

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 58	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2020 - * 21 Amendment No. (req. for Amendments *)
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Filing by Nasdaq MRX, LLC  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

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

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

A proposal to amend its Pricing Schedule at Options 7, Section 1, to permit certain affiliated market participants to aggregate volume and qualify for certain pricing incentives. Additionally, the Exchange proposes to amend Options 7, Section 3, Options 7, Section 4, Options 7, Section 7, and Options 7, Section 8.

**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 \* Angela Last Name \* Dunn  
 Title \* Principal Associate General Counsel  
 E-mail \* angela.dunn@nasdaq.com  
 Telephone \* (215) 496-5692 Fax

**Signature**

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

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

(Title \*)  
 Date 11/06/2020  
 By John Zecca  
 EVP and Chief Legal Counsel  
 john.zecca@nasdaq.com

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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

1. Text of the Proposed Rule Change

(a) Nasdaq MRX, LLC (“MRX” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend its Pricing Schedule at Options 7, Section 1, “General Provisions,” to permit certain affiliated market participants to aggregate volume and qualify for certain pricing incentives. Additionally, the Exchange proposes to amend Options 7, Section 3, “Regular Order Fees and Rebates;” Options 7, Section 4, “Complex Order Fees;” Options 7, Section 5, “Other Options Fees and Rebates;” Options 7, Section 7, “Market Data;” and Options 7, Section 8, “Connectivity Fees.”

The Exchange originally filed the proposed pricing change on October 26, 2020 (SR-MRX-2020-17). On November 6, 2020, the Exchange withdrew that filing and submitted this filing.

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 November 5,

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

<sup>2</sup> 17 CFR 240.19b-4.

2020. 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:

Angela Saccomandi Dunn  
Principal Associate General Counsel  
Nasdaq, Inc.  
215-496-5692

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

a. Purpose

The Exchange proposes to amend Options 7, Section 1, “General Provisions”; Options 7, Section 3, “Regular Order Fees and Rebates;” Options 7, Section 4, “Complex Order Fees;” Options 7, Section 5, “Other Options Fees and Rebates;” Options 7, Section 7, “Market Data;” and Options 7, Section 8, “Connectivity Fees.” Each change will be discussed below.

Options 7, Section 1

The Exchange proposes to replace the Appointed Member Program with an aggregation program offered today on ISE for an Affiliated Entity. Specifically, the Exchange proposes to permit Affiliated Entities to aggregate certain volume for purposes of receiving discounted fees. Nasdaq ISE, LLC (“ISE”) also permits Affiliated Entities to aggregate volume for purposes of qualifying for certain pricing.<sup>3</sup> This replacement program is intended to harmonize MRX’s program to ISE’s program for purposes of permitting the Exchange to administer both programs in the same fashion. The Exchange notes that a key difference in these two programs is that today a Member on MRX can

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<sup>3</sup> See ISE Options 7, Section 1.

benefit from both the Appointed Member and the Affiliated Member aggregations for purposes of achieving more favorable pricing. With the proposed Affiliated Entity program, a Member would have to elect either the Affiliated Entity or Affiliated Member program during the same time period. This difference is discussed in more detail below.

Today, MRX offers an Appointed Member<sup>4</sup> an opportunity to lower fees by aggregating eligible volume from an Appointed Order Flow Provider<sup>5</sup> with a designated Appointed Market Maker<sup>6</sup> to determine tier eligibility within Table 3 of Options 7, Section 3 and determine eligibility for Market Maker Taker Fees within Options 7, Section 3, as described in note 2 of the Pricing Schedule (“Appointed Member Program”).

The concept of an Appointed Member was established in 2016<sup>7</sup> and was intended to incentivize firms to direct their order flow to the Exchange to the benefit of all market participants. Today, all eligible volume from an Appointed Order Flow Provider is aggregated with its designated Appointed Market Maker’s eligible volume in determining the Appointed Market Maker’s applicable tiers, provided the Appointed Market Maker is designated by the Appointed Order Flow Provider in accordance with certain instructions. Today, a Market Maker appoints an Electronic Access Member as its Appointed Order

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<sup>4</sup> An “Appointed Member” is either an Appointed Market Maker or Appointed Order Flow Provider. See MRX Options 7, General 1.

<sup>5</sup> An “Appointed Order Flow Provider” is an Electronic Access Member who has been appointed by a Market Maker pursuant to Section 3, Table 3.

<sup>6</sup> An “Appointed Market Maker” is a Market Maker who has been appointed by an Electronic Access Member pursuant to Section 3, Table 3.

<sup>7</sup> See Securities Exchange Act Release No. 77841 (May 20, 2016), 81 FR 31986 (May 16, 2016) (SR-ISEMercury-2016-11). ISE Mercury was the prior name of MRX.

Flow Provider and an Electronic Access Member appoints a Market Maker as its Appointed Market Maker, for the purposes of pricing, by each sending an email. The corresponding emails are viewed as acceptance of the appointment.<sup>8</sup> Today, an Appointed Market Maker is eligible to receive and aggregate volume credit from both their Affiliated Members<sup>9</sup> and their Appointed Order Flow Provider. An Appointed Order Flow Provider does not receive volume credit from its Appointed Market Maker or the Appointed Market Maker's Affiliated Members in determining its applicable tiers.<sup>10</sup>

The Exchange proposes to replace the Appointed Member Program with an aggregation program offered today on ISE for an Affiliated Entity to permit the Exchange to administer both programs in the same fashion. Specifically, the Exchange proposes to adopt the term “Affiliated Entity” within Options 7, Section 1. An “Affiliated Entity” would be a relationship between an Appointed Market Maker and an Appointed OFP for purposes of qualifying for certain pricing specified in the Pricing Schedule. An Appointed Market Maker would be re-defined similar to ISE as a Market Maker who has been appointed by an OFP for purposes of qualifying as an Affiliated Entity. An “Order Flow Provider” or “OFP” is proposed to be defined within Options 7, Section 1 as any

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<sup>8</sup> The Exchange recognizes one such designation for each party. A party may make a designation not more than once every 6 months, which designation remains in effect until the Exchange receives an email from either party indicating that the appointment has been terminated.

<sup>9</sup> 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.

<sup>10</sup> See Options 7, Section 3 within Table 3.

Member, other than a Market Maker,<sup>11</sup> that submits orders, as agent or principal, to the Exchange. Finally, an Appointed Order Flow Provider would be re-defined within Options 7, Section 1 as an OFP who has been appointed by a Market Maker for purposes of qualifying as an Affiliated Entity. The Exchange would remove the term “Appointed Member” in connection with eliminating the Appointed Member Program. As noted above, the Affiliated Entity program would be similar to ISE’s program.<sup>12</sup>

In order to become an Affiliated Entity, Market Makers and OFPs will be 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.<sup>13</sup> For example, with this proposal, market participants may submit emails<sup>14</sup> to the Exchange to become Affiliated Entities to qualify for discounted pricing starting November 1, 2020, provided the emails are sent at least 3 business days prior to the first business day of November 2020. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity would qualify for applicable pricing, as specified in the Pricing Schedule. Each Affiliated Entity relationship will commence on the 1<sup>st</sup> 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

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<sup>11</sup> Market Makers shall not be considered Appointed OFPs for the purpose of becoming an Affiliated Entity.

<sup>12</sup> A Member on ISE and a Member on MRX may affiliate with different Members on each market.

<sup>13</sup> The Exchange shall issue an Options Trader Alert specifying the email address and details required to apply to become an Affiliated Entity.

