Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2022 - * 013
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 *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☑	☐	☐	☐	☑	☐

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

☐ 19b-4(f)(1)	☐ 19b-4(f)(4)
☑ 19b-4(f)(2)	☐ 19b-4(f)(5)
☐ 19b-4(f)(3)	☐ 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 proposal to amend the Exchanges transaction credits at Equity 7, Section 118

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 *	Brett	Last Name *	Kitt
Title *	AVP, Principal Associate General Counsel		
E-mail *	brett.kitt@nasdaq.com		
Telephone *	(301) 978-8132	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	01/31/2022	
By	John Zecca	EVP and Chief Legal Officer
	(Name *)	(Title *)

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: 2022.02.01 08:49:22 -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 * Add / Remove / View SR-NASDAQ-2022-013 19b-4.docx	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 * Add / Remove / View SR-NASDAQ-2022-013 Exhibit 1.docx	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 * Add / Remove / View	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 Add / Remove / View	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 Add / Remove / View	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 Add / Remove / View	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 Add / Remove / View SR-NASDAQ-2022-013 Exhibit 5.docx	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 Add / Remove / View	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")[1] and Rule 19b-4 thereunder,[2] is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposal to amend the Exchange's transaction credits at Equity 7, Section 118, as described further below.

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"). 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:

Brett Kitt
AVP, Principal Associate General Counsel
Nasdaq, Inc.
(301) 978-8132

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1 15 U.S.C. 78s(b)(1).

2 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

The purpose of the proposed rule change is to amend the Exchange's schedule of credits, at Equity 7, Section 118(a). The Exchange proposes to amend an existing credit to its members for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity to the Exchange.

Currently, the Exchange provides a credit of $0.0029 per share executed to a member that, through one or more of its Nasdaq Market Center MPIDs: (i) provides shares of liquidity in all securities that represent equal to or greater than 0.65% of Consolidated Volume[3] during the month; (ii) increases its average daily volume of Midpoint Extended Life Orders executed by 150% or more during the month relative to the month of January 2021; and (iii) executes an average daily volume of at least 750,000 shares in Midpoint Extended Life Orders for the month. The Exchange proposes to amend this credit by providing an additional means of attaining it. Specifically, the Exchange proposes to amend the first criterion for the credit to state that a member must provide shares of liquidity in all securities that represent equal to or greater than either

3 Pursuant to Equity 7, Section 118(a), the term "Consolidated Volume" shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity. For the purposes of calculating the extent of a member's trading activity during the month on Nasdaq and determining the charges and credits applicable to such member's activity, all M-ELO Orders that a member executes on Nasdaq during the month will count as liquidity-adding activity on Nasdaq.

0.65% of Consolidated Volume or an average daily volume of 70 million shares during the month.

By providing an additional means by which a member can attain this credit, the Exchange intends to increase the number of members that strive to and do attain it, including by increasing their average daily volume of liquidity adding activity on the Exchange. To the extent that the proposal succeeds in this objective, then Exchange will experience an increase in liquidity, which in turn stands to improve the quality of the market, to the benefit all participants.

The Exchange notes that those participants that are dissatisfied with this new proposal are free to shift their order flow to competing venues.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] 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 proposal is also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

The Proposal is Reasonable

The Exchange's proposal is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity

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4 15 U.S.C. 78f(b).

5 15 U.S.C. 78f(b)(4) and (5).

securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[6]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[7]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market

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6 NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

7 Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

The Exchange believes it is reasonable to amend the criteria for its existing \$0.0029 per share executed credit. By providing an additional means by which a member can attain this credit, the Exchange intends to increase the number of members that strive to and do attain it, including by increasing their average daily volume of liquidity adding activity on the Exchange. To the extent that the proposal succeeds in this objective, then Exchange will experience an increase in liquidity, which in turn stands to improve the quality of the market, to the benefit all participants.

The Exchange notes that those participants that are dissatisfied with the amended credit are free to shift their order flow to competing venues.

