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

File No.* SR - 2016 - * 015
Amendment No. (req. for Amendments *)

Filing by NASDAQ Stock Market

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

Initial * ☑ Amendment * ☐ Withdrawal ☐

Section 19(b)(2) * ☐ Section 19(b)(3)(A) * ☑ Section 19(b)(3)(B) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☑ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

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

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

Description

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

Amend Options Pricing at Chapter XV Section 2

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Angela Last Name * Dunn
Title * Associate General Counsel
E-mail * angela.dunn@nasdaq.com
Telephone * (215) 496-5692 Fax

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.

Date 02/01/2016
By Edward S. Knight
(Name *)

(Title *)
Executive Vice President and General Counsel

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.knight@nasdaq.com

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice 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 the Proposed Rule Change

(a) The NASDAQ Stock Market LLC ("Exchange"), pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to amend Chapter XV, entitled "Options Pricing," at Section 2, which governs pricing for Exchange members using the NASDAQ Options Market ("NOM"), the Exchange's facility for executing and routing standardized equity and index options. The Exchange proposes to amend certain Penny Pilot and Non-Penny Pilot Options pricing as well as the Market Access and Routing Subsidy or "MARS."

A notice of the proposed rule change for publication in the Federal Register is at Exhibit 1. The text of the proposed rule change is at Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management of the Exchange approved the proposed rule change under authority delegated by the Exchange's Board of Directors ("Board") on July 1, 2015. The Exchange's staff will advise the Board of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change. Questions and comments on the proposed rule change may be directed to Angela Saccomandi Dunn, Associate General Counsel, Nasdaq, Inc., at (215) 496-5692.

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

2 17 CFR 240.19b-4.

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

a. Purpose

The Exchange proposes certain amendments to the NOM transaction fees set forth at Chapter XV, Section 2 for executing and routing standardized equity and index options under the Penny and Non-Penny Pilot Options program as well as amendments to MARS. Each change will be described below.

Penny Pilot Options

The Exchange proposes to amend the Penny Pilot Options Customer[3] Rebate to Add Liquidity by offering an incentive to NOM Participants to add an even greater amount of liquidity to NOM. Specifically, the Exchange proposes to incentivize NOM Participants by offering the opportunity to earn an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to qualifying Penny Pilot Options Customer Rebate to Add Liquidity Tiers 1-8,[4] provided the NOM Participant qualifies for

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3 The term "Customer" applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation which is not for the account of broker or dealer or for the account of a "Professional" (as that term is defined in Chapter I, Section 1(a)(48)).

4 Today, the Exchange offers 8 tiered Penny Pilot Options Rebates to Add Liquidity to Customers based on various criteria with rebates ranging from $0.20 to $0.48 per contract. Participants may qualify for Customer and Professional Penny Pilot Options Rebates to Add Liquidity by adding a certain amount of liquidity as specified by each tier. Tiers 6 and 7 are calculated based on Total Volume. Total Volume is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM. See note "b" in Section 2(1) of Chapter XV. The Exchange utilizes data from The Options Clearing Corporation ("OCC") to determine the total industry customer equity and ETF options ADV figure. OCC classifies equity

MARS Payment Tiers 1, 2 or 3, which are proposed below.[5] The Exchange proposes to add this incentive into new note "d." NOM Participants that qualify for the current note "c"[6] incentive will receive the greater of the note "c"[7] or the note "d" incentive.

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and ETF options volume under the equity options category. Also, both customer and professional orders that are transacted on options exchanges clear in the customer range at OCC and therefore both customer and professional volume would be included in the total industry figure to calculate rebate tiers.

5 The MARS Payment Tiers are proposed herein and described in more detail below.

6 Note "c" at Chapter XV, Section 2(1) provides that Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.30% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. Finally, Participants that (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% of total industry customer equity and ETF option ADV contracts per day in a month and (b) have added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.10% or more of Consolidated Volume in a month will receive an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in a month.

Consolidated Volume shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated volume and the member's trading activity.

Non-Penny Pilot Options

The Exchange proposes to delete an offer to reduce a fee offered to Non-Customer Participants (Professional,[8] Firm,[9] Non-NOM Market Maker,[10] NOM Market Maker[11] and Broker-Dealer[12]) when they remove liquidity. Today, these Non-Customer Participants pay a Non-Penny Pilot Options Fee for Removing Liquidity of $1.10 per contract. Note "3" offers Non-Customer Participants an opportunity to reduce the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.03 per contract, provided the Participant qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month. The Exchange proposes to delete note "3" and no longer offer this fee reduction. The Exchange proposes to reserve note "3."

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7 Note "c" offers Participants the ability to earn a $0.02, $0.03 or $0.05 per contract rebate.

8 The term "Professional" means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

9 The term "Firm" applies to any transaction that is identified by a Participant for clearing in the Firm range at The Options Clearing Corporation.

10 The term "Non-NOM Market Maker" is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

11 The term "NOM Market Maker" is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

12 The term "Broker-Dealer" applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

Today, Customers are assessed a lower Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract. Customers are not currently offered the fee reduction because they are assessed a lower fee ($0.85 per contract as compared to $1.03 per contract). Despite the removal of the fee reduction, the Exchange believes that these fees will continue to attract market participants to NOM.

The Exchange currently assesses a NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity of $1.10 per contract and offers Participants that qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 in a month, the opportunity to lower the NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity to $1.08 per contract in that month. The Exchange proposes to continue to offer this incentive and expand the qualification for this incentive, described in note "4," to permit Participants that qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers[13] 2, 3, 4, 5, 6, 7 or 8 in a month to receive the lower Non- Penny Pilot Options Fee for Removing Liquidity rate of $1.08 per contract in that month. Tiers 7 and 8 are being added as qualifying tiers for this note "4" incentive. The Exchange believes that this incentive will encourage Participants to add liquidity to NOM.

MARS

NOM offers a subsidy to NOM Participants that provide certain order routing functionalities to other NOM Participants and/or use such functionalities themselves. NOM Participants are subsidized for the costs they incur when providing routing services

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13 The Customer and Professional Penny Pilot Options Customer and Professional Rebate to Add Liquidity Tiers 1-8 are described in Chapter XV, Section 2(1).

to route orders to NOM. Today, in order to qualify for MARS, a NOM Participant's routing system (hereinafter "System") would be required to meet certain criteria.[14] Today, NOM pays NOM Participants that have System Eligibility and have routed at least 5,000 Eligible Contracts daily in a month, which were executed on NOM, a MARS Payment. Today, to qualify for a MARS Payment, eligible contracts may include Firm, Non-NOM Market Maker, Broker-Dealer, Joint Back Office or "JBO"[15] or Professional equity option orders that add liquidity and are electronically delivered and executed ("Eligible Contracts"). Eligible Contracts do not include Mini-Options.[16] Today, NOM Participants that have System Eligibility and have executed the requisite Eligible Contracts, in a month, will receive a MARS Payment of $0.10 per contract. Today, the MARS Payment will be paid only on executed Firm orders that add liquidity and which are routed to NOM through a participating NOM Participant's System. No payments are

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14 Specifically the Participant's System would be required to: (1) enable the electronic routing of orders to all of the U.S. options exchanges, including NOM; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with NOM's API to access current NOM match engine functionality ("System Eligibility"). The NOM Participant's System would also need to cause NOM to be one of the top three default destination exchanges for individually executed marketable orders if NOM is at the national best bid or offer ("NBBO"), regardless of size or time, but allow any user to manually override NOM as the default destination on an order-by-order basis.

