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Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2012 - * 032
Amendment No. (req. for Amendments *)

Proposed Rule Change by NASDAQ Stock Market

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * [x] Amendment * [ ] Withdrawal [ ]

Section 19(b)(2) * [ ] Section 19(b)(3)(A) * [x] Section 19(b)(3)(B) * [ ]

Pilot [ ]

Extension of Time Period for Commission Action * [ ]

Date Expires *

Rule

- [ ] 19b-4(f)(1)
- [x] 19b-4(f)(2)
- [ ] 19b-4(f)(3)
- [ ] 19b-4(f)(4)
- [ ] 19b-4(f)(5)
- [ ] 19b-4(f)(6)

Exhibit 2 Sent As Paper Document [ ]

Exhibit 3 Sent As Paper Document [ ]

Description

Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *).

Proposed changes to modify the Investor Support Program under Rule 7014 to introduce an additional method for members to earn an enhanced rebate under the ISP.

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 proposed rule change.

First Name * John Last Name * Yetter

Title * Vice President and Deputy General Counsel

E-mail * john.yetter@nasdaqomx.com

Telephone * (301) 978-8497 Fax (301) 978-8472

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date 02/27/2012

By Edward S. Knight (Name *)

Executive Vice President and General Counsel (Title *)

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

Edward S Knight,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information (required) Add Remove View	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 (required) 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 Exhibit Sent As Paper Document ☐	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.
Exhibit 3 - Form, Report, or Questionnaire Add Remove View Exhibit Sent As Paper Document ☐	Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.
Exhibit 4 - Marked Copies 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	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 Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") is filing with the Securities and Exchange Commission ("Commission") proposed changes to modify the Investor Support Program (the "ISP") under Rule 7014 to introduce an additional method for members to earn an enhanced rebate under the ISP.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of NASDAQ pursuant to authority delegated by the Board of Directors of NASDAQ on August 19, 2011. NASDAQ staff will advise the Board of Directors of NASDAQ of any action taken pursuant to delegated authority. No other action by NASDAQ is necessary for the filing of the rule change. NASDAQ proposes to implement the proposed rule change on March 1, 2012.

Questions regarding this rule filing may be directed to John M. Yetter, Vice President and Deputy General Counsel, NASDAQ OMX, 301-978-8497.

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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

NASDAQ is proposing to modify the Investor Support Program (the "ISP") under Rule 7014 to introduce an additional method for members to earn an enhanced rebate under the ISP. The ISP enables NASDAQ members to earn a monthly fee credit for providing additional liquidity to NASDAQ and increasing the NASDAQ-traded volume of what are generally considered to be retail and institutional investor orders in exchange-traded securities ("targeted liquidity").[3] The goal of the ISP is to incentivize members to provide such targeted liquidity to the NASDAQ Market Center.[4] The Exchange noted in

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[3] For a detailed description of the Investor Support Program as originally implemented, 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); 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (NASDAQ-2010-154) (notice of filing and immediate effectiveness); 63891 (February 11, 2011), 76 FR 9384 (February 17, 2011) (NASDAQ-2011-022) (notice of filing and immediate effectiveness); 64050 (March 8, 2011), 76 FR 13694 (March 14, 2011) (SR-NASDAQ-2011-034); 65717 (November 9, 2011), 76 FR 70784 (November 15, 2011) (SR-NASDAQ-2011-150) (notice of filing and immediate effectiveness).

[4] The Commission has recently 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. 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 website) (comments of Commission Chairman on what she viewed as a troubling trend of reduced

the ISP Filing that maintaining and increasing the proportion of orders in exchange-listed securities executed on a registered exchange (rather than relying on any of the available off-exchange execution methods) would help raise investors' confidence in the fairness of their transactions and would benefit all investors by deepening NASDAQ's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Without modifying any existing aspects of the ISP, the Exchange now proposes to provide an additional method for members to qualify for an ISP rebate that includes a new criterion focused on liquidity provision through Public Customer Orders in the NASDAQ Options Market. The change recognizes the extent to which members that represent retail and/or institutional investors are active in trading both cash equities and options on behalf of such customers. In fact, to an increasing extent the customers that such members represent simultaneously trade different asset classes within a single investment strategy. NASDAQ also notes that cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other. Accordingly, pricing incentives that encourage market participant activity in both markets recognize that activity in the options markets also supports price discovery and liquidity provision in the NASDAQ Market Center. The NASDAQ Market Center fee schedule for order execution and routing in Rule 7018 already recognizes the convergence between cash equities and options trading through liquidity provider rebate

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).

tiers available to members active in both the NASDAQ Market Center and the NASDAQ Options Market.

