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

File No.* SR - 2020 - * 19
Amendment No. (req. for Amendments *)

Filing by Nasdaq MRX, LLC

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

Initial * ☑ Amendment * ☐ Withdrawal ☐

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

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

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

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

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

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

Section 3C(b)(2) * ☐

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

Description

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

A proposal to amend the Exchanges Pricing Schedule at Options 7.

Contact Information

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

First Name * Sun Last Name * Kim
Title * Associate General Counsel
E-mail * Sun.Kim@nasdaq.com
Telephone * (646) 420-7816 Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 11/02/2020
By John Zecca
(Name *)

(Title *)
EVP and Chief Legal Counsel

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

john.zecca@nasdaq.com

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications Add Remove View Exhibit Sent As Paper Document ☐	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.
Exhibit 3 - Form, Report, or Questionnaire Add Remove View Exhibit Sent As Paper Document ☐	Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.
Exhibit 4 - Marked Copies Add Remove View	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add Remove View	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.
Partial Amendment Add Remove View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Nasdaq MRX, LLC ("MRX" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposal to amend the Exchange's Pricing Schedule at Options 7, as described further below.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the "Board") on September 25, 2019. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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

Sun Kim
Associate General Counsel
Nasdaq, Inc.
646-420-7816

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

2 17 CFR 240.19b-4.

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

a. Purpose

The Exchange recently filed to permit certain affiliated market participants (i.e., Affiliated Entities)[3] to aggregate volume and qualify for certain pricing incentives.[4] The purpose of the proposed rule change is to amend the Exchange's Pricing Schedule to enhance participation in the Exchange's Affiliated Entities program in order to encourage additional order flow to the Exchange. Each change is described below.

Regular Taker Fees

Today, as set forth in Options 7, Section 3, Table 1, the Exchange applies a two-tier taker fee structure based on Total Affiliated Member [5]or Affiliated Entity ADV.[6] In

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3 An "Affiliated Entity" is a relationship between an Appointed Market Maker and an Appointed OFP for purposes of qualifying for certain pricing specified in the Pricing Schedule. Market Makers and OFPs are required to send an email to the Exchange to appoint their counterpart, at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing, as specified in the Pricing Schedule. Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity relationship will terminate after a one (1) year period, unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Affiliated Entity relationships must be renewed annually by each party sending an email to the Exchange. Affiliated Members may not qualify as a counterparty comprising an Affiliated Entity. Each Member may qualify for only one (1) Affiliated Entity relationship at any given time. See Options 7, Section 1(c).

4 See SR-MRX-2020-17 (not yet published).

5 An "Affiliated Member" is a Member that shares at least 75% common ownership with a particular Member as reflected on the Member's Form BD, Schedule A. See Options 7, Section 1(c).

6 Total Affiliated Member or Affiliated Entity ADV means all ADV executed on the Exchange in all symbols and order types, including volume executed by

Penny Symbols, the Exchange currently charges all non-Priority Customer[7] orders a taker fee of $0.50 per contract, regardless of the tier achieved. In Non-Penny Symbols, the Exchange currently charges all non-Priority Customers a taker fee of $0.90 per contract, regardless of tier achieved. Priority Customer[8] orders do not get charged taker fees for executions in either Penny or Non-Penny Symbols today.

In addition, as set forth in note 2 within Options 7, Section 3, Table 1, Market Maker[9] orders that take liquidity are also currently eligible for ADV-based fee discounts in both Penny and Non-Penny Symbols when trading against Priority Customer orders entered by an Affiliated Member or Affiliated Entity. Today, the discounted fee is $0.05 per contract if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV[10] of 5,000 contracts or more, or $0.00 per contract if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 50,000 contracts

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Affiliated Members or Affiliated Entities. All eligible volume from Affiliated Members or an Affiliated Entity will be aggregated in determining applicable tiers. See Options 7, Section 3, Table 3.

7 Non-Priority Customer include Market Makers, Non-Nasdaq MRX Market Makers (FarMMs), Firm Proprietary / Broker-Dealers, and Professional Customers.

8 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).

9 The term Market Makers refers to "Competitive Market Makers" and "Primary Market Makers" collectively.

10 Total Affiliated Member or Affiliated Entity Priority Customer ADV means all Priority Customer ADV executed on the Exchange in all symbols and order types, including volume executed by Affiliated Members or Affiliated Entities. All eligible volume from Affiliated Members or an Affiliated Entity will be aggregated in determining applicable tiers. See Options 7, Section 3, Table 3.

or more. These fee discounts apply instead of the Market Maker taker fees of $0.50 per contract in Penny Symbols and $0.90 per contract in Non-Penny Symbols.

The Exchange now proposes a number of changes to the current taker fee structure described above. The Exchange first proposes to increase the Non-Penny taker fees for all non-Priority Customer orders from $0.90 to $1.10 per contract, regardless of tier. Priority Customer orders will continue to be charged no fee under this proposal.

The Exchange also proposes to amend the note 2 incentive that currently offers discounted taker fees to qualifying Market Maker orders in all symbols by separating the incentive structure between Penny and Non-Penny Symbols. For Penny Symbols, the Exchange proposes to replace the current language in note 2 with the following:

> A Taker Fee of $0.20 per contract applies instead when trading with Priority Customer orders in Penny Symbols entered by an Affiliated Member or Affiliated Entity. A Taker Fee of $0.10 per contract applies instead when trading with Priority Customer orders in Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.20% to less than 0.75% Customer Total Consolidated Volume. A Taker Fee of $0.00 per contract applies instead when trading with Priority Customer orders in Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.75% Customer Total Consolidated Volume or more.

