

Required fields are shown with yellow backgrounds and asterisks.

Filing by NASDAQ Stock Market
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>
Section 806(e)(2) * <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input checked="" type="checkbox"/>	Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>
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Description

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

A proposal to amend the Exchange transaction fees at Chapter XV, Section 2 entitled NASDAQ Options Market, Fees and Rebates.

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 * Sun Last Name * Kim
 Title * Assistant General Counsel
 E-mail * sun.kim@nasdaq.com
 Telephone * (212) 231-5106 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.

(Title *)

Date 08/01/2017
 By Edward S. Knight
 (Name *)

Executive Vice President and General Counsel

edward.knight@nasdaq.com

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.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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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 *

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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 *

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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

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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

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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

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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

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend the Exchange’s transaction fees at Chapter XV, Section 2 entitled “NASDAQ Options Market – Fees and Rebates,” which governs pricing for Nasdaq Participants using the NASDAQ Options Market (“NOM”), Nasdaq’s facility for executing and routing standardized equity and index options. The Exchange proposes to amend its subsidy program, the Market Access and Routing Subsidy or “MARS,” for NOM Participants that provide certain order routing functionalities³ to other NOM Participants and/or use such functionalities themselves.

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

(b) Not applicable.

(c) Not applicable.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The order routing functionalities permit a NOM Participant to provide access and connectivity to other Participants as well as utilize such access for themselves. The Exchange notes that one NOM Participant is eligible for payments under MARS, while another NOM Participant might potentially be liable for transaction charges associated with the execution of the order, because those orders were delivered to the Exchange through a NOM Participant’s connection to the Exchange and that Participant qualified for the MARS Payment.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”) on August 15, 2016. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Sun Kim
Assistant General Counsel
Nasdaq, Inc.
212-231-5106

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

a. Purpose

The Exchange proposes to amend its MARS subsidy program, which pays a subsidy to NOM Participants that provide certain order routing functionalities to other NOM Participants and/or use such functionalities themselves. Generally, under MARS, the Exchange pays participating NOM Participants to subsidize their costs of providing routing services to route orders to NOM. At this time, the Exchange proposes to amend Chapter XV, Section 2(6) to expand the MARS Payment tiers as described further below.

Today, NOM Participants that have System Eligibility⁴ and have routed the requisite number of Eligible Contracts daily in a month (“Average Daily Volume”),

⁴ To qualify for MARS, the Participant’s routing system (“System”) is 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 one of the top three default destination exchanges for (a) individually executed marketable orders if NOM is at the national best bid or offer (“NBBO”), regardless of size or time or (b) orders that

which were executed on NOM, are entitled to a MARS Payment. For the purpose of qualifying for the MARS Payment, Eligible Contracts may include Firm,⁵ Non-NOM Market Maker,⁶ Broker-Dealer,⁷ or Joint Back Office or “JBO”⁸ equity option orders that add liquidity and are electronically delivered and executed.⁹

The Exchange currently pays the following MARS Payments according to Average Daily Volume (“ADV”)¹⁰ submitted on NOM:

establish a new NBBO on NOM’s Order Book, 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. See Chapter XV, Section 2(6).

⁵ The term “Firm” or (“F”) applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

⁶ The term “Non-NOM Market Maker” or (“O”) is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

⁷ The term “Broker-Dealer” or (“B”) applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

⁸ 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.

⁹ Eligible Contracts do not include Mini Option orders. Mini Options are further specified in Chapter XV, Section 2(4).

¹⁰ Average Daily Volume is all Eligible Contracts daily in a month aggregating Penny and Non-Penny Pilot Options.

Tiers	Average Daily Volume (“ADV”)	MARS Payment (Penny)	MARS Payment (Non-Penny)
1	2,500	\$0.07	\$0.15
2	5,000	\$0.09	\$0.20
3	10,000	\$0.11	\$0.30
4	20,000	\$0.15	\$0.50

Also, NOM Participants that qualify for Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 in Chapter XV, Section 2(1) will receive \$0.09 per contract in addition to any MARS Payment tier on MARS Eligible Contracts the NOM Participant qualifies for in a given month. The specified MARS Payment will be paid on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant’s System and meet the requisite Eligible Contracts ADV. No payments will be made with respect to orders that are routed to NOM, but not executed.¹¹