<sup>14</sup> Emails shall be submitted to [membership@nasdaq.com](mailto:membership@nasdaq.com).

email<sup>15</sup> 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. For example, if the start date of the Affiliated Entity relationship is November 1, 2020, the counterparties may determine to commence a new relationship as of November 1, 2021 by requiring each party to send a new email 3 business days prior to the end of November 2021. 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. As proposed, an Affiliated Entity shall be eligible to aggregate their volume for purposes of qualifying for certain pricing specified in the Pricing Schedule, as described below.

As stated above, one difference between the Appointed Member Program and the Affiliated Entity Program is that, today, a MRX Member may aggregate volume both as an Affiliated Member and as an Appointed Member for purposes of achieving favorable pricing. With this proposal, a MRX Member may aggregate volume either as an Affiliated Member or as an Affiliated Entity, but may not aggregate under both programs combined during the same time period. Moreover, unlike the Appointed Member Program, with the Affiliated Entity Program, an Affiliated Member may not qualify as a counterparty comprising an Affiliated Entity.

### Options 7, Section 3

The note 2 Market Maker Taker Fee is the only fee within Options 7, Section 3 which is currently subject to the Appointed Member Program. Qualifying Tier Thresholds for the Market Maker Taker Fee are determined by Table 3 of Options 7,

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<sup>15</sup> Id.

Section 3. The Exchange proposes to similarly permit Affiliated Entities to aggregate their volume to obtain the note 2 Market Maker Taker Fee within Options 7, Section 3. The note 2 Market Maker Taker Fee will remain the only fee within Options 7, Section 3 which would be subject to the Affiliated Entity Program.

The Exchange proposes to amend note 2 within Options 3, Section 7 to remove references to “Appointed Member”. The Exchange is adding references within note 2 to “Affiliated Entity.” As proposed, note 2 to Options 7, Section 3 would provide,

A Taker Fee of \$0.05 per contract applies instead when trading with Priority Customer orders 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 per contract applies instead when trading with Priority Customer orders 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.

As is the case today for an Affiliated Member, an Appointed Market Maker would be able to obtain the benefit of the reduced Market Maker Taker Fee if, in the aggregate, the Affiliated Entity meets the Average Daily Volume (“ADV”) requirements.

Similarly, with respect to Table 3 within Options 7, Section 3, references to “Appointed Member” would be removed and “Affiliated Entity” would be added. Also any details concerning the Appointed Member Program within the notes below Table 3 within Options 7, Section 3 would be removed. Specifically, the bullet points within Table 3 of Options 7, Section 3 that relate to the Appointed Member are being removed because the detail does not relate to the Affiliated Entity program. Finally, other bullets are being removed because they are redundant and not applicable. The Table 3, Options 7, Section 3 tiers, as proposed, would be as follows:

### Qualifying Tier Thresholds

<b>Tiers</b>	<b>Total Affiliated Member or Affiliated Entity ADV</b>
Tier 1	executes 0.00%- 0.7499% of Customer Total Consolidated Volume
Tier 2	executes 0.75% or more of Customer Total Consolidated Volume

Finally, the Exchange proposes to capitalize the term “Taker Fee” within note 2 of Options 7, Section 3 and update a cross reference within Options 7, Section 3 within note 1 of Table 1 to Options 7, Section 5.E., as the Exchange is relocating the referenced text within this proposal as noted below.

As noted above, with this proposed change, a MRX Member may aggregate either as an Affiliated Member or an Affiliated Entity during the same time period, but may not aggregate under both programs during the same time period for purposes of achieving the lower Market Maker Taker Fee in note 2.

With this proposal, the Exchange proposes to continue to incentivize certain Members, who are not Affiliated Members, to enter into an Affiliated Entity relationship for the purpose of aggregating volume executed on the Exchange to qualify to reduce their Market Maker Taker Fees. By aggregating volume, the Affiliated Entity, that submits certain requisite volume, offers the Appointed Market Maker an opportunity to lower Taker Fees and encourages Market Makers to submit additional liquidity on MRX.

#### Options 7, Section 4

Today, a Complex Order Market Maker fee of \$0.00 per contract applies, instead of the \$0.15 per contract Complex Order fee, when the Market Maker trades against

Priority Customer orders that originate from an Affiliated Member or an Appointed Member. MRX proposes to replace the one reference to “Appointed Member” within note 2 of Options 7, Section 4 with “Affiliated Entity.”

With the proposed change, as is the case under the current pricing, a MRX Member may aggregate either as an Affiliated Member or an Affiliated Entity during the same time period, but may not aggregate under both programs during the same time period for purposes of not paying a Complex Order Market Maker fee. With this proposal, the Exchange proposes to continue to incentivize certain Members, who are not Affiliated Members, to enter into an Affiliated Entity relationship for the purpose of aggregating volume executed on the Exchange to qualify to reduce their Complex Order Market Maker fee from \$0.15 to \$0.00 per contract. By aggregating volume, the Affiliated Entity, who submits certain requisite volume, offers the Appointed Market Maker an opportunity to not pay Complex Order Market Maker fees and encourages Market Makers to submit additional liquidity on MRX.

Finally, the Exchange proposes to update a cross reference to Options 7, Section 5.E. within Options 7, Section 4, as the Exchange is relocating that related text within this proposal as noted below.

Options 7, Section 5

The Exchange proposes to amend Options 7, Section 5.C., Options Regulatory Fee, to remove the date of the last ORF change because it is a past date that is no longer relevant.

The Exchange proposes to relocate Options 7, Section 5.E., PIM Pricing for Regular and Complex Orders, to new Options 7, Section 3.A. in order that PIM pricing

appear with other transactional pricing.

Options 7, Section 8

The Exchange proposes to relocate Options 7, Section 8.E., Exchange Testing Facilities, to the end of Options 7, Section 7, Market Data. The Exchange proposes to delete Options 7, Section 8, Connectivity Fees, as the remainder of the sections are reserved.

b. Statutory Basis

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

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<sup>16</sup> 15 U.S.C. 78 f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(4) and (5).

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>18</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>19</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.

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<sup>18</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>19</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

Options 7, Section 1

The Exchange's proposal to replace the Appointed Member Program with an Affiliated Entity program, similar to ISE, is reasonable because the Exchange proposes to continue to incentivize certain Members, who are not Affiliated Members, to enter into an Affiliated Entity relationship for the purpose of aggregating volume executed on the Exchange to qualify for certain lower Market Maker fees. By aggregating volume for purposes of Table 3 of Options 7, Section 3, the Appointed Market Maker, who submits certain requisite volume along with an Appointed OFP, will continue to benefit from lower Market Maker fees. This proposal will harmonize MRX's program with ISE's program. The Exchange notes that a Member that registers for an Affiliated Entity will not be able to aggregate as an Affiliated Member.<sup>20</sup> While a MRX Member may not utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker fees, the Exchange believes that continuing to permit aggregation individually under each program, Affiliated Member and the Affiliated Entity program, will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship.

The Exchange's proposal to replace the Appointed Member Program with an Affiliated Entity program, similar to ISE, is equitable and not unfairly discriminatory as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of

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<sup>20</sup> As proposed, Affiliated Members may not qualify as a counterparty comprising an Affiliated Entity.

obtaining lower fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. The Exchange's proposal to exclude Affiliated Members from qualifying as an Affiliated Entity is equitable and not unfairly discriminatory because, today, Affiliated Members may aggregate volume for purposes of lowering fees on MRX. Also, as proposed no MRX Member may utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker Taker Fees.

The Exchange's proposal to exclude Affiliated Members from qualifying as an Affiliated Entity is reasonable, equitable and not unfairly discriminatory because, today, Affiliated Members may aggregate volume for purposes of lowering fees on MRX. Also, the Exchange will apply all qualifications in a uniform manner when approving Affiliated Entities. While a MRX Member may not utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker fees, the Exchange believes that continuing to permit aggregation individually under each program, Affiliated Member and the Affiliated Entity program, will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship.

