accounting for the differences in functionality and order types.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. On the contrary, the proposed rule change is not designed to address any competitive issues because it is intended to provide clarity regarding the operation of orders with a Minimum Quantity instruction and when such orders are eligible to trade and not trade through Displayed orders or violate intra-market price priority.

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

No comments were solicited or received on the proposed rule change.

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

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and paragraph (f)(6) of Rule 19b–4 thereunder,[26] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

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: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4.

**IV. Solicitation of Comments**

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

*Electronic Comments*

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGA–2018–005 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–CboeEDGA–2018–005. 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 (*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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGA–2018–005, and should be submitted on or before April 19, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2018–06302 Filed 3–28–18; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–82940; File No. SR–NASDAQ–2018–019]**

## Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Chapter XV, Section 2, Which Governs the Pricing for Nasdaq Participants Using The Nasdaq Options Market

March 23, 2018.

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 March 13, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by 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, 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 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

[27] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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 purpose of the proposed rule change is to amend NOM pricing at Chapter XV, Section 2 to modify the NOM Market Maker,[3] Customer[4] and Professional[5] Rebates to Add Liquidity in Penny and Non-Penny Pilot Options. The Exchange also proposes to increase the Customer and Professional Fee for Removing Liquidity in SPY Options. Each change is discussed below.

NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options

The Exchange proposes to amend the Tier 6 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options by modifying the criteria to qualify for this tier and by increasing the rebate amount. Today, the Exchange has a six tier rebate structure for paying the NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options as follows:

| 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 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. | $0.42. |

The Exchange proposes to amend the criteria to qualify for Tier 6, which currently offers two alternative methods of qualifying for the $0.42 per contract rebate in that tier. The first method is a two-pronged requirement that the Participant (i) add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month and (ii) qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options. The alternative is a requirement that the Participant add 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. The Exchange is proposing to eliminate the first method, and to amend the alternative by increasing the 0.90% total industry customer equity and ETF option ADV threshold to 0.95% and adding two new requirements to qualify for the Tier 6 rebate. As such, the proposed Tier 6 criteria will have three prongs and require that the Participant (i) add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.95% of total industry customer equity and ETF option ADV contracts per day in a month, (ii) execute Total Volume of 250,000 or more contracts per day in a month, of which 30,000 or more contracts per day in a month must be removing liquidity, and (iii) add Firm,[6] Broker-Dealer[7] and Non-NOM Market Maker[8] liquidity in Non-Penny Pilot Options of 10,000 or more contracts per day in a month. ''Total Volume'' will have the same meaning as the definition currently in note b of Section 2(1), specifically 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. Lastly, the Exchange proposes to increase the

[3] The term ''NOM Market Maker'' or (''M'') 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.

[4] The term ''Customer'' or (''C'') applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') 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)).

[5] The term ''Professional'' or (''P'') 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.

[6] The term ''Firm'' or (''F'') applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

[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 ''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.

current Tier 6 rebate amount from $0.42 to $0.48 per contract.

NOM Market Maker Rebate To Add Liquidity in Non-Penny Pilot Options

The Exchange proposes to create an alternative method for Participants to earn a rebate for adding NOM Market Maker liquidity in Non-Penny Pilot Options. Today, the Exchange charges Participants a $0.35 per contract NOM Market Maker Fee for Adding Liquidity in Non-Penny Pilot Options. To encourage Participants to add NOM Market Maker liquidity in Non-Penny Pilot Options, the Exchange currently offers incentives to reduce this fee or earn a rebate, provided the Participants meet the volume-based requirements in note ''5,'' Section 2(1). Specifically, Participants who add NOM Market Maker liquidity in Non-Penny Pilot Options of 7,500 to 9,999 ADV contracts per day in a month would be assessed a $0.00 per contract Non- Penny Options Fee for Adding Liquidity in that month. In addition, Participants that add NOM Market Maker liquidity in Non-Penny Pilot Options of 10,000 or more ADV contracts per day in a month would receive a $0.30 per contract Non-Penny Rebate to Add Liquidity for that month instead of paying the Non-Penny Fee for Adding Liquidity.