15 The term "Joint Back Office" or "JBO" applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer as of September 1, 2014. A JBO participant is a Participant that maintains a JBO arrangement with a clearing broker-dealer ("JBO Broker") subject to the requirements of Regulation T Section 220.7 of the Federal Reserve System as further discussed in Chapter XIII, Section 5.

16 Mini Options are described in Chapter XV, Section 2(4).

made with respect to orders that are routed to NOM, but not executed.[17]

The Exchange proposes to amend the MARS Payment to replace the $0.10 per contract payment and the 5,000 requisite Eligible Contracts minimum with the following 3 tiered MARS Payment and Average Daily Volume requisites:

Tiers	**Average Daily Volume (“ADV”)**	**MARS Payment**
1	2,500	$0.07
2	5,000	$0.09
3	10,000	$0.11

Provided the NOM Participant executed the requisite number of Eligible Contracts ADV, the Exchange proposes to pay the applicable MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant’s System. Today, the Exchange pays the MARS Payment only on executed Firm orders that add liquidity, which are routed to NOM through a participating NOM Participant’s System. The Exchange believes that expanding the scope of orders eligible for a MARS Payment will attract higher volumes of electronic equity and ETF options volume to the Exchange from non-NOM Participants as well as NOM Participants with the proposed changes. The Exchange is not amending the other aspects of MARS.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6

[17] A Participant will not be entitled to receive any other revenue for the use of its System specifically with respect to orders routed to NOM. The Exchange believes that the MARS Payment will subsidize the costs of NOM Participants in providing the routing services.

of the Act,[18] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[19] 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 the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Attracting order flow to the Exchange benefits all Participants who have the opportunity to interact with this order flow.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Further, "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[20] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets and this proposal is consistent with those views in that it is a price cut driven by competition.

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18 15 U.S.C. 78f.

19 15 U.S.C. 78f(b)(4) and (5).

20 Id. at 539 (quoting Securities Exchange Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21) at 73 FR at 74782-74783).

Penny Pilot Options

The Exchange's proposal to add a new note "d" to Chapter XV, Section 2(1), regarding the Penny Pilot Options Customer Rebate to Add Liquidity, to offer NOM Participants an opportunity to earn an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to any qualifying Penny Pilot Options Customer Rebate to Add Liquidity Tiers 1-8,[21] provided the NOM Participant qualifies for MARS Payment Tiers 1, 2 or 3,[22] is reasonable because NOM Participants will be incentivized to send more order flow to NOM. The Exchange believes that requiring Participants to qualify for MARS Payment Tiers 1, 2 or 3 is reasonable because it is designed to attract higher volumes of electronic equity and ETF options volume to the Exchange. With this proposal, in order to qualify for a MARS Payment, NOM Participants must execute a requisite number of orders which add liquidity and are routed to NOM through a participating NOM Participant's System. The Exchange believes that it is reasonable to offer NOM Participants the greater of the current note "c"[23] or new note "d" incentive because the NOM Participant would be able to receive the greater of the two rebates with this proposal. Today, Participants are entitled to certain incentives with note "c",

21 See note 4 above.

22 The proposed MARS Payment Tiers are described in the Purpose section of the rule change.

23 See note 6 above.

provided they qualify for the Tier 8 Customer Rebate to Add Liquidity in Penny Pilot Options.[24]

The Exchange's proposal to add a new note "d" to Chapter XV, Section 2(1), regarding the Penny Pilot Options Customer Rebate to Add Liquidity to offer NOM Participants an opportunity to earn an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to any qualifying Penny Pilot Options Customer Rebate to Add Liquidity Tiers 1-8, provided the NOM Participant qualifies for MARS Payment Tiers 1, 2 or 3, is equitable and not unfairly discriminatory because the Exchange would uniformly pay this newly proposed note "d" incentive to NOM Participants that executed the requisite MARS volume and qualified for a Customer Rebate to Add Liquidity tier in Penny Pilot Options. The Exchange believes it is equitable and not unfairly discriminatory to offer this additional note "d" incentive only to Customers, because Customer liquidity attracts other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attract Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Also, the Exchange

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24 The Tier 8 Customer Rebate to Add Liquidity in Penny Pilot Options pays a $0.48 per contract rebate to Participant that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or add (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month and (2) have certified for the Investor Support Program set forth in Rule 7014.

believes that it is equitable and not unreasonably discriminatory to offer NOM Participants the greater of the current note "c" or new note "d" incentive because the Exchange would uniformly pay the greater of these two rebates to qualifying NOM Participants. The Exchange's proposal to require Participants to qualify for MARS Payment Tiers 1, 2 or 3 in order to receive the additional $0.03 per contract rebate in note "d" is equitable and not unfairly discriminatory because all Participants will be subject to this requirement to qualify for the note "3" added incentive on their Customer orders.

Non-Penny Pilot Options

The Exchange's proposal to delete an offer to reduce a fee offered to Non-Customer Participants (Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker-Dealer) in note "3," which reduces the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.03 per contract in that month, when they qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month is reasonable because these fees will continue to offset the Exchange's incentives to increase the Customer Non-Penny Pilot Options Rebate to Add Liquidity up to $1.00 per contract.[25] All Participants, other than Customers, will continue to be assessed the same Non-Penny Pilot Options Fees for Removing Liquidity. Customers

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[25] See Chapter XV, Section 2(1) at note "1." A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 in a month will receive an additional $0.10 per contract Non-Penny Pilot Options Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month. A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month will receive an additional $0.20 per contract Non-Penny Pilot Options Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month.

continue to be assessed the lowest Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract. The Exchange believes that despite the increase to the fee, market participants will continue to send order flow to NOM.

The Exchange's proposal to delete an offer to reduce a fee offered to Non-Customer Participants (Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker-Dealer) in note "3," which reduces the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.03 per contract in that month, when they qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month is equitable and not unfairly discriminatory because no Participant would be eligible for the fee reduction. Today, Customers are not eligible for this fee reduction because they are assessed a lower Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract.

The Exchange's proposal to extend the offer in note "4" to reduce the NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.08 per contract, provided Participants qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2-8, is reasonable because the Exchange believes that additional Participants would be able to qualify for the lower fee with the addition of Tiers 7 and 8 to the qualifying tiers.

The Exchange's proposal to extend the offer in note "4" to reduce the NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.08 per contract, provided Participants qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2-8, is equitable and not unfairly discriminatory because the Exchange will continue to uniformly assess the lower fee to Participants that qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2-8. The Exchange believes that it is equitable and not unfairly discriminatory to offer NOM Marker Makers the ability to reduce the Non-Penny Pilot Options Fee for Removing Liquidity, as compared to other market participants, because of the obligations borne by these NOM Market Makers.[26] Encouraging NOM Market Makers to add greater liquidity benefits all Participants in the quality of order interaction and enhanced execution quality.

