ATSs operate profitably with fragmentary shares of consolidated market volume.

In this environment, a super-competitive increase in the fees charged for either transactions or data has the potential to impair revenues from both products. A broker-dealer that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. If a platform increases its market data fees, the change may affect the overall cost of doing business with the platform, and affected market participants will assess whether they can lower their trading costs by directing orders elsewhere, thereby lessening the need for the more expensive data, or simply not purchase the data.

In establishing the price for the NYSE Arca Integrated Data Feed, the Exchange considered the competitiveness of the market for data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of alternatives to the Exchange's product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange's separate data feeds at a lower price, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives. Accordingly, the Exchange believes that the acceptance of data feed products in the marketplace demonstrates the consistency of these fees with applicable statutory standards.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [20] of the Act and subparagraph (f)(2) of Rule 19b–4 [21] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Arca.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–NYSEArca–2011–96 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEArca–2011–96. 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 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 Web site 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 a.m. and 3 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–NYSEArca–2011–96 and should be submitted on or before February 7, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–686 Filed 1–13–12; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66126; File No. SR–NASDAQ–2012–003]

Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Customer Rebate To Add Liquidity in Penny Pilot Options

January 10, 2012.

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 January 3, 2012, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. 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 NASDAQ Stock Market LLC proposes to modify Rule 7050, governing pricing for NASDAQ members using the NASDAQ Options Market (''NOM''), NASDAQ's facility for executing and routing standardized equity and index options. Specifically, NOM proposes to amend the applicability of the Customer Rebate to Add Liquidity for the Penny Pilot [3] Options (''Penny Options'').

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

[2] 17 CFR 240.19b–4.

[3] The Penny Pilot was established in March 2008 and in October 2009 was expanded and extended through December 31, 2011. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008)(SR–NASDAQ–2008–026)(notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009)(SR–NASDAQ–

Continued

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com,* 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. 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

NASDAQ proposes to modify Exchange Rule 7050 governing the rebates and fees assessed for option orders entered into NOM. Specifically, the Exchange is proposing to modify the six tier structure for paying Customer Rebates to Add Liquidity in Penny Pilot Options. The Exchange proposes to reduce the tiers to four tiers and further incentivize NOM Participants to route Customer orders to the Exchange by paying an additional rebate for certain orders after the NOM Participant has met a volume criteria. The Exchange believes that incentivizing NOM Participants to send additional Customer orders to the Exchange will benefit all market participants by adding liquidity to the market.

Specifically, the Exchange currently pays a Customer Rebate to Add Liquidity in Penny Pilot Options based on the following tier structure:

	Monthly volume	Rebate to add liquidity
Tier 1	Participant adds Customer liquidity of up to 24,999 contracts per day in a month	$0.26
Tier 2	Participant adds Customer liquidity of 25,000—59,999 contracts per day in a month	0.36
Tier 3	Participant adds Customer liquidity of 60,000—124,999 contracts per day in a month	0.38
Tier 4	Participant adds Customer liquidity of 125,000 or more contracts per day in a month	0.40
Tier 5 [a]	Participant adds (1) Customer liquidity of 60,000 or more contracts per day in a month, and (2) NOM Market Maker liquidity of 60,000 or more contracts per day in a month.	0.40
Tier 6 [b]	Participant adds Customer liquidity of 25,000 or more contracts per day in a month, and (2) the Participant simultaneously qualifies for credit under the Investor Support Program set forth in Rule 7014.	0.37

[a] For purposes of Tier 5, the Exchange will aggregate the trading activity of separate NOM Participants when computing average daily volumes where 75 percent common ownership or control exists between NOM Participants.

[b] For purposes of Tier 6, the Exchange will allow a NOM Participant to qualify for the rebate if a NASDAQ member under common ownership with the NOM Participant qualifies for a credit under the Investor Support Program. Common ownership is defined as 75 percent common ownership or control.