#### Options 7, Section 3

The Exchange's proposal to amend note 2 within Options 7, Section 3 to remove references to "Appointed Member" and add references within note 2 to "Affiliated Entity" is reasonable. As is the case today for an Affiliated Member, an Appointed Market Maker would be able to obtain the benefit of the reduced Market Maker Taker

Fee<sup>21</sup> if in the aggregate the Affiliated Entity meets the Average Daily Volume (“ADV”) requirements. The Exchange believes the opportunity to aggregate volume for purposes of lowering the Market Maker Taker Fee will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship. While a MRX Member may not utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker fees, the Exchange believes that continuing to permit aggregation individually under each program, Affiliated Member and the Affiliated Entity program, will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship.

The Exchange’s proposal to amend note 2 within Options 7, Section 3 to remove references to “Appointed Member” and add references within note 2 to “Affiliated Entity” is equitable and not unfairly discriminatory as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower Market Maker fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. Priority Customer liquidity

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<sup>21</sup> As proposed, a Market Maker Taker Fee of \$0.05 per contract applies instead when trading with Priority Customer orders 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 Market Maker Taker Fee of \$0.00 per contract applies instead when trading with Priority Customer orders 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.

benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Permitting Members to aggregate volume for purposes of qualifying the Appointed Market Maker for reduced Market Maker Taker Fees would continue to encourage the counterparties that comprise the Affiliated Entities to incentivize each other to attract and seek to execute more Priority Customer volume on MRX.

Options 7, Section 4

Amending Options 7, Section 4, regarding Complex Orders, within note 2 to remove a reference to “Appointed Member” and replace it with a reference to “Affiliated Entity” is reasonable. As is the case today for an Appointed Member, an Affiliated Entity would aggregate its volume to permit an Appointed Market Maker to pay no Complex Order Market Maker fee<sup>22</sup> when the Market Maker trades against Priority Customer orders that originate from an Affiliated Member or an Affiliated Entity. With the proposed change, as is the case under the current pricing, a MRX Member may aggregate either as an Affiliated Member or an Affiliated Entity during the same time period, but may not aggregate under both programs during the same time period for purposes of not paying a Complex Order Market Maker fee.

Amending Options 7, Section 4, regarding Complex Orders, within note 2 to remove a reference to “Appointed Member” and replace it with a reference to “Affiliated

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<sup>22</sup> With this proposed change a Complex Order Market Maker fee of \$0.00 per contract applies instead of the above-referenced \$0.15 per contract Complex Order fee, when the Market Maker trades against Priority Customer orders that originate from an Affiliated Member or an Affiliated Entity.

Entity” is equitable and not unfairly discriminatory as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Permitting Members to aggregate volume from an Affiliated Entity would continue to encourage the counterparties that comprise the Affiliated Entities to incentivize each other to attract and seek to execute more Priority Customer volume on MRX.

#### Options 7, Section 5

The Exchange’s proposal to amend Options 7, Section 5.C., Options Regulatory Fee, to remove the date of the last ORF change is reasonable, equitable and not unfairly discriminatory as the date is a past date that is not relevant and this non-substantive change does not impact pricing.

The Exchange’s proposal to relocate Options 7, Section 5.E., PIM Pricing for Regular and Complex Orders, to new Options 7, Section 3.A. is reasonable, equitable and not unfairly discriminatory as this non-substantive change does not impact pricing.

Options 7, Section 8

The Exchange's proposal to relocate Options 7, Section 8.E., Exchange Testing Facilities, to the end of Options 7, Section 7, Market Data, is reasonable, equitable and not unfairly discriminatory as this non-substantive change does not impact pricing. The deletion of Options 7, Section 8, Connectivity Fees, is reasonable, equitable and not unfairly discriminatory as this non-substantive change does not impact pricing.

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.

Inter-market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-market Competition

The proposed amendments do not impose an undue burden on intra-market competition.

Options 7, Section 1

The Exchange's proposal to replace the Appointed Member Program with an Affiliated Entity program, similar to ISE, does not impose an undue burden on competition as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. The Exchange's proposal to exclude Affiliated Members from qualifying as an Affiliated Entity is equitable and not unfairly discriminatory because, today, Affiliated Members may aggregate volume for purposes of lowering fees on MRX. Also, as proposed no MRX Member may utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker Taker Fees.

The Exchange's proposal to exclude Affiliated Members from qualifying as an Affiliated Entity does not impose an undue burden on competition because, today, Affiliated Members may aggregate volume for purposes of lowering fees on MRX. Also, the Exchange will apply all qualifications in a uniform manner when approving Affiliated Entities. While a MRX Member may not utilize both the Affiliated Member and the

Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker fees, the Exchange believes that continuing to permit aggregation individually under each program, Affiliated Member and the Affiliated Entity program, will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship

Options 7, Section 3

The Exchange's proposal to amend note 2 within Options 7, Section 3 to remove references to "Appointed Member" and add references within note 2 to "Affiliated Entity" does not impose an undue burden on competition as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower Market Maker fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Permitting Members to aggregate volume for purposes of qualifying the Appointed Market Maker for reduced Market Maker Taker Fees would continue to encourage the counterparties that comprise the Affiliated Entities to incentivize each other to attract and seek to execute more Priority Customer volume on MRX.

Options 7, Section 4

Amending Options 7, Section 4, regarding Complex Orders, within note 2 to remove a reference to “Appointed Member” and replace it with a reference to “Affiliated Entity” does not impose an undue burden on competition as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Permitting Members to aggregate volume from an Affiliated Entity would continue to encourage the counterparties that comprise the Affiliated Entities to incentivize each other to attract and seek to execute more Priority Customer volume on MRX.

Options 7, Section 5

The Exchange’s proposal to amend Options 7, Section 5.C., Options Regulatory Fee, to remove the date of the last ORF change does not impose an undue burden on competition as this non-substantive change does not impact pricing.

The Exchange’s proposal to relocate Options 7, Section 5.E., PIM Pricing for Regular and Complex Orders, to new Options 7, Section 3.A. does not impose an undue

burden on competition as this non-substantive change does not impact pricing.

Options 7, Section 8

The Exchange's proposal to relocate Options 7, Section 8.E., Exchange Testing Facilities, to the end of Options 7, Section 7, Market Data, does not impose an undue burden on competition as this non-substantive change does not impact pricing. The deletion of Options 7, Section 8, Connectivity Fees, does not impose an undue burden on competition as this non-substantive change does not impact pricing.

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,<sup>23</sup> 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

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<sup>23</sup> 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

ISE also permits Affiliated Entities to aggregate volume for purposes of qualifying for certain pricing.<sup>24</sup> The applicable pricing would be different as between ISE and MRX.<sup>25</sup>

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.
3. Affiliated Entity Enrollment Form
5. Text of the proposed rule change.

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<sup>24</sup> See ISE Options 7, Section 1.

<sup>25</sup> As proposed on MRX, the Exchange would lower the Market Maker Taker Fee within Options 7, Section 3 and the Complex Order Market Maker Fee within Options 7, Section 4. With respect to ISE, Members may affiliate for increased Complex Order rebates within Options 7, Section 4.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-MRX-2020-21)

November \_\_, 2020

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend its Pricing Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 6, 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 its Pricing Schedule at Options 7, Section 1, “General Provisions,” to permit certain affiliated market participants to aggregate volume and qualify for certain pricing incentives. Additionally, the Exchange proposes to amend Options 7, Section 3, “Regular Order Fees and Rebates;” Options 7, Section 4, “Complex Order Fees;” Options 7, Section 5, “Other Options Fees and Rebates;” Options 7, Section 7, “Market Data;” and Options 7, Section 8, “Connectivity Fees.”

