continue the affiliated relationship.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to amend the way Exchange Participants indicate their participation in the Affiliated Entity Program is reasonable. Today, Participants are required to annually renew their Affiliated Entity relationship at the end of one year if they desire to continue the relationship. The parties must both send an email to the Exchange to avoid termination of the relationship, provided the relationship was not terminated earlier in the year. The Exchange believes that this process is burdensome for Participants that desire to remain in the program. The consequence of not renewing is termination of their participation in the program. The Exchange desires to remove the administrative burden associated with the requirement to annually renew and instead provide that the Affiliated Entity relationship will automatically renew each month, unless otherwise terminated. As is the case today, parties to the Affiliated Entity

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upon the volume of its Appointed OFP. The volume of an OFP that has both an Affiliate Market-Maker and Appointed Market-Maker will only count towards qualifying the Appointed Market-Maker. Volume executed in open outcry is not eligible to receive a credit under AVP.”

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4) and (5).

relationship may decide to terminate the relationship during any month by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Also, Cboe has a similar automatic renewal process for its Appointed OFP and Appointed Market-Maker Program.<sup>6</sup> The Exchange believes that this amendment will streamline the workflow for Participants by not requiring Participants to renew each year to continue the affiliated relationship.

The Exchange's proposal to amend the way Exchange Participants indicate their participation in the Affiliated Entity Program is equitable and not unfairly discriminatory. Today, any Participant may participate in the Affiliated Entity Program. The proposed changes would impact all Participants that voluntarily elect to participate in the Affiliated Entity Program in a uniform manner.

#### 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.

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<sup>6</sup> See Cboe's Fees Schedule at footnote 23 "A Market-Maker may designate an Order Flow Provider ("OFP") as its "Appointed OFP" and an OFP may designate a Market-Maker to be its "Appointed Market-Maker" for purposes of qualifying for credits under AVP. In order to effectuate the appointment, the parties would need to submit the Appointed Affiliate Form to the Exchange by 3:00 p.m. CST on the first business day of the month in order to be eligible to qualify for credits under AVP for that month. The Exchange will recognize only one such designation for each party once every calendar month, which designation will automatically renew each month until or unless the Exchange receives an email from either party indicating that the appointment has been terminated. A Market-Maker that has both an Affiliate OFP and Appointed OFP will only qualify based upon the volume of its Appointed OFP. The volume of an OFP that has both an Affiliate Market-Maker and Appointed Market-Maker will only count towards qualifying the Appointed Market-Maker. Volume executed in open outcry is not eligible to receive a credit under AVP."

Inter-market Competition

The proposal does not impose an undue burden on inter-market competition. Cboe has a similar automatic renewal process for its Appointed OFP and Appointed Market-Maker Program<sup>7</sup> as proposed herein for the Affiliated Entity Program.

Intra-market Competition

The Exchange's proposal to amend the way Exchange Participants indicate their participation in the Affiliated Entity Program does not impose an undue burden on competition. Today, any Participant may participate in an Affiliated Entity relationship. The proposed changes would impact all Participants that voluntarily elect to participate in the Affiliated Entity Program in a uniform manner.

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)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>8</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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<sup>7</sup> Id.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).



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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

Not applicable.

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

Not applicable.

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 Change for publication in the Federal Register.
5. Text of the proposed rule change.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-NASDAQ-2021-095)

December \_\_, 2021

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Pricing Schedule at Options 7, Section 1, General Provisions

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 December 1, 2021, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC’s (“NOM”) Pricing Schedule at Options 7, Section 1, General Provisions.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on December 1, 2021.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

NOM proposes to amend its Pricing Schedule at Options 7, Section 1, General Provisions. Specifically, NOM proposes to amend the way an Exchange Participant indicates its participation in the Affiliated Entity Program. Specifically, the Exchange proposes to amend the description of "Affiliated Entity" within Options 7, Section 1, General Provisions. Currently, the term "Affiliated Entity" is described as,

a relationship between an Appointed MM and an Appointed OFP for purposes of aggregating eligible volume for pricing in Options 7, Sections 2(1) and 2(6) for which a volume threshold or volume percentage is required to qualify for higher rebates or lower fees. NOM Market Makers and OFPs are required to send an email to the Exchange to appoint their counterpart at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing in Options 7, Sections 2(1) and 2(6). Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity Relationship will terminate after a one (1) year period, unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Affiliated Entity relationships must be renewed annually. Participants under Common Ownership may not qualify as a counterparty comprising an Affiliated Entity. Each Participant may qualify for only one (1) Affiliated Entity relationship at any given time.

Today, Participants are required to annually renew their Affiliate Entity relationship at the end of one year if they desire to continue the relationship. The parties must both send an email to the Exchange to avoid termination of the relationship, provided the relationship was not terminated earlier in the year. The Exchange believes that this process is burdensome for Participants that desire to remain in the program. The consequence of not renewing is termination. The Exchange desires to remove the administrative burden associated with the requirement to annually renew and instead provide that the Affiliated Entity relationship will automatically renew each month, unless otherwise terminated. The proposed new rule text would provide,

The term “**Affiliated Entity**” is a relationship between an Appointed MM and an Appointed OFP for purposes of aggregating eligible volume for pricing in Options 7, Sections 2(1) and 2(6) for which a volume threshold or volume percentage is required to qualify for higher rebates or lower fees. NOM Market Makers and OFPs are required to send an email to the Exchange to appoint their counterpart at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing in Options 7, Sections 2(1) and 2(6). Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity Relationship will automatically renew each month until or unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Participants under Common Ownership may not qualify as a counterpart comprising an Affiliated Entity. Each Participant may qualify for only one (1) Affiliated Entity relationship at any given time.