The Exchange proposes to amend the Customer Rebate to Add Liquidity in Penny Pilot Options to a four tier structure as follows:

	Monthly volume	Rebate to add liquidity
Tier 1	Participant adds Customer liquidity of up to 49,999 contracts per day in a month	$0.26
Tier 2	Participant adds Customer liquidity of 50,000 or more contracts per day in a month	0.42
Tier 3 [a]	Participant adds (1) Customer liquidity of 100,000 or more contracts per day in a month, and (2) NOM Market Maker liquidity of 40,000 or more contracts per day in a month.	0.43
Tier 4 [b]	Participant adds (1) Customer liquidity of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014; and (3) the Participant executed at least one order on NASDAQ's equity market.	0.40

[a] For purposes of Tier 3, the Exchange will aggregate the trading activity of separate NOM Participants when computing average daily volumes where 75 percent common ownership or control exists between NOM Participants.

[b] For purposes of Tier 4, the Exchange will allow a NOM Participant to qualify for the rebate if a NASDAQ member under common ownership with the NOM Participant has certified under the Investor Support Program and executed at least one order on NASDAQ's equity market. Common ownership is defined as 75 percent common ownership or control.

Currently, Tier 1 firms that add up to 24,999 contracts per day in a month of liquidity receive a rebate of $0.26 per contract. The Exchange is proposing to amend Tier 1 to cover up to 49,999 contracts per day in a month, and to pay the same $0.26 per contract rebate. Based on past experience, the Exchange anticipates that all firms currently receiving the $0.26 rebate will maintain their current level of rebate.

Currently, Tier 2 firms that add between 25,000 and 59,999 contracts per day in a month receive a rebate of $0.36 per contract. The Exchange is proposing to amend Tier 2 to cover 50,000 or more contracts per day in a month, and to pay a rebate of $0.42 per contract. As a result, firms that currently contribute between 25,000 and 49,999 per day of liquidity in Customer contracts will receive a lower rebate (down from $0.36 to $0.26 per contract). However, firms that contribute between

2009–091)(notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009)(SR–NASDAQ–2009–097)(notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010)(SR–NASDAQ–2010–013)(notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053)(notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011, 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot). *See also* Exchange Rule Chapter VI, Section 5.

50,000 and 59,999 contracts per day of Customer order liquidity will receive a higher rebate (up from $0.36 to $0.42 per contract). Based upon current volume levels and past trading patterns, the Exchange anticipates that firms will contribute sufficient liquidity to avoid receiving reduced rebates.

Currently, Tier 3 firms that add between 60,000 and 124,999 contracts per day in a month receive a rebate of $0.38 per contract. This tier is being eliminated. NOM Participants who previously qualified for Tier 3 would now qualify for Tier 2, which is now 50,000 or more contracts, and would receive a higher rebate in Tier 2 (up from $0.38 to $0.42 per contract).

Currently, Tier 4 firms that add 125,000 contracts or more per day in a month receive a rebate of $0.40 per contract. This tier is being eliminated. NOM Participants who previously qualified for Tier 4 would now qualify for Tier 2, which is now 50,000 or more contracts, and would receive a higher rebate in Tier 2 rebate (up from $0.40 to $0.42 per contract).

Currently, Tier 5 firms that (1) provide 60,000 or more contracts per day in a month of Customer order liquidity in Penny Pilot Options, and (2) provide 60,000 or more contracts per day of NOM Market Maker liquidity receive a rebate of $0.40 per contract if both criteria are met. For purposes of determining qualification for this tier, the Exchange aggregates [4] the trading activity of separate NOM Participants in calculating the average daily volume if there is at least 75% common ownership between the NOM Participants. The Exchange proposes to rename this Tier 5 as ''Tier 3'' and modify the Customer volume to require that firms: (1) Provide 100,000 or more contracts per day in a month of Customer order liquidity in Penny Pilot Options (an increase from 60,000), and (2) provide 40,000 or more contracts per day of NOM Market Maker liquidity (a decrease from 60,000). If a firm meets both criteria, the Exchange would pay an increased rebate of $0.43 per contract. Based upon current volume levels and past trading patterns, the Exchange anticipates that firms will contribute sufficient liquidity to receive an increased rebate.