The Exchange proposes to add a new Tier 5 with an ADV of 45,000 contracts and pay a MARS Payment of (i) \$0.17 per contract for Penny Pilot Options transactions that qualify for the MARS Payment tier program and (ii) \$0.60 per contract for Non-Penny Pilot Options transactions that qualify for the MARS Payment tier program. The Exchange would continue to pay an additional \$0.09 per contract in addition to any MARS Payment tier on MARS Eligible Contracts in a given month, provided the NOM Participant qualified for the Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 in Chapter XV, Section 2(1). The Exchange believes that as

¹¹ 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 MARS Payment will subsidize the costs of NOM Participants in providing the routing services.

proposed, MARS will continue to attract higher volumes of electronic equity and ETF options volume to the Exchange from non-NOM Participants as well as NOM Participants.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹³ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to add a new Tier 5 with an ADV of 45,000 contracts and pay the MARS Payment in the amounts described above is reasonable because the 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 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 amendment to add Tier 5 will incentivize NOM Participants to achieve an even higher Penny Pilot Options Rebate, provided the NOM Participant is eligible for MARS. Further, 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

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

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 add a new Tier 5 and pay the MARS Payment in the amounts described above is equitable and not unfairly discriminatory because the Exchange will uniformly pay all NOM Participants the rebates specified in the proposed MARS Payment tiers 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 utilize such functionality themselves may earn the MARS Payments for all Eligible Contracts.

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.

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

Further, the Exchange's proposal does not impose an undue burden on intra-market competition because the Exchange will uniformly pay all NOM Participants the rebates specified in the proposed MARS Payment tiers provided the NOM Participant has executed the requisite number of Eligible Contracts. Moreover, any qualifying NOM Participant that offers market access and connectivity to the Exchange and/or utilizes such functionality themselves may earn the proposed MARS Payment for all Eligible Contracts.

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,¹⁴ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-

¹⁴ 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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2017-079)

August __, 2017

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Market Access and Routing Subsidy Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on August 1st, 2017, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange’s transaction fees at Chapter XV, Section 2 entitled “NASDAQ Options Market – Fees and Rebates,” which governs pricing for Nasdaq Participants using the NASDAQ Options Market (“NOM”), Nasdaq’s facility for executing and routing standardized equity and index options. The Exchange proposes to amend its subsidy program, the Market Access and Routing Subsidy or

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

“MARS,” for NOM Participants that provide certain order routing functionalities³ to other NOM Participants and/or use such functionalities themselves.

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.

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

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

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

1. Purpose

The Exchange proposes to amend its MARS subsidy program, which pays a subsidy to NOM Participants that provide certain order routing functionalities to other NOM Participants and/or use such functionalities themselves. Generally, under MARS, the Exchange pays participating NOM Participants to subsidize their costs of providing

³ The order routing functionalities permit a NOM Participant to provide access and connectivity to other Participants as well as utilize such access for themselves. The Exchange notes that one NOM Participant is eligible for payments under MARS, while another NOM Participant might potentially be liable for transaction charges associated with the execution of the order, because those orders were delivered to the Exchange through a NOM Participant’s connection to the Exchange and that Participant qualified for the MARS Payment.

routing services to route orders to NOM. At this time, the Exchange proposes to amend Chapter XV, Section 2(6) to expand the MARS Payment tiers as described further below.

Today, NOM Participants that have System Eligibility⁴ and have routed the requisite number of Eligible Contracts daily in a month (“Average Daily Volume”), which were executed on NOM, are entitled to a MARS Payment. For the purpose of qualifying for the MARS Payment, Eligible Contracts may include Firm,⁵ Non-NOM Market Maker,⁶ Broker-Dealer,⁷ or Joint Back Office or “JBO”⁸ equity option orders that add liquidity and are electronically delivered and executed.⁹

⁴ To qualify for MARS, the Participant’s routing system (“System”) is 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 one of the top three default destination exchanges for (a) individually executed marketable orders if NOM is at the national best bid or offer (“NBBO”), regardless of size or time or (b) orders that establish a new NBBO on NOM’s Order Book, 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. See Chapter XV, Section 2(6).