The Exchange now proposes an additional rebate in new note ''6'' for NOM Market Makers that add liquidity in Non-Penny Pilot Options. Specifically, Participants that qualify for the proposed Tier 6 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options, as discussed above, will receive a $0.86 per contract NOM Market Maker Rebate to Add Liquidity in Non-Penny Pilot Options. Participants that qualify for a note ''5'' incentive will receive the greater of the note ''5'' or note ''6'' incentive.

Customer and Professional Rebate To Add Liquidity in Penny Pilot Options

The Exchange proposes a number of changes to the Rebates to Add Customer and Professional Liquidity in Penny Pilot Options set forth in Section 2(1). First, the Exchange is proposing to modify the eight tier rebate structure to a six tier rebate structure. The Exchange currently pays a volume-based tiered Customer and Professional Rebate to Add Liquidity in Penny Pilot Options as follows:

| 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*: 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 | 0.45 |
| *Tier 6*: 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*: 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*: 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 0.20% or more of total industry customer equity and ETF option ADV contracts per day in a month, and (2) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month or qualifies for MARS (defined below) | 0.48 |

For purposes of Tiers 6 and 7, ''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. The Exchange now proposes to eliminate Tiers 6 and 7, and renumber current Tier 8 as Tier 6. The Exchange will also make a number of related clean-up changes to remove all references in Chapter XV to current Tier 6 or Tier 7, and renumber all references to Tier 8 to Tier 6. In particular, the proposed clean-ups are in notes ''1,'' ''d,'' ''e'' and ''f'' in Section 2(1), in the Tier 5 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options in Section 2(1), and in the qualifier for the additional $0.09 per contract rebate applicable to the Market Access and Routing Subsidy Payment tiers in Section 2(6). Further, the Exchange would delete the portion of note ''b'' that states ''For purposes of Tiers 6 and 7'' and relocate the remaining rule text that contains the definition of ''Total Volume'' to a new corresponding note to the proposed Tier 6 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options. As discussed above, the second prong of the proposed Tier 6 rebate will contain a Total Volume qualifier.

Further, the Exchange proposes to decrease the Customer and Professional Rebate to Add Liquidity in Penny Pilot Options set forth in note ''e'' of Section 2(1). Today, a Participant may receive a $0.53 per contract Rebate to Add Liquidity in Penny Pilot Options as Customer or Professional if that Participant transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent 3.00% or more of Consolidated Volume [9] in the same month on The Nasdaq Stock Market. Participants that qualify for this rebate would not be eligible for any other Customer and Professional rebates in Tiers 1 through 8, or other rebate incentives for Customer and Professional order flow in Chapter XV, Section 2(1) of NOM

[9] Consolidated Volume would be determined as set forth in Nasdaq Rule 7018(a).

Rules.[10] The Exchange now proposes to decrease this note ''e'' incentive from $0.53 to $0.52 per contract for Customers and Professionals transacting in Penny Pilot Options.

Customer and Professional Fee for Removing Liquidity in SPY Options

The Exchange currently charges NOM Participants a Penny Pilot Options Fee for Removing Customer or Professional Liquidity that is $0.50 per contract, excluding SPY. For NOM Participants that remove Customer or Professional liquidity in SPY, this fee is reduced to $0.48 per contract.[11] The Exchange now proposes to amend this fee so that the Penny Pilot Options Fee for Removing Customer or Professional Liquidity in SPY will be increased from $0.48 to $0.49 per contract.

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.

NOM Market Maker Rebate To Add Liquidity in Penny Pilot Options

The Exchange believes that the proposed changes to the criteria to qualify for the Tier 6 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options and the proposed increase in the rebate amount from $0.42 to $0.48 per contract are reasonable, equitable and not unfairly discriminatory.