<u>The Proposal is an Equitable Allocation of Credits</u>

The Exchange believes its proposal will allocate its charges and credits fairly among its market participants.

The Exchange believes that its proposed amendment to its credit is an equitable allocation. The proposal will encourage members to increase the extent to which they add liquidity to the Exchange. To the extent that the Exchange succeeds in increasing the levels of liquidity and activity on the Exchange, then the Exchange will experience improvements in its market quality, which stands to benefit all market participants.

Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

The Proposal is not Unfairly Discriminatory

The Exchange believes that its proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries – from co-branded credit cards to grocery stores to cellular telephone data plans – that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it enhances price discovery and improves the overall quality of the equity markets.

The Exchange also believes that its proposal is not unfairly discriminatory because the additional qualification option will be available to all members.

Overall, the proposal stands to improve the overall market quality of the Exchange, to the benefit of all market participants, by incentivizing members to increase the extent of their liquidity provision or activity on the Exchange. Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

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.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage.

As noted above, the Exchange's proposal is intended to have market-improving effects, to the benefit of all members. The Exchange notes that its members are free to trade on other venues to the extent they believe that these proposals are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits and fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits and fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credit or fee changes in this market may impose any burden on competition is extremely limited.

The proposed amended credit is reflective of this competition. Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

Even as one of the largest U.S. equities exchanges by volume, the Exchange has less than 20% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises upwards of 50% of industry volume.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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,[8] 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.

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.

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8 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-NASDAQ-2022-013)

February __, 2022

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's Transaction Credits at Equity 7, Section 118

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on February 1, 2022, 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 Exchange's transaction credits at Equity 7, Section 118, as described further below.

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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1 15 U.S.C. 78s(b)(1).

2 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

The purpose of the proposed rule change is to amend the Exchange's schedule of credits, at Equity 7, Section 118(a). The Exchange proposes to amend an existing credit to its members for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity to the Exchange.

Currently, the Exchange provides a credit of $0.0029 per share executed to a member that, through one or more of its Nasdaq Market Center MPIDs: (i) provides shares of liquidity in all securities that represent equal to or greater than 0.65% of Consolidated Volume[3] during the month; (ii) increases its average daily volume of

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[3] Pursuant to Equity 7, Section 118(a), the term "Consolidated Volume" shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity. For the purposes of calculating the extent of a member's trading activity during the month on Nasdaq and determining the charges and credits applicable to such member's activity, all M-ELO Orders that a member executes on Nasdaq during the month will count as liquidity-adding activity on Nasdaq.

Midpoint Extended Life Orders executed by 150% or more during the month relative to the month of January 2021; and (iii) executes an average daily volume of at least 750,000 shares in Midpoint Extended Life Orders for the month. The Exchange proposes to amend this credit by providing an additional means of attaining it. Specifically, the Exchange proposes to amend the first criterion for the credit to state that a member must provide shares of liquidity in all securities that represent equal to or greater than either 0.65% of Consolidated Volume or an average daily volume of 70 million shares during the month.

By providing an additional means by which a member can attain this credit, the Exchange intends to increase the number of members that strive to and do attain it, including by increasing their average daily volume of liquidity adding activity on the Exchange. To the extent that the proposal succeeds in this objective, then Exchange will experience an increase in liquidity, which in turn stands to improve the quality of the market, to the benefit all participants.

The Exchange notes that those participants that are dissatisfied with this new proposal are free to shift their order flow to competing venues.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] 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

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[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

The Proposal is Reasonable

The Exchange's proposal is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[6]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its

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6 NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

broader forms that are most important to investors and listed companies."[7]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

The Exchange believes it is reasonable to amend the criteria for its existing \$0.0029 per share executed credit. By providing an additional means by which a member can attain this credit, the Exchange intends to increase the number of members that strive to and do attain it, including by increasing their average daily volume of liquidity adding activity on the Exchange. To the extent that the proposal succeeds in this objective, then Exchange will experience an increase in liquidity, which in turn stands to improve the quality of the market, to the benefit all participants.