Currently, Tier 6 firms that (1) provide 25,000 or more contracts per day in a month of Customer order liquidity in Penny Pilot Options, and (2) simultaneously qualify for credit under the Investor Support Program (''ISP'') as set forth in NASDAQ Rule 7014 [5] receive a rebate of $0.37 per contract. Specifically, firms that qualify for a credit under the ISP by providing retail investor liquidity to NASDAQ's equity market can qualify for a higher rebate on NASDAQ's options market if they contribute 25,000 or more contracts per day of Customer order liquidity in Penny Pilot Options on NOM. The Exchange proposes to rename this Tier 6 as ''Tier 4'' and pay an increased rebate of $0.40 per contract for firms that meet the criteria for this tier. In addition, the Exchange proposes to revise the requirement of newly named Tier 4 to state that firms (1) that provide 25,000 or more contracts per day in a month of Customer order liquidity in Penny Pilot Options, (2) where the Participant has certified for the ISP as set forth in Rule 7014; and (3) where the Participant executed at least one order on NASDAQ's equity market will receive the $0.40 per contract rebate. A member desiring to participate in the ISP must submit an application to the Exchange and designate one or more of its NASDAQ ports for ISP use.[6] The Exchange's proposal to qualify for newly named Tier 4 would not require the Participant to transact any ISP volume, however, the Participant would be required to execute at least one order on NASDAQ's equity market.[7] The Exchange provides a methodology by which members can demonstrate their compliance with the requirements of Rule 7014. A member shall certify to the reasonable satisfaction of the Exchange: (i) Its Baseline Participation Ratio; [8] and (ii) if requested by the Exchange, its compliance with any other sections or requirements of Rule 7014, but not more often than once a month during participation in ISP. The Exchange would permit a NOM Participant to qualify for newly named Tier 4 if that NOM Participant meets the Customer liquidity volume of 25,000 or more contracts per day in a month, has certified under Rule 7014 and has executed at least one order on NASDAQ's equity market. Based upon current volume levels and past trading patterns, the Exchange anticipates that firms will contribute sufficient liquidity to receive an increased rebate in this tier. The Exchange believes the increased rebate would encourage participants in the Exchange's equity markets to also participate in the Exchange's options market.

The Exchange also proposes to further incentivize those NOM Participants that qualify for proposed Tiers 2, 3 and 4 by offering to pay an additional $0.01 per contract rebate on each Customer order of 5,000 or more, displayed or non-displayed contracts, which adds liquidity in a Penny Pilot Option, as long as that NOM Participant has qualified for a rebate in Tier 2, 3 or 4 for that month. This would be in addition to the rebate for the qualifying tier.[9]

The Exchange is not otherwise amending the Customer Rebates to Add Liquidity.

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[10] in general, and with Section 6(b)(4) of the

[4] Aggregation is necessary and appropriate because certain NOM participants conduct Customer and NOM Market Maker trading activity through separate but related broker-dealers.

[5] For a detailed description of the ISP, *see* Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ–2010–141) (notice of filing and immediate effectiveness) (the ''ISP Filing''). *See also* Securities Exchange Act Release Nos. 63414 (December 2, 2010), 75 FR 76505 (December 8, 2010) (NASDAQ–2010–153) (notice of filing and immediate effectiveness); and 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (NASDAQ–2010–154) (notice of filing and immediate effectiveness).

[6] *See* Exchange Rule 7014.