For Non-Penny Symbols, the Exchange proposes to introduce separate discounted Market Maker taker fees in new note 3, which would replace the note 2 incentive currently offered for such orders. The new incentive will be structured similarly to the amended note 2 incentive, except with respect to the amount of the discounted taker fees. Otherwise, the proposed tier structure and related qualifications will be identical to the ones proposed above for the amended note 2 incentive. As proposed, new note 3 will be added to Options 7, Section 3, Table 1 as follows:

> A Taker Fee of $0.90 per contract applies instead when trading with Priority Customer orders in Non-Penny Symbols entered by an Affiliated Member or Affiliated Entity. A Taker Fee of $0.50 per contract applies instead when trading with Priority Customer orders in Non-Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.20% to less than 0.75% Customer Total Consolidated Volume. A Taker Fee of $0.20 per contract applies instead when trading with Priority Customer orders in Non-Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.75% Customer Total Consolidated Volume or more.

Taken together, the proposed note 2 and note 3 incentives differ from the current note 2 incentive in a few key ways. First, the current incentive structure will be expanded from two to three tiers with the introduction of a top tier that will contain a more stringent volume requirement than the lower tiers in order for the Member to qualify for free executions. The Exchange will also reduce the amount of the discount for some tiers,[11] while raising the volume requirement in the new top tier to qualify for free executions. Second, the base tier qualifications will be modified to remove the volume requirement stipulating that the Member have a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 5,000 contracts or more. As amended, the base tiers would offer the $0.20 (Penny Symbols) and $0.90 (Non-Penny Symbols) discounted Market Maker taker fees when trading with Priority Customer orders that are entered by an Affiliated Member or Affiliated Entity, without requiring them to meet a requisite volume threshold. As noted above, this would further the Exchange's goal to encourage Members to become Affiliated Entities, provided they are not already Affiliated Members, thereby enhancing

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11 As proposed, the discounted Market Maker taker fees are $0.20 and $0.10 in the lower tiers for Penny Symbols, and $0.90 and $0.50 in the lower tiers for Non-Penny Symbols. Today, the discounted Market Maker taker fee is $0.05 in the lower tier across all symbols.

participation in the Exchange's newly established Affiliated Entity program to bring increased order flow .

Third, the cumulative volume thresholds in current note 2 would be replaced by total industry percentage thresholds, specifically thresholds that are based on a percentage of Customer Total Consolidated Volume.[12] The Exchange notes that the proposed percentage threshold of 0.20% Customer Total Consolidated Volume is comparable in terms of requisite volume to the existing ADV threshold of 50,000 contracts. The proposed percentage threshold for the new top tier requires additional volume to meet the proposed criteria of 0.75% Customer Total Consolidated Volume.[13] The Exchange is proposing to replace the current cumulative volume thresholds with total industry volume percentages to align with increasing Member activity on MRX over time. The Exchange notes that total industry percentage thresholds are established concepts within its Pricing Schedule today.[14]

Lastly, the Exchange proposes to relocate the defined term "Customer Total Consolidated Volume" from Options 7, Section 3, Table 3 to Options 7, Section 1(c). Because this term is used throughout the Pricing Schedule, the Exchange believes that its relocation to the general definition section in Section 1(c) is appropriate.

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12 Customer Total Consolidated Volume means the total volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month. See Options 7, Section 3, Table 3.

13 Today, 0.75% of Customer Total Consolidated Volume on the Exchange is approximately 165,000 contracts per day.

14 Specifically, the qualifying tier thresholds for the Exchange's maker/taker pricing are currently based on Customer Total Consolidated Volume percentages. See Options 7, Section 3, Table 3.

Flash Order Definition

The Exchange proposes a non-substantive, clarifying change to the definition of a Flash Order in its Pricing Schedule. A Flash Order is currently defined as an order that is exposed at the National Best Bid or Offer by the Exchange to all Members for execution, as provided under Supplementary Material .02 to Options 5, Section 2.[15] Today, the initiation of a Flash Order is considered as "taker" (i.e., removing liquidity from the book), while responses to a Flash Order is considered as "maker" (i.e., adding liquidity to the book). Accordingly, the current definition also indicates that for all Flash Orders, the Exchange will charge the applicable taker fee and for responses that trade against a Flash Order, the Exchange will provide the applicable maker rebate. The Exchange is not proposing to change its current billing practices with respect to Flash Orders; however, because the Exchange does not currently offer maker rebates and instead charges maker fees, the Exchange proposes to clarify that for responses that trade against a Flash Order, it will charge the applicable maker fee. As such, the Exchange is aligning the rule text to current billing practices.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[17] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and

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15 See Options 7, Section 1(c).

16 15 U.S.C. 78f(b).

17 15 U.S.C. 78f(b)(4) and (5).

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'…."[18]

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

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18 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)).

broader forms that are most important to investors and listed companies."[19]

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.