MARS

MARS Eligible Contracts

The Exchange's proposal to replace the MARS Payment of $0.10 per contract and the 5,000 Eligible Contracts minimum with a 3 tiered MARS Payment and Average Daily Volume schedule is reasonable because all qualifying NOM Participants may continue to qualify for a MARS Payment and may obtain a MARS Payment for less volume executed on NOM and a higher rebate for a greater amount of volume executed on NOM. The Exchange believes that these amendments will attract higher volumes of electronic equity and ETF options volume to the Exchange, which will benefit all NOM Participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. The expanded MARS Payments should enhance the

[26] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. See Chapter VII, Section 5.

competitiveness of the Exchange, particularly with respect to those exchanges that offer their own front-end order entry system or one they subsidize in some manner.

The Exchange's proposal to replace the 5,000 Eligible Contracts with ADVs of either: 2,500, 5,000 or 10,000 Eligible Contracts is reasonable because a greater number of NOM Participants may be eligible for MARS Payments. The Exchange is offering NOM Participants with less than 5,000 Eligible Contracts to receive a MARS Payment with this proposal. Today, 5,000 Eligible Contracts entitles NOM Participants to a $0.10 per contract MARS Payment. The Exchange will continue to pay NOM Participants which execute 5,000 contracts a MARS Payment, but a lower MARS Payment of $0.09 per contract as compared to $0.10 per contract. While this is a lower MARS Payment as compared to today, those NOM Participants would receive no MARS Payment today if they fell short of the 5,000 Eligible Contracts minimum. With this proposal, those NOM Participants with at least 2,500 ADV of Eligible Contracts will be paid a $0.07 per contract MARS Payment.[27] Finally, the Exchange proposes to pay NOM Participants that execute 10,000 Eligible Contracts a higher MARS Payment of $0.11 per contract. The Exchange is offering those Participants that desire to transact higher ADVs the opportunity to earn a higher MARS Payment than is offered today and is also paying NOM Participants with lower ADVs a MARS Payment with this proposal.

The Exchange's proposal to replace the 5,000 Eligible Contracts with ADVs of either: 2,500, 5,000 or 10,000 Eligible Contracts is equitable and not unfairly discriminatory because the criteria for Eligible Contracts and ADVs will be uniformly applied to all qualifying NOM Participants.

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27 No MARS Payment is paid if volume is less than 2,500 ADV in a month.

The Exchange believes that the 3 tiered Eligible Contracts is reasonable because the Exchange is only counting add liquidity from Firms, Non-NOM Market Makers, Broker-Dealers, JBOs and Professionals which are electronically delivered and executed. The Exchange is not counting remove liquidity and therefore the ADV levels reflect what the Exchange believes to be appropriate levels of commitment from NOM Participants to receive the subsidy. The Exchange's expansion of the levels of commitment to 3 tiers offers NOM Participants additional opportunities to receive a MARS Payment.

The Exchange believes that the 3 tiered Eligible Contracts is equitable and not unfairly discriminatory because the Exchange will uniformly calculate the number of Eligible Contracts for all NOM Participants.

MARS Payment

The Exchange's proposal to replace the $0.10 per contract MARS Payment with a 3 tiered MARS Payment based on Eligible Contract ADVs is reasonable because NOM Participants may receive a MARS Payment for lower volume or a higher MARS Payment for higher volume with this proposal. The Exchange is offering to pay a $0.07 per contract MARS Payment to NOM Participants that transact 2,500 ADV of Eligible Contracts. NOM Participants that were unable to achieve the 5,000 Eligible Contract minimum may now be entitled to a MARS Payment with this lower ADV. Also, the 2,500 ADV is half of the current 5,000 minimum and the MARS Payment is more than half of the $0.10 per contract MARS Payment offered today. The Exchange believes that this first tier will attract a greater number of NOM Participants. The Exchange is lowering the $0.10 per contract MARS Payment offered today to $0.09 per contract for the same volume offered today, 10,000 Eligible Contracts. While the Exchange is offering a slightly lower MARS Payment for the same number of Eligible Contracts required today to receive the current $0.10 per contract MARS Payment, it is also proposing to offer a higher rebate of $0.11 per contract for 10,000 ADV of Eligible Contracts. The Exchange believes the proposed 3 tiered MARS Payments is reasonable because the tier structure will allow NOM Participants to price their services at a level that will enable them to attract order flow from market participants who would otherwise utilize an existing front-end order entry mechanism offered by the Exchange's competitors instead of incurring the cost in time and money to develop their own internal systems to be able to deliver orders directly to the Exchange’s System.

The Exchange’s proposal to replace the $0.10 per contract MARS Payment with a 3 tiered MARS Payment based on Eligible Contract ADVs is equitable and not unfairly discriminatory because the Exchange will uniformly pay all NOM Participants the rebates specified in the proposed 3 tiered MARS Payments provided the NOM Participant has executed the requisite number of Eligible Contracts. Moreover, the Exchange believes that the proposed MARS Payments offered by the Exchange are equitable and not unfairly discriminatory because any qualifying NOM Participant that offers market access and connectivity to the Exchange and/or utilizes such functionality themselves may earn the MARS Payment for all Eligible Contracts.

The Exchange’s proposal to pay the applicable MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant’s System, as compared to only executed Firm orders, is reasonable because the Exchange is expanding the MARS Payment to all Eligible Contracts and this will attract higher volumes of electronic equity and ETF options volume to the Exchange from non-NOM Participants as well as NOM Participants. The Exchange believes that as a result of this proposed amendment, NOM Participants will be entitled to higher payments provided they transact the requisite number of Eligible Contracts.

The Exchange's proposal to pay the applicable MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System, as compared to only executed Firm orders, is equitable and not unfairly discriminatory because the Exchange will uniformly calculate the MARS Payment for all NOM Participants and uniformly pay the MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to continue to pay the proposed MARS Payment to NOM Participants that have System Eligibility and have executed the Eligible Contracts, even when a different NOM Participant may be liable for transaction charges resulting from the execution of the orders upon which the subsidy might be paid. The Exchange notes that this sort of arrangement already exists on other options exchanges such as Phlx which pays a Qualified Contingent Cross ("QCC") Rebate for floor transactions.[28] Today, this arrangement on Phlx results in a situation where the floor broker is earning a rebate and

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[28] See Phlx's Pricing Schedule. A Floor QCC Order must: (i) be for at least 1,000 contracts, (ii) meet the six requirements of Rule 1080(o)(3) which are modeled on the QCT Exemption, (iii) be executed at a price at or between the NBBO; and (iv) be rejected if a Customer order is resting on the Exchange book at the same price. In order to satisfy the 1,000-contract requirement, a Floor QCC Order must be for 1,000 contracts and could not be, for example, two 500-contract orders or two 500-contract legs. See Phlx Rule 1064(e). See also Securities Exchange Act Release No. 64688 (June 16, 2011), 76 FR 36606 (June 22, 2011) (SR-Phlx-2011-56).

one or more different Phlx members are potentially liable for the Exchange transaction charges applicable to QCC Orders. With the QCC rebates applicable to transactions executed on the trading floor, Phlx does not offer a front-end for order entry; unlike some of the competing exchanges, Phlx has argued that it is necessary from a competitive standpoint to offer this rebate to the executing floor broker on a QCC Order.[29] Also, all qualifying NOM Participants would be uniformly paid the subsidy on all qualifying volume that was routed by them to the Exchange and executed.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

29 See also Securities Exchange Act Release No. 64688 (June 16, 2011), 76 FR 36606 (June 22, 2011) (SR-Phlx-2011-56) (Order Granting Approval of Proposed Rule Change Establishing a Qualified Contingent Cross Order for Execution on the Floor of the Exchange).

