

Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2012 - * 053

Amendment No. (req. for Amendments *)

Proposed Rule Change by NASDAQ Stock Market

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"/> |
|--|---|--|--|--|---|

Rule

| | | | | |
|-----------------------------------|---|--|---|--------------------------------------|
| Pilot <input type="checkbox"/> | 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) |

Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document

**Description**

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

Proposed changes to modify the Investor Support Program under Rule 7014, and to amend NASDAQ's schedule of execution and routing fees and rebates under Rule 7018

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 proposed rule change.

| | | | |
|--------------|---------------------------|-------------|----------------------|
| First Name * | John | Last Name * | Yetter |
| Title * | Vice President | | |
| E-mail * | john.yetter@nasdaqomx.com | | |
| Telephone * | (301) 978-8497 | Fax | <input type="text"/> |

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 officer.

Date 04/25/2012

By Edward S. Knight
(Name *)Executive Vice President & General Counsel
(Title *)

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.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information (required)

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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 (required)

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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 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 Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² The NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) proposed changes (i) to modify the Investor Support Program (the “ISP”) under Rule 7014, and (ii) to amend NASDAQ’s schedule of execution and routing fees and rebates under Rule 7018(a) and (b).

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and 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 NASDAQ pursuant to authority delegated by the Board of Directors of NASDAQ on August 19, 2011. NASDAQ staff will advise the Board of Directors of NASDAQ of any action taken pursuant to delegated authority. No other action by NASDAQ is necessary for the filing of the rule change. NASDAQ proposes to implement the proposed rule change on May 1, 2012.

Questions regarding this rule filing may be directed to John M. Yetter, Vice President and Deputy General Counsel, NASDAQ OMX, 301-978-8497.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

NASDAQ is proposing (i) to modify the ISP under Rule 7014, and (ii) to amend NASDAQ's schedule of execution and routing fees and rebates under Rule 7018(a) and (b). As a general matter, the changes will result in fee increases and rebate reductions that reflect the persistent reduction in trading volumes in the U.S. capital markets.

Investor Support Program

The ISP enables NASDAQ members to earn a monthly fee credit for providing additional liquidity to NASDAQ and increasing the NASDAQ-traded volume of what are generally considered to be retail and institutional investor orders in exchange-traded securities ("targeted liquidity"). The goal of the ISP is to incentivize members to provide such targeted liquidity to the NASDAQ Market Center.³ The Exchange noted in its

³ The Commission has recently expressed its concern that a significant percentage of the orders of individual investors are executed at over the counter ("OTC") markets, that is, at off-exchange markets; and that a significant percentage of the orders of institutional investors are executed in dark pools. Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (Concept Release on Equity Market Structure, "Concept Release"). In the Concept Release, the Commission has recognized the strong policy preference under the Act in favor of price transparency and displayed markets. The Commission published the Concept Release to invite public comment on a wide range of market structure issues, including high frequency trading and un-displayed, or "dark," liquidity. See also Mary L. Schapiro, Strengthening Our Equity Market Structure (Speech at the Economic Club of New York, Sept. 7, 2010) ("Schapiro Speech," available on the Commission website) (comments of Commission Chairman on what she viewed as a troubling trend of reduced participation in the equity markets by individual investors, and that nearly 30 percent of volume in U.S.-listed equities is executed in venues that do not display their liquidity or make it generally available to the public).

original filing to institute the ISP⁴ that maintaining and increasing the proportion of orders in exchange-listed securities executed on a registered exchange (rather than relying on any of the available off-exchange execution methods) would help raise investors' confidence in the fairness of their transactions and would benefit all investors by deepening NASDAQ's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Participants in the ISP are required to designate specific NASDAQ order entry ports for use under the ISP and to meet specified criteria focused on market participation, liquidity provision, and high rates of order execution. Currently, a member that participates in the ISP receives a credit of \$0.0001, \$0.0003, or \$0.0004 per share with respect to the number of shares of displayed liquidity provided by the member that execute at \$1 or more per share.⁵ The precise credit rate is determined by factors designed to measure the degree of the member's participation in the Nasdaq Market Center and the percentage of orders that it enters that execute – its "ISP Execution Ratio" – which is seen as indicative of retail or institutional participation. While making only minimal changes to the existing criteria for participation in the ISP, NASDAQ will reduce the credits paid under the program to \$0.00005, \$0.000275, and \$0.000375 respectively. In addition, in one of existing tiers for the ISP, the percentage of liquidity that a member is required to provide through ISP-designated ports will increase from

⁴ Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ-2010-141) (notice of filing and immediate effectiveness).

⁵ A participant in the ISP must designate specific order-entry ports for use in tabulating certain requirements under the program.