Regular Taker Fees

The Exchange believes that the proposed changes to its regular taker fee structure are reasonable for several reasons. While the Exchange is proposing to increase the Non-Penny Symbol taker fees for all non-Priority Customer orders from $0.90 to $1.10 in Tier 1 and Tier 2, the Exchange believes that its fees remain competitive and will continue to encourage market participants, and, in particular, Market Makers to execute more volume on MRX. Although the base taker fees for non-Priority Customers are increasing under this proposal, the Exchange believes that the fee increase is balanced by the potential for the new discounted taker fee structure proposed for Market Makers to encourage additional liquidity and opportunities for trading, to the benefit of all market participants. As discussed further below, the Exchange is proposing taker fee incentives that specifically target Market Maker activity on the Exchange. An increase in Market Maker activity may result in tighter spreads and more trading, improving the quality of the MRX

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

market and increasing its attractiveness to existing and prospective participants. The Exchange notes that the proposed taker fees remain in line with similar fees charged by other options exchanges.[20]

The Exchange believes that the new discounted Market Maker taker fee structure that it is proposing in notes 2 and note 3 of Options 7, Section 3, Table 1 is reasonable. As noted above, the proposed changes would further the Exchange's goal of enhancing participation in the Exchange's newly established Affiliated Entity program, which is designed to further incentivize Members to aggregate volume and bring more order flow to MRX to qualify for fee incentives. For the reasons described in the following paragraphs, the Exchange believes that the proposed discounted taker fee incentives in proposed notes 2 and 3 will be beneficial for all market participants by encouraging an active and liquid market on MRX.

As discussed above, the note 2 and note 3 incentives would continue to offer Market Makers the opportunity to receive discounted taker fees when trading with Priority Customer orders entered by an Affiliated Member or Affiliated Entity, with a few key differences. The Exchange believes that expanding the current two tier incentive structure to three tiers will continue to reward Market Makers for executing increasingly larger Priority Customer volume on MRX to obtain the proposed discounted fees. Permitting Members to aggregate volume for purposes of qualifying the Market Maker

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20 For instance, the Exchange's affiliate, Nasdaq Options Market ("NOM") charges NOM Market Makers, Non-NOM Market Makers, Firms, and Broker-Dealers a $1.10 per contract Fee to Remove Liquidity in Non-Penny Symbols. See NOM Pricing Schedule at Options 7, Section 2(1). In addition, MIAX PEARL charges all MIAX PEARL Market Makers, Non-Priority Customers, Firms, BDs, and Non-MIAX PEARL Market Makers a base taker fee of $1.10 per contract for Non-Penny Classes. See MIAX PEARL Fee Schedule at Section (1)(a).

under an Affiliated Member relationship or an Appointed Market Maker[21] under an Affiliated Entity relationship will also encourage the counterparty order flow providers that comprise the Affiliated Member or Affiliated Entity relationship to bring additional Priority Customer order flow to MRX. While the Exchange is reducing the amount of the discount for the lower tiers,[22] the Exchange believes this is reasonable given that it will be significantly easier to qualify for the discounted taker fee in the base incentive tier under this proposal.[23]

The Exchange is also changing the volume qualifications for the discounted taker fee incentives by removing (for the base tiers only) or replacing the current cumulative volume thresholds with total industry percentage thresholds for the Affiliated Member or Affiliated Entity. The Exchange believes that removing the volume requirements for the base tier so that Market Makers would be able to more easily obtain the benefit of the discounted taker fee if they trade with any Priority Customer orders entered by an Affiliated Member or Affiliated Entity would further incentivize Market Makers to aggregate and execute large volumes of Priority Customer orders on the Exchange to qualify for the discounted Market Maker taker fees.

The Exchange also believes that replacing the current cumulative volume thresholds with total industry percentage thresholds is reasonable in order to align with

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21 An "Appointed Market Maker" is a Market Maker who has been appointed by an OFP for purposes of qualifying as an Affiliated Entity. See Options 7, Section 1(c).

22 See supra note 11.

23 As proposed, the Exchange will no longer require Market Makers to meet a requisite volume threshold in order to qualify for the discounted taker fees of $0.20 (Penny Symbols) and $0.90 (Non-Penny Symbols) in the base incentive tier. See proposed notes 2 and 3 in Options 7, Section 3, Table 1.

increasing Member activity on MRX over time. The Exchange is proposing to base the discounted Market Maker taker fee volume requirements on a percentage of industry volume in recognition of the fact that the volume executed by a Member may rise or fall with industry volume. A percentage of industry volume calculation allows the qualifications within notes 2 and 3 to be calibrated to current market volumes rather than requiring a static amount of volume regardless of market conditions. While the amount of volume required by the proposed qualifications in notes 2 and 3 may change in any given month due to increases or decreases in industry volume, the Exchange believes that the proposed threshold requirements are set at appropriate levels. The proposed thresholds of 0.20% Customer Total Consolidated Volume, which is comparable to the existing ADV requirement of 50,000 contracts, and 0.75% Customer Total Consolidated Volume, which is new and requires additional volume,[24] are both intended to continue to reward Market Makers for executing more volume on MRX. To the extent Market Maker activity is increased by this proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, and thus would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. As noted above, total industry percentage thresholds are also established concepts within the Exchange's Pricing Schedule.[25]

The Exchange believes that its proposal to amend the regular taker fee structure in the manner described above is equitable and not unfairly discriminatory. As it relates to

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[24] See supra note 13.

