

trades pursuant to two reporting regimes.<sup>34</sup>

#### IV. Discussion

Section 36 of the Exchange Act grants the Commission the authority, with certain limitations, to “conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.”<sup>35</sup> Rule 608(e) of Regulation NMS under the Exchange Act authorizes the Commission to exempt, either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, from the provisions of the rule if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.<sup>36</sup>

The Commission believes that, pursuant to Section 36 of the Exchange Act, exemptive relief is appropriate in the public interest and consistent with the protection of investors, and that, pursuant to Rule 608(e) under the Exchange Act, exemptive relief is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and the perfection of the mechanisms of, a national market system. Relying on FINRA Facility Data in lieu of requiring Industry Members to report the SRO- Assigned Market Participant Identifier of the clearing broker, if applicable, and a cancelled trade indicator will be more efficient and more cost-effective for Industry Members, because this proposed alternative approach will avoid burdening Industry Members with reporting data regarding clearing brokers and cancelled trades pursuant to two reporting regimes. Moreover, once the alternative approach is fully implemented, FINRA Facility Data provided to the CAT would be equivalent to the data required by Sections 6.4(d)(ii)(A)(2) and (B).

The Commission believes that the conditions proposed by the Participants in their request for exemptive relief are also appropriate, including the condition that FINRA will continue to

report FINRA Facility Data to the Central Repository, the condition that the Participants will require the Plan Processor to link FINRA Facility Data to Industry Member execution reports submitted to the Central Repository, conditions specifying that the Participants’ Compliance Rules will require Industry Members to report directly to the Central Repository if they do not submit the required information to a FINRA Facility or are unable to provide a link between the execution reported to the Central Repository and the corresponding FINRA Facility trade report or trade cancellation, and the condition that FINRA would seek to amend its FINRA Facility rules and technical specifications to permit each FINRA Facility to accept timestamps up to the granularity required by the CAT NMS Plan.<sup>37</sup> The Commission believes that such conditions will help to ensure the collection of relevant and equivalent data regarding cancelled trades and clearing brokers.

The Commission also believes that the phased implementation of the Participants’ alternative approach is appropriate. Although some elements of the Participants’ alternative approach will not be fully implemented until 2021 or 2022, including direct reporting by Industry Members of clearing numbers and contra party information in certain circumstances, the Participants have indicated that these elements would only affect a limited or *de minimis* amount of data.<sup>38</sup> The Commission therefore believes that granting the requested exemptive relief according to the timeline proposed by the Participants is unlikely to have a significant impact on regulators’ short-term ability to use the transactional data reported to the Central Repository. Moreover, the Commission believes that granting exemptive relief according to the timeline proposed by the Participants will simultaneously provide Industry Members with immediate relief from incurring duplicative costs and encourage progress towards full implementation of the alternative approach on a reasonable and feasible schedule.

To the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for a Financial

<sup>37</sup> See notes 14–22, 27–29 and associated text *supra* for a discussion of these conditions. The Participants have an obligation to enforce Industry Member compliance with their own rules, including the Compliance Rules and FINRA’s rules relating to its trade reporting facilities. See, e.g., note 10 *supra*.

<sup>38</sup> See, e.g., notes 23–26 and associated text *supra*.

Accountability Milestone, provided that the conditions of the exemption are satisfied.<sup>39</sup>

Accordingly, *it is hereby ordered*, pursuant to Section 36(a)(1) of the Exchange Act<sup>40</sup> and Rule 608(e) under the Exchange Act,<sup>41</sup> that the Commission grants the Participants’ request for exemptive relief, as set forth in the Participant Letter, from the requirements in Section 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan, subject to the conditions described by the Participants and in this Order.

By the Commission.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–12998 Filed 6–16–20; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89046; File No. SR–MRX–2020–11]

### Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7

June 11, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

<sup>39</sup> See Securities Exchange Act Release No. 88890 (May 15, 2020), 85 FR 31322, 31335 (May 22, 2020). If the Participants do not meet the conditions set forth herein, on the schedule set forth herein, their ability to recover fees from Industry Members could be impacted pursuant to the terms of Section 11.6 of the CAT NMS Plan. See CAT NMS Plan, *supra* note 3, at Section 11.6 (effective June 22, 2020). Specifically, linkage of execution reports submitted to the Central Repository by Industry Members to corresponding FINRA trade reports and Industry Member reporting of unique trade identifiers, scheduled to begin on October 26, 2020, along with any related changes to the Compliance Rules, will now be relevant to the Full Implementation of Core Equity Reporting milestone (Period 2), which must be satisfied no later than December 31, 2020. Functionality enabling Industry Members to report clearing numbers and contra party information directly to the Central Repository, scheduled to begin on April 26, 2021 for Large Industry Members and Small OATS Reporters, along with any related changes to the Compliance Rules and FINRA’s Trade Reporting Facilities and FINRA’s Alternative Display Facility acceptance of timestamps up to the granularity required by the CAT NMS Plan, scheduled to begin by December 15, 2021, will now be relevant to the Full Availability and Regulatory Utilization of Transactional Database Functionality milestone (Period 3), which must be satisfied no later than December 31, 2021. FINRA’s OTC Reporting Facility acceptance of timestamps up to the granularity required by the CAT NMS Plan, scheduled to begin by December 15, 2022, will now be relevant to the Full Implementation of CAT NMS Plan Requirements milestone (Period 4), which must be satisfied no later than December 30, 2022.

<sup>40</sup> 15 U.S.C. 78mm(a)(1).

<sup>41</sup> 17 CFR 242.608(e).

<sup>34</sup> See *id.* at 5.

<sup>35</sup> 15 U.S.C. 78mm(a)(1).

<sup>36</sup> 17 CFR 242.608(e).

(“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on June 1, 2020, Nasdaq MRX, LLC (“MRX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 its Pricing Schedule at Options 7 in connection with the pricing for orders entered into the Exchange’s Price Improvement Mechanism (“PIM”).

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqmrx.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 purpose of the proposed rule change is to amend the Exchange’s Pricing Schedule at Options 7 to adopt separate fees for complex PIM orders that will be identical to the current fees for regular PIM orders. The Exchange also proposes to amend the PIM break-up rebates to provide the rebate only for PIM orders that meet specified size requirements. In connection with the foregoing changes, the Exchange also proposes to amend its Pricing Schedule to set forth its PIM pricing in a separate section for better readability. Each change is discussed in detail below.

### **Background**

For regular PIM orders, the Exchange currently charges a PIM originating fee in Penny and Non-Penny Symbols of \$0.20 per contract for Non-Priority Customers<sup>3</sup> and \$0.00 per contract for Priority Customers.<sup>4</sup> The Exchange also charges all market participants a PIM contra-side fee in Penny and Non-Penny Symbols of \$0.05 per contract. Members that execute an average daily volume (“ADV”) of 10,000 PIM originating contracts or greater within a month are eligible for a reduced PIM contra-side fee of \$0.02 per contract (in lieu of \$0.05 per contract). In addition, the Exchange presently charges PIM response fees of \$0.50 per contract in Penny Symbols and \$1.10 per contract in Non-Penny Symbols.<sup>5</sup>

The Exchange currently pays a regular PIM break-up rebate to an originating Priority Customer PIM order that executes with a response (order or quote), other than the PIM contra-side order, of \$0.40 per contract in Penny Symbols and \$1.00 per contract in Non-Penny Symbols. Notwithstanding the foregoing, Members that execute an ADV of 10,000 PIM originating contracts or greater within a month will receive a break-up rebate of \$1.05 per contract in Non-Penny Symbols (in lieu of \$1.00 per contract).

As it relates to complex PIM orders, the Exchange currently charges Non-Priority Customers a uniform \$0.15 per contract fee for all complex orders, including complex orders submitted into the Complex PIM. The \$0.15 per contract fee applies to an originating order, contra-side order and responses entered into MRX’s Complex PIM. No complex order fees are presently assessed to Priority Customers, including Priority Customer complex PIM orders.

### **PIM Fees**

The Exchange now proposes to adopt separate fees for complex PIM orders within new Section 5.E of Options 7 that will be identical to the current fees assessed for regular PIM orders. In particular, the Exchange proposes to charge all complex Non-Priority

Customer PIM originating orders in Penny and Non-Penny Symbols the \$0.20 per contract PIM originating fee that it currently assesses to all regular Non-Priority Customer PIM originating orders, and, for complex Priority Customer PIM originating orders, the \$0.00 per contract PIM originating fee it currently assesses to regular Priority Customer PIM originating orders. Likewise, the Exchange proposes to assess all market participants \$0.05 per contract for complex PIM contra-side orders in Penny and Non-Penny Symbols, identical to how regular PIM contra-side orders are charged today. The Exchange further proposes to offer market participants an opportunity to lower the proposed complex PIM contra-side fee from \$0.05 to \$0.02 per contract if they execute an ADV of 10,000 PIM originating contracts or greater within a month, identical to the reduced regular PIM contra-side fee it currently offers market participants today.<sup>6</sup> In addition, the Exchange proposes to assess responses entered into complex PIM at the same rate as the fees currently assessed for regular PIM responses (*i.e.*, \$0.50 per contract in Penny Symbols and \$1.10 in Non-Penny Symbols).