As discussed above, the Exchange is proposing to eliminate the first method to qualify for Tier 6, and amend the alternative method by increasing the total industry customer equity and ETF option ADV threshold from 0.90% to 0.95% and adding two new volume-based requirements to qualify for Tier 6. Accordingly, the proposed three-pronged criteria to qualify for Tier 6 will require that Participants (1) add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.95% of total industry customer equity and ETF option ADV contracts per day in a month, (2) execute Total Volume of 250,000 or more contracts per day in a month, of which 30,000 or more contracts per day in a month must be removing liquidity, and (3) add Firm, Broker-Dealer and Non-NOM Market Maker liquidity in Non-Penny Pilot Options of 10,000 or more contracts per day in a month. The Exchange notes that the proposed $0.48 per contract Tier 6 rebate will be the highest available NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options. The Exchange believes that the proposed $0.48 per contract Tier 6 rebate is reasonable because it will require three components to be met by Participants in order to qualify for that rebate. These requirements require more volume to be submitted on NOM than the current highest rebate (*i.e.,* the current Tier 6 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options) requires today.

The Exchange believes that the first prong (add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.95% of total industry customer equity and ETF option ADV contracts per day in a month) is reasonable because the Exchange already allows Participants to earn rebates today based on percentages of total industry customer equity and ETF option ADV. While the percentage threshold has increased from 0.90% to 0.95%, the Exchange is offering to pay a rebate of $0.48 per contract, the highest rebate, for Participants that meet this higher threshold. The second prong (execute Total Volume of 250,000 or more contracts per day in a month, of which 30,000 or more contracts per day in a month must be removing liquidity) is reasonable because the Exchange already allows Participants to obtain rebates today based on Total Volume, and requiring a certain amount of the Total Volume to consist of volume that removes liquidity will attract both liquidity providers and removers to NOM. The third prong (add Firm, Broker-Dealer and Non-NOM Market Maker liquidity in Non-Penny Pilot Options of 10,000 or more contracts per day in a month) is reasonable because the Exchange is incentivizing Participants to send Non-Penny Pilot Firm, Broker-Dealer and Non-NOM Market Maker order flow to NOM. Overall, the Exchange believes that the proposed Tier 6 rebate will continue to encourage Participants to send additional order flow to NOM in either Penny or Non-Penny Pilot Options to qualify for the higher Tier 6 rebate. All market participants benefit from the increased order interaction when more order flow is available on NOM.

The Exchange believes that the proposed Tier 6 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options is equitable and not unfairly discriminatory because all similarly-situated Participants are equally capable of qualifying for the proposed rebate, and the rebate will be uniformly paid to all qualifying Participants. Further, the Exchange believes that it is equitable and not unfairly discriminatory to only offer this rebate to Participants that transact as NOM Marker Makers because NOM Market Makers, unlike other market participants, add value through continuous quoting [14] and the commitment of capital. In addition, encouraging NOM Market Makers to add greater liquidity benefits all Participants in the quality of order interaction. The Exchange believes it is equitable and not unfairly discriminatory to offer only NOM Market Makers the opportunity to earn the Tier 6 rebate described above because of the obligations borne by these market participants, as noted herein.

NOM Market Maker Rebate To Add Liquidity in Non-Penny Pilot Options

The Exchange believes that the proposed $0.86 per contract NOM Market Maker Rebate to Add Liquidity in Non-Penny Pilot Options offered to Participants if they qualify for the Tier 6 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options is reasonable, equitable and not unfairly discriminatory. The Exchange notes that the proposed $0.86 per contract rebate set forth in new note ''6'' will be the highest available incentive provided to Participants that add NOM Market Maker liquidity in Non-Penny Pilot Options.[15] The Exchange believes that

[10] In calculating total volume, the Exchange will add the NOM Participant's total volume transacted on the NASDAQ Stock Market in a given month across its Nasdaq Market Center MPIDs, and will divide this number by the total industry Consolidated Volume.

[11] *See* Chapter XV, Section 2(1), note 3. Firms, Non-NOM Market Makers, NOM Market Makers and Broker-Dealers are assessed a $0.50 per contract Penny Pilot Options Fee for Removing Liquidity in SPY, similar to other Penny Pilot Options.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] 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.