[25] See supra note 14.

the increase in Non-Penny Symbol taker fees, the Exchange will apply this change to all non-Priority Customers while Priority Customers will continue to not be charged taker fees under this proposal. The Exchange continues to believe that it is equitable and not unfairly discriminatory to provide free executions to Priority Customer orders as the Exchange is seeking to attract this order flow. The Exchange believes that attracting more volume from Priority Customers benefits all market participants by providing more trading opportunities on MRX.

Furthermore, the Exchange's proposal to provide the discounted Market Maker taker fees in note 2 and note 3 is equitable and not unfairly discriminatory. As discussed above, the proposed threshold of 0.20% Customer Total Consolidated Volume is comparable to the existing ADV requirement of 50,000 contracts, so the Exchange anticipates minimal impact to Market Makers as a result of replacing the current cumulative volume threshold with the new total industry percentage threshold. While the proposed threshold of 0.75% Customer Total Consolidated Volume is new and requires additional volume,[26] the Exchange likewise anticipates minimal impact with this proposed change because no Market Makers meet the current ADV threshold for free executions, and thus would not fall out of the proposed highest tier as a result of this change. The Exchange also believes that it is equitable and not unfairly discriminatory to continue to offer the discounted taker fee incentives only to Market Makers. Market Makers have special obligations to the market (such as quoting obligations) that other market participants do not. As such, these incentives are designed to increase Market Maker participation and reward Market Makers for the unique role they play in ensuring

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[26] See supra note 13.

a robust market. Furthermore, providing the discounted taker fees specifically to Market Makers that trade with Priority Customer orders entered by Affiliated Members or Affiliated Entities will encourage firms to bring more of this order flow to the Exchange. Priority Customer liquidity benefits all market participants by providing more trading opportunities and attracting other market participants, thus facilitating tighter spreads and increased order flow to the benefit of all market participants. In addition, all Members that are not Affiliated Members may enter into an Affiliated Entity relationship. Thus, rewarding Members that use these programs to aggregate volume to bring a more order flow is beneficial to all market participants, who are free to interact with such order flow.

Lastly, the Exchange believes that the proposed change to relocate the definition of Customer Total Consolidated Volume into Options 7, Section 1(c) is reasonable, equitable and not unfairly discriminatory. Because this term is used throughout the Pricing Schedule, the Exchange believes that its relocation to the general definition section in Section 1(c) is appropriate and brings greater transparency to the Pricing Schedule.

Flash Order Definition

The Exchange believes that the proposed change to clarify in the definition of a Flash Order that it will charge the applicable maker fee for responses that trade against the Flash Order (instead of providing that it will provide the applicable maker rebate) is reasonable, equitable, and not unfairly discriminatory. As discussed above, the Exchange is not changing its current billing practices with respect to Flash Orders, and Members are being uniformly charged the applicable maker fee for their executed responses against

Flash Orders today. Accordingly, the proposed change aligns the rule text to current practice.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other 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. 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.

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. The proposed changes to the regular taker fee structure are ultimately designed to incentivize Members to bring additional order flow to the Exchange and create a more active and liquid market on MRX. The proposed discounted taker fees will continue to reward Market Makers for executing increasingly larger Priority Customer volume entered by Affiliated Members or Affiliated Entities on MRX to obtain the proposed incentives. As discussed above, permitting Members to aggregate volume for purposes of qualifying the Market Maker under an Affiliated Member relationship or an Appointed Market Maker under an Affiliated Entity relationship will also encourage the counterparty order flow providers that comprise the Affiliated Member or Affiliated Entity relationship to bring additional Priority Customer order flow to MRX. All Members will benefit from any increase in market activity that the proposal effectuates through increased trading opportunities and price discovery.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[27] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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

[27] 15 U.S.C. 78s(b)(3)(A)(ii).

the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-MRX-2020-19)

November __, 2020

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Exchange's Pricing Schedule at Options 7

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 November 2, 2020, Nasdaq MRX, LLC ("MRX" 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, as described further below.

The text of the proposed rule change is available on the Exchange's Website at https://listingcenter.nasdaq.com/rulebook/mrx/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

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

2 17 CFR 240.19b-4.

received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange recently filed to permit certain affiliated market participants (i.e., Affiliated Entities)[3] to aggregate volume and qualify for certain pricing incentives.[4] The purpose of the proposed rule change is to amend the Exchange's Pricing Schedule to enhance participation in the Exchange's Affiliated Entities program in order to encourage additional order flow to the Exchange. Each change is described below.

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[3] An "Affiliated Entity" is a relationship between an Appointed Market Maker and an Appointed OFP for purposes of qualifying for certain pricing specified in the Pricing Schedule. Market Makers and OFPs are required to send an email to the Exchange to appoint their counterpart, at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing, as specified in the Pricing Schedule. Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity relationship will terminate after a one (1) year period, unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Affiliated Entity relationships must be renewed annually by each party sending an email to the Exchange. Affiliated Members may not qualify as a counterparty comprising an Affiliated Entity. Each Member may qualify for only one (1) Affiliated Entity relationship at any given time. See Options 7, Section 1(c).

[4] See SR-MRX-2020-17 (not yet published).