25% to 30%. With these changes, the requirements for existing ISP tiers, and the associated credits, will be as follows:

As provided in Rule 7014(c)(1), NASDAQ will pay a credit of \$0.00005 per share⁶ with respect to all of a member's displayed liquidity-providing orders that execute at a price of \$1 or more per share during the month if the following conditions are met:

(1) The member's Participation Ratio⁷ for the month is equal to or greater than its Baseline Participation Ratio.⁸ The requirement reflects the expectation that a member participating in the program must maintain or increase its participation in NASDAQ as compared with an historical baseline.

⁶ A reduction from \$0.0001 per share.

⁷ "Participation Ratio" is defined as follows: "[F]or a given member in a given month, the ratio of (A) the number of shares of liquidity provided in orders entered by the member through any of its Nasdaq ports and executed in the Nasdaq Market Center during such month to (B) the Consolidated Volume." "Consolidated Volume" is defined as follows: "[F]or a given member in a given month, the consolidated volume of shares of System Securities in executed orders reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during such month." "System Securities" means all securities listed on NASDAQ and all securities subject to the Consolidated Tape Association Plan and the Consolidated Quotation Plan.

⁸ "Baseline Participation Ratio" is defined as follows: "[W]ith respect to a member, the lower of such member's Participation Ratio for the month of August 2010 or the month of August 2011, provided that in calculating such Participation Ratios, the numerator shall be increased by the amount (if any) of the member's Indirect Order Flow for such month, and provided further that if the result is zero for either month, the Baseline Participation Ratio shall be deemed to be 0.485% (when rounded to three decimal places)." "Indirect Order Flow" is defined as follows: "[F]or a given member in a given month, the number of shares of liquidity provided in orders entered into the Nasdaq Market Center at the member's direction by another member with minimal substantive intermediation by such other member and executed in the Nasdaq Market Center during such month."

(2) The member's "ISP Execution Ratio" for the month must be less than 10. The ISP Execution Ratio is defined as "the ratio of (A) the total number of liquidity-providing orders entered by a member through its ISP-designated ports during the specified time period to (B) the number of liquidity-providing orders entered by such member through its ISP-designated ports and executed (in full or partially) in the Nasdaq Market Center during such time period; provided that: (i) no order shall be counted as executed more than once; and (ii) no Pegged Orders, odd-lot orders, or MIOC or SIOC orders shall be included in the tabulation."⁹ Thus, the definition requires a ratio between the total number of orders that post to the NASDAQ book and the number of such orders that actually execute that is low, a characteristic that NASDAQ believes to be reflective of retail and institutional order flow.

(3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month, reflecting the ISP's goals of encouraging higher levels of liquidity provision.

(4) At least 30%¹⁰ of the liquidity provided by the member during the month is provided through ISP-designated ports. This requirement is designed to mitigate "gaming" of the program by firms that do not generally represent retail or institutional order flow but that nevertheless are able to channel a portion of their orders that they intend to execute through ISP-designated ports and thereby receive a credit with respect to those orders. NASDAQ is raising the required percentage from 25% to 30% to

⁹ These terms have the meanings assigned to them in Rule 4751. MIOC and SIOC orders are forms of "immediate or cancel" orders and therefore cannot be liquidity-providing orders.

¹⁰ Previously, 25%.

provide added assurance that program participants represent retail or institutional order flow.

As provided in Rule 7014(c)(2), NASDAQ will pay a credit of \$0.000275 per share¹¹ with respect to shares of displayed liquidity executed at a price of \$1 or more and entered through ISP-designated ports, and \$0.00005 per share¹² with respect to all other shares of displayed liquidity executed at a price of \$1 or more, if the following conditions are met:

- (1) The member's Participation Ratio for the month exceeds its Baseline Participation Ratio by at least 0.43%.
- (2) The member's "ISP Execution Ratio" for the month is less than 10.
- (3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month.
- (4) At least 40% of the liquidity provided by the member during the month is provided through ISP-designated ports.

Alternatively, as provided in Rule 7014(c)(3), NASDAQ will pay a credit of \$0.000275 per share¹³ with respect to shares of displayed liquidity executed at a price of \$1 or more and entered through ISP-designated ports, and \$0.00005 per share¹⁴ with respect to all other shares of displayed liquidity executed at a price of \$1 or more, if the following conditions are met:

¹¹ A reduction from \$0.0003 per share.

¹² A reduction from \$0.0001 per share.

¹³ A reduction from \$0.0003 per share.

¹⁴ A reduction from \$0.0001 per share.