Participants in the ISP are required to designate specific NASDAQ order entry ports for use under the ISP and to meet specified criteria focused on market participation, liquidity provision, and high rates of order execution. For members qualifying for the new ISP tier, NASDAQ will pay a credit of $0.0003 per share with respect to shares of displayed liquidity executed at a price of $1 or more and entered through ISP-designated ports, and $0.0001 per share with respect to all other shares of displayed liquidity executed at a price of $1 or more. The specific criteria for the proposed new ISP tier are as follows:

(1) The member's Participation Ratio[5] for the month exceeds its Baseline Participation Ratio[6] by at least 0.30%. In general terms, the Baseline Participation Ratio is the ratio of shares of liquidity provided by the member in NASDAQ for the month of August 2010 or August 2011 (whichever is lower) to the total consolidated volume for

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5 "Participation Ratio" is defined as follows: "[F]or a given member in a given month, the ratio of (A) the number of shares of liquidity provided in orders entered by the member through any of its Nasdaq ports and executed in the Nasdaq Market Center during such month to (B) the Consolidated Volume." "Consolidated Volume" is defined as follows: "[F]or a given member in a given month, the consolidated volume of shares of System Securities in executed orders reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during such month." "System Securities" means all securities listed on NASDAQ and all securities subject to the Consolidated Tape Association Plan and the Consolidated Quotation Plan.

6 "Baseline Participation Ratio" is defined as follows: "[W]ith 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)."

that month. To the extent that a member's participation in NASDAQ equals or exceeds its Baseline Participation Ratio (i.e., to the extent that the member at least matches its participation in NASDAQ during the lower of August 2010 or August 2011), the member may be eligible for the program. Exceeding the Baseline Participation Ratio by specified amounts may qualify the member for higher credits under the ISP. The requirement reflects the expectation that a member participating in the program must maintain or increase its participation in NASDAQ as compared with an historical baseline. All of the ISP's existing tiers have a criterion focused on the member's Participation Ratio.

(2) The member's "ISP Execution Ratio" for the month must be less than 10. The ISP Execution Ratio is defined as "the ratio of (A) the total number of liquidity-providing orders entered by a member through its ISP-designated ports during the specified time period to (B) the number of liquidity-providing orders entered by such member through its ISP-designated ports and executed (in full or partially) in the Nasdaq Market Center during such time period; provided that: (i) no order shall be counted as executed more than once; and (ii) no Pegged Orders, odd-lot orders, or MIOC or SIOC orders shall be included in the tabulation."[7] Thus, the definition requires a ratio between the total number of orders that post to the NASDAQ book and the number of such orders that actually execute that is low, a characteristic that NASDAQ believes to be reflective of retail and institutional order flow. All of the ISP's existing tiers have a criterion focused on the member's ISP Execution Ratio.

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[7] These terms have the meanings assigned to them in Rule 4751. MIOC and SIOC orders are forms of "immediate or cancel" orders and therefore cannot be liquidity-providing orders.

(3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month, reflecting the ISP goals of encouraging higher levels of liquidity provision. All of the ISP's existing tiers have a criterion focused on the liquidity provided through ISP-designated ports as a percentage of Consolidated Volume.

(4) At least 80% of the liquidity provided by the member during the month is provided through ISP-designated ports. This requirement is designed to mitigate "gaming" of the program by firms that do not generally represent retail or institutional order flow but that nevertheless are able to channel a portion of their orders that they intend to execute through ISP-designated ports and thereby receive a credit with respect to those orders. All of the ISP's existing tiers have a criterion requiring the member to provide a specified percentage of liquidity through ISP-designated ports.

In addition to these criteria, which are similar or identical to criteria for existing ISP tiers, members seeking to qualify for the new tier would also be required to satisfy the following criteria:

(5) The member has an average daily volume during the month of 100,000 or more contracts of liquidity provided through one or more of its Nasdaq Option Market market participant identifiers ("MPIDs"), provided that such liquidity is provided through Public Customer Orders, as defined in Chapter I, Section 1 of the Nasdaq Options Market Rules. That rule defines Public Customer Order as an order for the account of a person that is not a broker or a dealer. Thus, in keeping with the goal of the ISP to encourage participation by retail and institutional investors and the members that represent them in exchange markets, the new criterion focused on options would require a specified level of

liquidity provision through orders that are directly identified under Nasdaq Options Market rules as having characteristics consistent with this goal.