### **PIM Break-up Rebate**

The Exchange also proposes to adopt complex PIM break-up rebates that are similar to the regular PIM break-up rebates described above, with two differences. First, the Exchange proposes, for complex PIM orders only, to pay a higher break-up rebate of \$0.45 per contract (in lieu of \$0.40 per contract) with respect to a Priority Customer PIM originating order in Penny Symbols for qualifying Members that execute an ADV of 10,000 PIM originating contracts or greater within a month.<sup>7</sup> Currently for regular PIM orders, the Exchange only provides a higher break-up rebate with respect to a Priority Customer PIM originating order in Non-Penny Symbols (\$1.05 per contract in lieu of \$1.00 per contract), not Penny Symbols, to qualifying Members that meet this ADV threshold.<sup>8</sup> Second, the Exchange proposes to provide break-up rebates only for Priority Customer PIM originating orders that meet specified size requirements. Specifically, the Exchange proposes to apply the break-up rebates only to regular PIM orders of

<sup>3</sup> Non-Priority Customers consist of Market Makers (including Market Maker orders sent to the Exchange by EAMs), Non-Nasdaq MRX Market Makers (FarMM), Firm Proprietary/Broker-Dealers, and Professional Customers.

<sup>4</sup> A “Priority Customer” is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq MRX Options 1, Section 1(a)(36).

<sup>5</sup> The PIM response fees are the same as the response fees presently charged for all other Crossing Orders. See Options 7, Section 3, Table 2.

<sup>6</sup> See proposed note 1 in Options 7, Section 5.E.

<sup>7</sup> See proposed note 3 in Options 7, Section 5.E.

<sup>8</sup> As discussed later in this filing, the Exchange’s proposal will offer this higher Non-Penny Symbol rebate of \$1.05 per contract for both regular and complex PIM orders. See proposed note 3 in Options 7, Section 5.E.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

500 or fewer contracts and to complex PIM orders where the largest leg is 500 or fewer contracts.<sup>9</sup> As such, the break-up rebates currently offered to regular Priority Customer PIM originating orders of more than 500 contracts will be eliminated under this proposal. The Exchange is seeking to attract smaller and medium sized Priority Customer PIM order flow to MRX with this change.

Otherwise, the Exchange will apply the same break-up rebates to complex Priority Customer PIM originating orders as the current rebates applied to regular Priority Customer PIM originating orders, provided that such PIM orders meet the proposed size requirement of 500 or fewer contracts. Thus, the break-up rebates will be \$0.40 per contract in Penny Symbols and \$1.00 per contract in Non-Penny Symbols, applicable to Priority Customer PIM originating orders that are 500 or fewer contracts (for regular orders) and where the largest leg is 500 or fewer contracts (for complex orders). Furthermore, Members that execute an ADV of 10,000 PIM originating contracts or greater within a month will be eligible to receive, Exchange will apply the break-up rebate of \$1.05 per contract in Non-Penny Symbols (in lieu of \$1.00 per contract)

#### Technical Changes

For better readability, the Exchange proposes to relocate the fees and rebates for regular PIM orders currently within Table 2 of Options 7, Section 3 into new Section 5.E, titled "PIM Pricing for Regular and Complex Orders," to group them with the proposed pricing for complex PIM orders. In connection with the foregoing changes, the Exchange also proposes to amend Options 7, Sections 3 and 4 to clarify that regular and complex PIM orders are subject to separate pricing in Options 7, Section 5.E. Lastly, the Exchange is correcting a typo in note 1 of Options 7, Section 4 to revise "abovreferenced" to "above-referenced."

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>11</sup> 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' . . ."<sup>12</sup>

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."<sup>13</sup>

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 sixteen 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.

<sup>12</sup> *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)).