[7] Currently, in order to comply with Tier 6, a participant must qualify for credit under the ISP. In order to qualify for an ISP credit, a Participant would need to transact a certain amount of displayed liquidity through an ISP-designated port which results in an increase in the overall liquidity that the member provides to NASDAQ measured as a proportion of the consolidated share volume traded by all market participants across all trading venues. To this end, a member's ''Baseline Participation Ratio'' is determined by measuring the number of shares in liquidity-providing orders entered by the member (through any NASDAQ port) and executed on NASDAQ and dividing this number by the consolidated (across all trading venues) share volume of System Securities traded in a given month. To determine whether a member added liquidity to NASDAQ in a given month, NASDAQ would perform the same calculation on a monthly basis for the then-current month and compare the resulting ratio to the Baseline Participation Ratio. For a detailed description of the ISP, *see* Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ–2010–141) (notice of filing and immediate effectiveness) (the ''ISP Filing''). *See also* Securities Exchange Act Release Nos. 63414 (December 2, 2010), 75 FR 76505 (December 8, 2010) (NASDAQ–2010–153) (notice of filing and immediate effectiveness); and 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (NASDAQ–2010–154) (notice of filing and immediate effectiveness). [sic] by transacting a certain volume.

[8] The term ''Baseline Participation Ratio'' shall mean, with respect to a member, the lower of such member's Participation Ratio for the month of August 2010 or the month of August 2011, provided that in calculating such Participation Ratios, the numerator shall be increased by the amount (if any) of the member's Indirect Order Flow for such month, and provided further that if the result is zero for either month, the Baseline Participation Ratio shall be deemed to be 0.485% (when rounded to three decimal places). *See* NASDAQ Rule 7014(g)(1).

[9] The rebate would be paid for a partial execution.

[10] 15 U.S.C. 78f.

Act,[11] 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 or system which NASDAQ operates or controls.

The Exchange believes that the proposed new pricing tiers are reasonable, equitable and not unfairly discriminatory because they continue an existing program [12] to encourage broker-dealers acting as agent for Customer orders to select the Exchange as a venue to post Customer orders. The Exchange believes that its success at attracting Customer order flow benefits all market participants by improving the quality of order interaction and executions at the Exchange. The Exchange believes the existing monthly volume thresholds have incentivized firms that route Customer orders to the Exchange to increase Customer order flow to the Exchange. The Exchange desires to continue to encourage firms that route Customer orders to increase Customer order flow to the Exchange by offering greater Customer rebates for greater liquidity added to the Exchange.

Specifically, the Exchange believes that the increased rebates would further incentivize firms to continue to send more Customer volume to the Exchange. Today, the Exchange pays any Customer order up to 24,999 contracts per day in a given month a rebate of $0.26 per contract for adding liquidity in Penny Pilot Options. The Exchange would continue to pay this same rebate, but would pay such a rebate for any Customer order up to 49,999 contracts per day in a given month that adds liquidity in Penny Pilot Options. This would result in a decreased rebate to certain Participants that currently qualify for Tier 2. The Exchange believes that this increase in the number of Customer orders that qualify for Tier 1 is reasonable, equitable and not unfairly discriminatory because all Customer orders that add liquidity in Penny Pilot Options have the ability to earn the rebate; there is no minimum order requirement. Also, all NOM Participants transacting Customer orders in Penny Pilot Options are eligible to receive this rebate. The Exchange currently pays a higher rebate for Tier 2 Customer orders in Penny Pilot Options between 25,000 and 59,999 contracts per day in a given month of $0.36 per contract. The Exchange believes that offering the Tier 1 rebate up to 49,999 contracts per day and starting the Tier 2 rebate at 50,000 Customer contracts per day would encourage NOM Participants to send a greater number of Customer orders to the Exchange to obtain the increased rebate of $0.42 per contract.

The Exchange believes that amending Tier 2 from between 25,000 and 59,999 Customer orders per day in a given month to 50,000 or more Customer contracts per day in a given month (capturing those Customer contracts between 50,000 and 59,999) is reasonable because the Exchange is also offering a higher rebate of $0.42 per contract, an increase from the current $0.36 per contract. The Exchange believes that simplifying the current Tiers 1, 2, 3 and 4, which have no other qualifier than Customer volume, down to two tiers and offering a higher rebate of $0.42 per contract for any Customer order volume over 50,000 contracts per day in a given month, in Penny Pilot Options, would allow a greater number of NOM Participants to obtain a higher rebate. Those NOM Participants that currently qualify for Tiers 3 and 4 would be eligible for a higher rebate and a portion of those NOM Participants that currently qualify for Tier 2 would be eligible for the higher rebate. The Exchange believes that for these reasons, the proposal is equitable and not unfairly discriminatory.