Regular Taker Fees

Today, as set forth in Options 7, Section 3, Table 1, the Exchange applies a two-tier taker fee structure based on Total Affiliated Member [5]or Affiliated Entity ADV.[6] In Penny Symbols, the Exchange currently charges all non-Priority Customer[7] orders a taker fee of $0.50 per contract, regardless of the tier achieved. In Non-Penny Symbols, the Exchange currently charges all non-Priority Customers a taker fee of $0.90 per contract, regardless of tier achieved. Priority Customer[8] orders do not get charged taker fees for executions in either Penny or Non-Penny Symbols today.

In addition, as set forth in note 2 within Options 7, Section 3, Table 1, Market Maker[9] orders that take liquidity are also currently eligible for ADV-based fee discounts in both Penny and Non-Penny Symbols when trading against Priority Customer orders entered by an Affiliated Member or Affiliated Entity. Today, the discounted fee is $0.05

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5 An "Affiliated Member" is a Member that shares at least 75% common ownership with a particular Member as reflected on the Member's Form BD, Schedule A. See Options 7, Section 1(c).

6 Total Affiliated Member or Affiliated Entity ADV means all ADV executed on the Exchange in all symbols and order types, including volume executed by Affiliated Members or Affiliated Entities. All eligible volume from Affiliated Members or an Affiliated Entity will be aggregated in determining applicable tiers. See Options 7, Section 3, Table 3.

7 Non-Priority Customer include Market Makers, Non-Nasdaq MRX Market Makers (FarMMs), Firm Proprietary / Broker-Dealers, and Professional Customers.

8 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).

9 The term Market Makers refers to "Competitive Market Makers" and "Primary Market Makers" collectively.

per contract if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV[10] of 5,000 contracts or more, or $0.00 per contract if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 50,000 contracts or more. These fee discounts apply instead of the Market Maker taker fees of $0.50 per contract in Penny Symbols and $0.90 per contract in Non-Penny Symbols.

The Exchange now proposes a number of changes to the current taker fee structure described above. The Exchange first proposes to increase the Non-Penny taker fees for all non-Priority Customer orders from $0.90 to $1.10 per contract, regardless of tier. Priority Customer orders will continue to be charged no fee under this proposal.

The Exchange also proposes to amend the note 2 incentive that currently offers discounted taker fees to qualifying Market Maker orders in all symbols by separating the incentive structure between Penny and Non-Penny Symbols. For Penny Symbols, the Exchange proposes to replace the current language in note 2 with the following:

> A Taker Fee of $0.20 per contract applies instead when trading with Priority Customer orders in Penny Symbols entered by an Affiliated Member or Affiliated Entity. A Taker Fee of $0.10 per contract applies instead when trading with Priority Customer orders in Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.20% to less than 0.75% Customer Total Consolidated Volume. A Taker Fee of $0.00 per contract applies instead when

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10 Total Affiliated Member or Affiliated Entity Priority Customer ADV means all Priority Customer ADV executed on the Exchange in all symbols and order types, including volume executed by Affiliated Members or Affiliated Entities. All eligible volume from Affiliated Members or an Affiliated Entity will be aggregated in determining applicable tiers. See Options 7, Section 3, Table 3.

> trading with Priority Customer orders in Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.75% Customer Total Consolidated Volume or more.

For Non-Penny Symbols, the Exchange proposes to introduce separate discounted Market Maker taker fees in new note 3, which would replace the note 2 incentive currently offered for such orders. The new incentive will be structured similarly to the amended note 2 incentive, except with respect to the amount of the discounted taker fees. Otherwise, the proposed tier structure and related qualifications will be identical to the ones proposed above for the amended note 2 incentive. As proposed, new note 3 will be added to Options 7, Section 3, Table 1 as follows:

> A Taker Fee of $0.90 per contract applies instead when trading with Priority Customer orders in Non-Penny Symbols entered by an Affiliated Member or Affiliated Entity. A Taker Fee of $0.50 per contract applies instead when trading with Priority Customer orders in Non-Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.20% to less than 0.75% Customer Total Consolidated Volume. A Taker Fee of $0.20 per contract applies instead when trading with Priority Customer orders in Non-Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.75% Customer Total Consolidated Volume or more.

Taken together, the proposed note 2 and note 3 incentives differ from the current note 2 incentive in a few key ways. First, the current incentive structure will be expanded from two to three tiers with the introduction of a top tier that will contain a more stringent volume requirement than the lower tiers in order for the Member to qualify for free executions. The Exchange will also reduce the amount of the discount for some tiers,[11] while raising the volume requirement in the new top tier to qualify for free executions. Second, the base tier qualifications will be modified to remove the volume requirement stipulating that the Member have a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 5,000 contracts or more. As amended, the base tiers would offer the $0.20 (Penny Symbols) and $0.90 (Non-Penny Symbols) discounted Market Maker taker fees when trading with Priority Customer orders that are entered by an Affiliated Member or Affiliated Entity, without requiring them to meet a requisite volume threshold. As noted above, this would further the Exchange's goal to encourage Members to become Affiliated Entities, provided they are not already Affiliated Members, thereby enhancing participation in the Exchange's newly established Affiliated Entity program to bring increased order flow .

Third, the cumulative volume thresholds in current note 2 would be replaced by total industry percentage thresholds, specifically thresholds that are based on a percentage of Customer Total Consolidated Volume.[12] The Exchange notes that the proposed

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11 As proposed, the discounted Market Maker taker fees are $0.20 and $0.10 in the lower tiers for Penny Symbols, and $0.90 and $0.50 in the lower tiers for Non-Penny Symbols. Today, the discounted Market Maker taker fee is $0.05 in the lower tier across all symbols.