The Exchange originally filed the proposed pricing change on October 26, 2020 (SR-MRX-2020-17). On November 6, 2020, the Exchange withdrew that filing and submitted this filing.

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

<sup>2</sup> 17 CFR 240.19b-4.

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

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

1. Purpose

The Exchange proposes to amend Options 7, Section 1, "General Provisions"; Options 7, Section 3, "Regular Order Fees and Rebates;" Options 7, Section 4, "Complex Order Fees;" Options 7, Section 5, "Other Options Fees and Rebates;" Options 7, Section 7, "Market Data;" and Options 7, Section 8, "Connectivity Fees." Each change will be discussed below.

Options 7, Section 1

The Exchange proposes to replace the Appointed Member Program with an aggregation program offered today on ISE for an Affiliated Entity. Specifically, the Exchange proposes to permit Affiliated Entities to aggregate certain volume for purposes of receiving discounted fees. Nasdaq ISE, LLC ("ISE") also permits Affiliated Entities

to aggregate volume for purposes of qualifying for certain pricing.<sup>3</sup> This replacement program is intended to harmonize MRX's program to ISE's program for purposes of permitting the Exchange to administer both programs in the same fashion. The Exchange notes that a key difference in these two programs is that today a Member on MRX can benefit from both the Appointed Member and the Affiliated Member aggregations for purposes of achieving more favorable pricing. With the proposed Affiliated Entity program, a Member would have to elect either the Affiliated Entity or Affiliated Member program during the same time period. This difference is discussed in more detail below.

Today, MRX offers an Appointed Member<sup>4</sup> an opportunity to lower fees by aggregating eligible volume from an Appointed Order Flow Provider<sup>5</sup> with a designated Appointed Market Maker<sup>6</sup> to determine tier eligibility within Table 3 of Options 7, Section 3 and determine eligibility for Market Maker Taker Fees within Options 7, Section 3, as described in note 2 of the Pricing Schedule ("Appointed Member Program").

The concept of an Appointed Member was established in 2016<sup>7</sup> and was intended to incentivize firms to direct their order flow to the Exchange to the benefit of all market

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<sup>3</sup> See ISE Options 7, Section 1.

<sup>4</sup> An "Appointed Member" is either an Appointed Market Maker or Appointed Order Flow Provider. See MRX Options 7, General 1.

<sup>5</sup> An "Appointed Order Flow Provider" is an Electronic Access Member who has been appointed by a Market Maker pursuant to Section 3, Table 3.

<sup>6</sup> An "Appointed Market Maker" is a Market Maker who has been appointed by an Electronic Access Member pursuant to Section 3, Table 3.

<sup>7</sup> See Securities Exchange Act Release No. 77841 (May 20, 2016), 81 FR 31986 (May 16, 2016) (SR-ISEMercury-2016-11). ISE Mercury was the prior name of MRX.

participants. Today, all eligible volume from an Appointed Order Flow Provider is aggregated with its designated Appointed Market Maker's eligible volume in determining the Appointed Market Maker's applicable tiers, provided the Appointed Market Maker is designated by the Appointed Order Flow Provider in accordance with certain instructions. Today, a Market Maker appoints an Electronic Access Member as its Appointed Order Flow Provider and an Electronic Access Member appoints a Market Maker as its Appointed Market Maker, for the purposes of pricing, by each sending an email. The corresponding emails are viewed as acceptance of the appointment.<sup>8</sup> Today, an Appointed Market Maker is eligible to receive and aggregate volume credit from both their Affiliated Members<sup>9</sup> and their Appointed Order Flow Provider. An Appointed Order Flow Provider does not receive volume credit from its Appointed Market Maker or the Appointed Market Maker's Affiliated Members in determining its applicable tiers.<sup>10</sup>

The Exchange proposes to replace the Appointed Member Program with an aggregation program offered today on ISE for an Affiliated Entity to permit the Exchange to administer both programs in the same fashion. Specifically, the Exchange proposes to adopt the term "Affiliated Entity" within Options 7, Section 1. An "Affiliated Entity" would be a relationship between an Appointed Market Maker and an Appointed OFP for purposes of qualifying for certain pricing specified in the Pricing Schedule. An

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<sup>8</sup> The Exchange recognizes one such designation for each party. A party may make a designation not more than once every 6 months, which designation remains in effect until the Exchange receives an email from either party indicating that the appointment has been terminated.

<sup>9</sup> 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.

<sup>10</sup> See Options 7, Section 3 within Table 3.

Appointed Market Maker would be re-defined similar to ISE as a Market Maker who has been appointed by an OFP for purposes of qualifying as an Affiliated Entity. An “Order Flow Provider” or “OFP” is proposed to be defined within Options 7, Section 1 as any Member, other than a Market Maker,<sup>11</sup> that submits orders, as agent or principal, to the Exchange. Finally, an Appointed Order Flow Provider would be re-defined within Options 7, Section 1 as an OFP who has been appointed by a Market Maker for purposes of qualifying as an Affiliated Entity. The Exchange would remove the term “Appointed Member” in connection with eliminating the Appointed Member Program. As noted above, the Affiliated Entity program would be similar to ISE’s program.<sup>12</sup>

In order to become an Affiliated Entity, Market Makers and OFPs will be 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.<sup>13</sup> For example, with this proposal, market participants may submit emails<sup>14</sup> to the Exchange to become Affiliated Entities to qualify for discounted pricing starting November 1, 2020, provided the emails are sent at least 3 business days prior to the first business day of November 2020. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity would qualify for applicable pricing, as specified in the Pricing Schedule. Each Affiliated Entity relationship will commence on the 1<sup>st</sup> of a month and may not be

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<sup>11</sup> Market Makers shall not be considered Appointed OFPs for the purpose of becoming an Affiliated Entity.

<sup>12</sup> A Member on ISE and a Member on MRX may affiliate with different Members on each market.

<sup>13</sup> The Exchange shall issue an Options Trader Alert specifying the email address and details required to apply to become an Affiliated Entity.

<sup>14</sup> Emails shall be submitted to [membership@nasdaq.com](mailto:membership@nasdaq.com).

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<sup>15</sup> 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. For example, if the start date of the Affiliated Entity relationship is November 1, 2020, the counterparties may determine to commence a new relationship as of November 1, 2021 by requiring each party to send a new email 3 business days prior to the end of November 2021. 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. As proposed, an Affiliated Entity shall be eligible to aggregate their volume for purposes of qualifying for certain pricing specified in the Pricing Schedule, as described below.

As stated above, one difference between the Appointed Member Program and the Affiliated Entity Program is that, today, a MRX Member may aggregate volume both as an Affiliated Member and as an Appointed Member for purposes of achieving favorable pricing. With this proposal, a MRX Member may aggregate volume either as an Affiliated Member or as an Affiliated Entity, but may not aggregate under both programs combined during the same time period. Moreover, unlike the Appointed Member Program, with the Affiliated Entity Program, an Affiliated Member may not qualify as a counterparty comprising an Affiliated Entity.

### Options 7, Section 3

The note 2 Market Maker Taker Fee is the only fee within Options 7, Section 3

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<sup>15</sup>

Id.

which is currently subject to the Appointed Member Program. Qualifying Tier Thresholds for the Market Maker Taker Fee are determined by Table 3 of Options 7, Section 3. The Exchange proposes to similarly permit Affiliated Entities to aggregate their volume to obtain the note 2 Market Maker Taker Fee within Options 7, Section 3. The note 2 Market Maker Taker Fee will remain the only fee within Options 7, Section 3 which would be subject to the Affiliated Entity Program.

The Exchange proposes to amend note 2 within Options 3, Section 7 to remove references to “Appointed Member”. The Exchange is adding references within note 2 to “Affiliated Entity.” As proposed, note 2 to Options 7, Section 3 would provide,

A Taker Fee of \$0.05 per contract applies instead when trading with Priority Customer orders 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 per contract applies instead when trading with Priority Customer orders 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.