(6) The member's ratio between shares of liquidity provided through ISP-designated ports and total shares accessed, provided, or routed through ISP-designated ports during the month is at least 0.80. This additional criterion reflects a goal of ensuring that the qualifying member is using its ISP-designated ports substantially for liquidity provision, in keeping with the ISP's overall goal of drawing liquidity-providing orders to exchange markets. A similar criterion is applicable to NASDAQ's Extended Hours Investor Program (the "EHIP"), which is also provided for under Rule 7014.

b. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[9] 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The ISP encourages members to add targeted liquidity that is executed in the NASDAQ Market Center. The primary objective in making the enhancements to the ISP reflected in the proposed rule change is to add an even greater amount of targeted liquidity to the NASDAQ Market Center and also the NASDAQ Options Market by

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[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4) and (5).

adding an additional method by which members may qualify for the ISP, but without eliminating or modifying any of the existing methods.

The rule change proposal, like the original ISP, is not designed to permit unfair discrimination, but rather is intended to promote submission of liquidity-providing orders to NASDAQ, which benefits all NASDAQ members and all investors. The change recognizes the extent to which members that represent retail and/or institutional investors are active in trading both cash equities and options on behalf of such customers. In fact, to an increasing extent the customers that such members represent simultaneously trade different asset classes within a single strategy. NASDAQ also notes that cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other. Accordingly, pricing incentives that encourage market participant activity in both markets recognize that activity in the options markets also supports price discovery and liquidity provision in the NASDAQ Market Center. Thus, the new tier, like existing tiers, is designed to benefit all market participants by encouraging submission of liquidity-providing orders to the NASDAQ Market Center, and further broadens this incentive by encouraging the submission of liquidity-providing options contracts to the NASDAQ Options Market.

Likewise, the proposal, like the ISP, is consistent with the Act’s requirement for the equitable allocation of reasonable dues, fees, and other charges. Members who choose to significantly increase the volume of liquidity-providing orders that they submit to the NASDAQ Market Center and the NASDAQ Options Market in order to qualify for the new tier, or existing tiers, would be benefitting all investors, and therefore providing credits to them, as contemplated by the ISP, is equitable. Moreover, NASDAQ believes that the level of the credit available through the new tier – \$0.0003 per share for displayed liquidity provided through ISP-designated ports and \$0.0001 per share for other displayed liquidity – is reasonable, in that it is comparable to the added rebates of \$0.0001, \$0.0003, or \$0.0004 per share executed already provided under other ISP tiers, and does not reflect a disproportionate increase above the rebates provided to all members with respect to provision of displayed liquidity under Rule 7018, which range from \$0.0020 to \$0.00295 per share executed. NASDAQ further notes that by adding an additional tier to the ISP without altering any of the existing tiers, NASDAQ is effectively reducing fees for members qualifying for the new tier without making any offsetting fee increases.

Finally, NASDAQ 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, NASDAQ must continually adjust its 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. NASDAQ believes that the proposed rule change reflects this competitive environment because the changes to the ISP are designed to increase the credits provided to members that enhance NASDAQ's market quality through liquidity provision.

4. <u>Self-Regulatory Organization's Statement on Burden on Competition</u>

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. For this reason and the reasons discussed in connection with the statutory basis for the proposed rule change, NASDAQ 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. In fact, because it institutes a reduction in fees, NASDAQ believes that the proposed rule change will enhance the degree of competition between NASDAQ and other trading venues.

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

Written comments were neither solicited nor received.

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,[10] NASDAQ 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.

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission. However, the proposed rule change is similar to aspects of the NASDAQ Market Center fee schedule for order execution and routing in Rule 7018 that already recognize the convergence between cash equities and options

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[10] 15 U.S.C. 78s(b)(3)(A)(ii).

trading through liquidity provider rebate tiers available to members active in both the NASDAQ Market Center and the NASDAQ Options Market.

9. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASDAQ-2012-032)

March __, 2012

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify NASDAQ's Investor Support Program

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 27, 2012, The NASDAQ Stock Market LLC ("NASDAQ") 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 the Substance of the Proposed Rule Change

NASDAQ proposes to modify the Investor Support Program (the "ISP") under Rule 7014 to introduce an additional method for members to earn an enhanced rebate under the ISP. NASDAQ will implement the proposed change on March 1, 2012. The text of the proposed rule change is available at http://nasdaq.cchwallstreet.com/, at NASDAQ'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, NASDAQ included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it

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

2 17 CFR 240.19b-4.

received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ 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 is proposing to modify the Investor Support Program (the "ISP") under Rule 7014 to introduce an additional method for members to earn an enhanced rebate under the ISP. The ISP enables NASDAQ members to earn a monthly fee credit for providing additional liquidity to NASDAQ and increasing the NASDAQ-traded volume of what are generally considered to be retail and institutional investor orders in exchange-traded securities ("targeted liquidity").[3] The goal of the ISP is to incentivize members to provide such targeted liquidity to the NASDAQ Market Center.[4] The Exchange noted in

[3] For a detailed description of the Investor Support Program as originally implemented, 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); 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (NASDAQ-2010-154) (notice of filing and immediate effectiveness); 63891 (February 11, 2011), 76 FR 9384 (February 17, 2011) (NASDAQ-2011-022) (notice of filing and immediate effectiveness); 64050 (March 8, 2011), 76 FR 13694 (March 14, 2011) (SR-NASDAQ-2011-034); 65717 (November 9, 2011), 76 FR 70784 (November 15, 2011) (SR-NASDAQ-2011-150) (notice of filing and immediate effectiveness).

[4] The Commission has recently 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. 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

the ISP Filing that maintaining and increasing the proportion of orders in exchange-listed securities executed on a registered exchange (rather than relying on any of the available off-exchange execution methods) would help raise investors' confidence in the fairness of their transactions and would benefit all investors by deepening NASDAQ's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Without modifying any existing aspects of the ISP, the Exchange now proposes to provide an additional method for members to qualify for an ISP rebate that includes a new criterion focused on liquidity provision through Public Customer Orders in the NASDAQ Options Market. The change recognizes the extent to which members that represent retail and/or institutional investors are active in trading both cash equities and options on behalf of such customers. In fact, to an increasing extent the customers that such members represent simultaneously trade different asset classes within a single investment strategy. NASDAQ also notes that cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other. Accordingly, pricing incentives that encourage market participant activity in both markets recognize that activity in the options markets also supports price discovery and liquidity provision in the NASDAQ Market Center. The NASDAQ Market Center fee

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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 website) (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).

schedule for order execution and routing in Rule 7018 already recognizes the convergence between cash equities and options trading through liquidity provider rebate tiers available to members active in both the NASDAQ Market Center and the NASDAQ Options Market.

Participants in the ISP are required to designate specific NASDAQ order entry ports for use under the ISP and to meet specified criteria focused on market participation, liquidity provision, and high rates of order execution. For members qualifying for the new ISP tier, NASDAQ will pay a credit of $0.0003 per share with respect to shares of displayed liquidity executed at a price of $1 or more and entered through ISP-designated ports, and $0.0001 per share with respect to all other shares of displayed liquidity executed at a price of $1 or more. The specific criteria for the proposed new ISP tier are as follows:

(1) The member's Participation Ratio[5] for the month exceeds its Baseline Participation Ratio[6] by at least 0.30%. In general terms, the Baseline Participation Ratio

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5 "Participation Ratio" is defined as follows: "[F]or a given member in a given month, the ratio of (A) the number of shares of liquidity provided in orders entered by the member through any of its Nasdaq ports and executed in the Nasdaq Market Center during such month to (B) the Consolidated Volume." "Consolidated Volume" is defined as follows: "[F]or a given member in a given month, the consolidated volume of shares of System Securities in executed orders reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during such month." "System Securities" means all securities listed on NASDAQ and all securities subject to the Consolidated Tape Association Plan and the Consolidated Quotation Plan.