12 Customer Total Consolidated Volume means the total volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month. See Options 7, Section 3, Table 3.

percentage threshold of 0.20% Customer Total Consolidated Volume is comparable in terms of requisite volume to the existing ADV threshold of 50,000 contracts. The proposed percentage threshold for the new top tier requires additional volume to meet the proposed criteria of 0.75% Customer Total Consolidated Volume.[13] The Exchange is proposing to replace the current cumulative volume thresholds with total industry volume percentages to align with increasing Member activity on MRX over time. The Exchange notes that total industry percentage thresholds are established concepts within its Pricing Schedule today.[14]

Lastly, the Exchange proposes to relocate the defined term "Customer Total Consolidated Volume" from Options 7, Section 3, Table 3 to Options 7, Section 1(c). Because this term is used throughout the Pricing Schedule, the Exchange believes that its relocation to the general definition section in Section 1(c) is appropriate.

Flash Order Definition

The Exchange proposes a non-substantive, clarifying change to the definition of a Flash Order in its Pricing Schedule. A Flash Order is currently defined as an order that is exposed at the National Best Bid or Offer by the Exchange to all Members for execution, as provided under Supplementary Material .02 to Options 5, Section 2.[15] Today, the initiation of a Flash Order is considered as "taker" (i.e., removing liquidity from the book), while responses to a Flash Order is considered as "maker" (i.e., adding liquidity to

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13 Today, 0.75% of Customer Total Consolidated Volume on the Exchange is approximately 165,000 contracts per day.

14 Specifically, the qualifying tier thresholds for the Exchange's maker/taker pricing are currently based on Customer Total Consolidated Volume percentages. See Options 7, Section 3, Table 3.

15 See Options 7, Section 1(c).

the book). Accordingly, the current definition also indicates that for all Flash Orders, the Exchange will charge the applicable taker fee and for responses that trade against a Flash Order, the Exchange will provide the applicable maker rebate. The Exchange is not proposing to change its current billing practices with respect to Flash Orders; however, because the Exchange does not currently offer maker rebates and instead charges maker fees, the Exchange proposes to clarify that for responses that trade against a Flash Order, it will charge the applicable maker fee. As such, the Exchange is aligning the rule text to current billing practices.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[17] 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,

16 15 U.S.C. 78f(b).

17 15 U.S.C. 78f(b)(4) and (5).

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'…."[18]

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."[19]

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.

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[18] 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)).

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

Regular Taker Fees

The Exchange believes that the proposed changes to its regular taker fee structure are reasonable for several reasons. While the Exchange is proposing to increase the Non-Penny Symbol taker fees for all non-Priority Customer orders from $0.90 to $1.10 in Tier 1 and Tier 2, the Exchange believes that its fees remain competitive and will continue to encourage market participants, and, in particular, Market Makers to execute more volume on MRX. Although the base taker fees for non-Priority Customers are increasing under this proposal, the Exchange believes that the fee increase is balanced by the potential for the new discounted taker fee structure proposed for Market Makers to encourage additional liquidity and opportunities for trading, to the benefit of all market participants. As discussed further below, the Exchange is proposing taker fee incentives that specifically target Market Maker activity on the Exchange. An increase in Market Maker activity may result in tighter spreads and more trading, improving the quality of the MRX market and increasing its attractiveness to existing and prospective participants. The Exchange notes that the proposed taker fees remain in line with similar fees charged by other options exchanges.[20]

The Exchange believes that the new discounted Market Maker taker fee structure that it is proposing in notes 2 and note 3 of Options 7, Section 3, Table 1 is reasonable. As noted above, the proposed changes would further the Exchange's goal of enhancing

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[20] For instance, the Exchange's affiliate, Nasdaq Options Market ("NOM") charges NOM Market Makers, Non-NOM Market Makers, Firms, and Broker-Dealers a $1.10 per contract Fee to Remove Liquidity in Non-Penny Symbols. See NOM Pricing Schedule at Options 7, Section 2(1). In addition, MIAX PEARL charges all MIAX PEARL Market Makers, Non-Priority Customers, Firms, BDs, and Non-MIAX PEARL Market Makers a base taker fee of $1.10 per contract for Non-Penny Classes. See MIAX PEARL Fee Schedule at Section (1)(a).

participation in the Exchange's newly established Affiliated Entity program, which is designed to further incentivize Members to aggregate volume and bring more order flow to MRX to qualify for fee incentives. For the reasons described in the following paragraphs, the Exchange believes that the proposed discounted taker fee incentives in proposed notes 2 and 3 will be beneficial for all market participants by encouraging an active and liquid market on MRX.

As discussed above, the note 2 and note 3 incentives would continue to offer Market Makers the opportunity to receive discounted taker fees when trading with Priority Customer orders entered by an Affiliated Member or Affiliated Entity, with a few key differences. The Exchange believes that expanding the current two tier incentive structure to three tiers will continue to reward Market Makers for executing increasingly larger Priority Customer volume on MRX to obtain the proposed discounted fees. Permitting Members to aggregate volume for purposes of qualifying the Market Maker under an Affiliated Member relationship or an Appointed Market Maker[21] under an Affiliated Entity relationship will also encourage the counterparty order flow providers that comprise the Affiliated Member or Affiliated Entity relationship to bring additional Priority Customer order flow to MRX. While the Exchange is reducing the amount of the discount for the lower tiers,[22] the Exchange believes this is reasonable given that it will be significantly easier to qualify for the discounted taker fee in the base incentive tier

21 An "Appointed Market Maker" is a Market Maker who has been appointed by an OFP for purposes of qualifying as an Affiliated Entity. See Options 7, Section 1(c).