[15] Today, the Exchange offers Participants a reduced fee of $0.00 or a rebate of $0.30, provided the Participant meets the volume qualifications in note 5 of Section 2(1). Specifically, Participants that add NOM Market Maker liquidity in Non-Penny Pilot Options of 7,500 to 9,999 ADV contracts per day in a month would be assessed a $0.00 per contract Non-Penny Options Fee for Adding

the proposed incentive of $0.86 per contract is reasonable because it will require Participants to meet the stringent volume requirements set forth in the Tier 6 Penny Pilot Options Rebate to Add NOM Market Maker Liquidity, as described above. The incentives currently offered to Participants that add NOM Market Maker liquidity in Non-Penny Pilot Options as set forth in note ''5'' have significantly lower volume-based qualification requirements than the requirements for the Tier 6 Penny Pilot Options Rebate.[16]

Further, the new note ''6'' incentive is intended to encourage Participants who transact as NOM Market Makers to continue to send more order flow to the Exchange in either Penny or Non-Penny Pilot Options in order to qualify for the proposed Tier 6 Penny Pilot Rebate to Add NOM Market Maker Liquidity to earn the additional $0.86 Non-Penny Rebate to Add NOM Market Maker Liquidity. All market participants benefit from the increased order interaction when more order flow is available on NOM. The Exchange also believes that it is reasonable to offer Participants that qualify for a note ''5'' incentive the greater of the current note ''5'' or new note ''6'' incentive because the Participant will be able to receive the greater of the two rebates with this proposal.

The Exchange believes that the proposed NOM Market Maker Rebate to Add Liquidity in Non-Penny Pilot Options is equitable and not unfairly discriminatory because all similarly-situated Participants are equally capable of qualifying for the proposed rebates, and the rebate will be uniformly paid to all qualifying Participants. Further, the Exchange believes that offering only Participants that transact as NOM Market Makers the opportunity to qualify for the proposed $0.86 per contract Rebate to Add Liquidity in Non-Penny Pilot Options is equitable and not unfairly discriminatory for the same reasons discussed above for the proposed Tier 6 Penny Pilot Options Rebate to Add NOM Market Maker Liquidity. It should also be noted that while the proposed $0.86 per contract rebate will be the highest available incentive provided to Participants that add NOM Market Maker liquidity in Non-Penny Pilot Options, the Exchange currently offers eligible Participants that transact as Customers and/or Professionals rebates up to $1.05 per contract for adding liquidity in Non-Penny Pilot Options.[17] Accordingly, the Exchange believes the $0.86 per contract rebate proposed to be offered to Participants that transact as NOM Market Makers is equitable and not unfairly discriminatory because the proposed incentive is within the range of rebates currently offered to all Participants that transact on NOM and add liquidity in Non-Penny Pilot Options.

Customer and Professional Rebate To Add Liquidity in Penny Pilot Options

The Exchange believes that its proposal to modify the eight tier rebate structure to a six tier rebate structure by deleting the current Tier 6 and Tier 7 Customer and Professional Rebates to Add Liquidity, which currently contain Total Volume qualification requirements, is reasonable, equitable and not unfairly discriminatory. Participants will still have the opportunity to qualify for the other tiered Customer and Professional Rebates to Add Liquidity in Penny Pilot Options, which will remain unchanged, as well as the other incentives currently provided to Participants that add Customer and Professional liquidity in Penny Pilot Options.[18]

Further, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to make the related clean-up changes to remove all references in Chapter XV to current Tier 6 or Tier 7, renumber all references to Tier 8 to Tier 6, and relocate the definition of ''Total Volume'' in note ''b'' to a new corresponding note to the proposed Tier 6 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options. The proposed changes will make NOM's pricing schedule easier to read and eliminate any potential confusion to the benefit of members and investors.

In addition, the proposed change to note ''e'' in Section 2(1) to decrease the Customer and Professional Rebate to Add Liquidity in Penny Pilot Options provided to eligible Participants that transact 3.00% or more in Consolidated Volume on The Nasdaq Stock Market from $0.53 to $0.52 per contract is reasonable because the proposed change is a modest reduction, and the Exchange believes that its rebate program will continue to incentivize Participants to transact greater volume on The Nasdaq Stock Market in order to qualify for a higher rebate on NOM.

