the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2019–153; *Filing Title:* USPS Notice of Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 62, Filed Under Seal; *Filing Acceptance Date:* November 22, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Christopher C.Mohr; *Comments Due:* December 2, 2022.

2. *Docket No(s).:* MC2023–56 and CP2023–55; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 227 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 22, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* December 2, 2022.

3. *Docket No(s).:* MC2023–57 and CP2023–56; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 88 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 22, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 2, 2022.

4. *Docket No(s).:* MC2023–58 and CP2023–57; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 89 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 22, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 2, 2022.

5. *Docket No(s).:* MC2023–59 and CP2023–58; *Filing Title:* USPS Request to Add Priority Mail Contract 768 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 22, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* December 2, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–25993 Filed 11–28–22; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96375; File No. SR–NASDAQ–2022–064]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NOM Options 7, Section 2

November 22, 2022.

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 November 10, 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 Nasdaq Options Market LLC (''NOM'') Pricing Schedule at Options 7, Section 2, ''Nasdaq Options Market—Fees and Rebates.'' [3]

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.

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 Exchange proposes to amend NOM's Pricing Schedule at Options 7, Section 2(1), ''Nasdaq Options Market—Fees and Rebates,'' to: (1) amend the Tier 6 Professional [4] Rebate to Add Liquidity in Penny Symbols; (2) amend the criteria for the Tier 3 and Tier 6 Rebates to Add Liquidity in Penny Symbols; and (3) add an incentive to achieve a higher Tier 6 Professional Rebate to Add Liquidity in Penny Symbols.

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

[2] 17 CFR 240.19b–4.

[3] The Exchange originally filed SR–NASDAQ–2022–061 on November 1, 2022. On November 10, 2022, the Exchange withdrew SR–NASDAQ–2022–061 and submitted this rule change.

[4] Pursuant to Options 7, Section 1(a) the term ''Professional'' or (''P'') means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Options 1, Section 1(a)(47). All Professional orders shall be appropriately marked by Participants.

Today, NOM Options 7, Section 2(1) provides for various fees and rebates applicable to NOM Participants. Specifically, the Rebates to Add Liquidity in Penny Symbols are as follows:

REBATES TO ADD LIQUIDITY IN PENNY SYMBOLS

	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5	Tier 6
Customer	($0.20)	($0.25)	($0.43)	($0.44)	($0.45)	[7] ($0.48)
Professional	(0.20)	(0.25)	(0.43)	(0.44)	(0.45)	(0.48)
Broker-Dealer	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)
Firm	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)
Non-NOM Market Maker	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)
NOM Market Maker	(0.20)	(0.25)	[4] (0.30)	[4] (0.32)	[11] (0.44)	(0.48)

Customer and Professional Rebates to Add Liquidity in Penny Symbols are paid per the highest tier achieved among the 6 available tiers. To determine the applicable percentage of total industry customer equity and ETF option average daily volume, unless otherwise stated, the Exchange considers the Participant's Penny and Non-Penny Symbol Customer and/or Professional volume that adds liquidity. Below are the criteria for each Rebate to Add Liquidity in Penny Symbol tier.

MONTHLY VOLUME

Tier 1	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols of up to 0.10% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month.
Tier 2	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.10% to 0.20% of total industry customer equity and ETF option ADV contracts per day in a month.
Tier 3	Participant: (a) adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.20% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month; or (b) adds Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols of 0.15% to less than 0.20% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for MARS.
Tier 4	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.30% to 0.40% of total industry customer equity and ETF option ADV contracts per day in a month.
Tier 5	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.40% to 0.80% of total industry customer equity and ETF option ADV contracts per day in a month.
Tier 6	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.80% or more of total industry customer equity and ETF option ADV contracts per day in a month, or Participant adds: (1) Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols of 0.20% or more of total industry customer equity and ETF option ADV contracts per day in a month, and (2) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month or qualifies for MARS (defined below).