22 See supra note 11.

under this proposal.[23]

The Exchange is also changing the volume qualifications for the discounted taker fee incentives by removing (for the base tiers only) or replacing the current cumulative volume thresholds with total industry percentage thresholds for the Affiliated Member or Affiliated Entity. The Exchange believes that removing the volume requirements for the base tier so that Market Makers would be able to more easily obtain the benefit of the discounted taker fee if they trade with any Priority Customer orders entered by an Affiliated Member or Affiliated Entity would further incentivize Market Makers to aggregate and execute large volumes of Priority Customer orders on the Exchange to qualify for the discounted Market Maker taker fees.

The Exchange also believes that replacing the current cumulative volume thresholds with total industry percentage thresholds is reasonable in order to align with increasing Member activity on MRX over time. The Exchange is proposing to base the discounted Market Maker taker fee volume requirements on a percentage of industry volume in recognition of the fact that the volume executed by a Member may rise or fall with industry volume. A percentage of industry volume calculation allows the qualifications within notes 2 and 3 to be calibrated to current market volumes rather than requiring a static amount of volume regardless of market conditions. While the amount of volume required by the proposed qualifications in notes 2 and 3 may change in any given month due to increases or decreases in industry volume, the Exchange believes that the proposed threshold requirements are set at appropriate levels. The proposed

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23 As proposed, the Exchange will no longer require Market Makers to meet a requisite volume threshold in order to qualify for the discounted taker fees of $0.20 (Penny Symbols) and $0.90 (Non-Penny Symbols) in the base incentive tier. See proposed notes 2 and 3 in Options 7, Section 3, Table 1.

thresholds of 0.20% Customer Total Consolidated Volume, which is comparable to the existing ADV requirement of 50,000 contracts, and 0.75% Customer Total Consolidated Volume, which is new and requires additional volume,[24] are both intended to continue to reward Market Makers for executing more volume on MRX. To the extent Market Maker activity is increased by this proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, and thus would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. As noted above, total industry percentage thresholds are also established concepts within the Exchange's Pricing Schedule.[25]

The Exchange believes that its proposal to amend the regular taker fee structure in the manner described above is equitable and not unfairly discriminatory. As it relates to the increase in Non-Penny Symbol taker fees, the Exchange will apply this change to all non-Priority Customers while Priority Customers will continue to not be charged taker fees under this proposal. The Exchange continues to believe that it is equitable and not unfairly discriminatory to provide free executions to Priority Customer orders as the Exchange is seeking to attract this order flow. The Exchange believes that attracting more volume from Priority Customers benefits all market participants by providing more trading opportunities on MRX.

Furthermore, the Exchange's proposal to provide the discounted Market Maker taker fees in note 2 and note 3 is equitable and not unfairly discriminatory. As discussed

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24 See supra note 13.

25 See supra note 14.

above, the proposed threshold of 0.20% Customer Total Consolidated Volume is comparable to the existing ADV requirement of 50,000 contracts, so the Exchange anticipates minimal impact to Market Makers as a result of replacing the current cumulative volume threshold with the new total industry percentage threshold. While the proposed threshold of 0.75% Customer Total Consolidated Volume is new and requires additional volume,[26] the Exchange likewise anticipates minimal impact with this proposed change because no Market Makers meet the current ADV threshold for free executions, and thus would not fall out of the proposed highest tier as a result of this change. The Exchange also believes that it is equitable and not unfairly discriminatory to continue to offer the discounted taker fee incentives only to Market Makers. Market Makers have special obligations to the market (such as quoting obligations) that other market participants do not. As such, these incentives are designed to increase Market Maker participation and reward Market Makers for the unique role they play in ensuring a robust market. Furthermore, providing the discounted taker fees specifically to Market Makers that trade with Priority Customer orders entered by Affiliated Members or Affiliated Entities will encourage firms to bring more of this order flow to the Exchange. Priority Customer liquidity benefits all market participants by providing more trading opportunities and attracting other market participants, thus facilitating tighter spreads and increased order flow to the benefit of all market participants. In addition, all Members that are not Affiliated Members may enter into an Affiliated Entity relationship. Thus, rewarding Members that use these programs to aggregate volume to bring a more order flow is beneficial to all market participants, who are free to interact with such order flow.

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[26] See supra note 13.

Lastly, the Exchange believes that the proposed change to relocate the definition of Customer Total Consolidated Volume into Options 7, Section 1(c) is reasonable, equitable and not unfairly discriminatory. Because this term is used throughout the Pricing Schedule, the Exchange believes that its relocation to the general definition section in Section 1(c) is appropriate and brings greater transparency to the Pricing Schedule.

Flash Order Definition

The Exchange believes that the proposed change to clarify in the definition of a Flash Order that it will charge the applicable maker fee for responses that trade against the Flash Order (instead of providing that it will provide the applicable maker rebate) is reasonable, equitable, and not unfairly discriminatory. As discussed above, the Exchange is not changing its current billing practices with respect to Flash Orders, and Members are being uniformly charged the applicable maker fee for their executed responses against Flash Orders today. Accordingly, the proposed change aligns the rule text to current practice.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other 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. 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.

