

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-PEARL-2024-29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PEARL-2024-29 and should be submitted on or before August 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

J. Matthew DeLesDernier,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100497; File No. SR-NASDAQ-2024-033]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Options 7, Section 2(1)

July 11, 2024.

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 July 1, 2024, 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 Pricing Schedule at Options 7, Section 2(1), which governs the pricing for Nasdaq Participants using The Nasdaq Options Market (“NOM”), Nasdaq's facility for executing and routing standardized equity and index options. The proposed changes are described further below.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

Pursuant to Options 7, Section 2(1), the Exchange currently assesses NOM Market Makers³ a \$0.35 per contract Fee to Add Liquidity in Non-Penny Symbols. This fee applies unless

Participants meet the volume thresholds set forth in note 5. Note 5 currently stipulates that Participants that add NOM Market Maker liquidity in Non-Penny Symbols of 0.05% to 0.07% of total industry customer equity and ETF option ADV contracts per day in a month will be assessed a \$0.00 per contract Non-Penny Options Fee for Adding Liquidity in that month. Participants that add NOM Market Maker liquidity in Non-Penny Symbols of above 0.07% of total industry customer equity and ETF option ADV contracts per day in a month will receive the Non-Penny Rebate to Add Liquidity for that month instead of paying the Non-Penny Fee for Adding Liquidity. Accordingly, qualifying Participants are offered an opportunity to reduce the \$0.35 fee or earn a rebate if they meet the volume-based requirements under note 5.

The Exchange now proposes to amend the volume thresholds and associated pricing in note 5 as follows:

The NOM Market Maker Fee for Adding Liquidity in Non-Penny Symbols will apply unless Participants meet the volume thresholds set forth in this note. Participants that add NOM Market Maker liquidity in Non-Penny Symbols of 0.03% to 0.05% of total industry customer equity and ETF option ADV contracts per day in a month will be assessed a \$0.00 per contract Non-Penny Options Fee for Adding Liquidity in that month. Participants that add NOM Market Maker liquidity in Non-Penny Symbols of above 0.05% to 0.08% of total industry customer equity and ETF option ADV contracts per day in a month will receive a Non-Penny Rebate to Add Liquidity of \$0.20 per contract for that month instead of paying the Non-Penny Fee for Adding Liquidity. Participants that add NOM Market Maker liquidity in Non-Penny Symbols of above 0.08% of total industry customer equity and ETF option ADV contracts per day in a month will receive a Non-Penny Rebate to Add Liquidity of \$0.40 per contract for that month instead of paying the Non-Penny Fee for Adding Liquidity.

The Exchange will also amend the related NOM Market Maker Non-Penny pricing chart in Options 7, Section 2(1) to reflect the pricing described above. The Exchange believes that the proposed volume thresholds will incentivize NOM Market Makers to add greater Non-Penny Symbol liquidity on NOM to the benefit of all market participants. With the proposed changes, the Exchange is generally lowering the volume thresholds while increasing the rebate amounts so that NOM Market Makers adding the same amount of liquidity in Non-Penny Symbols today would get more favorable pricing either by qualifying for free executions or receiving a higher

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term “NOM Market Maker” or (“M”) is a Participant that has registered as a Market Maker on NOM pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

¹⁷ 17 CFR 200.30-3(a)(12).

rebate. The only exception is for NOM Market Makers that add liquidity in Non-Penny Symbols of above 0.07% to 0.08% as they would receive a \$0.30 per contract rebate today versus \$0.20 per contract under this proposal. However, the Exchange believes that its proposal will encourage NOM Market Makers to reach for the highest volume threshold to receive the significantly higher rebate of \$0.40 per contract.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁵ 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 proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[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' . . ."⁶

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. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system

"has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."⁷

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

The Exchange believes that its proposal to amend the volume thresholds in note 5 and related rebates in the manner described above is reasonable because it will incentivize NOM Market Makers to add greater Non-Penny Symbol liquidity on NOM to the benefit of all market participants. As discussed above, the Exchange is generally lowering the volume thresholds while increasing the rebate amounts with the proposed changes. As such, NOM Market Makers adding the same amount of liquidity in Non-Penny Symbols as they do today would generally get more favorable pricing either by qualifying for free executions or receiving a higher rebate. The only exception is for NOM Market Makers that add liquidity in Non-Penny Symbols of above 0.07% to 0.08% as they would receive a \$0.30 per contract rebate today versus \$0.20 per contract under this proposal. However, the Exchange believes that its proposal will encourage NOM Market Makers to reach for the highest volume threshold to receive the significantly higher rebate of \$0.40 per contract.