The Exchange also proposes to amend current Tier 5, which would be renamed Tier 3, to increase the number of Customer contracts from 60,000 to 100,000 contracts per day in a given month and also decrease the second qualifier, concerning NOM Market Maker liquidity, from 60,000 to 40,000 per day in a given month. The Exchange believes that this amendment is reasonable because the Exchange is seeking to incentivize NOM Participants to transact a greater number of Customer orders. By increasing the number of Customer orders to 100,000 per day and lowering the second qualifier on Market Maker liquidity to 40,000 per day the Exchange desires to further incentivize NOM Participants to send additional Customer order flow, in Penny Pilot Options, to the Exchange and provide incentives for Market Makers to increase liquidity on the Exchange for the benefit of all NOM participants. The Exchange believes that Broker Dealers that make markets and also route Customer order flow to the Exchange today, would be incentivized to meet the new criteria and qualify for Tier 3 because of the lower Market Maker liquidity volume and the increased rebate. The Exchange proposes to increase the rebate from $0.40 per contract to $0.43 per contract in order to incentivize NOM Participants that also route Customer order flow to register to make markets on the Exchange. The Exchange believes that this newly named Tier 3 is equitable and not unfairly discriminatory because Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants. The Exchange has set a reasonable goal of 40,000 or more contracts per day of Market Maker liquidity on NOM, an achievable goal that should encourage increased Market Maker registration and liquidity on the Exchange. The Exchange believes that paying an increased rebate of $0.43 per contract ($0.01 per contract higher than Tier 2) is equitable and not unfairly discriminatory because increased Market Maker liquidity would, in turn, improve the amount of liquidity available on the Exchange and improve the quality of order interaction and executions on the Exchange.

The Exchange also proposes to amend current Tier 6, which would be renamed Tier 4, to increase the rebate from $0.37 per contract to $0.40 per contract to incentivize NOM Participants to transact additional Customer orders in Penny Pilot Options and encourage participants in the Exchange's equity markets to also participate in the Exchange's options market. The Exchange believes that this proposed amendment is reasonable because the Exchange seeks to incentivize NOM Participants to transact a greater number of Customer orders in Penny Pilot Options. Furthermore, the Exchange believes that it is reasonable to allow NOM Participants with a certain amount of Customer orders, to qualify for a Customer rebate by allowing a related NASDAQ member, under common ownership, to qualify for the rebate as specified herein. The Exchange also believes that the amendments to the newly named Tier 4 criteria, namely 25,000 or more Customer contracts, has certified for ISP and executed at least one order on NASDAQ's equity market, are reasonable because, as stated above, the Exchange believes that this proposal would incentivize NOM Participants to transact additional Customer orders and encourage participants in the Exchange's equity markets to also participate in the Exchange's options market. The Exchange believes this would encourage participants in the Exchange's equity markets to also participate in the Exchange's options market particularly because the

[11] 15 U.S.C. 78f(b)(4).

[12] The Exchange adopted these monthly volume achievement tiers in September 2011. *See* Securities Exchange Act Release Nos. 65317 (September 12, 2011), 76 FR 57778 (September 16, 2011) (SR–NASDAQ–2011–124) and 65317 (September 12, 2011), 76 FR 61129 (October 3, 2011) (SR–NASDAQ–2011–127).

Exchange's proposal to qualify for newly named Tier 4 would not require the Participant to transact any volume, but only to certify for ISP.