As is the case today for an Affiliated Member, an Appointed Market Maker would be able to obtain the benefit of the reduced Market Maker Taker Fee if, in the aggregate, the Affiliated Entity meets the Average Daily Volume (“ADV”) requirements.

Similarly, with respect to Table 3 within Options 7, Section 3, references to “Appointed Member” would be removed and “Affiliated Entity” would be added. Also any details concerning the Appointed Member Program within the notes below Table 3

within Options 7, Section 3 would be removed. Specifically, the bullet points within Table 3 of Options 7, Section 3 that relate to the Appointed Member are being removed because the detail does not relate to the Affiliated Entity program. Finally, other bullets are being removed because they are redundant and not applicable. The Table 3, Options 7, Section 3 tiers, as proposed, would be as follows:

### **Qualifying Tier Thresholds**

<b>Tiers</b>	<b>Total Affiliated Member or Affiliated Entity ADV</b>
Tier 1	executes 0.00%- 0.7499% of Customer Total Consolidated Volume
Tier 2	executes 0.75% or more of Customer Total Consolidated Volume

Finally, the Exchange proposes to capitalize the term “Taker Fee” within note 2 of Options 7, Section 3 and update a cross reference within Options 7, Section 3 within note 1 of Table 1 to Options 7, Section 5.E., as the Exchange is relocating the referenced text within this proposal as noted below.

As noted above, with this proposed change, a MRX Member may aggregate either as an Affiliated Member or an Affiliated Entity during the same time period, but may not aggregate under both programs during the same time period for purposes of achieving the lower Market Maker Taker Fee in note 2.

With this proposal, the Exchange proposes to continue to incentivize certain Members, who are not Affiliated Members, to enter into an Affiliated Entity relationship for the purpose of aggregating volume executed on the Exchange to qualify to reduce their Market Maker Taker Fees. By aggregating volume, the Affiliated Entity, that

submits certain requisite volume, offers the Appointed Market Maker an opportunity to lower Taker Fees and encourages Market Makers to submit additional liquidity on MRX.

Options 7, Section 4

Today, a Complex Order Market Maker fee of \$0.00 per contract applies, instead of the \$0.15 per contract Complex Order fee, when the Market Maker trades against Priority Customer orders that originate from an Affiliated Member or an Appointed Member. MRX proposes to replace the one reference to “Appointed Member” within note 2 of Options 7, Section 4 with “Affiliated Entity.”

With the proposed change, as is the case under the current pricing, a MRX Member may aggregate either as an Affiliated Member or an Affiliated Entity during the same time period, but may not aggregate under both programs during the same time period for purposes of not paying a Complex Order Market Maker fee. With this proposal, the Exchange proposes to continue to incentivize certain Members, who are not Affiliated Members, to enter into an Affiliated Entity relationship for the purpose of aggregating volume executed on the Exchange to qualify to reduce their Complex Order Market Maker fee from \$0.15 to \$0.00 per contract. By aggregating volume, the Affiliated Entity, who submits certain requisite volume, offers the Appointed Market Maker an opportunity to not pay Complex Order Market Maker fees and encourages Market Makers to submit additional liquidity on MRX.

Finally, the Exchange proposes to update a cross reference to Options 7, Section 5.E. within Options 7, Section 4, as the Exchange is relocating that related text within this proposal as noted below.

### Options 7, Section 5

The Exchange proposes to amend Options 7, Section 5.C., Options Regulatory Fee, to remove the date of the last ORF change because it is a past date that is no longer relevant.

The Exchange proposes to relocate Options 7, Section 5.E., PIM Pricing for Regular and Complex Orders, to new Options 7, Section 3.A. in order that PIM pricing appear with other transactional pricing.

### Options 7, Section 8

The Exchange proposes to relocate Options 7, Section 8.E., Exchange Testing Facilities, to the end of Options 7, Section 7, Market Data. The Exchange proposes to delete Options 7, Section 8, Connectivity Fees, as the remainder of the sections are reserved.

## 2. Statutory Basis

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

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<sup>16</sup> 15 U.S.C. 78 f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(4) and (5).

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>18</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>19</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

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<sup>18</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>19</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

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.

Options 7, Section 1

The Exchange's proposal to replace the Appointed Member Program with an Affiliated Entity program, similar to ISE, is reasonable because the Exchange proposes to continue to incentivize certain Members, who are not Affiliated Members, to enter into an Affiliated Entity relationship for the purpose of aggregating volume executed on the Exchange to qualify for certain lower Market Maker fees. By aggregating volume for purposes of Table 3 of Options 7, Section 3, the Appointed Market Maker, who submits certain requisite volume along with an Appointed OFP, will continue to benefit from lower Market Maker fees. This proposal will harmonize MRX's program with ISE's program. The Exchange notes that a Member that registers for an Affiliated Entity will not be able to aggregate as an Affiliated Member.<sup>20</sup> While a MRX Member may not utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker fees, the Exchange believes that continuing to permit aggregation individually under each program, Affiliated Member and the Affiliated Entity program, will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship.

The Exchange's proposal to replace the Appointed Member Program with an Affiliated Entity program, similar to ISE, is equitable and not unfairly discriminatory as

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<sup>20</sup> As proposed, Affiliated Members may not qualify as a counterparty comprising an Affiliated Entity.

all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. The Exchange's proposal to exclude Affiliated Members from qualifying as an Affiliated Entity is equitable and not unfairly discriminatory because, today, Affiliated Members may aggregate volume for purposes of lowering fees on MRX. Also, as proposed no MRX Member may utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker Taker Fees.

The Exchange's proposal to exclude Affiliated Members from qualifying as an Affiliated Entity is reasonable, equitable and not unfairly discriminatory because, today, Affiliated Members may aggregate volume for purposes of lowering fees on MRX. Also, the Exchange will apply all qualifications in a uniform manner when approving Affiliated Entities. While a MRX Member may not utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker fees, the Exchange believes that continuing to permit aggregation individually under each program, Affiliated Member and the Affiliated Entity program, will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship.

Options 7, Section 3

The Exchange's proposal to amend note 2 within Options 7, Section 3 to remove references to "Appointed Member" and add references within note 2 to "Affiliated Entity" is reasonable. As is the case today for an Affiliated Member, an Appointed Market Maker would be able to obtain the benefit of the reduced Market Maker Taker Fee<sup>21</sup> if in the aggregate the Affiliated Entity meets the Average Daily Volume ("ADV") requirements. The Exchange believes the opportunity to aggregate volume for purposes of lowering the Market Maker Taker Fee will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship. While a MRX Member may not utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker fees, the Exchange believes that continuing to permit aggregation individually under each program, Affiliated Member and the Affiliated Entity program, will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship.

The Exchange's proposal to amend note 2 within Options 7, Section 3 to remove references to "Appointed Member" and add references within note 2 to "Affiliated Entity" is equitable and not unfairly discriminatory as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an

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<sup>21</sup> As proposed, a Market Maker Taker Fee of \$0.05 per contract applies instead when trading with Priority Customer orders 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 Market Maker Taker Fee of \$0.00 per contract applies instead when trading with Priority Customer orders 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.

Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower Market Maker fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Permitting Members to aggregate volume for purposes of qualifying the Appointed Market Maker for reduced Market Maker Taker Fees would continue to encourage the counterparties that comprise the Affiliated Entities to incentivize each other to attract and seek to execute more Priority Customer volume on MRX.