- (1) The member's Participation Ratio for the month exceeds its Baseline Participation Ratio by at least 0.30%.
- (2) The member's "ISP Execution Ratio" for the month is less than 10.
- (3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month.
- (4) At least 80% of the liquidity provided by the member during the month is provided through ISP-designated ports.
- (5) The member has an average daily volume during the month of more than 100,000 contracts of liquidity provided through one or more of its Nasdaq Options Market market participant identifiers ("MPIDs), provided that such liquidity is provided through Public Customer Orders, as defined in Chapter I, Section 1 of the Nasdaq Options Market Rules; and
- (6) The ratio between shares of liquidity provided through ISP-designated ports and total shares accessed, provided, or routed through ISP-designated ports during the month is at least 0.70.

As provided in Rule 7014(c)(4), NASDAQ will pay a credit of \$0.000375 per share¹⁵ with respect to shares of displayed liquidity executed at a price of \$1 or more and entered through ISP-designated ports, and \$0.00005 per share¹⁶ with respect to all other shares of displayed liquidity executed at a price of \$1 or more, if the following conditions are met:

¹⁵ A reduction from \$0.0004 per share.

¹⁶ A reduction from \$0.0001 per share.

- (1) The member's Participation Ratio for the month exceeds its Baseline Participation Ratio by at least 0.86%.
- (2) The member's "ISP Execution Ratio" for the month is less than 10.
- (3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month.
- (4) At least 40% of the liquidity provided by the member during the month is provided through ISP-designated ports.

NASDAQ is also deleting Rule 7014(i), which contains obsolete language describing a rule for calculating the ISP during the month of December 2011.

Execution and Routing Fees and Credits

NASDAQ is making a number of changes to its fee and credit schedule for order execution and routing. Overall, the changes are designed to (i) raise additional revenue to offset reductions caused by a sustained decrease in trading volumes in the U.S. capital markets, and (ii) encourage members that provide liquidity through non-displayed orders to do so, to a greater extent, through orders that offer price improvement. Specifically, NASDAQ is proposing to make the following changes to Rule 7018(a), which governs execution and routing of order for securities priced at \$1 or more per share:

- Currently, NASDAQ pays credits that range from \$0.0010 to \$0.0015 per share executed with respect to liquidity provided through non-displayed orders. NASDAQ proposes to replace these credits with a credit of \$0.0017 or \$0.0015 per share for liquidity provided through midpoint pegged¹⁷ or midpoint peg post-only orders¹⁸

¹⁷ As provided in Rule 4751, "Pegged Orders" are orders that, after entry, have their price automatically adjusted by the System in response to changes in either the Nasdaq Market Center inside bid or offer or bids or offers in the national market

(collectively, “midpoint orders”), and a credit of \$0.0010 per share executed for all other non-displayed orders. With respect to midpoint orders, the \$0.0017 rate will apply if a member provides an average daily volume of more than 3 million shares through midpoint orders during the month, and the \$0.0015 rate will apply if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month. NASDAQ’s pricing structure is generally designed to encourage the provision of liquidity through displayed orders, since the credits paid with respect to such orders are consistently higher than those for non-displayed orders. However, the change reflects a concomitant goal of encouraging members that use non-displayed orders to also offer price improvement through the use of orders that are designed to execute at the midpoint of the national best bid and offer. In a related change, NASDAQ is also eliminating a liquidity provider rebate tier under which a member earns a credit of \$0.0015 per share

system, as appropriate. A Pegged Order can specify that its price will equal the inside quote on the same side of the market ("Primary Peg"), the opposite side of the market ("Market Peg"), or the midpoint of the national best bid and offer ("Midpoint Peg"). A Midpoint Peg Order is priced based upon the national best bid and offer, excluding the effect that the Midpoint Peg Order itself has on the inside bid or inside offer. Midpoint Pegged Orders will never be displayed. A Midpoint Pegged Order may be executed in sub-pennies if necessary to obtain a midpoint price. A new timestamp is created for the order each time it is automatically adjusted.

¹⁸ "Midpoint Peg Post-Only Orders" are orders that are priced in the same manner as Midpoint Peg Orders. Upon entry, a Midpoint Peg Post-Only Order will always post to the book unless it is a buy (sell) order that is priced higher than (lower than) a resting sell (buy) order, in which case it will execute at the price of the resting order. Midpoint Peg Post-Only Orders must always have a price of more than \$1 per share. A Midpoint Peg Post-Only Order that would be assigned a price of \$1 or less per share will be rejected or cancelled, as applicable. While a Midpoint Peg Post-Only Order that posts to the book is locking a preexisting non-displayed order, the Midpoint Peg Post-Only Order will execute against an incoming order only if the price of the incoming buy (sell) order is higher (lower) than the price of the pre-existing order.

executed for non-displayed orders, and a credit of \$0.0020 per share for displayed orders if the member provides 3 million or more shares of liquidity through non-displayed orders.¹⁹ This change is being made because the tier is inconsistent with the goal of paying a higher non-displayed order rebate with respect to midpoint orders.