In this instance, the proposed amendments to certain Penny Pilot and Non-Penny Pilot Options pricing as well as MARS do not impose an undue burden on inter-market competition because the Exchange's execution services are completely voluntary and subject to extensive competition.

Penny Pilot Options

The Exchange's proposal to add a new note "d" to Chapter XV, Section 2(1), regarding the Penny Pilot Options Customer Rebate to Add Liquidity to offer NOM Participants an opportunity to earn an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to any qualifying Penny Pilot Options Customer Rebate to Add Liquidity Tiers 1-8, provided the NOM Participant qualifies for MARS Payment Tiers 1, 2 or 3, does not impose an undue burden on intra-market competition because the Exchange would uniformly pay this newly proposed note "d" incentive to NOM Participants that executed the requisite MARS volume and qualified for a Customer Rebate to Add Liquidity tier in Penny Pilot Options. The Exchange's proposal to only offer this additional note "d" incentive only to Customers does not impose an undue burden on intra-market competition because Customer liquidity attracts other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attract Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to require Participants to qualify for MARS Payment Tiers 1, 2 or 3 in order to receive the additional $0.03 per contract rebate in note "d" does not impose an undue burden on intra-market competition because all Participants will be subject to this requirement to qualify for the note "3" added incentive on their Customer orders. The Exchange also believes that offering Participants the greater of the note "c" or note "d" incentives does not impose an undue burden on intra-market competition because Participants will uniformly receive the greater of these two rebates.

Non-Penny Pilot Options

The Exchange's proposal to delete an offer to reduce a fee offered to Non-Customer Participants (Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker-Dealer) in note "3," which reduces the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.03 per contract in that month, when they qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month does not impose an undue burden on intra-market competition because no Participant would be eligible for the fee reduction. Today, Customers are not eligible for this fee reduction because they are assessed a lower Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract.

The Exchange's proposal to extend the offer in note "4" to reduce the NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.08 per contract, provided Participants qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2-8, does not impose an undue burden on intra-market competition because the Exchange will continue to uniformly assess the lower fee to Participants that qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2-8. Offering NOM Marker Makers the ability to reduce the Non-Penny Pilot Options Fee for Removing Liquidity, as compared to other market participants does not impose an undue burden on intra-market competition because of the obligations borne by these NOM Market Makers.[30]

MARS

MARS Eligible Contracts

The Exchange's proposal to replace the 5,000 Eligible Contracts with ADVs of either: 2,500, 5,000 or 10,000 does not impose an undue burden on intra-market competition because the criteria for Eligible Contracts and ADVs will be uniformly applied to all qualifying NOM Participants. Also, only counting add liquidity from Firms, Non-NOM Market Makers, Broker-Dealers, JBOs and Professionals which are electronically delivered and executed does not impose an undue burden on intra-market competition because the Exchange will uniformly calculate the number of Eligible Contracts for all NOM Participants.

MARS Payment

The Exchange's proposal to replace the $0.10 per contract MARS Payment with a 3 tiered MARS Payment based on Eligible Contract ADVs does not impose an undue burden on intra-market competition because the Exchange will uniformly pay all NOM Participants the proposed 3 tiered MARS Payments provided the NOM Participant has executed the requisite number of Eligible Contracts. Moreover, the Exchange believes that the proposed MARS Payments offered by the Exchange does not impose an undue burden on intra-market competition because any qualifying NOM Participant that offers market access and connectivity to the Exchange and/or utilizes such functionality themselves may earn the MARS Payment for all Eligible Contracts.

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30 See note 26 above.

The Exchange's proposal to pay the applicable MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System, does not impose an undue burden on intra-market competition because the Exchange will uniformly calculate the MARS Payment for all NOM Participants and uniformly pay the MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System.

The Exchange believes that paying the proposed MARS Payment to qualifying NOM Participants that have System eligibility and have executed the Eligible Contracts does not create an undue burden on intra-market competition, even when a different NOM Participant, other than the NOM Participant receiving the subsidy, may be liable for transaction charges, because this sort of arrangement already exists on the Exchange and would be uniformly applied to all qualifying NOM Participants.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[31] The Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-

[31] 15 U.S.C. 78s(b)(3)(A)(ii).

regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

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

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.

5. Applicable portion of the Exchange's rule text.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-NASDAQ-2016-015)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Options Pricing at Chapter XV, Section 2

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on February 1, 2016, The NASDAQ Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XV, entitled "Options Pricing," at Section 2, which governs pricing for Exchange members using the NASDAQ Options Market ("NOM"), the Exchange's facility for executing and routing standardized equity and index options. The Exchange proposes to amend certain Penny Pilot and Non-Penny Pilot Options pricing as well as the Market Access and Routing Subsidy or "MARS."

The text of the proposed rule change is available on the Exchange's Website at http://nasdaq.cchwallstreet.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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1 15 U.S.C. § 78s(b)(1).

2 17 C.F.R. § 240.19b-4.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes certain amendments to the NOM transaction fees set forth at Chapter XV, Section 2 for executing and routing standardized equity and index options under the Penny and Non-Penny Pilot Options program as well as amendments to MARS. Each change will be described below.

Penny Pilot Options

The Exchange proposes to amend the Penny Pilot Options Customer[3] Rebate to Add Liquidity by offering an incentive to NOM Participants to add an even greater amount of liquidity to NOM. Specifically, the Exchange proposes to incentivize NOM Participants by offering the opportunity to earn an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to qualifying Penny Pilot Options

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[3] The term “Customer” applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation which is not for the account of broker or dealer or for the account of a “Professional” (as that term is defined in Chapter I, Section 1(a)(48)).

Customer Rebate to Add Liquidity Tiers 1-8,[4] provided the NOM Participant qualifies for MARS Payment Tiers 1, 2 or 3, which are proposed below.[5] The Exchange proposes to add this incentive into new note "d." NOM Participants that qualify for the current note "c"[6] incentive will receive the greater of the note "c"[7] or the note "d" incentive.

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4 Today, the Exchange offers 8 tiered Penny Pilot Options Rebates to Add Liquidity to Customers based on various criteria with rebates ranging from $0.20 to $0.48 per contract. Participants may qualify for Customer and Professional Penny Pilot Options Rebates to Add Liquidity by adding a certain amount of liquidity as specified by each tier. Tiers 6 and 7 are calculated based on Total Volume. Total Volume is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM. See note "b" in Section 2(1) of Chapter XV. The Exchange utilizes data from The Options Clearing Corporation ("OCC") to determine the total industry customer equity and ETF options ADV figure. OCC classifies equity and ETF options volume under the equity options category. Also, both customer and professional orders that are transacted on options exchanges clear in the customer range at OCC and therefore both customer and professional volume would be included in the total industry figure to calculate rebate tiers.

5 The MARS Payment Tiers are proposed herein and described in more detail below.

6 Note "c" at Chapter XV, Section 2(1) provides that Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.30% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. Finally, Participants that (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% of total industry customer equity and ETF option ADV contracts per day in a month and (b) have added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.10% or more of Consolidated Volume in a month will receive an additional

Non-Penny Pilot Options

The Exchange proposes to delete an offer to reduce a fee offered to Non-Customer Participants (Professional,[8] Firm,[9] Non-NOM Market Maker,[10] NOM Market Maker[11] and Broker-Dealer[12]) when they remove liquidity. Today, these Non-Customer

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$0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in a month.