Penny Symbols

Today, Customers and Professionals are paid the following Penny Symbol Rebates: for Tier 1 a $0.20 per contract, for Tier 2 a $0.25 per contract, for Tier 3 a $0.43 per contract, for Tier 4 a $0.44 per contract, for Tier 5 a $0.45 per contract and for Tier 6 a $0.48 per contract. Today, Customers may increase their Tier 6 Penny Symbol Rebate if they meet certain criteria.[5] Broker-Dealers,[6] Firms,[7] and Non-NOM Market Makers [8] are paid a $0.10 per contract Rebate to Add Liquidity in Penny Symbols regardless of the tier.

[5] Pursuant to note 7 within Options 7, Section 2(1), Participants that: (1) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non- Penny Symbols of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Symbol Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Symbol in that month; or (2) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols of 1.30% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.05 per contract Penny Symbol Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Symbols in that month; or (3) (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month, (b) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Non-Penny Symbols above 0.12% of total industry customer equity and ETF option ADV contracts per day in a month, and (c) execute greater than 0.04% of Consolidated Volume (''CV'') via Market-on-Close/Limit-on-Close (''MOC/LOC'') volume within The Nasdaq Stock Market Closing Cross within a month will receive an additional $0.05 per contract Penny Symbol Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Symbols in a month. 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 an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, 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.

[6] Pursuant to Options 7, Section 1(a), the term ''Broker-Dealer'' or (''B'') applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[7] Pursuant to Options 7, Section 1(a), the term ''Firm'' or (''F'') applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

[8] Pursuant to Options 7, Section 1(a), the term ''Non-NOM Market Maker'' or (''O'') is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

NOM Market Makers [9] are paid the following Penny Symbol Rebates: for Tier 1 a $0.20 per contract, for Tier 2 a $0.25 per contract, for Tier 3 a $0.30 per contract, for Tier 4 a $0.32 per contract, for Tier 5 a $0.44 per contract and for Tier 6 a $0.48 per contract. NOM Market Makers are also offered Penny Symbol incentives to increase their rebates.[10]

The Exchange proposes to decrease the Tier 6 Professional Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1) from $0.48 per contract to $0.47 per contract.[11]

The Exchange also proposes to amend the criteria for the Tier 3 and Tier 6 Rebates to Add Liquidity in Penny Symbols within Options 7, Section 2(1). Today, the criteria for the Tier 3 Rebate to Add Liquidity in Penny Symbols provides,

Participant: (a) adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.20% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month; or (b) adds Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols of 0.15% [12] to less than 0.20% [13] of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for MARS.[14]

The Exchange proposes to instead provide the following Tier 3 criteria,

Participant: (a) adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.20% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month; or (b) adds Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols of *0.05%* [15] *to less than 0.10%* of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for MARS.

With this proposal, the Exchange intends to lower the criteria to achieve the Tier 3 Rebate to Add Liquidity in Penny Symbols when a Participant adds Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols and qualifies for MARS. The Exchange believes that lowering the criteria would allow additional Participants to qualify for the Tier 3 Rebate to Add Liquidity in Penny Symbols.

Today, the criteria for the Tier 6 Rebate to Add Liquidity in Penny Symbols provides,

Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.80% [16] or more of total industry customer equity and ETF option ADV contracts per day in a month, or Participant adds: (1) Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols of 0.20% or more of total industry customer equity and ETF option ADV contracts per day in a month, and (2) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month or qualifies for MARS (defined below).

The Exchange proposes to instead provide the following Tier 6 criteria,

Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols *above 0.70%* [17] or more of total industry customer equity and ETF option ADV contracts per day in a month, or Participant: (1) adds [18] Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols of *0.10%* or more of total industry customer equity and ETF option ADV contracts per day in a month, and (2) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month or qualifies for MARS (defined below).

With this proposal, the Exchange intends to lower the criteria to achieve the Tier 6 Rebate to Add Liquidity in Penny Symbols when a Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols or adds Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols and has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs or qualifies for MARS. The Exchange believes that lowering the criteria would allow for additional Participants to qualify for the Tier 6 Rebate to Add Liquidity in Penny Symbols.

Finally, the Exchange proposes to add an incentive (''##'') to achieve a higher Tier 6 Professional Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1). The new incentive to the Tier 6 Rebate to Add Liquidity in Penny Symbols would provide,

Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.80% or more of total industry customer equity and ETF option ADV contracts per day in a month, or Participants that (1) add Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols of 0.20% or more of total industry adds customer equity and ETF option ADV contracts per day in a month, and (2) have added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month or qualify for MARS (defined below) will receive an additional $0.01 per contract rebate for Professional volume which adds liquidity in Penny Symbols only.