- NASDAQ is eliminating a favorable charge of \$0.0027 per share executed for orders that employ the SAVE²⁰ or SOLV²¹ routing strategy but that execute in the Nasdaq Market Center. Accordingly, such orders will be charged the otherwise applicable fee of \$0.0030 per share executed. Similarly, the fee for SAVE, SOLV, or TFTY²² orders that execute at the New York Stock Exchange (“NYSE”) will increase

¹⁹ NASDAQ is also making a conforming change to the language that describes the credits payable with respect to displayed orders, but is not making any changes to the applicable rates.

²⁰ SAVE is a routing option under which orders may either (i) route to the NASDAQ OMX BX Equities Market (“BX”) and NASDAQ OMX PSX (“PSX”), check the System, and then route to other destinations on the System routing table, or (ii) may check the System first and then route to destinations on the System routing table. If shares remain un-executed after routing, they are posted to the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

²¹ SOLV is a routing option under which orders may either (i) route to BX and PSX, check the System, and then route to other destinations on the System routing table, or (ii) may check the System first and then route to destinations on the System routing table. If shares remain un-executed after routing, they are posted to the book. Once on the book, should the order subsequently be locked or crossed by another accessible market center, the System shall route the order to the locking or crossing market center.

²² TFTY is a routing option under which orders check the System for available shares only if so instructed by the entering firm and are thereafter routed to destinations on the System routing table. If shares remain un-executed after routing, they are posted to the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

from \$0.0022 per share executed to \$0.0023 per share executed, and the fee for SAVE or SOLV orders that execute at venues other than NASDAQ, NYSE, BX, or PSX will increase from \$0.0026 per share executed to \$0.0029 per share executed.

With respect to Rule 7018(b), NASDAQ is proposing to eliminate the liquidity provider rebate of \$0.00009 per share executed with respect to securities priced at more than \$0.05 but less than \$1 per share. As a result, NASDAQ will pay no liquidity provider rebate for securities priced under \$1 per share.

b. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,²³ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,²⁴ 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 or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Changes to the ISP

The ISP encourages members to add targeted liquidity that is executed in the Nasdaq Market Center. NASDAQ believes that the reduction in the rebates paid under the ISP from \$0.0001, \$0.0003, and \$0.0004 to \$0.00005, \$0.000275, and \$0.000375 is reasonable, because it provides a means for NASDAQ to reduce costs during a period of persistently low trading volumes, while maintaining the overall structure of the ISP for the purpose of providing incentives for retail and institutional investors to provide

²³ 15 U.S.C. 78f.

²⁴ 15 U.S.C. 78f(b)(4) and (5).

targeted liquidity at NASDAQ. The change is consistent with an equitable allocation of fees: although the change maintains the ISP's purpose of paying higher rebates to certain market participants in order to encourage them to benefit all NASDAQ members through the submission of targeted liquidity, the change reduces the disparity between rebates paid to ISP participants and other members for providing liquidity. Accordingly, it results in a fee structure in which available rebates are allocated more equitably among market participants. Similarly, although NASDAQ believes that the price differentiation inherent in the ISP is fair, because it is designed to benefit all market participants by drawing targeted liquidity to the Exchange, the change reduces the level of discrimination between the rebates paid to ISP participants and those paid to other liquidity providers.

Finally, NASDAQ believes that the change to increase the percentage of liquidity provided through ISP-designated ports needed for a member to qualify for the lowest ISP tier is reasonable because it will reduce the likelihood that members that do not represent retail or institutional customers will be able to "game" the program by channeling a portion of their orders that they intend to execute through ISP-designated ports and thereby receive a credit with respect to those orders. The change is equitable because the ISP is designed to attract and benefit targeted liquidity, and therefore it is equitable to take measures to reduce the likelihood that ISP incentives will be paid to members that do not provide targeted liquidity. Finally, the change is not unfairly discriminatory because excluding members that do not represent retail or institutional customers is consistent with the established purposes of the ISP.

Routing Fee Changes

The changes to fees for use of the SAVE, SOLV, and TFTY routing strategies are reasonable because the current fees for these routing strategies reflect promotional

pricing incentives originally designed to encourage greater use of these routing strategies. Recognizing that NASDAQ is not required to maintain promotional pricing differentials indefinitely, NASDAQ believes that it is reasonable to remove these incentives for the following reasons: (i) the fee for SAVE and SOLV orders that execute at NASDAQ will be the same as the fee for most other order executions at NASDAQ, (ii) the fee for SAVE, SOLV, and TFTY orders that execute at NYSE will be same as the fee that NYSE charges to NASDAQ to execute such orders, and (iii) the fee for SAVE and SOLV orders that execute at venues other than NASDAQ, BX, PSX, and NYSE will be less than the fee for executing orders at NASDAQ, and less than the charge for certain other routing strategies, such as MOPP and directed orders, that execute at these venues. NASDAQ believes that these changes promote an equitable allocation of fees among market participants, because they allow NASDAQ to charge fees for these execution and routing services that are more similar to the fees otherwise charged for execution and routing. Finally, NASDAQ believes that the change is not unfairly discriminatory because it reduces the differentiation in NASDAQ's fee schedule with respect to the fees charged for different routing strategies.