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. The proposed changes to the regular taker fee structure are ultimately designed to incentivize Members to bring additional order flow to the Exchange and create a more active and liquid market on MRX. The proposed discounted taker fees will continue to reward Market Makers for executing increasingly larger Priority Customer volume entered by Affiliated Members or Affiliated Entities on MRX to obtain the proposed incentives. As discussed above, permitting Members to aggregate volume for purposes of qualifying the Market Maker under an Affiliated Member relationship or an Appointed Market Maker under an Affiliated Entity relationship will also encourage the counterparty order flow providers that comprise the Affiliated Member or Affiliated Entity relationship to bring additional Priority Customer order flow to MRX. All Members will benefit from any increase in market activity that the proposal effectuates through increased trading opportunities and price discovery.

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MRX-2020-19 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-2020-19. This file number should be included on the subject line if e-mail is used. To help the Commission process

[27] 15 U.S.C. 78s(b)(3)(A)(ii).

and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (http://www.sec.gov/rules/sro.shtml).

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

All submissions should refer to File Number SR-MRX-2020-19 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier
Assistant Secretary

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[28] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

NASDAQ MRX, LLC Rules

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OPTIONS 7 PRICING SCHEDULE

Section 1. General Provisions

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(c) For purposes of assessing fees, the following references should serve as guidance. Terms not defined in this Pricing Schedule shall have the meaning ascribed to them under Nasdaq MRX Rules. Fees and rebates are listed per contract per leg unless otherwise noted.

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A "**Flash Order**" is an order that is exposed at the National Best Bid or Offer by the Exchange to all Members for execution, as provided under Supplementary Material .02 to Nasdaq MRX Options 5, Section 2. For all Flash Orders, the Exchange will charge the applicable taker fee and for responses that trade against a Flash Order, the Exchange will [provide] charge the applicable maker fee[rebate].

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"**Penny Symbols**" are options overlying all symbols listed on Nasdaq MRX that are in the Penny Interval Program.

"**Non-Penny Symbols**" are options overlying all symbols excluding Penny Symbols.

"**Customer Total Consolidated Volume**" means the total volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month.

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Section 3. Regular Order Fees and Rebates

Table 1

Penny Symbols

Market Participant	**Maker Fee Tier 1**	**Maker Fee Tier 2**	**Taker Fee Tier 1**	**Taker Fee Tier 2**
Market Maker(1)	$0.20	$0.10	$0.50(2)	$0.50(2)
Non-Nasdaq MRX Market Maker (FarMM)	$0.47	$0.47	$0.50	$0.50
Firm Proprietary / Broker-Dealer	$0.47	$0.47	$0.50	$0.50

Professional Customer	$0.47	$0.47	$0.50	$0.50
Priority Customer	$0.00	$0.00	$0.00	$0.00

Non-Penny Symbols

Market Participant	**Maker Fee Tier 1**	**Maker Fee Tier 2**	**Taker Fee Tier 1**	**Taker Fee Tier 2**
Market Maker(1)	$0.20	$0.10	$[0.90]1.10([2]3)	$[0.90]1.10([2]3)
Non-Nasdaq MRX Market Maker (FarMM)	$0.90	$0.90	$[0.90]1.10	$[0.90]1.10
Firm Proprietary / Broker-Dealer	$0.90	$0.90	$[0.90]1.10	$[0.90]1.10
Professional Customer	$0.90	$0.90	$[0.90]1.10	$[0.90]1.10
Priority Customer	$0.00	$0.00	$0.00	$0.00

1. This fee also applies to Market Maker orders sent to the Exchange by Electronic Access Members.

2. A Taker Fee of $0.[05]20 per contract applies instead when trading with Priority Customer orders in Penny Symbols entered by an Affiliated Member or Affiliated Entity[if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 5,000 contracts or more]. A Taker Fee of $0.[00]10 per contract applies instead when trading with Priority Customer orders in Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of [50,000 contracts or more]0.20% to less than 0.75% Customer Total Consolidated Volume. A Taker Fee of $0.00 per contract applies instead when trading with Priority Customer orders in Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.75% Customer Total Consolidated Volume or more.

3. A Taker Fee of $0.90 per contract applies instead when trading with Priority Customer orders in Non-Penny Symbols entered by an Affiliated Member or Affiliated Entity. A Taker Fee of $0.50 per contract applies instead when trading with Priority Customer orders in Non-Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.20% to less than 0.75% Customer Total Consolidated Volume. A Taker Fee of $0.20 per contract applies instead when trading with Priority Customer orders in Non-Penny Symbols entered by an Affiliated Member or Affiliated Entity if the Member has a Total Affiliated Member or Affiliated Entity Priority Customer ADV of 0.75% Customer Total Consolidated Volume or more.

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Table 3

Qualifying Tier Thresholds

Tiers	**Total Affiliated and/or Appointed Member ADV**
Tier 1	executes 0.00%- 0.7499% of Customer Total Consolidated Volume
Tier 2	executes 0.75% or more of Customer Total Consolidated Volume

[• For purposes of measuring Total Affiliated and/or Appointed Member ADV, Customer Total Consolidated Volume means the total volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month.]

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