While the Exchange is lowering the Tier 6 Professional Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1) from $0.48 per contract to $0.47 per contract, the proposed Tier 6 ''##'' incentive would permit Professionals to achieve a $0.48 per contract Tier 6 Professional Rebate to Add Liquidity in Penny Symbols provided they add the same amount of Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols as they do today and continue to meet the remainder of the Tier 6 criteria as they do today.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5)

[9] Pursuant to Options 7, Section 1(a), the term ''NOM Market Maker'' or (''M'') is a Participant that has registered as a Market Maker on NOM pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

[10] *See* notes 4–11 of Options 7, Section 2(1).

[11] The Exchange is not proposing to amend Non-Penny Symbol pricing.

[12] 10% of total industry customer equity and ETF option ADV contracts per day in a month equates to 33,000 contracts.

[13] 20% of total industry customer equity and ETF option ADV contracts per day in a month equates to 66,000 contracts.

[14] MARS is the Exchange's Market Access and Routing Subsidy program described within Options 7, Section 2(4).

[15] 5% of total industry customer equity and ETF option ADV contracts per day in a month equates to 16,500 contracts.

[16] 80% of total industry customer equity and ETF option ADV contracts per day in a month equates to 264,000 contracts.

[17] 70% of total industry customer equity and ETF option ADV contracts per day in a month equates to 231,000 contracts.

[18] The Exchange also proposes to relocate the word ''adds'' within the Tier 6 criteria so the paragraph reads clearly.

[19] 15 U.S.C. 78f(b).

of the Act,[20] 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 Reasonable

The proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options 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* [21] (''NetCoalition''), the D.C. Circuit stated, ''[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' . . . .'' [22]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to attract additional order flow to the Exchange and increase its market share relative to its competitors.

Options 7, Section 2(1)

The Exchange's proposal to decrease the Tier 6 Professional Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1) from $0.48 per contract to $0.47 per contract is reasonable because the Exchange is decreasing the Tier 6 rebate criteria and offering an incentive to permit Professionals to achieve a higher rebate. Participants who are able to achieve Tier 6 today would continue to be eligible for the Tier 6 Rebate to Add Liquidity in Penny Symbols, provided they continue to provide the same liquidity. Other Participants may also be able to qualify for the Tier 6 Rebate to Add Liquidity in Penny Symbols because of the lower volume requirements. Additionally, by submitting the same volume as today, Participants would be able to qualify for the same $0.48 per contract Professional Rebate to Add Liquidity in Penny Symbols with the proposed incentive.

The Exchange's proposal to decrease the criteria for the Tier 6 Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1) is reasonable because Participants who are able to achieve Tier 6 rebate today would continue to be eligible for the Tier 6 Rebate to Add Liquidity in Penny Symbols, provided they continued to provide the same liquidity. Other Participants may also be able to qualify for the Tier 6 Rebate to Add Liquidity in Penny Symbols because of the lower volume requirements. The proposal permits Participants to qualify for the Tier 6 Rebate to Add Liquidity in Penny Symbols when a Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols from 0.80% to 0.70% of total industry customer equity and ETF option ADV contracts per day in a month. Additionally, the Exchange is decreasing the criteria to achieve the Tier 6 Rebate to Add Liquidity in Penny Symbols when Participant adds Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols from 0.20% to .10% or more of total industry customer equity and ETF option ADV contracts per day in a month. The remainder of the criteria within Tier 6 Rebate to Add Liquidity in Penny Symbols remains the same.[23]

The Exchange's proposal to offer a Tier 6 incentive (''##'') is reasonable because, today, Customers may achieve a higher Tier 6 Rebate to Add Liquidity in Penny Symbols by meeting the criteria in current note 7.[24] The Exchange notes that Participants who today qualify for Tier 6 Professional Rebate to Add Liquidity in Penny Symbols would be eligible for the incentive provided they continue to submit the same liquidity as today. Participants that today qualify for a lower Professional Rebate to Add Liquidity in Penny Symbols may have an opportunity to qualify for the Tier 6 Professional Rebate to Add Liquidity in Penny Symbols which pays the highest Professional Rebate to Add Liquidity in Penny Symbols.