#### Options 7, Section 4

Amending Options 7, Section 4, regarding Complex Orders, within note 2 to remove a reference to “Appointed Member” and replace it with a reference to “Affiliated Entity” is reasonable. As is the case today for an Appointed Member, an Affiliated Entity would aggregate its volume to permit an Appointed Market Maker to pay no Complex Order Market Maker fee<sup>22</sup> when the Market Maker trades against Priority Customer orders that originate from an Affiliated Member or an Affiliated Entity. With the proposed change, as is the case under the current pricing, a MRX Member may

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<sup>22</sup> With this proposed change a Complex Order Market Maker fee of \$0.00 per contract applies instead of the above-referenced \$0.15 per contract Complex Order fee, when the Market Maker trades against Priority Customer orders that originate from an Affiliated Member or an Affiliated Entity.

aggregate either as an Affiliated Member or an Affiliated Entity during the same time period, but may not aggregate under both programs during the same time period for purposes of not paying a Complex Order Market Maker fee.

Amending Options 7, Section 4, regarding Complex Orders, within note 2 to remove a reference to “Appointed Member” and replace it with a reference to “Affiliated Entity” is equitable and not unfairly discriminatory as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Permitting Members to aggregate volume from an Affiliated Entity would continue to encourage the counterparties that comprise the Affiliated Entities to incentivize each other to attract and seek to execute more Priority Customer volume on MRX.

#### Options 7, Section 5

The Exchange’s proposal to amend Options 7, Section 5.C., Options Regulatory Fee, to remove the date of the last ORF change is reasonable, equitable and not unfairly discriminatory as the date is a past date that is not relevant and this non-substantive

change does not impact pricing.

The Exchange's proposal to relocate Options 7, Section 5.E., PIM Pricing for Regular and Complex Orders, to new Options 7, Section 3.A. is reasonable, equitable and not unfairly discriminatory as this non-substantive change does not impact pricing.

Options 7, Section 8

The Exchange's proposal to relocate Options 7, Section 8.E., Exchange Testing Facilities, to the end of Options 7, Section 7, Market Data, is reasonable, equitable and not unfairly discriminatory as this non-substantive change does not impact pricing. The deletion of Options 7, Section 8, Connectivity Fees, is reasonable, equitable and not unfairly discriminatory as this non-substantive change does not impact pricing.

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.

Inter-market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in

response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

#### Intra-market Competition

The proposed amendments do not impose an undue burden on intra-market competition.

#### Options 7, Section 1

The Exchange's proposal to replace the Appointed Member Program with an Affiliated Entity program, similar to ISE, does not impose an undue burden on competition as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. The Exchange's proposal to exclude Affiliated Members from qualifying as an Affiliated Entity is equitable and not unfairly discriminatory because, today, Affiliated Members may aggregate volume for purposes of lowering fees on MRX. Also, as proposed no MRX Member may utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker Taker Fees.

The Exchange's proposal to exclude Affiliated Members from qualifying as an Affiliated Entity does not impose an undue burden on competition because, today,

Affiliated Members may aggregate volume for purposes of lowering fees on MRX. Also, the Exchange will apply all qualifications in a uniform manner when approving Affiliated Entities. While a MRX Member may not utilize both the Affiliated Member and the Affiliated Entity program to aggregate volume for purposes of achieving lower Market Maker fees, the Exchange believes that continuing to permit aggregation individually under each program, Affiliated Member and the Affiliated Entity program, will encourage Market Makers to continue to submit additional liquidity on MRX if they chose to enter into this relationship

Options 7, Section 3

The Exchange's proposal to amend note 2 within Options 7, Section 3 to remove references to "Appointed Member" and add references within note 2 to "Affiliated Entity" does not impose an undue burden on competition as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower Market Maker fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Permitting Members to aggregate volume for purposes of qualifying the Appointed Market Maker for reduced Market Maker Taker Fees would

continue to encourage the counterparties that comprise the Affiliated Entities to incentivize each other to attract and seek to execute more Priority Customer volume on MRX.

Options 7, Section 4

Amending Options 7, Section 4, regarding Complex Orders, within note 2 to remove a reference to “Appointed Member” and replace it with a reference to “Affiliated Entity” does not impose an undue burden on competition as all market participants may enter into an Affiliated Entity relationship, provided they have not elected to aggregate as an Affiliated Member. The Exchange believes that market participants that, today, utilize the Appointed Member Program would be able to utilize the Affiliated Entity program to continue to aggregate volume for purposes of obtaining lower fees. As proposed, Affiliated Members, who are eligible to aggregate volume today, are not eligible to also enter into an Affiliated Entity relationship. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Permitting Members to aggregate volume from an Affiliated Entity would continue to encourage the counterparties that comprise the Affiliated Entities to incentivize each other to attract and seek to execute more Priority Customer volume on MRX.

Options 7, Section 5

The Exchange’s proposal to amend Options 7, Section 5.C., Options Regulatory Fee, to remove the date of the last ORF change does not impose an undue burden on

competition as this non-substantive change does not impact pricing.

The Exchange's proposal to relocate Options 7, Section 5.E., PIM Pricing for Regular and Complex Orders, to new Options 7, Section 3.A. does not impose an undue burden on competition as this non-substantive change does not impact pricing.

Options 7, Section 8

The Exchange's proposal to relocate Options 7, Section 8.E., Exchange Testing Facilities, to the end of Options 7, Section 7, Market Data, does not impose an undue burden on competition as this non-substantive change does not impact pricing. The deletion of Options 7, Section 8, Connectivity Fees, does not impose an undue burden on competition as this non-substantive change does not impact pricing.

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>23</sup> 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.

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<sup>23</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-MRX-2020-21 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-2020-21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing

also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-MRX-2020-21 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.<sup>24</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>24</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 3**

## MRX Affiliated Entity Enrollment Form

MRX Members wishing to be designated as an Appointed Market Maker (“Appointed Market Maker”) and an Appointed Order Flow Provider (“Appointed OFP”) in order to form an Affiliated Entity to aggregate executed volume pricing rebates and fee discounts must complete this form.

Affiliated Entity Information	
Member Name:	CRD No.
Appointed Entity:	CRD No.
Appointed Market Maker	Appointed OFP
Authorized Signature (Must be signed by a designated principal)	
Authorized Signature:	Date:
Print Name:	Title:
Email Address:	Phone:

Affiliated Entities agree that for purposes of providing billing information related to this program, relevant aggregated volume information for each entity may be shared between Affiliated Entities. Completed forms must be received at least three (3) business days prior to the last day of the month to qualify for the next month’s billing cycle.<sup>1</sup> Each counterparty is required to submit a completed form appointing their counterparty and consenting to the Affiliated Entity relationship. The form should be emailed to [membership@nasdaq.com](mailto:membership@nasdaq.com).

<sup>1</sup> Each Affiliated Entity relationship will commence on the 1<sup>st</sup> 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. Affiliated Members may not qualify as a counterparty comprising an Affiliated Entity.

**EXHIBIT 5**

*New text is underlined; deleted text is bracketed.*

**Nasdaq MRX, LLC Rules**

\* \* \* \* \*

**Options Rules**

\* \* \* \* \*

**Section 1 General Provisions**

\* \* \* \* \*

(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.

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). Unless otherwise noted, when used in this Pricing Schedule the term "Priority Customer" includes "Retail" as defined below.

A "**Professional Customer**" is a person or entity that is not a broker/dealer and is not a Priority Customer.

A "**Market Maker**" is a market maker as defined in Nasdaq MRX Rule Options 1, Section 1(a)(21).

A "**Non-Nasdaq MRX Market Maker**" is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

A "**Firm Proprietary**" order is an order submitted by a Member for its own proprietary account.

A "**Broker-Dealer**" order is an order submitted by a Member for a broker-dealer account that is not its own proprietary account.

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 1<sup>st</sup> 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.

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.