6 "Baseline Participation Ratio" is defined as follows: "[W]ith 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)."

is the ratio of shares of liquidity provided by the member in NASDAQ for the month of August 2010 or August 2011 (whichever is lower) to the total consolidated volume for that month. To the extent that a member's participation in NASDAQ equals or exceeds its Baseline Participation Ratio (i.e., to the extent that the member at least matches its participation in NASDAQ during the lower of August 2010 or August 2011), the member may be eligible for the program. Exceeding the Baseline Participation Ratio by specified amounts may qualify the member for higher credits under the ISP. The requirement reflects the expectation that a member participating in the program must maintain or increase its participation in NASDAQ as compared with an historical baseline. All of the ISP's existing tiers have a criterion focused on the member's Participation Ratio.

(2) The member's "ISP Execution Ratio" for the month must be less than 10. The ISP Execution Ratio is defined as "the ratio of (A) the total number of liquidity-providing orders entered by a member through its ISP-designated ports during the specified time period to (B) the number of liquidity-providing orders entered by such member through its ISP-designated ports and executed (in full or partially) in the Nasdaq Market Center during such time period; provided that: (i) no order shall be counted as executed more than once; and (ii) no Pegged Orders, odd-lot orders, or MIOC or SIOC orders shall be included in the tabulation."[7] Thus, the definition requires a ratio between the total number of orders that post to the NASDAQ book and the number of such orders that actually execute that is low, a characteristic that NASDAQ believes to be reflective

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7 These terms have the meanings assigned to them in Rule 4751. MIOC and SIOC orders are forms of "immediate or cancel" orders and therefore cannot be liquidity-providing orders.

of retail and institutional order flow. All of the ISP's existing tiers have a criterion focused on the member's ISP Execution Ratio.

(3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month, reflecting the ISP goals of encouraging higher levels of liquidity provision. All of the ISP's existing tiers have a criterion focused on the liquidity provided through ISP-designated ports as a percentage of Consolidated Volume.

(4) At least 80% of the liquidity provided by the member during the month is provided through ISP-designated ports. This requirement is designed to mitigate "gaming" of the program by firms that do not generally represent retail or institutional order flow but that nevertheless are able to channel a portion of their orders that they intend to execute through ISP-designated ports and thereby receive a credit with respect to those orders. All of the ISP's existing tiers have a criterion requiring the member to provide a specified percentage of liquidity through ISP-designated ports.

In addition to these criteria, which are similar or identical to criteria for existing ISP tiers, members seeking to qualify for the new tier would also be required to satisfy the following criteria:

(5) The member has an average daily volume during the month of 100,000 or more contracts of liquidity provided through one or more of its Nasdaq Option Market market participant identifiers ("MPIDs"), provided that such liquidity is provided through Public Customer Orders, as defined in Chapter I, Section 1 of the Nasdaq Options Market Rules. That rule defines Public Customer Order as an order for the account of a person that is not a broker or a dealer. Thus, in keeping with the goal of the ISP to encourage

participation by retail and institutional investors and the members that represent them in exchange markets, the new criterion focused on options would require a specified level of liquidity provision through orders that are directly identified under Nasdaq Options Market rules as having characteristics consistent with this goal.

(6) The member's ratio between shares of liquidity provided through ISP-designated ports and total shares accessed, provided, or routed through ISP-designated ports during the month is at least 0.80. This additional criterion reflects a goal of ensuring that the qualifying member is using its ISP-designated ports substantially for liquidity provision, in keeping with the ISP's overall goal of drawing liquidity-providing orders to exchange markets. A similar criterion is applicable to NASDAQ's Extended Hours Investor Program (the "EHIP"), which is also provided for under Rule 7014.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[9] 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The ISP encourages members to add targeted liquidity that is executed in the NASDAQ Market Center. The primary objective in making the enhancements to the ISP reflected in the proposed rule change is to add an even greater amount of targeted

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[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4) and (5).

liquidity to the NASDAQ Market Center and also the NASDAQ Options Market by adding an additional method by which members may qualify for the ISP, but without eliminating or modifying any of the existing methods.

The rule change proposal, like the original ISP, is not designed to permit unfair discrimination, but rather is intended to promote submission of liquidity-providing orders to NASDAQ, which benefits all NASDAQ members and all investors. The change recognizes the extent to which members that represent retail and/or institutional investors are active in trading both cash equities and options on behalf of such customers. In fact, to an increasing extent the customers that such members represent simultaneously trade different asset classes within a single strategy. NASDAQ also notes that cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other. Accordingly, pricing incentives that encourage market participant activity in both markets recognize that activity in the options markets also supports price discovery and liquidity provision in the NASDAQ Market Center. Thus, the new tier, like existing tiers, is designed to benefit all market participants by encouraging submission of liquidity-providing orders to the NASDAQ Market Center, and further broadens this incentive by encouraging the submission of liquidity-providing options contracts to the NASDAQ Options Market.