⁵ The term “Firm” or (“F”) applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

⁶ The term “Non-NOM Market Maker” or (“O”) is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

⁷ The term “Broker-Dealer” or (“B”) applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

⁸ 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

The Exchange currently pays the following MARS Payments according to Average Daily Volume (“ADV”)¹⁰ submitted on NOM:

Tiers	Average Daily Volume (“ADV”)	MARS Payment (Penny)	MARS Payment (Non-Penny)
1	2,500	\$0.07	\$0.15
2	5,000	\$0.09	\$0.20
3	10,000	\$0.11	\$0.30
4	20,000	\$0.15	\$0.50

Also, NOM Participants that qualify for Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 in Chapter XV, Section 2(1) will receive \$0.09 per contract in addition to any MARS Payment tier on MARS Eligible Contracts the NOM Participant qualifies for in a given month. The specified MARS Payment will be paid on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant’s System and meet the requisite Eligible Contracts ADV. No payments will be made with respect to orders that are routed to NOM, but not executed.¹¹

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.

⁹ Eligible Contracts do not include Mini Option orders. Mini Options are further specified in Chapter XV, Section 2(4).

¹⁰ Average Daily Volume is all Eligible Contracts daily in a month aggregating Penny and Non-Penny Pilot Options.

¹¹ 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 MARS Payment will subsidize the costs of NOM Participants in providing the routing services.

The Exchange proposes to add a new Tier 5 with an ADV of 45,000 contracts and pay a MARS Payment of (i) \$0.17 per contract for Penny Pilot Options transactions that qualify for the MARS Payment tier program and (ii) \$0.60 per contract for Non-Penny Pilot Options transactions that qualify for the MARS Payment tier program. The Exchange would continue to pay an additional \$0.09 per contract in addition to any MARS Payment tier on MARS Eligible Contracts in a given month, provided the NOM Participant qualified for the Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 in Chapter XV, Section 2(1). The Exchange believes that as proposed, MARS will continue to attract higher volumes of electronic equity and ETF options volume to the Exchange from non-NOM Participants as well as NOM Participants.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹³ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to add a new Tier 5 with an ADV of 45,000 contracts and pay the MARS Payment in the amounts described above is reasonable because the 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

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

discovery, increased transparency, and an increased opportunity to 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 amendment to add Tier 5 will incentivize NOM Participants to achieve an even higher Penny Pilot Options Rebate, provided the NOM Participant is eligible for MARS. Further, 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 add a new Tier 5 and pay the MARS Payment in the amounts described above is equitable and not unfairly discriminatory because the Exchange will uniformly pay all NOM Participants the rebates specified in the proposed MARS Payment tiers 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 utilize such functionality themselves may earn the MARS Payments for all Eligible Contracts.

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

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

Further, the Exchange's proposal does not impose an undue burden on intra-market competition because the Exchange will uniformly pay all NOM Participants the rebates specified in the proposed MARS Payment tiers provided the NOM Participant has executed the requisite number of Eligible Contracts. Moreover, any qualifying NOM Participant that offers market access and connectivity to the Exchange and/or utilizes such functionality themselves may earn the proposed MARS Payment for all Eligible Contracts.

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.¹⁴

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-2017-079 on the subject line.

Paper comments:

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

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-NASDAQ-2017-079. 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-2017-079 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.¹⁵

Eduardo A. Aleman
Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

NASDAQ Stock Market Rules

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Options 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.

* * * * *

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

* * * * *

MARS Payment

NOM Participants that have System Eligibility and have executed the requisite number of Eligible Contracts in a month will be paid the following rebates:

Tiers	Average Daily Volume ("ADV")	MARS Payment (Penny)	MARS Payment (Non-Penny)
1	2,500	\$0.07 *	\$0.15 *
2	5,000	\$0.09 *	\$0.20 *
3	10,000	\$0.11 *	\$0.30 *
4	20,000	\$0.15 *	\$0.50 *
<u>5</u>	<u>45,000</u>	<u>\$0.17</u> -	<u>\$0.60</u> -

The specified MARS Payment will be paid on all executed Eligible Contracts that add liquidity, 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 from the Exchange for the use of its System specifically with respect to orders routed to NOM.

*NOM Participants that qualify for Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 will receive \$0.09 per contract in addition to any MARS Payment tier on MARS Eligible Contracts the NOM Participant qualifies for in a given month.

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