The Exchange's proposal to decrease the Tier 6 Professional Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1) from $0.48 per contract to $0.47 per contract, amend the criteria for the Tier 6 rebate, and add a Tier 6 rebate incentive for Penny Symbols is equitable and not unfairly discriminatory because with this proposal, Customers will continue to be eligible for the highest rebates offered by the Exchange. Customer liquidity, unlike Professional liquidity, offers unique benefits to the market which benefits all market participants. Customer liquidity is the most sought after liquidity among Participants.

[20] 15 U.S.C. 78f(b)(4) and (5).

[21] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[22] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[23] The Tier 6 Rebate to Add Liquidity in Penny Symbols also requires that has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month or qualifies for MARS (defined below) when Participant is seeking to achieve the second part of Tier 6 to qualify for the rebate.

[24] Note 7 of Options 7, Section 2(1) provides that Participants that: (1) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Symbol Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Symbol in that month; or (2) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols of 1.30% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.05 per contract Penny Symbol Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Symbols in that month; or (3) (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month, (b) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Non-Penny Symbols above 0.12% of total industry customer equity and ETF option ADV contracts per day in a month, and (c) execute greater than 0.04% of Consolidated Volume (''CV'') via Market-on-Close/Limit-on-Close (''MOC/LOC'') volume within The Nasdaq Stock Market Closing Cross within a month will receive an additional $0.05 per contract Penny Symbol Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Symbols in a month. 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 an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, 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.

Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Paying higher rebates to Customers is consistent with the treatment of Customers on other options venues that are paid the highest rebates.[25] The Exchange believes it is equitable and not unfairly discriminatory to continue to pay Professionals the same or lower rebates as Customers. With respect to Professionals, the Exchange believes that continuing to encourage Participants to add Professional liquidity creates competition among options exchanges because the Exchange believes that the rebates may cause market participants to select NOM as a venue to send Professional order flow. The Exchange notes that is equitable and not unfairly discriminatory to lower rebates for Professionals, who unlike Customers, have access to sophisticated trading systems that contain functionality not available to Customers. The Exchange would uniformly apply the Tier 6 rebate criteria and incentive to all Participants and would uniformly pay rebates to all qualifying Participants.

The Exchange's proposal to decrease the criteria to achieve the Tier 3 Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1) is reasonable because Participants who are able to achieve Tier 3 rebate today would continue to be eligible for the Tier 3 Rebate to Add Liquidity in Penny Symbols, provided they continued to provide the same liquidity. Other Participants may also be able to qualify for the Tier 3 Rebate to Add Liquidity in Penny Symbols because of the lower volume requirements.

The Exchange's proposal to decrease the criteria to achieve the Tier 3 Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1) is equitable and not unfairly discriminatory because the Exchange would uniformly apply the Tier 3 rebate criteria to all Participants and pay the Tier 3 rebate to all qualifying Participants.

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.

Intermarket Competition

The Exchange 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 fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which pricing changes in this market may impose any burden on competition is extremely limited because other options exchanges offer similar rebate programs.

Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and rebate changes. In sum, if the changes proposed herein are 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 changes will impair the ability of Members or competing order execution venues to maintain their competitive standing in the financial markets.

Intramarket Competition

The Exchange's proposal to decrease the Tier 6 Professional Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1) from $0.48 per contract to $0.47 per contract, amend the criteria for the Tier 6 rebate, and add a Tier 6 rebate incentive for Penny Symbols does not impose an undue burden on competition. With this proposal, Customers will continue to be eligible for the highest rebates offered by the Exchange. Customer liquidity, unlike Professional liquidity, offers unique benefits to the market which benefits all market participants. Customer liquidity is the most sought after liquidity among Participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Paying higher rebates to Customers is consistent with the treatment of Customers on other options venues that are paid the highest rebates.[26] Paying Professionals the same or lower rebates as Customers does not impose an undue burden on competition. With respect to Professionals, the Exchange believes that continuing to encourage Participants to add Professional liquidity creates competition among options exchanges because the Exchange believes that the rebates may cause market participants to select NOM as a venue to send Professional order flow. Lowering rebates for Professionals, who unlike Customers, have access to sophisticated trading systems that contain functionality not available to Customers does not impose an undue burden on competition. Finally, the Exchange would uniformly apply the Tier 6 rebate criteria and incentive to all Participants and would uniformly pay rebates to all qualifying Participants.