Rebates for Non-Displayed Liquidity

The changes to the rebates payable with respect to liquidity provided through non-displayed orders are reasonable because, consistent with NASDAQ's goal of reducing expenses, they direct the focus of rebates away from non-displayed liquidity in general and toward non-displayed liquidity provided through midpoint orders. Because such orders provide price improvement, NASDAQ believes that it is reasonable to use rebates to encourage their use, while still maintaining a rebate structure that places even greater emphasis on the value of displayed liquidity in advancing transparency and price

discovery. As a result of the change, the rebate paid for non-displayed liquidity, other than liquidity provided through midpoint orders, will decrease for some market participants, but the rebate paid with respect to midpoint orders will remain constant or increase for all market participants. The change is consistent with an equitable allocation of fees because it is designed to encourage members that provide liquidity through non-displayed orders to benefit other market participants through price improvement. Finally, the change is not unfairly discriminatory: the elements of differentiation between displayed and non-displayed liquidity and midpoint orders and other non-displayed orders are fair because they promote the goals of price discovery and encouraging market participants to provide price improvement.

Rebates for Stocks Priced Under \$1

NASDAQ believes that the elimination of the rebate for liquidity provided in stocks priced under \$1 is reasonable because the amount of this rebate is extremely small and therefore of minimal value to market participants. For example, the rebate on a 1000 share trade is just \$0.09. NASDAQ believes that the change is consistent with an equitable allocation of fees, since the rebate is not being replaced by a fee, so there is no charge for liquidity providers to execute trades in these stocks. Finally, NASDAQ believes that the change is not unfairly discriminatory because the per-trade revenues associated with executions of these stocks are also very small. Accordingly, NASDAQ believes that it is not unfair to pay a rebate with respect to higher priced stocks, while declining to pay a rebate with respect to these stocks.

Finally, NASDAQ 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, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. These competitive forces help to ensure that NASDAQ's fees are reasonable, equitably allocated, and not unfairly discriminatory since market participants can largely avoid fees to which they object by changing their trading behavior.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. For this reason and the reasons discussed in connection with the statutory basis for the proposed rule change, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

Written comments were neither solicited nor 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,²⁵ NASDAQ 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.

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

5. Text of the proposed rule change.

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASDAQ-2012-053

April __, 2012

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Investor Support Program under Rule 7014 and to Amend NASDAQ's Schedule of Execution and Routing Fees and Rebates under Rule 7018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 25, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NASDAQ proposes to modify the Investor Support Program under Rule 7014, and to amend NASDAQ's schedule of execution and routing fees and rebates under Rule 7018. NASDAQ will implement the proposed change on May 1, 2012. The text of the proposed rule change is available at nasdaq.cchwallstreet.com, at NASDAQ's principal office, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

NASDAQ is proposing to modify the ISP under Rule 7014, and to amend NASDAQ's schedule of execution and routing fees and rebates under Rule 7018. As a general matter, the changes will result in fee increases and rebate reductions that reflect the persistent reduction in trading volumes in the U.S. capital markets.

Investor Support Program

The ISP enables NASDAQ members to earn a monthly fee credit for providing additional liquidity to NASDAQ and increasing the NASDAQ-traded volume of what are generally considered to be retail and institutional investor orders in exchange-traded securities ("targeted liquidity"). The goal of the ISP is to incentivize members to provide such targeted liquidity to the NASDAQ Market Center.³ The Exchange noted in its

³ The Commission has recently expressed its concern that a significant percentage of the orders of individual investors are executed at over the counter ("OTC") markets, that is, at off-exchange markets; and that a significant percentage of the orders of institutional investors are executed in dark pools. Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (Concept Release on Equity Market Structure, "Concept Release"). In the

original filing to institute the ISP⁴ that maintaining and increasing the proportion of orders in exchange-listed securities executed on a registered exchange (rather than relying on any of the available off-exchange execution methods) would help raise investors' confidence in the fairness of their transactions and would benefit all investors by deepening NASDAQ's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Participants in the ISP are required to designate specific NASDAQ order entry ports for use under the ISP and to meet specified criteria focused on market participation, liquidity provision, and high rates of order execution. Currently, a member that participates in the ISP receives a credit of \$0.0001, \$0.0003, or \$0.0004 per share with respect to the number of shares of displayed liquidity provided by the member that execute at \$1 or more per share.⁵ The precise credit rate is determined by factors designed to measure the degree of the member's participation in the Nasdaq Market Center and the percentage of orders that it enters that execute – its "ISP Execution Ratio"