Likewise, the proposal, like the ISP, is consistent with the Act’s requirement for the equitable allocation of reasonable dues, fees, and other charges. Members who choose to significantly increase the volume of liquidity-providing orders that they submit to the NASDAQ Market Center and the NASDAQ Options Market in order to qualify for the new tier, or existing tiers, would be benefitting all investors, and therefore providing credits to them, as contemplated by the ISP, is equitable. Moreover, NASDAQ believes that the level of the credit available through the new tier – $0.0003 per share for displayed liquidity provided through ISP-designated ports and $0.0001 per share for other displayed liquidity – is reasonable, in that it is comparable to the added rebates of $0.0001, $0.0003, or $0.0004 per share executed already provided under other ISP tiers, and does not reflect a disproportionate increase above the rebates provided to all members with respect to provision of displayed liquidity under Rule 7018, which range from $0.0020 to $0.00295 per share executed. NASDAQ further notes that by adding an additional tier to the ISP without altering any of the existing tiers, NASDAQ is effectively reducing fees for members qualifying for the new tier without making any offsetting fee increases.

Finally, NASDAQ 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, NASDAQ must continually adjust its 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. NASDAQ believes that the proposed rule change reflects this competitive environment because the changes to the ISP are designed to increase the credits provided to members that enhance NASDAQ's market quality through liquidity provision.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the

Act, as amended. Because the market for order execution is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. For this reason and the reasons discussed in connection with the statutory basis for the proposed rule change, NASDAQ 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. In fact, because it institutes a reduction in fees, NASDAQ believes that the proposed rule change will enhance the degree of competition between NASDAQ and other trading venues.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10] 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.

[10] 15 U.S.C. 78s(b)(3)(a)(ii).

IV. Solicitation of Comments

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

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-2012-032 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2012-032. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m.

Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2012-032, 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.[11]

Kevin M. O'Neill
Deputy Secretary

[11] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

The text of the proposed rule change is below. Proposed new language is underlined; deletions are bracketed.

7014. Investor Support Program; Extended Hours Investor Program

Investor Support Program

(a) – (b) No change.

(c) (1) A member shall be entitled to receive an ISP credit at the $0.0001 rate with respect to all shares of displayed liquidity that are executed at a price of $1 or more in the Nasdaq Market Center during a given month if:

(A) – (D) No change.

(2) No change.

(3) Alternatively, a member shall be entitled to receive an ISP credit at the $0.0003 rate with respect to all shares of displayed liquidity that are executed at a price of $1 or more in the Nasdaq Market Center and that are entered through ISP-designated ports, and at the $0.0001 rate with respect to all other shares of displayed liquidity that are executed at a price of $1 or more in the Nasdaq Market Center during a given month if:

(A) the member's ISP Execution Ratio for the month in question is less than 10;

(B) the shares of liquidity provided by the member through ISP-designated ports during the month are equal to or greater than 0.2% of the Consolidated Volume during the month;

(C) at least 80% of the liquidity provided by the member during the month is provided through ISP-designated ports;

(D) the member exceeds its Baseline Participation Ratio by at least 0.30%;

(E) the member has an average daily volume during the month of more than 100,000 contracts of liquidity provided through one or more of its Nasdaq Options Market MPIDs, provided that such liquidity is provided through Public Customer Orders, as defined in Chapter I, Section 1 of the Nasdaq Options Market Rules; and

(F) the ratio between shares of liquidity provided through ISP-designated ports and total shares accessed, provided, or routed through ISP-designated ports during the month is at least 0.80.

[(3)] (4) A member shall be entitled to receive an ISP credit at the $0.0004 rate with respect to all shares of displayed liquidity that are executed at a price of $1 or more in the Nasdaq Market Center and that are entered through ISP-designated ports, and at the $0.0001 rate with respect to all other shares of displayed liquidity that are executed at a price of $1 or more in the Nasdaq Market Center during a given month if:

(A) – (D) No change.

Extended Hours Investor Program

(d) – (f) No change.

Definitions and Certifications

(g) – (i) No change.