As is the case today, parties to the Affiliated Entity relationship may decide to terminate the relationship during any month by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Cboe Exchange, Inc. (“Cboe”) has a similar automatic renewal process for its Appointed OFP and

Appointed Market-Maker Program.<sup>3</sup> The Exchange believes that this amendment will streamline the workflow for Participants by not requiring Participants to renew each year to continue the affiliated relationship.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to amend the way Exchange Participants indicate their participation in the Affiliated Entity Program is reasonable. Today, Participants are required to annually renew their Affiliated Entity relationship at the end of one year if they desire to continue the relationship. The parties must both send an email to the

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<sup>3</sup> See Cboe's Fees Schedule at footnote 23 "A Market-Maker may designate an Order Flow Provider ("OFP") as its "Appointed OFP" and an OFP may designate a Market-Maker to be its "Appointed Market-Maker" for purposes of qualifying for credits under AVP. In order to effectuate the appointment, the parties would need to submit the Appointed Affiliate Form to the Exchange by 3:00 p.m. CST on the first business day of the month in order to be eligible to qualify for credits under AVP for that month. The Exchange will recognize only one such designation for each party once every calendar month, which designation will automatically renew each month until or unless the Exchange receives an email from either party indicating that the appointment has been terminated. A Market-Maker that has both an Affiliate OFP and Appointed OFP will only qualify based upon the volume of its Appointed OFP. The volume of an OFP that has both an Affiliate Market-Maker and Appointed Market-Maker will only count towards qualifying the Appointed Market-Maker. Volume executed in open outcry is not eligible to receive a credit under AVP."

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4) and (5).

Exchange to avoid termination of the relationship, provided the relationship was not terminated earlier in the year. The Exchange believes that this process is burdensome for Participants that desire to remain in the program. The consequence of not renewing is termination of their participation in the program. The Exchange desires to remove the administrative burden associated with the requirement to annually renew and instead provide that the Affiliated Entity relationship will automatically renew each month, unless otherwise terminated. As is the case today, parties to the Affiliated Entity relationship may decide to terminate the relationship during any month by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Also, Cboe has a similar automatic renewal process for its Appointed OFP and Appointed Market-Maker Program.<sup>6</sup> The Exchange believes that this amendment will streamline the workflow for Participants by not requiring Participants to renew each year to continue the affiliated relationship.

The Exchange's proposal to amend the way Exchange Participants indicate their participation in the Affiliated Entity Program is equitable and not unfairly discriminatory.

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<sup>6</sup> See Cboe's Fees Schedule at footnote 23 "A Market-Maker may designate an Order Flow Provider ("OFP") as its "Appointed OFP" and an OFP may designate a Market-Maker to be its "Appointed Market-Maker" for purposes of qualifying for credits under AVP. In order to effectuate the appointment, the parties would need to submit the Appointed Affiliate Form to the Exchange by 3:00 p.m. CST on the first business day of the month in order to be eligible to qualify for credits under AVP for that month. The Exchange will recognize only one such designation for each party once every calendar month, which designation will automatically renew each month until or unless the Exchange receives an email from either party indicating that the appointment has been terminated. A Market-Maker that has both an Affiliate OFP and Appointed OFP will only qualify based upon the volume of its Appointed OFP. The volume of an OFP that has both an Affiliate Market-Maker and Appointed Market-Maker will only count towards qualifying the Appointed Market-Maker. Volume executed in open outcry is not eligible to receive a credit under AVP."

Today, any Participant may participate in the Affiliated Entity Program. The proposed changes would impact all Participants that voluntarily elect to participate in the Affiliated Entity Program in a uniform manner.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-market Competition

The proposal does not impose an undue burden on inter-market competition. Cboe has a similar automatic renewal process for its Appointed OFP and Appointed Market-Maker Program<sup>7</sup> as proposed herein for the Affiliated Entity Program.

Intra-market Competition

The Exchange's proposal to amend the way Exchange Participants indicate their participation in the Affiliated Entity Program does not impose an undue burden on competition. Today, any Participant may participate in an Affiliated Entity relationship. The proposed changes would impact all Participants that voluntarily elect to participate in the Affiliated Entity Program in a uniform manner.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

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<sup>7</sup>

Id.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>8</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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2021-095 on the subject line.

Paper comments:

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

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).



All submissions should refer to File Number SR-NASDAQ-2021-095. 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, 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-2021-095 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>9</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

**The Nasdaq Stock Market LLC Rules**

\* \* \* \* \*

**Options Rules**

\* \* \* \* \*

**Options 7 Pricing Schedule**

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**Section 1 General Provisions**

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The term “**Affiliated Entity**” is a relationship between an Appointed MM and an Appointed OFP for purposes of aggregating eligible volume for pricing in Options 7, Sections 2(1) and 2(6) for which a volume threshold or volume percentage is required to qualify for higher rebates or lower fees. NOM Market Makers and OFPs are required to send an email to the Exchange to appoint their counterparty at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing in Options 7, Sections 2(1) and 2(6). Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity Relationship will [terminate after a one (1) year period,] automatically renew each month until or unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. [Affiliated Entity relationships must be renewed annually.] Participants under Common Ownership may not qualify as a counterparty comprising an Affiliated Entity. Each Participant may qualify for only one (1) Affiliated Entity relationship at any given time.

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