The Exchange's proposal to decrease the criteria to achieve the Tier 3 Rebate to Add Liquidity in Penny Symbols within Options 7, Section 2(1) does not impose an undue burden on competition because the Exchange would uniformly apply the Tier 3 rebate criteria to all Participants and pay the Tier 3 rebate to all qualifying Participants.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[27]

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

[25] *See* Nasdaq PHLX LLC Options 7, Section 2. Phlx pays rebates exclusively to Customers. *See also* Nasdaq GEMX, LLC Options 7, Section 3. Priority Customers receive the highest rebates.

[26] *See* Nasdaq PHLX LLC Options 7, Section 2. Phlx pays rebates exclusively to Customers. *See also* Nasdaq GEMX, LLC Options 7, Section 3. Priority Customers receive the highest rebates.

[27] 15 U.S.C. 78s(b)(3)(A)(ii).

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 email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2022–064 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.

All submissions should refer to File Number SR–NASDAQ–2022–064. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2022–064 and should be submitted on or before December 20, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–25947 Filed 11–28–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96376; File No. SR–EMERALD–2022–30]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Exchange Rule 532, Order and Quote Price Protection Mechanisms and Risk Controls

November 22, 2022.

Pursuant to the provisions of 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 November 10, 2022, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 (i) adopt new Exchange Rule 532, Order and Quote Price Protection Mechanisms and Risk Controls; and (ii) amend Exchange Rule 518, Complex Orders.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald,* at MIAX Emerald'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 Exchange proposes to adopt new Exchange Rule 532, Order and Quote Price Protection Mechanisms and Risk Controls.[3] The Exchange proposes to adopt a new Managed Protection Override feature, a new Max Put Price Protection feature, and a new MIAX Strategy Price Protection (''MSPP'') in new proposed Rule 532. The Exchange notes that the proposed functionality is identical to functionality recently adopted by the Exchange's affiliate, MIAX Options Exchange.[4]

The Exchange also proposes to relocate and amend paragraph (a), Vertical Spread Variance (''VSV'') Price Protection; paragraph (b), Calendar Spread Variance (''CSV'') Price Protection; and paragraph (c) VSV and CSV Price Protection, from Interpretations and Policies .05 of Exchange Rule 518 to new proposed Rule 532 as described below.

Additionally, the Exchange proposes to add a new Butterfly Spread Variance (''BSV'') Price Protection to proposed section (b)(2) of new proposed Rule 532.[5] Further, the Exchange proposes to relocate paragraph (d), Implied Away Best Bid or Offer (''ixABBO'') Price Protection; paragraph (f), Complex MIAX Emerald Price Collar Protection; and paragraph (g), Market Maker Single Side Protection, from Interpretations and Policies .05 of Exchange Rule 518 to new proposed Rule 532 in their entirety and without modification as section (b)(6), Complex MIAX Options Price Collar Protection; section (b)(7), Implied Away Best Bid or Offer (''ixABBO'') Price Protection; and section (b)(8), Market Maker Single Side Protection.[6]

The Exchange also proposes to amend Exchange Rule 518, Complex Orders, to

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[28] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that proposed Rule 532 is identical to current Rule 532 on the MIAX Options Exchange.

[4] *See* Securities Exchange Act Release No. 94353 (March 3, 2022), 87 FR 13339 (March 9, 2022) (SR–MIAX–2021–58).

[5] The Exchange notes that the proposed functionality is identical to functionality recently adopted by the Exchange's affiliate, MIAX Options. *See* Securities Exchange Act Release No. 94353 (March 3, 2022), 87 FR 13339 (March 9, 2022) (SR–MIAX–2021–58).

[6] The proposed rulebook changes are identical to recent rulebook changes made by the Exchange's affiliate, MIAX Options. *See supra* note 4.