Consolidated Volume shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated volume and the member's trading activity.

7 Note “c” offers Participants the ability to earn a $0.02, $0.03 or $0.05 per contract rebate.

8 The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

9 The term “Firm” applies to any transaction that is identified by a Participant for clearing in the Firm range at The Options Clearing Corporation.

10 The term “Non-NOM Market Maker” is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

11 The term “NOM Market Maker” is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

12 The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

Participants pay a Non-Penny Pilot Options Fee for Removing Liquidity of $1.10 per contract. Note "3" offers Non-Customer Participants an opportunity to reduce the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.03 per contract, provided the Participant qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month. The Exchange proposes to delete note "3" and no longer offer this fee reduction. The Exchange proposes to reserve note "3." Today, Customers are assessed a lower Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract. Customers are not currently offered the fee reduction because they are assessed a lower fee ($0.85 per contract as compared to $1.03 per contract). Despite the removal of the fee reduction, the Exchange believes that these fees will continue to attract market participants to NOM.

The Exchange currently assesses a NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity of $1.10 per contract and offers Participants that qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 in a month, the opportunity to lower the NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity to $1.08 per contract in that month. The Exchange proposes to continue to offer this incentive and expand the qualification for this incentive, described in note "4," to permit Participants that qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers[13] 2, 3, 4, 5, 6, <u>7</u> or <u>8</u> in a month to receive the lower Non- Penny Pilot Options Fee for Removing Liquidity rate of $1.08 per contract in that month. Tiers 7 and 8 are being added as qualifying tiers for this note "4"

[13] The Customer and Professional Penny Pilot Options Customer and Professional Rebate to Add Liquidity Tiers 1-8 are described in Chapter XV, Section 2(1).

incentive. The Exchange believes that this incentive will encourage Participants to add liquidity to NOM.

MARS

NOM offers a subsidy to NOM Participants that provide certain order routing functionalities to other NOM Participants and/or use such functionalities themselves. NOM Participants are subsidized for the costs they incur when providing routing services to route orders to NOM. Today, in order to qualify for MARS, a NOM Participant's routing system (hereinafter "System") would be required to meet certain criteria.[14] Today, NOM pays NOM Participants that have System Eligibility and have routed at least 5,000 Eligible Contracts daily in a month, which were executed on NOM, a MARS Payment. Today, to qualify for a MARS Payment, eligible contracts may include Firm, Non-NOM Market Maker, Broker-Dealer, Joint Back Office or "JBO"[15] or Professional equity option orders that add liquidity and are electronically delivered and executed

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14 Specifically the Participant's System would be required to: (1) enable the electronic routing of orders to all of the U.S. options exchanges, including NOM; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with NOM's API to access current NOM match engine functionality ("System Eligibility"). The NOM Participant's System would also need to cause NOM to be one of the top three default destination exchanges for individually executed marketable orders if NOM is at the national best bid or offer ("NBBO"), regardless of size or time, but allow any user to manually override NOM as the default destination on an order-by-order basis.

15 The term "Joint Back Office" or "JBO" applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer as of September 1, 2014. A JBO participant is a Participant that maintains a JBO arrangement with a clearing broker-dealer ("JBO Broker") subject to the requirements of Regulation T Section 220.7 of the Federal Reserve System as further discussed in Chapter XIII, Section 5.

("Eligible Contracts"). Eligible Contracts do not include Mini-Options.[16] Today, NOM Participants that have System Eligibility and have executed the requisite Eligible Contracts, in a month, will receive a MARS Payment of $0.10 per contract. Today, the MARS Payment will be paid only on executed Firm orders that add liquidity and which are routed to NOM through a participating NOM Participant's System. No payments are made with respect to orders that are routed to NOM, but not executed.[17]

The Exchange proposes to amend the MARS Payment to replace the $0.10 per contract payment and the 5,000 requisite Eligible Contracts minimum with the following 3 tiered MARS Payment and Average Daily Volume requisites:

Tiers	**Average Daily Volume ("ADV")**	**MARS Payment**
1	2,500	$0.07
2	5,000	$0.09
3	10,000	$0.11

Provided the NOM Participant executed the requisite number of Eligible Contracts ADV, the Exchange proposes to pay the applicable MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System. Today, the Exchange pays the MARS Payment only on executed Firm orders that add liquidity, which are routed to NOM through a participating NOM Participant's System. The Exchange believes that expanding the scope of orders eligible for a MARS Payment will attract higher volumes of electronic

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16 Mini Options are described in Chapter XV, Section 2(4).

17 A Participant will not be entitled to receive any other revenue for the use of its System specifically with respect to orders routed to NOM. The Exchange believes that the MARS Payment will subsidize the costs of NOM Participants in providing the routing services.

equity and ETF options volume to the Exchange from non-NOM Participants as well as NOM Participants with the proposed changes. The Exchange is not amending the other aspects of MARS.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[18] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[19] 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 the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Attracting order flow to the Exchange benefits all Participants who have the opportunity to interact with this order flow.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Further, "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker

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[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b)(4) and (5).

dealers'…."[20] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets and this proposal is consistent with those views in that it is a price cut driven by competition.

Penny Pilot Options

The Exchange's proposal to add a new note "d" to Chapter XV, Section 2(1), regarding the Penny Pilot Options Customer Rebate to Add Liquidity, to offer NOM Participants an opportunity to earn an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to any qualifying Penny Pilot Options Customer Rebate to Add Liquidity Tiers 1-8,[21] provided the NOM Participant qualifies for MARS Payment Tiers 1, 2 or 3,[22] is reasonable because NOM Participants will be incentivized to send more order flow to NOM. The Exchange believes that requiring Participants to qualify for MARS Payment Tiers 1, 2 or 3 is reasonable because it is designed to attract higher volumes of electronic equity and ETF options volume to the Exchange. With this proposal, in order to qualify for a MARS Payment, NOM Participants must execute a requisite number of orders which add liquidity and are routed to NOM through a participating NOM Participant's System. The Exchange believes that it is reasonable to offer NOM Participants the greater of the current note "c"[23] or new note "d" incentive

20 Id. at 539 (quoting Securities Exchange Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21) at 73 FR at 74782-74783).

21 See note 4 above.

22 The proposed MARS Payment Tiers are described in the Purpose section of the rule change.

23 See note 6 above.

because the NOM Participant would be able to receive the greater of the two rebates with this proposal. Today, Participants are entitled to certain incentives with note "c", provided they qualify for the Tier 8 Customer Rebate to Add Liquidity in Penny Pilot Options.[24]

The Exchange's proposal to add a new note "d" to Chapter XV, Section 2(1), regarding the Penny Pilot Options Customer Rebate to Add Liquidity to offer NOM Participants an opportunity to earn an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to any qualifying Penny Pilot Options Customer Rebate to Add Liquidity Tiers 1-8, provided the NOM Participant qualifies for MARS Payment Tiers 1, 2 or 3, is equitable and not unfairly discriminatory because the Exchange would uniformly pay this newly proposed note "d" incentive to NOM Participants that executed the requisite MARS volume and qualified for a Customer Rebate to Add Liquidity tier in Penny Pilot Options. The Exchange believes it is equitable and not unfairly discriminatory to offer this additional note "d" incentive only to Customers, because Customer liquidity attracts other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attract Specialists and Market Makers. An increase in the activity of these market

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24 The Tier 8 Customer Rebate to Add Liquidity in Penny Pilot Options pays a $0.48 per contract rebate to Participant that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or add (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month and (2) have certified for the Investor Support Program set forth in Rule 7014.

participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Also, the Exchange believes that it is equitable and not unreasonably discriminatory to offer NOM Participants the greater of the current note "c" or new note "d" incentive because the Exchange would uniformly pay the greater of these two rebates to qualifying NOM Participants. The Exchange's proposal to require Participants to qualify for MARS Payment Tiers 1, 2 or 3 in order to receive the additional $0.03 per contract rebate in note "d" is equitable and not unfairly discriminatory because all Participants will be subject to this requirement to qualify for the note "3" added incentive on their Customer orders.