An "**Appointed Market Maker**" is a Market Maker who has been appointed by an [Electronic Access Member pursuant to Section 3, Table 3]OPF for purposes of qualifying as an Affiliated Entity.

An ["**Appointed Order Flow Provider**"]"Appointed OPF" is an [Electronic Access Member who has been appointed by a Market Maker pursuant to Section 3, Table 3]OPF who has been appointed by a Market Maker for purposes of qualifying as an Affiliated Entity.

[An "**Appointed Member**" is either an Appointed Market Maker or Appointed Order Flow Provider.]

An "**Order Flow Provider**" ("OPF") is any Member, other than a Market Maker, that submits orders, as agent or principal, to the Exchange.

A "**Retail**" order is a Priority Customer order that originates from a natural person, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.

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 the applicable maker rebate.

A "**Regular Order**" is an order that consists of only a single option series and is not submitted with a stock leg.

A "**Crossing Order**" is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism ("PIM") or submitted as a Qualified Contingent Cross order. For purposes of this Pricing Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

A "**Complex Order**" is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, as provided in Nasdaq MRX Options 3, Section 14, as well as Stock-Option Orders.

"**Responses to Crossing Order**" is any contra-side interest (i.e., orders & quotes) submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or Price Improvement Mechanism.

"**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.

\* \* \* \* \*

### Section 3. Regular Order Fees and Rebates

**Table 1**

#### Penny Symbols

Market Participant	Maker	Maker	Taker	Taker
	Fee	Fee	Fee	Fee
	Tier 1	Tier 2	Tier 1	Tier 2
Market Maker <sup>(1)</sup>	\$0.20	\$0.10	\$0.50 <sup>(2)</sup>	\$0.50 <sup>(2)</sup>
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	Maker	Taker	Taker
	Fee	Fee	Fee	Fee
	Tier 1	Tier 2	Tier 1	Tier 2
Market Maker <sup>(1)</sup>	\$0.20	\$0.10	\$0.90 <sup>(2)</sup>	\$0.90 <sup>(2)</sup>
Non-Nasdaq MRX Market Maker (FarMM)	\$0.90	\$0.90	\$0.90	\$0.90
Firm Proprietary / Broker-Dealer	\$0.90	\$0.90	\$0.90	\$0.90
Professional Customer	\$0.90	\$0.90	\$0.90	\$0.90
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 [t]Taker [f]Fee of \$0.05 per contract applies instead when trading with Priority Customer orders entered by an Affiliated Member or Affiliated Entity[Appointed Member] if the Member has a Total Affiliated Member or Affiliated Entity [and/or Appointed] Priority Customer ADV of 5,000 contracts or more. A [t]Taker [f]Fee of \$0.00 per contract applies instead when trading with Priority Customer orders entered by an Affiliated Member or Affiliated Entity[Appointed Member] if the Member has a Total Affiliated Member or Affiliated Entity [and/or Appointed] Priority Customer ADV of 50,000 contracts or more.

**Table 2**

**Penny Symbols**

<b>Market Participant</b>	<b>Fee for Crossing Orders<sup>(1)</sup></b>	<b>Fee for Responses to Crossing Orders</b>
Market Maker <sup>(4)</sup>	\$0.20	\$0.50
Non-Nasdaq MRX Market Maker (FarMM)	\$0.20	\$0.50
Firm Proprietary / Broker-Dealer	\$0.20	\$0.50
Professional Customer	\$0.20	\$0.50
Priority Customer	\$0.00	\$0.50

**Non-Penny Symbols**

<b>Market Participant</b>	<b>Fee for Crossing Orders<sup>(1)</sup></b>	<b>Fee for Responses to Crossing Orders</b>
Market Maker <sup>(4)</sup>	\$0.20	\$1.10
Non-Nasdaq MRX Market Maker (FarMM)	\$0.20	\$1.10
Firm Proprietary / Broker-Dealer	\$0.20	\$1.10
Professional Customer	\$0.20	\$1.10
Priority Customer	\$0.00	\$1.10

1. Fees apply to the originating and contra-side orders, except for PIM Orders. Regular PIM Orders are subject to separate pricing in [Options 7, Section 5.E]Part A below.

2. Reserved.

3. Reserved.

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

### Table 3

#### Qualifying Tier Thresholds

Tiers	Total Affiliated <u>Member or Affiliated Entity</u> [ 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 Member[and/]or Affiliated Entity[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.
- The highest tier threshold attained applies retroactively in a given month to all eligible traded contracts and applies to all eligible market participants.
- Total Affiliated Member or Affiliated Entity[ and/or Appointed] 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[and/or Appointed Members], which will be aggregated with the Member's volume in the manner described below.
- Total Affiliated Member or Affiliated Entity [and/or Appointed Member] ADV means all ADV executed on the Exchange in all symbols and order types, including volume executed by Affiliated Members or Affiliated Entities[and/or Appointed Members], which will be aggregated with the Member's volume in the manner described below.
- All eligible volume from Affiliated Members or an Affiliated Entity will be aggregated in determining applicable tiers.
- [• All eligible volume from an Appointed Order Flow Provider will be aggregated with its designated Appointed Market Maker's eligible volume in determining the Appointed Market Maker's applicable tiers, provided the Appointed Market Maker is designated by the Appointed Order Flow Provider in accordance with the below instructions.
- An Appointed Market Maker is eligible to receive and aggregate volume credit from both their Affiliated Members and their Appointed Order Flow Provider.

- An Appointed Order Flow Provider will not receive volume credit from its Appointed Market Maker or the Appointed Market Maker's Affiliated Members in determining its applicable tiers.
- Designating an Appointed Market Maker / Appointed Order Flow Provider: A Market Maker appoints an Electronic Access Member as its Appointed Order Flow Provider and an Electronic Access Member appoints a Market Maker as its Appointed Market Maker, for the purposes of the Schedule of Fees, by each sending an email to sales@nasdaq.com. These corresponding emails will be viewed as acceptance of the appointment.
- The Exchange will recognize one such designation for each party. A party may make a designation not more than once every 6 months, which designation shall remain in effect until the Exchange receives an email from either party indicating that the appointment has been terminated.]

### **A. PIM Pricing for Regular and Complex Orders**

#### **Penny Symbols**

<b><u>Market Participant</u></b>	<b><u>Fee for PIM Originating Orders</u></b>	<b><u>Fee for PIM Contra-Side Orders</u></b>	<b><u>Fee for Responses to PIM Orders</u></b>	<b><u>Break-up Rebate<sup>(2)(3)</sup></u></b>
<u>Market Maker<sup>(4)</sup></u>	<u>\$0.20</u>	<u>\$0.02</u>	<u>\$0.50</u>	<u>N/A</u>
<u>Non-Nasdaq MRX Market Maker (FarMM)</u>	<u>\$0.20</u>	<u>\$0.02</u>	<u>\$0.50</u>	<u>N/A</u>
<u>Firm Proprietary / Broker-Dealer</u>	<u>\$0.20</u>	<u>\$0.02</u>	<u>\$0.50</u>	<u>N/A</u>
<u>Professional Customer</u>	<u>\$0.20</u>	<u>\$0.02</u>	<u>\$0.50</u>	<u>N/A</u>
<u>Priority Customer</u>	<u>\$0.00</u>	<u>\$0.02</u>	<u>\$0.50</u>	<u>(\$0.40)</u>

#### **Non-Penny Symbols**

<b><u>Market Participant</u></b>	<b><u>Fee for PIM Originating Orders</u></b>	<b><u>Fee for PIM Contra-Side Orders</u></b>	<b><u>Fee for Responses to PIM Orders</u></b>	<b><u>Break-up Rebate<sup>(2)(3)</sup></u></b>
<u>Market Maker<sup>(4)</sup></u>	<u>\$0.20</u>	<u>\$0.02</u>	<u>\$1.10</u>	<u>N/A</u>
<u>Non-Nasdaq MRX Market Maker (FarMM)</u>	<u>\$0.20</u>	<u>\$0.02</u>	<u>\$1.10</u>	<u>N/A</u>

<u>Firm Proprietary / Broker-Dealer</u>	<u>\$0.20</u>	<u>\$0.02</u>	<u>\$1.10</u>	<u>N/A</u>
<u>Professional Customer</u>	<u>\$0.20</u>	<u>\$0.02</u>	<u>\$1.10</u>	<u>N/A</u>
<u>Priority Customer</u>	<u>\$0.00</u>	<u>\$0.02</u>	<u>\$1.10</u>	<u>(\$1.00)</u>

1. Reserved

2. Break-up Rebates apply only to Regular PIM Orders of 500 or fewer contracts and to Complex PIM Orders where the largest leg is 500 or fewer contracts.