The Exchange further believes that its proposal is equitable and not unfairly discriminatory. As discussed above, the proposed changes to the note 5 volume thresholds and associated pricing will be applied uniformly to all NOM Market Makers that add liquidity in Non-Penny Symbols. The Exchange does not believe that it is unfairly discriminatory to offer the note 5 incentives to only NOM Market Makers because these market participants add value through continuous quoting and the commitment of capital.⁸ Because NOM

Market Makers have these obligations to the market and regulatory requirements that normally do not apply to other market participants, the Exchange believes that offering the note 5 incentives to only NOM Market Makers is equitable and not unfairly discriminatory in light of their obligations. Finally, encouraging NOM Market Makers to add greater liquidity benefits all market participants in the quality of order interaction.

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 intra-market competition, the Exchange does not believe that its proposal will place any category of market participant at a competitive disadvantage. As discussed above, while the Exchange's proposal targets certain activity on NOM (*i.e.*, NOM Market Makers adding liquidity in Non-Penny Symbols), the proposed changes are ultimately aimed at attracting greater order flow to the Exchange, which benefits all market participants by providing more trading opportunities.

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. 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 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 exchanges to maintain their competitive standing in the financial markets.

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.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4) and (5).

⁶ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

⁷ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

⁸ See Options 2, Sections 4 and 5.

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.⁹

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2024-033 on the subject line.

Paper Comments

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

All submissions should refer to file number SR-NASDAQ-2024-033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2024-033 and should be submitted on or before August 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Vanessa A. Countryman,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100508; File No. SR-MSRB-2024-03]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change To Amend MSRB Rule G-47, on Time of Trade Disclosure, To Codify and Retire Certain Existing Interpretive Guidance and Add New Time of Trade Disclosure Scenarios

July 11, 2024.

I. Introduction

On April 9, 2024, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend MSRB Rules G-47 ("Rule G-47"), on time of trade disclosure, to codify certain existing interpretive guidance and retire certain other existing interpretive guidance, add new time of trade disclosure scenarios, and make technical clarifications (the "proposed rule change").³

The MSRB will announce the effective date of the proposed rule change in a regulatory notice to be

published on the MSRB website no later than 30 days following this approval. The effective date will be no later than nine months following this approval.

The proposed rule change was published for comment in the **Federal Register** on April 18, 2024.⁴ The Commission received one comment letter on the proposed rule change.⁵ On June 14, 2024, the MSRB responded to the comment letter.⁶ As described further below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

A. Background

MSRB Rule G-47 requires brokers, dealers, or municipal securities dealers ("dealers") to disclose to customers, at or prior to the time of trade, all material information known or available publicly through established industry sources. More specifically, MSRB Rule G-47 requires dealers selling a municipal security to a customer, or purchasing a municipal security from a customer, to disclose to the customer, orally or in writing, at or prior to the time of trade, all material information known about the transaction, as well as information about the municipal security that is reasonably accessible to the market. This obligation exists for both unsolicited and recommended transactions as well as primary and secondary market transactions.⁷

MSRB Rule G-47 Supplementary Material .03 contains examples of information that may be material in specific scenarios and therefore requires time of trade disclosures to a customer. The list of specific scenarios is non-exhaustive and other information not listed in MSRB Rule G-47 Supplementary Material .03 may be material to customers depending upon the specific scenario. In addition to the specific disclosure scenarios listed in MSRB Rule G-47 Supplementary Material .03, various items of MSRB interpretive guidance list other

⁴ See Notice, 89 FR at 27809.

⁵ See Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association ("SIFMA") (May 9, 2024) ("SIFMA Letter"), available at <https://www.sec.gov/comments/sr-msrb-2024-03/srmsrb202403.htm>.

⁶ See Letter to Secretary, Commission, from Ernesto A. Lanza, Chief Regulatory and Policy Officer, MSRB, dated June 14, 2024 ("MSRB Letter").

⁷ Dealers are also subject to Commission Rule 15l-1 under the Exchange Act that requires broker-dealers to make certain prescribed disclosures to their retail customer, before or at the time of the recommendation, about the recommended transaction and the relationship between the retail customer and the broker-dealer. See 17 CFR 240.15l-1(a)(2)(i).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-99949 (April 9, 2024), 89 FR 27809 (April 18, 2024) ("Notice").

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).