Non-Penny Pilot Options

The Exchange's proposal to delete an offer to reduce a fee offered to Non-Customer Participants (Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker-Dealer) in note "3," which reduces the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.03 per contract in that month, when they qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month is reasonable because these fees will continue to offset the Exchange's incentives to increase the Customer Non-Penny Pilot Options Rebate to Add Liquidity up to $1.00 per contract.[25] All Participants, other than Customers, will continue to be

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[25] See Chapter XV, Section 2(1) at note "1." A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 in a month will receive an additional $0.10 per contract Non-Penny Pilot Options Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month. A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month will receive an additional $0.20 per contract Non-Penny Pilot Options Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month.

assessed the same Non-Penny Pilot Options Fees for Removing Liquidity. Customers continue to be assessed the lowest Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract. The Exchange believes that despite the increase to the fee, market participants will continue to send order flow to NOM.

The Exchange's proposal to delete an offer to reduce a fee offered to Non-Customer Participants (Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker-Dealer) in note "3," which reduces the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.03 per contract in that month, when they qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month is equitable and not unfairly discriminatory because no Participant would be eligible for the fee reduction. Today, Customers are not eligible for this fee reduction because they are assessed a lower Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract.

The Exchange's proposal to extend the offer in note "4" to reduce the NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.08 per contract, provided Participants qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2-8, is reasonable because the Exchange believes that additional Participants would be able to qualify for the lower fee with the addition of Tiers 7 and 8 to the qualifying tiers.

The Exchange's proposal to extend the offer in note "4" to reduce the NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.08 per contract, provided Participants qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2-8, is equitable and not unfairly discriminatory because the Exchange will continue to uniformly assess the lower fee to Participants that qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2-8. The Exchange believes that it is equitable and not unfairly discriminatory to offer NOM Marker Makers the ability to reduce the Non-Penny Pilot Options Fee for Removing Liquidity, as compared to other market participants, because of the obligations borne by these NOM Market Makers.[26] Encouraging NOM Market Makers to add greater liquidity benefits all Participants in the quality of order interaction and enhanced execution quality.

MARS

MARS Eligible Contracts

The Exchange's proposal to replace the MARS Payment of $0.10 per contract and the 5,000 Eligible Contracts minimum with a 3 tiered MARS Payment and Average Daily Volume schedule is reasonable because all qualifying NOM Participants may continue to qualify for a MARS Payment and may obtain a MARS Payment for less volume executed on NOM and a higher rebate for a greater amount of volume executed on NOM. The Exchange believes that these amendments will attract higher volumes of electronic equity and ETF options volume to the Exchange, which will benefit all NOM Participants by offering greater price discovery, increased transparency, and an increased opportunity to

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[26] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. See Chapter VII, Section 5.

trade on the Exchange. The expanded MARS Payments should enhance the competitiveness of the Exchange, particularly with respect to those exchanges that offer their own front-end order entry system or one they subsidize in some manner.

The Exchange's proposal to replace the 5,000 Eligible Contracts with ADVs of either: 2,500, 5,000 or 10,000 Eligible Contracts is reasonable because a greater number of NOM Participants may be eligible for MARS Payments. The Exchange is offering NOM Participants with less than 5,000 Eligible Contracts to receive a MARS Payment with this proposal. Today, 5,000 Eligible Contracts entitles NOM Participants to a $0.10 per contract MARS Payment. The Exchange will continue to pay NOM Participants which execute 5,000 contracts a MARS Payment, but a lower MARS Payment of $0.09 per contract as compared to $0.10 per contract. While this is a lower MARS Payment as compared to today, those NOM Participants would receive no MARS Payment today if they fell short of the 5,000 Eligible Contracts minimum. With this proposal, those NOM Participants with at least 2,500 ADV of Eligible Contracts will be paid a $0.07 per contract MARS Payment.[27] Finally, the Exchange proposes to pay NOM Participants that execute 10,000 Eligible Contracts a higher MARS Payment of $0.11 per contract. The Exchange is offering those Participants that desire to transact higher ADVs the opportunity to earn a higher MARS Payment than is offered today and is also paying NOM Participants with lower ADVs a MARS Payment with this proposal.

The Exchange's proposal to replace the 5,000 Eligible Contracts with ADVs of either: 2,500, 5,000 or 10,000 Eligible Contracts is equitable and not unfairly

[27] No MARS Payment is paid if volume is less than 2,500 ADV in a month.

discriminatory because the criteria for Eligible Contracts and ADVs will be uniformly applied to all qualifying NOM Participants.

The Exchange believes that the 3 tiered Eligible Contracts is reasonable because the Exchange is only counting add liquidity from Firms, Non-NOM Market Makers, Broker-Dealers, JBOs and Professionals which are electronically delivered and executed. The Exchange is not counting remove liquidity and therefore the ADV levels reflect what the Exchange believes to be appropriate levels of commitment from NOM Participants to receive the subsidy. The Exchange's expansion of the levels of commitment to 3 tiers offers NOM Participants additional opportunities to receive a MARS Payment.

The Exchange believes that the 3 tiered Eligible Contracts is equitable and not unfairly discriminatory because the Exchange will uniformly calculate the number of Eligible Contracts for all NOM Participants.

MARS Payment

The Exchange's proposal to replace the \$0.10 per contract MARS Payment with a 3 tiered MARS Payment based on Eligible Contract ADVs is reasonable because NOM Participants may receive a MARS Payment for lower volume or a higher MARS Payment for higher volume with this proposal. The Exchange is offering to pay a \$0.07 per contract MARS Payment to NOM Participants that transact 2,500 ADV of Eligible Contracts. NOM Participants that were unable to achieve the 5,000 Eligible Contract minimum may now be entitled to a MARS Payment with this lower ADV. Also, the 2,500 ADV is half of the current 5,000 minimum and the MARS Payment is more than half of the \$0.10 per contract MARS Payment offered today. The Exchange believes that this first tier will attract a greater number of NOM Participants. The Exchange is lowering the $0.10 per contract MARS Payment offered today to $0.09 per contract for the same volume offered today, 10,000 Eligible Contracts. While the Exchange is offering a slightly lower MARS Payment for the same number of Eligible Contracts required today to receive the current $0.10 per contract MARS Payment, it is also proposing to offer a higher rebate of $0.11 per contract for 10,000 ADV of Eligible Contracts. The Exchange believes the proposed 3 tiered MARS Payments is reasonable because the tier structure will allow NOM Participants to price their services at a level that will enable them to attract order flow from market participants who would otherwise utilize an existing front-end order entry mechanism offered by the Exchange's competitors instead of incurring the cost in time and money to develop their own internal systems to be able to deliver orders directly to the Exchange's System.