The Exchange also believes that the proposed reduction in the note ''e'' incentive as discussed above is equitable and not unfairly discriminatory because any Participant that qualifies for this rebate will be uniformly paid the $0.52 per contract incentive for Penny Pilot Options. The requirements for earning this rebate will be applied uniformly to all market participants. Furthermore, the Exchange believes that it is equitable and not unfairly discriminatory to only offer the proposed $0.52 per contract incentive in note ''e'' to eligible Participants that add Customer and Professional liquidity in Penny Pilot Options. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts 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 believes that offering a lower fee to Professionals is similarly beneficial, as the lower fees may cause market participants to select NOM as a venue to send Professional order flow, increasing competition among the exchanges. As with Customer liquidity, the Exchange believes that increased Professional order flow should benefit other market participants.

Customer and Professional Fee for Removing Liquidity in SPY Options

The proposal to amend note 3 of Chapter XV, Section 2(1) to increase the Penny Pilot Options Fee for Removing Customer or Professional Liquidity in SPY from $0.48 to $0.49 per contract is reasonable and equitable because the proposed fee remains lower for SPY as compared to other Penny Pilot Options. The Exchange believes that the lower fee of $0.49 per contract in SPY, as compared to $0.50 per contract in other Penny Pilot Options, will continue to incentivize Participants to send Customer and Professional order flow in SPY.[19] The Exchange notes that the proposed pricing for the reduced SPY fee in note 3 remains competitive with another options exchange.[20]

Liquidity in that month. In addition, Participants that add NOM Market Maker liquidity in Non-Penny Pilot Options of 10,000 or more ADV contracts per day in a month would receive a $0.30 per contract Non-Penny Rebate to Add Liquidity for that month instead of paying the Non-Penny Fee for Adding Liquidity.

[16] *See* note 15 above.

[17] Participants must meet the requirements in note ''f'' of Section 2(1) in order to qualify for this $1.05 per contract incentive.

[18] In addition to the tiered rebates, the Exchange currently offers eligible Participants that add Customer and Professional liquidity in Penny Pilot Options rebate incentives that go up to $0.55 per contract if the Participant meets the relevant requirements. *See* Chapter XV, Section 2(1), notes ''c''—''f.''

[19] SPY options are the largest volume Penny Pilot Options traded on the Exchange.

[20] CBOE C2 Exchange (''C2'') charges public customers a $0.49 per contract taker fee and professional customers a $0.50 per contract taker

Continued

The Exchange does not believe that only offering this lower fee to Participants that remove Customer and Professional liquidity in SPY is inequitable and unfairly discriminatory. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts 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 believes that offering a lower fee to Professionals is similarly beneficial, as the lower fees may cause market participants to select NOM as a venue to send Professional order flow, increasing competition among the exchanges. As with Customer liquidity, the Exchange believes that increased Professional order flow should benefit other market participants.

*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. All of the proposed changes to the NOM Market Maker, Customer and Professional Rebates to Add Liquidity in Penny and Non-Penny Pilot Options, as well as the Customer and Professional Fee for Removing Liquidity in SPY Options, are designed to attract additional order flow to NOM, and the Exchange believes that its pricing remains attractive to market participants. The Exchange 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. 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.

*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.

fee, both in all penny classes except RUT. *See* C2 Fees Schedule, Section 1.

**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.[21]

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 email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2018–019 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–2018–019. 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 (*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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2018–019, and should be submitted on or before April 19, 2018.

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

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2018–06298 Filed 3–28–18; 8:45 am]

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[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–82936; File No. SR–CBOE–2018–008]**

## Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Relating to Flexibly Structured Options

March 23, 2018.

On January 19, 2018, Cboe Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's rules relating to the fungibility of Flexible Exchange Options (''FLEX Options'') with Non-FLEX Options that have identical terms to, among other things, include FLEX Options on quarterly expirations, short term expirations, weekly expirations and end-of-month expirations. The proposed rule change was published for comment in the **Federal Register** on February 8, 2018.[3] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82622 (Feb. 2, 2018), 83 FR 5668 (Feb. 8, 2018) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).