3. Break-up Rebates provided for an originating Priority Customer PIM Order that executes with any response (order or quote) other than the PIM contra-side order. Notwithstanding the foregoing, Members that execute an ADV of 10,000 PIM originating contracts or greater within a month will receive a rebate of (i) \$0.45 per contract in Penny Symbols (in lieu of \$0.40 per contract) for Complex PIM Orders only, and (ii) \$1.05 per contract in Non-Penny Symbols (in lieu of \$1.00 per contract) for both Regular and Complex PIM Orders.

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

#### **Section 4. Complex Order Fees**

The following Complex Order fees will be assessed for Complex Order transactions in the Complex Order Book as well as Complex Orders submitted into the Complex Facilitation Mechanism, Complex Solicited Order Mechanism, Complex Price Improvement Mechanism ("PIM") or an order submitted as a Complex Customer Cross Order, Complex Qualified Contingent Cross ("QCC") Order or a Complex QCC with Stock Order. Fees apply to an originating order, contra-side order and responses entered into MRX's Complex Facilitation Mechanism, Complex Solicited Order Mechanism, Complex PIM and orders entered as a Complex Customer Cross Order, Complex QCC Order or Complex QCC with Stock Order.<sup>(1)</sup> Interest on the Regular Order Book that interacts with a Complex Order is subject to Regular Order Book fees within Options 7, Section 3. Complex PIM Orders are subject to separate pricing in Options 7, Section 3.A. [5.E.]

<b>Capacity of Market Participant</b>	<b>Fee per contract</b>
Market Maker	\$0.15 <sup>(2)</sup>
Non-Nasdaq MRX Market Maker (FarMM)	\$0.15
Firm Proprietary / Broker-Dealer	\$0.15
Professional Customer	\$0.15
Priority Customer	\$0.00

(1) MRX will assess a Stock Handling Fee of \$0.0010 per share (capped at a maximum of \$50 per trade) for the stock leg of Stock-Option Orders executed against other Stock-Option Orders in the Complex Order Book. This fee will be in addition to the above-referenced fees for Complex Orders.

(2) A Complex Order Market Maker fee of \$0.00 per contract applies instead of the above-referenced \$0.15 per contract Complex Order fee, when the Market Maker trades against Priority Customer orders that originate from an Affiliated Member or an Affiliated Entity[Appointed Member].

## Section 5. Other Options Fees and Rebates

\* \* \* \* \*

### C. Options Regulatory Fee

The ORF is \$0.0004 per contract side [as of February 1, 2019].

The Options Regulatory Fee ("ORF") is assessed by MRX to each MRX Member for options transactions cleared by The Options Clearing Corporation ("OCC") in the customer range where: (1) the execution occurs on MRX or (2) the execution occurs on another exchange and is cleared by a MRX Member. The ORF is collected by OCC on behalf of MRX from (1) MRX clearing members for all customer transactions they clear or (2) non-members for all customer transactions they clear that were executed on MRX. MRX uses reports from OCC when assessing and collecting ORF. The Exchange will notify Members via an Options Trader Alert of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change

\* \* \* \* \*

### [E. PIM Pricing for Regular and Complex Orders

#### Penny Symbols

Market Participant	Fee for PIM Originating Orders	Fee for PIM Contra-Side Orders	Fee for Responses to PIM Orders	Break-up Rebate <sup>(2)(3)</sup>
Market Maker <sup>(4)</sup>	\$0.20	\$0.02	\$0.50	N/A
Non-Nasdaq MRX Market Maker (FarMM)	\$0.20	\$0.02	\$0.50	N/A
Firm Proprietary / Broker-Dealer	\$0.20	\$0.02	\$0.50	N/A
Professional Customer	\$0.20	\$0.02	\$0.50	N/A

Priority Customer	\$0.00	\$0.02	\$0.50	(\$0.40)
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**Non-Penny Symbols**

<b>Market Participant</b>	<b>Fee for PIM Originating Orders</b>	<b>Fee for PIM Contra-Side Orders</b>	<b>Fee for Responses to PIM Orders</b>	<b>Break-up Rebate<sup>(2)(3)</sup></b>
Market Maker <sup>(4)</sup>	\$0.20	\$0.02	\$1.10	N/A
Non-Nasdaq MRX Market Maker (FarMM)	\$0.20	\$0.02	\$1.10	N/A
Firm Proprietary / Broker-Dealer	\$0.20	\$0.02	\$1.10	N/A
Professional Customer	\$0.20	\$0.02	\$1.10	N/A
Priority Customer	\$0.00	\$0.02	\$1.10	(\$1.00)

1. Reserved

2. Break-up Rebates apply only to Regular PIM Orders of 500 or fewer contracts and to Complex PIM Orders where the largest leg is 500 or fewer contracts.

3. Break-up Rebates provided for an originating Priority Customer PIM Order that executes with any response (order or quote) other than the PIM contra-side order. Notwithstanding the foregoing, Members that execute an ADV of 10,000 PIM originating contracts or greater within a month will receive a rebate of (i) \$0.45 per contract in Penny Symbols (in lieu of \$0.40 per contract) for Complex PIM Orders only, and (ii) \$1.05 per contract in Non-Penny Symbols (in lieu of \$1.00 per contract) for both Regular and Complex PIM Orders.

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

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**Section 7. Market Data**

- (1) **Nasdaq MRX Depth of Market Data** \$0 per month
- (2) **Nasdaq MRX Order Feed** \$0 per month
- (3) **Nasdaq MRX Top Quote Feed** \$0 per month
- (4) **Nasdaq MRX Trades Feed** \$0 per month

(5) **Nasdaq MRX**  
**Spread Feed**                      \$0 per month

**Exchange Testing Facilities**

Subscribers to the Testing Facility located in Carteret, New Jersey shall pay a fee of \$1,000 per hand-off, per month for connection to the Testing Facility. The hand-off fee includes either a 1Gb or 10Gb switch port and a cross connect to the Testing Facility. Subscribers shall also pay a one-time installation fee of \$1,000 per handoff.

The connectivity provided under this rule also provides connectivity to the other markets of Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, Nasdaq ISE LLC, and Nasdaq GEMX LLC.

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**[Section 8. Connectivity Fees**

**A. Reserved**

**B. Reserved**

**C. Reserved**

**D. Reserved**

**E. Exchange Testing Facilities**

Subscribers to the Testing Facility located in Carteret, New Jersey shall pay a fee of \$1,000 per hand-off, per month for connection to the Testing Facility. The hand-off fee includes either a 1Gb or 10Gb switch port and a cross connect to the Testing Facility. Subscribers shall also pay a one-time installation fee of \$1,000 per handoff.

The connectivity provided under this rule also provides connectivity to the other markets of Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, Nasdaq ISE LLC, and Nasdaq GEMX LLC.]

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