The Exchange's proposal to replace the $0.10 per contract MARS Payment with a 3 tiered MARS Payment based on Eligible Contract ADVs is equitable and not unfairly discriminatory because the Exchange will uniformly pay all NOM Participants the rebates specified in the proposed 3 tiered MARS Payments provided the NOM Participant has executed the requisite number of Eligible Contracts. Moreover, the Exchange believes that the proposed MARS Payments offered by the Exchange are equitable and not unfairly discriminatory because any qualifying NOM Participant that offers market access and connectivity to the Exchange and/or utilizes such functionality themselves may earn the MARS Payment for all Eligible Contracts.

The Exchange's proposal to pay the applicable MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System, as compared to only executed Firm orders, is reasonable because the Exchange is expanding the MARS Payment to all Eligible Contracts and this will attract higher volumes of electronic equity and ETF options volume to the Exchange from non-NOM Participants as well as NOM Participants. The Exchange believes that as a result of this proposed amendment, NOM Participants will be entitled to higher payments provided they transact the requisite number of Eligible Contracts.

The Exchange's proposal to pay the applicable MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System, as compared to only executed Firm orders, is equitable and not unfairly discriminatory because the Exchange will uniformly calculate the MARS Payment for all NOM Participants and uniformly pay the MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to continue to pay the proposed MARS Payment to NOM Participants that have System Eligibility and have executed the Eligible Contracts, even when a different NOM Participant may be liable for transaction charges resulting from the execution of the orders upon which the subsidy might be paid. The Exchange notes that this sort of arrangement already exists on other options exchanges such as Phlx which pays a Qualified Contingent Cross ("QCC") Rebate for floor transactions.[28] Today, this

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[28] See Phlx's Pricing Schedule. A Floor QCC Order must: (i) be for at least 1,000 contracts, (ii) meet the six requirements of Rule 1080(o)(3) which are modeled on the QCT Exemption, (iii) be executed at a price at or between the NBBO; and (iv) be rejected if a Customer order is resting on the Exchange book at the same price. In order to satisfy the 1,000-contract requirement, a Floor QCC Order must be for 1,000 contracts and could not be, for example, two 500-contract orders or two 500-contract legs. See Phlx Rule 1064(e). See also Securities Exchange Act

arrangement on Phlx results in a situation where the floor broker is earning a rebate and one or more different Phlx members are potentially liable for the Exchange transaction charges applicable to QCC Orders. With the QCC rebates applicable to transactions executed on the trading floor, Phlx does not offer a front-end for order entry; unlike some of the competing exchanges, Phlx has argued that it is necessary from a competitive standpoint to offer this rebate to the executing floor broker on a QCC Order.[29] Also, all qualifying NOM Participants would be uniformly paid the subsidy on all qualifying volume that was routed by them to the Exchange and executed.

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

Release No. 64688 (June 16, 2011), 76 FR 36606 (June 22, 2011) (SR-Phlx-2011-56).

29 See also Securities Exchange Act Release No. 64688 (June 16, 2011), 76 FR 36606 (June 22, 2011) (SR-Phlx-2011-56) (Order Granting Approval of Proposed Rule Change Establishing a Qualified Contingent Cross Order for Execution on the Floor of the Exchange).

practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed amendments to certain Penny Pilot and Non-Penny Pilot Options pricing as well as MARS do not impose an undue burden on inter-market competition because the Exchange's execution services are completely voluntary and subject to extensive competition.

Penny Pilot Options

The Exchange's proposal to add a new note "d" to Chapter XV, Section 2(1), regarding the Penny Pilot Options Customer Rebate to Add Liquidity to offer NOM Participants an opportunity to earn an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to any qualifying Penny Pilot Options Customer Rebate to Add Liquidity Tiers 1-8, provided the NOM Participant qualifies for MARS Payment Tiers 1, 2 or 3, does not impose an undue burden on intra-market competition because the Exchange would uniformly pay this newly proposed note "d" incentive to NOM Participants that executed the requisite MARS volume and qualified for a Customer Rebate to Add Liquidity tier in Penny Pilot Options. The Exchange's proposal to only offer this additional note "d" incentive only to Customers does not impose an undue burden on intra-market competition because Customer liquidity attracts other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attract Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to require Participants to qualify for MARS Payment Tiers 1, 2 or 3 in order to receive the additional $0.03 per contract rebate in note "d" does not impose an undue burden on intra-market competition because all Participants will be subject to this requirement to qualify for the note "3" added incentive on their Customer orders. The Exchange also believes that offering Participants the greater of the note "c" or note "d" incentives does not impose an undue burden on intra-market competition because Participants will uniformly receive the greater of these two rebates.

Non-Penny Pilot Options

The Exchange's proposal to delete an offer to reduce a fee offered to Non-Customer Participants (Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker-Dealer) in note "3," which reduces the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.03 per contract in that month, when they qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month does not impose an undue burden on intra-market competition because no Participant would be eligible for the fee reduction. Today, Customers are not eligible for this fee reduction because they are assessed a lower Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract.

The Exchange's proposal to extend the offer in note "4" to reduce the NOM Market Maker Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.08 per contract, provided Participants qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2-8, does not impose an undue burden on intra-market competition because the Exchange will continue to uniformly assess the lower fee to Participants that qualify for Customer or Professional Penny Pilot Options Rebate to

Add Liquidity Tiers 2-8. Offering NOM Marker Makers the ability to reduce the Non-Penny Pilot Options Fee for Removing Liquidity, as compared to other market participants does not impose an undue burden on intra-market competition because of the obligations borne by these NOM Market Makers.[30]

MARS

MARS Eligible Contracts

The Exchange's proposal to replace the 5,000 Eligible Contracts with ADVs of either: 2,500, 5,000 or 10,000 does not impose an undue burden on intra-market competition because the criteria for Eligible Contracts and ADVs will be uniformly applied to all qualifying NOM Participants. Also, only counting add liquidity from Firms, Non-NOM Market Makers, Broker-Dealers, JBOs and Professionals which are electronically delivered and executed does not impose an undue burden on intra-market competition because the Exchange will uniformly calculate the number of Eligible Contracts for all NOM Participants.

MARS Payment

The Exchange's proposal to replace the $0.10 per contract MARS Payment with a 3 tiered MARS Payment based on Eligible Contract ADVs does not impose an undue burden on intra-market competition because the Exchange will uniformly pay all NOM Participants the proposed 3 tiered MARS Payments provided the NOM Participant has executed the requisite number of Eligible Contracts. Moreover, the Exchange believes that the proposed MARS Payments offered by the Exchange does not impose an undue burden on intra-market competition because any qualifying NOM Participant that offers

[30] See note 26 above.

market access and connectivity to the Exchange and/or utilizes such functionality themselves may earn the MARS Payment for all Eligible Contracts.

The Exchange's proposal to pay the applicable MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System, does not impose an undue burden on intra-market competition because the Exchange will uniformly calculate the MARS Payment for all NOM Participants and uniformly pay the MARS Payment on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System.