The Exchange believes that the requirement to certify in combination with requiring the Participant to execute at least one order on NASDAQ's equity market would promote the submission of liquidity-providing orders to NASDAQ. The ISP encourages members to add targeted liquidity that is executed in the NASDAQ Market Center. The Exchange believes that the ISP promotes submission of liquidity-providing orders to NASDAQ, which would benefit all NASDAQ members and all investors. By allowing members to certify under Rule 7014, while also meeting the volume criteria of 25,000 or more Customer contracts in Penny Pilot Options, the Exchange believes that the proposal would encourage greater participation in the options market. The Exchange believes that increased rebate and the amended criteria for newly named Tier 4 are equitable and not unfairly discriminatory because together these amendments are intended to encourage increased activity in both the NASDAQ Options Market and in the ISP of the NASDAQ equity market. The goal of the ISP is to incentivize members [13] to provide liquidity from individual equity investors to the NASDAQ Market Center. The increased rebate in newly named Tier 4 would encourage firms that certify pursuant to Rule 7014 to increase the amount of Customer order liquidity provided to the NASDAQ Options Market. The addition of such liquidity, either through the ISP or through increased Customer order flow, would benefit all Exchange members that participate in those markets.[14] The Exchange believes that amending newly named Tier 4 to require firms to be certified for ISP instead of qualifying for a credit would provide further incentive for firms to add volume to NOM and also participate in the equities market because the firm has to execute at least one order in the equity market.

The Exchange believes that it is reasonable to offer a rebate of $0.01 per contract on each Customer order of 5,000 or more displayed or non-displayed contracts, which adds liquidity in a Penny Pilot Option, as long as that NOM Participant has qualified for a rebate in Tier 2, 3 or 4 for that month. This $0.01 per contract rebate would be in addition to the rebate for the qualifying tier. The Exchange believes that this enhanced incentive will encourage NOM Participants to send larger orders to the Exchange, which in turn would also assist those Participants that send Customer orders in Penny Pilot Options to earn higher rebates by qualifying for a higher tier as well as bringing additional liquidity to the Exchange. The Exchange further believes that limiting the enhanced $0.01 per contract rebate to firms already qualifying for Tiers 3, 4 or 5 (and not those that qualify for Tier 1) is equitable and not unfairly discriminatory because generally NOM Participants in Tier 1 today are not sending Customer orders of 5,000 or more contracts. If those Participants in Tier 1 sent ten Customer orders of 5,000 or more per day in a given month to the Exchange, they would qualify for Tier 2 and would be paid the additional enhanced rebate. The Exchange believes that it is equitable and not unfairly discriminatory to incentivize those NOM Participants that qualify for higher volume tiers as they are the most likely to obtain the enhanced rebate and continue to send larger orders, which provides more liquidity to the Exchange. Finally, the Exchange would pay the enhanced rebate uniformly to those NOM Participants that qualify for Tiers 2, 3 or 4 and meet the Customer order volume discussed herein for Penny Pilot Options.

The Exchange operates in a highly competitive market comprised of nine U.S. options exchanges in which sophisticated and knowledgeable market participants can and do send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive or rebate opportunities to be inadequate. The Exchange believes that the proposed rebate scheme is competitive and similar to other rebates and tiers opportunities in place on other exchanges. The Exchange believes that this competitive marketplace materially impacts the rebates present on the Exchange today and substantially influenced the proposal set forth above.

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.

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.[15] 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 necessary or appropriate in the public interest, for the protection of investors, or 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 email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2012–003 on the subject line.

Paper Comments

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

[13] The Commission has expressed its concern that a significant percentage of the orders of individual investors are executed at over the counter (''OTC'') markets, that is, at off-exchange markets; and that a significant percentage of the orders of institutional investors are executed in dark pools. *See* Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (Concept Release on Equity Market Structure, ''Concept Release''). In the Concept Release, the Commission has recognized the strong policy preference under the Act in favor of price transparency and displayed markets. The Commission published the Concept Release to invite public comment on a wide range of market structure issues, including high frequency trading and un-displayed, or ''dark,'' liquidity. *See also* Mary L. Schapiro, Strengthening Our Equity Market Structure (Speech at the Economic Club of New York, Sept. 7, 2010) (''Schapiro Speech,'' available on the Commission Web site) (comments of Commission Chairman on what she viewed as a troubling trend of reduced participation in the equity markets by individual investors, and that nearly 30 percent of volume in U.S.-listed equities is executed in venues that do not display their liquidity or make it generally available to the public).