Concept Release, the Commission has recognized the strong policy preference under the Act in favor of price transparency and displayed markets. The Commission published the Concept Release to invite public comment on a wide range of market structure issues, including high frequency trading and un-displayed, or "dark," liquidity. See also Mary L. Schapiro, Strengthening Our Equity Market Structure (Speech at the Economic Club of New York, Sept. 7, 2010) ("Schapiro Speech," available on the Commission website) (comments of Commission Chairman on what she viewed as a troubling trend of reduced participation in the equity markets by individual investors, and that nearly 30 percent of volume in U.S.-listed equities is executed in venues that do not display their liquidity or make it generally available to the public).

⁴ Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ-2010-141) (notice of filing and immediate effectiveness).

⁵ A participant in the ISP must designate specific order-entry ports for use in tabulating certain requirements under the program.

– which is seen as indicative of retail or institutional participation. While making only minimal changes to the existing criteria for participation in the ISP, NASDAQ will reduce the credits paid under the program to \$0.00005, \$0.000275, and \$0.000375 respectively. In addition, in one of existing tiers for the ISP, the percentage of liquidity that a member is required to provide through ISP-designated ports will increase from 25% to 30%. With these changes, the requirements for existing ISP tiers, and the associated credits, will be as follows:

As provided in Rule 7014(c)(1), NASDAQ will pay a credit of \$0.00005 per share⁶ with respect to all of a member's displayed liquidity-providing orders that execute at a price of \$1 or more per share during the month if the following conditions are met:

(1) The member's Participation Ratio⁷ for the month is equal to or greater than its Baseline Participation Ratio.⁸ The requirement reflects the expectation that a

⁶ A reduction from \$0.0001 per share.

⁷ "Participation Ratio" is defined as follows: "[F]or a given member in a given month, the ratio of (A) the number of shares of liquidity provided in orders entered by the member through any of its Nasdaq ports and executed in the Nasdaq Market Center during such month to (B) the Consolidated Volume." "Consolidated Volume" is defined as follows: "[F]or a given member in a given month, the consolidated volume of shares of System Securities in executed orders reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during such month." "System Securities" means all securities listed on NASDAQ and all securities subject to the Consolidated Tape Association Plan and the Consolidated Quotation Plan.

⁸ "Baseline Participation Ratio" is defined as follows: "[W]ith respect to a member, the lower of such member's Participation Ratio for the month of August 2010 or the month of August 2011, provided that in calculating such Participation Ratios, the numerator shall be increased by the amount (if any) of the member's Indirect Order Flow for such month, and provided further that if the result is zero for either month, the Baseline Participation Ratio shall be deemed to be 0.485% (when rounded to three decimal places)." "Indirect Order Flow" is defined as follows: "[F]or a given member in a given month, the number of shares of liquidity provided in orders entered into the Nasdaq Market Center at the

member participating in the program must maintain or increase its participation in NASDAQ as compared with an historical baseline.

(2) The member's "ISP Execution Ratio" for the month must be less than 10. The ISP Execution Ratio is defined as "the ratio of (A) the total number of liquidity-providing orders entered by a member through its ISP-designated ports during the specified time period to (B) the number of liquidity-providing orders entered by such member through its ISP-designated ports and executed (in full or partially) in the Nasdaq Market Center during such time period; provided that: (i) no order shall be counted as executed more than once; and (ii) no Pegged Orders, odd-lot orders, or MIOC or SIOC orders shall be included in the tabulation."⁹ Thus, the definition requires a ratio between the total number of orders that post to the NASDAQ book and the number of such orders that actually execute that is low, a characteristic that NASDAQ believes to be reflective of retail and institutional order flow.

(3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month, reflecting the ISP's goals of encouraging higher levels of liquidity provision.

(4) At least 30%¹⁰ of the liquidity provided by the member during the month is provided through ISP-designated ports. This requirement is designed to mitigate

member's direction by another member with minimal substantive intermediation by such other member and executed in the Nasdaq Market Center during such month."

⁹ These terms have the meanings assigned to them in Rule 4751. MIOC and SIOC orders are forms of "immediate or cancel" orders and therefore cannot be liquidity-providing orders.

¹⁰ Previously, 25%.

“gaming” of the program by firms that do not generally represent retail or institutional order flow but that nevertheless are able to channel a portion of their orders that they intend to execute through ISP-designated ports and thereby receive a credit with respect to those orders. NASDAQ is raising the required percentage from 25% to 30% to provide added assurance that program participants represent retail or institutional order flow.