<sup>13</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

#### PIM Fees

The Exchange believes that the proposed fee structure for complex PIM orders (*i.e.*, originating, contra-side, and responses) is reasonably designed because the proposed fees will be aligned with the fees currently in place for regular PIM orders. The proposed fee structure is designed to promote order flow through the complex PIM, which benefits all market participants by providing additional trading opportunities at improved prices. While the Exchange is increasing the complex PIM originating fees for Non-Priority Customers<sup>14</sup> and the complex PIM response fees for all market participants<sup>15</sup> under this proposal, the proposed fees will harmonize the complex PIM fees with the regular PIM fees assessed today. While the all market participants will be charged higher complex PIM response fees than the fees currently assessed, the Exchange believes that the increased fees are appropriate to offset the significant break-up rebates to Priority Customers who submit PIM orders as proposed herein.<sup>16</sup>

As proposed, the Exchange will also charge complex PIM contra-side orders at the same rate as regular PIM contra-side order today. The proposed changes will decrease the complex PIM contra-side fee for certain market participants while increasing the fee for others. In particular, the Exchange believes that its proposal to assess Non-Priority Customers a decreased complex PIM contra-side fee<sup>17</sup> is reasonable because the Exchange is seeking to encourage these market participants to submit a greater amount of order flow to the MRX PIM auction. The Exchange believes it is

<sup>14</sup> The complex PIM originating fees will increase from \$0.15 to \$0.20 per contract for Non-Priority Customers in all symbols. As discussed above, this fee will remain at \$0.00 for Priority Customers.

<sup>15</sup> The complex PIM response fees will increase (i) in Penny Symbols, from \$0.15 to \$0.50 per contract for Non-Priority Customers and from \$0.00 to \$0.50 per contract for Priority Customers, and (ii) in Non-Penny Symbols, from \$0.15 to \$1.10 per contract for Non-Priority Customers and from \$0.00 to \$1.10 per contract for Priority Customers.

<sup>16</sup> As discussed above, the Exchange proposes to offer break-up rebates to Priority Customer PIM originating orders of 500 or fewer contracts (regular PIM orders) or where the largest leg is 500 or fewer contracts (complex PIM orders), which execute with any response other than the PIM contra-side order. This rebate will be (i) \$0.40 per contract in Penny Symbols (or, for complex PIM orders only), and (ii) \$1.00 per contract in Non-Penny Symbols (or, for both regular and complex PIM orders, \$1.05 for Members that execute an ADV of 10,000 PIM originating contracts or greater within a month for complex PIM orders only), and (iii) \$1.00 per contract in Non-Penny Symbols (or, for both regular and complex PIM orders, \$1.05 for Members that execute an ADV of 10,000 PIM originating contracts or greater within a month).

<sup>17</sup> The complex PIM contra-side fee will decrease from \$0.20 to \$0.05 per contract for Non-Priority Customers in all symbols.

<sup>9</sup> See proposed note 2 in Options 7, Section 5.E.

<sup>10</sup> 15 U.S.C. 78 f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(4) and (5).

reasonable to assess Priority Customers an increased complex PIM contra-side fee<sup>18</sup> because the Exchange will also offer Priority Customers an opportunity to receive significant break-up rebates for any originating Priority Customer PIM order that meets the requirements described herein. In addition, Priority Customers will continue to receive free executions on their complex PIM originating orders as is the case today. Furthermore, all market participants will have the opportunity to reduce their \$0.05 contra-side PIM fees to \$0.02 per contract if they execute an ADV of 10,000 PIM originating contracts or greater within a month, thereby incentivizing market participants to send additional PIM order flow to MRX. Greater liquidity in the PIM auction provides additional opportunities for price improvement. The Exchange further notes that the proposed fees are generally within the range of fees assessed by another exchange that employs a similar fee structure for its price improvement mechanisms.<sup>19</sup>

The Exchange believes that the proposed fees for complex PIM orders (*i.e.*, originating, contra-side, and responses) are equitable and not unfairly discriminatory as the fees will be more standardized across regular and complex PIM orders, and across market participant types, with the exception that Priority Customers will continue to not be charged a fee for PIM originating orders. The Exchange believes it is equitable and not unfairly discriminatory to not charge Priority Customers a complex PIM originating fee as the Exchange has historically offered lower pricing or other incentives to Priority Customer orders in order to incentivize such order flow to the Exchange. Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may trade with this order flow.

<sup>18</sup> The complex PIM contra-side fee will increase from \$0.00 to \$0.05 per contract for Priority Customers in all symbols.

<sup>19</sup> See MIAX Options ("MIAX") Fee Schedule, Section 1(a)(vi) (MIAX Complex Price Improvement Mechanism ("cPRIME") Fees), which provides for comparable rates for similar originating (*i.e.*, agency) orders, contra-side orders and responses submitted into its cPRIME auctions. For example, MIAX assesses all non-Priority Customers a fee of \$0.30 for cPRIME agency orders and \$0.04 for cPRIME contra-side orders. MIAX also assesses all market participants a fee of \$0.50 (Penny Classes) and \$0.99 (Non-Penny Classes) for cPRIME responses. As it relates to the Non-Penny response fee, while the Exchange will charge a higher complex PIM response fee, the proposed fee is intended to offset the proposed break-up rebates as discussed below.