The Exchange notes that those participants that are dissatisfied with the amended credit are free to shift their order flow to competing venues.

<u>The Proposal is an Equitable Allocation of Credits</u>

The Exchange believes its proposal will allocate its charges and credits fairly among its market participants.

The Exchange believes that its proposed amendment to its credit is an equitable allocation. The proposal will encourage members to increase the extent to which they

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7 Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

add liquidity to the Exchange. To the extent that the Exchange succeeds in increasing the levels of liquidity and activity on the Exchange, then the Exchange will experience improvements in its market quality, which stands to benefit all market participants.

Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

The Proposal is not Unfairly Discriminatory

The Exchange believes that its proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries – from co-branded credit cards to grocery stores to cellular telephone data plans – that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it enhances price discovery and improves the overall quality of the equity markets.

The Exchange also believes that its proposal is not unfairly discriminatory because the additional qualification option will be available to all members.

Overall, the proposal stands to improve the overall market quality of the Exchange, to the benefit of all market participants, by incentivizing members to increase the extent of their liquidity provision or activity on the Exchange. Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

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.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage.

As noted above, the Exchange's proposal is intended to have market-improving effects, to the benefit of all members. The Exchange notes that its members are free to trade on other venues to the extent they believe that these proposals are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits and fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits and fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credit or fee changes in this market may impose any burden on competition is extremely limited.

The proposed amended credit is reflective of this competition. Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

Even as one of the largest U.S. equities exchanges by volume, the Exchange has less than 20% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises upwards of 50% of industry volume.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

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.[8]

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. Please include File Number SR-NASDAQ-2022-013 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.

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-NASDAQ-2022-013. 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-2022-013 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.[9]

J. Matthew DeLesDernier
Assistant Secretary

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[9] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is <u>underlined</u>.

The Nasdaq Stock Market Rules

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Equity Rules

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Equity 7 Pricing Schedule

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Section 118. Nasdaq Market Center Order Execution and Routing

(a) No change.

(1) Fees for Execution and Routing of Orders in Nasdaq-Listed Securities

…	
Credit to member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity:	
…	
member that, through one or more of its Nasdaq Market Center MPIDs: (i) provides shares of liquidity in all securities that represent equal to or greater than <u>either</u> 0.65% of Consolidated Volume <u>or an average daily volume of 70 million shares </u>during the month; (ii) increases its average daily volume of Midpoint Extended Life Orders executed by 150% or more during the month relative to the month of January 2021; and (iii) executes an average daily volume of at least 750,000 shares in Midpoint Extended Life Orders for the month.	$0.0029 per share executed
…	

* * * * *

(2) Fees for Execution and Routing of Securities Listed on NYSE

…	
Credit to member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity:	
…	
member that, through one or more of its Nasdaq Market Center MPIDs: (i) provides shares of liquidity in all securities that represent equal to or greater than either 0.65% of Consolidated Volume or an average daily volume of 70 million shares during the month; (ii) increases its average daily volume of Midpoint Extended Life Orders executed by 150% or more during the month relative to the month of January 2021; and (iii) executes an average daily volume of at least 750,000 shares in Midpoint Extended Life Orders for the month.	$0.0029 per share executed
…	

* * * * *

(3) Fees for Execution and Routing of Orders in Securities Listed on Exchanges other than Nasdaq and NYSE ("Tape B Securities")

…	
Credit to member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity:	
…	
member that, through one or more of its Nasdaq Market Center MPIDs: (i) provides shares of liquidity in all securities that represent equal to or greater than either 0.65% of Consolidated Volume or an average daily volume of 70 million shares during the month; (ii) increases its average daily volume of Midpoint Extended Life Orders executed by 150% or more during the month relative to the month of January 2021; and (iii) executes an average daily volume of at least 750,000 shares in Midpoint Extended Life Orders for the month.	$0.0029 per share executed
…	

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