As provided in Rule 7014(c)(2), NASDAQ will pay a credit of \$0.000275 per share¹¹ with respect to shares of displayed liquidity executed at a price of \$1 or more and entered through ISP-designated ports, and \$0.00005 per share¹² with respect to all other shares of displayed liquidity executed at a price of \$1 or more, if the following conditions are met:

- (1) The member’s Participation Ratio for the month exceeds its Baseline Participation Ratio by at least 0.43%.
- (2) The member’s “ISP Execution Ratio” for the month is less than 10.
- (3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month.
- (4) At least 40% of the liquidity provided by the member during the month is provided through ISP-designated ports.

Alternatively, as provided in Rule 7014(c)(3), NASDAQ will pay a credit of \$0.000275 per share¹³ with respect to shares of displayed liquidity executed at a price of

¹¹ A reduction from \$0.0003 per share.

¹² A reduction from \$0.0001 per share.

¹³ A reduction from \$0.0003 per share.

\$1 or more and entered through ISP-designated ports, and \$0.00005 per share¹⁴ with respect to all other shares of displayed liquidity executed at a price of \$1 or more, if the following conditions are met:

- (1) The member's Participation Ratio for the month exceeds its Baseline Participation Ratio by at least 0.30%.
- (2) The member's "ISP Execution Ratio" for the month is less than 10.
- (3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month.
- (4) At least 80% of the liquidity provided by the member during the month is provided through ISP-designated ports.
- (5) The member has an average daily volume during the month of more than 100,000 contracts of liquidity provided through one or more of its Nasdaq Options Market market participant identifiers ("MPIDs), provided that such liquidity is provided through Public Customer Orders, as defined in Chapter I, Section 1 of the Nasdaq Options Market Rules; and
- (6) The ratio between shares of liquidity provided through ISP-designated ports and total shares accessed, provided, or routed through ISP-designated ports during the month is at least 0.70.

As provided in Rule 7014(c)(4), NASDAQ will pay a credit of \$0.000375 per share¹⁵ with respect to shares of displayed liquidity executed at a price of \$1 or more and

¹⁴ A reduction from \$0.0001 per share.

¹⁵ A reduction from \$0.0004 per share.

entered through ISP-designated ports, and \$0.00005 per share¹⁶ with respect to all other shares of displayed liquidity executed at a price of \$1 or more, if the following conditions are met:

- (1) The member's Participation Ratio for the month exceeds its Baseline Participation Ratio by at least 0.86%.
- (2) The member's "ISP Execution Ratio" for the month is less than 10.
- (3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month.
- (4) At least 40% of the liquidity provided by the member during the month is provided through ISP-designated ports.

NASDAQ is also deleting Rule 7014(i), which contains obsolete language describing a rule for calculating the ISP during the month of December 2011.

Execution and Routing Fees and Credits

NASDAQ is making a number of changes to its fee and credit schedule for order execution and routing. Overall, the changes are designed to (i) raise additional revenue to offset reductions caused by a sustained decrease in trading volumes in the U.S. capital markets, and (ii) encourage members that provide liquidity through non-displayed orders to do so, to a greater extent, through orders that offer price improvement. Specifically, NASDAQ is proposing to make the following changes to Rule 7018(a), which governs execution and routing of order for securities priced at \$1 or more per share:

- Currently, NASDAQ pays credits that range from \$0.0010 to \$0.0015 per share executed with respect to liquidity provided through non-displayed orders. NASDAQ

¹⁶ A reduction from \$0.0001 per share.

proposes to replace these credits with a credit of \$0.0017 or \$0.0015 per share for liquidity provided through midpoint pegged¹⁷ or midpoint peg post-only orders¹⁸ (collectively, "midpoint orders"), and a credit of \$0.0010 per share executed for all other non-displayed orders. With respect to midpoint orders, the \$0.0017 rate will apply if a member provides an average daily volume of more than 3 million shares through midpoint orders during the month, and the \$0.0015 rate will apply if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month. NASDAQ's pricing structure is generally designed to encourage the provision of liquidity through displayed orders, since the credits paid with respect to such orders are consistently higher than those for non-displayed orders. However, the change reflects a concomitant goal of encouraging members that use non-displayed orders to also offer

¹⁷ As provided in Rule 4751, "Pegged Orders" are orders that, after entry, have their price automatically adjusted by the System in response to changes in either the Nasdaq Market Center inside bid or offer or bids or offers in the national market system, as appropriate. A Pegged Order can specify that its price will equal the inside quote on the same side of the market ("Primary Peg"), the opposite side of the market ("Market Peg"), or the midpoint of the national best bid and offer ("Midpoint Peg"). A Midpoint Peg Order is priced based upon the national best bid and offer, excluding the effect that the Midpoint Peg Order itself has on the inside bid or inside offer. Midpoint Pegged Orders will never be displayed. A Midpoint Pegged Order may be executed in sub-pennies if necessary to obtain a midpoint price. A new timestamp is created for the order each time it is automatically adjusted.