The Exchange believes that paying the proposed MARS Payment to qualifying NOM Participants that have System eligibility and have executed the Eligible Contracts does not create an undue burden on intra-market competition, even when a different NOM Participant, other than the NOM Participant receiving the subsidy, may be liable for transaction charges, because this sort of arrangement already exists on the Exchange and would be uniformly applied to all qualifying NOM Participants.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[31]

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31 15 U.S.C. § 78s(b)(3)(A)(ii).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2016-015 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2016-015. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (http://www.sec.gov/rules/sro.shtml).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2016-015 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.[32]

Robert W. Errett
Deputy Secretary

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[32] 17 C.F.R. § 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

NASDAQ Stock Market Rules

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Chapter XV Options Pricing

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Sec. 2 NASDAQ Options Market—Fees and Rebates

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market for all securities.

(1) Fees for Execution of Contracts on the NASDAQ Options Market

Fees and Rebates (per executed contract)

	Customer	Professional	Firm	Non-NOM Market Maker	NOM Market Maker	Broker-Dealer
Penny Pilot Options:						
Rebate to Add Liquidity	***d	***	$0.10	$0.10	#	$0.10
Fee for Removing Liquidity	$0.50	$0.50	$0.50	$0.50[2]	$0.50[2]	$0.50
Non-Penny Pilot Options:						
Fee for Adding Liquidity	N/A	$0.45	$0.45	$0.45	$0.35	$0.45
Fee for Removing Liquidity	$0.85	$1.10[3]	$1.10[3]	$1.10[3]	$1.10[3], 4	$1.10[3]
Rebate to Add Liquidity	$0.80 [1]	N/A	N/A	N/A	N/A	

[1]A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 in a month will receive an additional $0.10 per contract Non-Penny Pilot Options Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month. A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month will receive an additional $0.20 per contract Non-Penny Pilot Options Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month.

[2] Participants that add 1.30% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month will be subject to the following pricing applicable to executions: a $0.48 per contract Penny Pilot Options Fee for Removing Liquidity when the Participant is (i) both the buyer and the seller or (ii) the Participant removes liquidity from another Participant under Common Ownership.

[3] Reserved.[A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month will be assessed a Non-Penny Pilot Options Fee for Removing Liquidity of $1.03 per contract in that month.]

[4] A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5, [or]6, 7 or 8 in a month will be assessed a Non- Penny Pilot Options Fee for Removing Liquidity of $1.08 per contract in that month.

[***] The Customer and Professional Rebate to Add Liquidity in Penny Pilot Options will be paid as noted below. To determine the applicable percentage of total industry customer equity and ETF option average daily volume, the Participant's Penny Pilot and Non-Penny Pilot Customer and/or Professional volume that adds liquidity will be included.

Monthly Volume		**Rebate to Add Liquidity**
Tier 1	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of up to 0.10% of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month	$0.20
Tier 2	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to 0.20% of total industry customer equity and ETF option ADV contracts per day in a month	$0.25
Tier 3	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.20% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month	$0.42
Tier 4	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.30% to 0.40% of total industry customer equity and ETF option ADV contracts per day in a month	$0.43
Tier 5 [a]	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.40% to 0.75% of total industry customer equity and ETF option ADV contracts per day in a month, or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 25,000 or more contracts per day in a month, (2) the	$0.45

	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	
Tier 6 [b]	Participant has Total Volume of 100,000 or more contracts per day in a month, of which 25,000 or more contracts per day in a month must be Customer and/or Professional liquidity in Penny Pilot Options	$0.45
Tier 7 [b]	Participant has Total Volume of 150,000 or more contracts per day in a month, of which 50,000 or more contracts per day in a month must be Customer and/or Professional liquidity in Penny Pilot Options	$0.47
Tier 8 [a]	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month and (2) the Participant has certified for the Investor Support Program set forth in Rule 7014	$0.48 [c]

[a]For purposes of Tiers 5 and 8, the Exchange will allow a NOM Participant to qualify for the rebate if a NASDAQ member has certified for the Investor Support Program and executed at least one order on NASDAQ's equity market.

[b]For purposes of Tiers 6 and 7, "Total Volume" shall be defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM.

[c] Participants that: (1) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or (2) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.30% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or (3) (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% of total industry customer equity and ETF option ADV contracts per day in a month and (b) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.10% or more of Consolidated Volume in a month will receive an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in a month. Consolidated Volume shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the

Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

[d] NOM Participants that qualify for MARS Payment Tiers 1, 2 or 3 will receive an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to qualifying Penny Pilot Options Customer Rebate to Add Liquidity Tiers 1-8. NOM Participants that qualify for a note "c" incentive will receive the greater of the note "c" or note "d" incentive.

The NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options will be paid as noted below.

Monthly Volume		**Rebate to Add Liquidity**
Tier 1	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of up to 0.10% of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month	$0.20
Tier 2	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to 0.25% of total industry customer equity and ETF option ADV contracts per day in a month	$0.25
Tier 3	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.25% to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month	$0.30 or $0.40 in the following symbols AAPL, QQQ, IWM, SPY and VXX
Tier 4	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.60% to 0.90% of total industry customer equity and ETF option ADV contracts per day in a month	$0.32 or $0.40 in the following symbols AAPL, QQQ, IWM, VXX and SPY
Tier 5	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options	$0.40
Tier 6	Participant adds NOM Market Maker liquidity in Penny Pilot	$0.42

Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.90% of total industry customer equity and ETF option ADV contracts per day in a month

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(2) – **(5)** No Change.

(6) Market Access and Routing Subsidy ("MARS")

MARS System Eligibility

To qualify for MARS, the Participant's routing system ("System") would be required to: (1) enable the electronic routing of orders to all of the U.S. options exchanges, including NOM; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with NOM's API to access current NOM match engine functionality. Further, the Participant's System would also need to cause NOM to be the one of the top three default destination exchanges for individually executed marketable orders if NOM is at the national best bid or offer ("NBBO"), regardless of size or time, but allow any user to manually override NOM as a default destination on an order-by-order basis. Any NOM Participant would be permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features described above and satisfies NOM that it appears to be robust and reliable. The Participant remains solely responsible for implementing and operating its System.

MARS Eligible Contracts

MARS Payment would be made to NOM Participants that have System Eligibility and have routed [at least 5,000]the requisite number of Eligible Contracts daily in a month, which were executed on NOM. For the purpose of qualifying for the MARS Payment, Eligible Contracts may include Firm, Non-NOM Market Maker, Broker-Dealer, Joint Back Office or "JBO" or Professional equity option orders that add liquidity and are electronically delivered and executed. Eligible Contracts do not include Mini Option orders.

MARS Payment

NOM Participants that have System Eligibility and have executed the requisite number of Eligible Contracts in a month [may receive the MARS Payment of $0.10 per contract.]will be paid the following rebates:

Tiers	**Average Daily Volume ("ADV")**	**MARS Payment**
1	2,500	$0.07
2	5,000	$0.09
3	10,000	$0.11

[This]The specified MARS Payment will be paid [only]on all executed [Firm orders]Eligible Contracts that add liquidity, [and]which are routed to NOM through a participating NOM Participant's System and meet the requisite Eligible Contracts ADV. . No payment will be made with respect to orders that are routed to NOM, but not executed.

A Participant will not be entitled to receive any other revenue for the use of its System specifically with respect to orders routed to NOM.

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