[14] NASDAQ Rule 7018(a) already provides incentives for firms to participate in both NASDAQ's equity market and its options market.

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

All submissions should refer to File Number SR–NASDAQ–2012–003. 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 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 Web site 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 a.m. and 3 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–2012–003 and should be submitted on or before February 7, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–685 Filed 1–13–12; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2012–0003]

Occupational Information Development Advisory Panel

AGENCY: Social Security Administration (SSA).

ACTION: Notice of the Charter Renewal for the Occupational Information Development Advisory Panel.

SUMMARY: Notice is hereby given that on January 6, 2012; our Commissioner renewed the Charter for the Occupational Information Development Advisory Panel (Panel). This discretionary Panel will provide independent advice and recommendations on plans and activities to create an occupational information system (OIS) tailored specifically for our disability programs and adjudicative needs. We require advice and recommendations on the use of occupational information in our disability programs and the research design of the OIS, including the development and testing of an OIS content model and taxonomy, work analysis instrumentation, sampling, and data collection and analysis.

Membership includes professionals from academia, private sector, and public entities, (*e.g.,* Department of Labor) with expertise in one or more of the following subject areas: (a) Occupational analysis, design and development of occupational classifications, instrument design, labor market economics, sampling, data collection and analyses; (b) disability evaluation, vocational rehabilitation, forensic vocational assessment, and physical or occupational therapy; (c) occupational or physical rehabilitation medicine, psychiatry, or psychology; and (d) disability claimant advocacy.

The Panel will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The charter was filed with the appropriate congressional committees.

For further information contact, Ms. Leola S. Brooks, Designated Federal Officer, Occupational Information Development Advisory Panel, Social Security Administration, 6401 Security Boulevard 3–E–26 Richard Ball Building, Baltimore, MD 21235–0001. Fax to (410) 597–0825, or Email to *OIDAP@ssa.gov.*

Leola S. Brooks,

Designated Federal Officer, Occupational Information Development Advisory Panel.

[FR Doc. 2012–678 Filed 1–13–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 7719]

Advisory Committee on International Postal and Delivery Services

AGENCY: Department of State.

ACTION: Notice of renewal of the Advisory Committee charter.

Renewal of Advisory Committee: The Secretary of State announces the renewal of the charter of the Advisory Committee on International Postal and Delivery Services in fulfillment of the provisions of the 2006 Postal Accountability and Enhancement Act (Pub. L. 109–435) and in accordance with the Federal Advisory Committee Act.

Purpose: The purpose of the Advisory Committee is to serve the Department of State in an advisory capacity with respect to the formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services. The Committee provides a forum for government employees, representatives of the industry sector and members of the public to present their advice and views directly to the Department of State.

For further information, please contact Dennis Delehanty, Office of Global Systems (IO/GS), Bureau of International Organization Affairs, U.S. Department of State, at (202) 647–4197.

Dated: January 10, 2012.

Dennis M. Delehanty,

Foreign Affairs Officer, Department of State.

[FR Doc. 2012–741 Filed 1–13–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 7757]

Culturally Significant Objects Imported for Exhibition Determinations: ''Snapshot: Painters and Photography, Bonnard to Vuillard''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Snapshot: Painters and Photography, Bonnard to Vuillard'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Phillips Collection, Washington, DC, from on or about February 4, 2012, until on or about May 6, 2012, the Indianapolis Museum of Art, Indianapolis, IN, from on or about June 8, 2012, until on or about September 2, 2012, and at possible additional exhibitions or venues yet to

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[16] 17 CFR 200.30–3(a)(12).