#### PIM Break-up Rebate

The Exchange believes that the proposed PIM break-up rebates are reasonable because these incentives will attract additional order flow to PIM, particularly smaller to medium sized Priority Customer PIM orders (*i.e.*, 500 or fewer contracts). By providing break-up rebates of \$0.40 (Penny Symbols) and \$1.00 (Non-Penny Symbols) to Priority Customer PIM originating orders that execute with any response other than the PIM contra-side order, and by offering these rebates only to PIM orders of 500 or fewer contracts, the proposal is designed to encourage Members to execute this order flow in the Exchange's PIM. Additional PIM order flow provides all market participants with additional trading opportunities at improved prices. The Exchange notes that other exchanges, including its affiliate Nasdaq ISE ("ISE"), impose size requirements for certain rebates and credits.<sup>20</sup> Furthermore, the Exchange believes that providing higher break-up rebates to Members that execute a higher ADV of PIM originating orders as described above will encourage Members to send additional PIM order flow to MRX in order to qualify for the higher rebates. The Exchange also believes that the proposed break-up rebates are set at reasonable rates because they are aligned with the rebates currently provided for regular Priority Customer PIM originating orders.

The Exchange believes that the proposed break-up rebates are equitable and not unfairly discriminatory because the proposed rebates will apply equally to all Priority Customer PIM originating orders that execute against PIM responses. While Priority Customers will receive the break-up rebate, as opposed to other market participants, the Exchange believes that this application of the rebate is equitable and not unfairly discriminatory because Priority Customer order flow enhances liquidity on the Exchange. This, in turn, provides more trading opportunities and attracts other market participants, thus

<sup>20</sup> See ISE Pricing Schedule, Options 7, Section 4, note 1, which sets forth a Priority Customer complex rebate that is provided to complex orders where the largest leg of the order is under fifty contracts and trades with quotes and orders on the regular order book; Cboe Options ("Cboe") Fee Schedule, Volume Incentive Program ("VIP"), which provides that VIP credits on orders executed electronically in Cboe's Automated Improvement Mechanism ("AIM") will be capped at 1,000 contracts per order for simple executions and 1,000 contracts per leg for complex executions; and MIAX Fee Schedule, Section 1(a)(iii) (Priority Customer Rebate Program), which provides that the per contract credit for cPRIME Agency Orders is assessable to the first 1,000 contracts per leg for each cPRIME Agency Order.

facilitating tighter spreads, increased order flow and trading opportunities to the benefit of all market participants. Moreover, as stated above, the Exchange has historically provided lower pricing or other incentives to Priority Customers in order to attract such order flow.

#### 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 Exchange market participant at a competitive disadvantage. The proposed changes to the Exchange's PIM pricing program are all designed to incentivize market participants to direct PIM order flow to the Exchange. While some aspects of the proposal apply directly to Priority Customers (through the free executions of PIM originating orders and application of the break-up rebates), the Exchange believes that the proposed changes taken together will fortify and encourage additional PIM order flow to MRX. As noted above, all market participants will benefit from any increase in market activity that the proposal effectuates.

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 options 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.

Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and rebate changes. 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 order execution venues 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.

**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,<sup>21</sup> and Rule 19b-4(f)(2)<sup>22</sup> thereunder. 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](mailto:rule-comments@sec.gov). Please include File Number SR-MRX-2020-11 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-MRX-2020-11. 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-MRX-2020-11 and should be submitted on or before July 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020-12985 Filed 6-16-20; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-89050; File No. SR-NYSE-2020-49]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List**

June 11, 2020.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on June 1, 2020, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>23</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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

The Exchange proposes to amend its Price List to (1) adopt a step up tier for member organizations adding liquidity in Non-Displayed Limit Orders in Tapes A, B and C securities; (2) revise the credits for member organizations qualifying for Step Up Tier 2 Adding Credit; and (3) extend through June 2020 the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations implemented for April and May 2020. The Exchange proposes to implement the fee changes effective June 1, 2020. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

The Exchange proposes to amend its Price List to (1) adopt a step up tier for member organizations adding liquidity in Non-Displayed Limit Orders in Tapes A, B and C securities; (2) revise the credits for member organizations qualifying for Step Up Tier 2 Adding Credit; and (3) extend through June 2020 the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations implemented for April and May 2020.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for member organizations to send additional displayed liquidity to the Exchange. The proposed changes also respond to the current volatile market

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>22</sup> 17 CFR 240.19b-4(f)(2).