¹⁸ "Midpoint Peg Post-Only Orders" are orders that are priced in the same manner as Midpoint Peg Orders. Upon entry, a Midpoint Peg Post-Only Order will always post to the book unless it is a buy (sell) order that is priced higher than (lower than) a resting sell (buy) order, in which case it will execute at the price of the resting order. Midpoint Peg Post-Only Orders must always have a price of more than \$1 per share. A Midpoint Peg Post-Only Order that would be assigned a price of \$1 or less per share will be rejected or cancelled, as applicable. While a Midpoint Peg Post-Only Order that posts to the book is locking a preexisting non-displayed order, the Midpoint Peg Post-Only Order will execute against an incoming order only if the price of the incoming buy (sell) order is higher (lower) than the price of the pre-existing order.

price improvement through the use of orders that are designed to execute at the midpoint of the national best bid and offer. In a related change, NASDAQ is also eliminating a liquidity provider rebate tier under which a member earns a credit of \$0.0015 per share executed for non-displayed orders, and a credit of \$0.0020 per share for displayed orders if the member provides 3 million or more shares of liquidity through non-displayed orders.¹⁹ This change is being made because the tier is inconsistent with the goal of paying a higher non-displayed order rebate with respect to midpoint orders.

- NASDAQ is eliminating a favorable charge of \$0.0027 per share executed for orders that employ the SAVE²⁰ or SOLV²¹ routing strategy but that execute in the Nasdaq Market Center. Accordingly, such orders will be charged the otherwise applicable fee of \$0.0030 per share executed. Similarly, the fee for SAVE, SOLV, or

¹⁹ NASDAQ is also making a conforming change to the language that describes the credits payable with respect to displayed orders, but is not making any changes to the applicable rates.

²⁰ SAVE is a routing option under which orders may either (i) route to the NASDAQ OMX BX Equities Market (“BX”) and NASDAQ OMX PSX (“PSX”), check the System, and then route to other destinations on the System routing table, or (ii) may check the System first and then route to destinations on the System routing table. If shares remain un-executed after routing, they are posted to the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

²¹ SOLV is a routing option under which orders may either (i) route to BX and PSX, check the System, and then route to other destinations on the System routing table, or (ii) may check the System first and then route to destinations on the System routing table. If shares remain un-executed after routing, they are posted to the book. Once on the book, should the order subsequently be locked or crossed by another accessible market center, the System shall route the order to the locking or crossing market center.

TFTY²² orders that execute at the New York Stock Exchange (“NYSE”) will increase from \$0.0022 per share executed to \$0.0023 per share executed, and the fee for SAVE or SOLV orders that execute at venues other than NASDAQ, NYSE, BX, or PSX will increase from \$0.0026 per share executed to \$0.0029 per share executed.

With respect to Rule 7018(b), NASDAQ is proposing to eliminate the liquidity provider rebate of \$0.00009 per share executed with respect to securities priced at more than \$0.05 but less than \$1 per share. As a result, NASDAQ will pay no liquidity provider rebate for securities priced under \$1 per share.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,²³ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,²⁴ 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 or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Changes to the ISP

The ISP encourages members to add targeted liquidity that is executed in the Nasdaq Market Center. NASDAQ believes that the reduction in the rebates paid under

²² TFTY is a routing option under which orders check the System for available shares only if so instructed by the entering firm and are thereafter routed to destinations on the System routing table. If shares remain un-executed after routing, they are posted to the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

²³ 15 U.S.C. 78f.

²⁴ 15 U.S.C. 78f(b)(4) and (5).

the ISP from \$0.0001, \$0.0003, and \$0.0004 to \$0.00005, \$0.000275, and \$0.000375 is reasonable, because it provides a means for NASDAQ to reduce costs during a period of persistently low trading volumes, while maintaining the overall structure of the ISP for the purpose of providing incentives for retail and institutional investors to provide targeted liquidity at NASDAQ. The change is consistent with an equitable allocation of fees: although the change maintains the ISP's purpose of paying higher rebates to certain market participants in order to encourage them to benefit all NASDAQ members through the submission of targeted liquidity, the change reduces the disparity between rebates paid to ISP participants and other members for providing liquidity. Accordingly, it results in a fee structure in which available rebates are allocated more equitably among market participants. Similarly, although NASDAQ believes that the price differentiation inherent in the ISP is fair, because it is designed to benefit all market participants by drawing targeted liquidity to the Exchange, the change reduces the level of discrimination between the rebates paid to ISP participants and those paid to other liquidity providers.

Finally, NASDAQ believes that the change to increase the percentage of liquidity provided through ISP-designated ports needed for a member to qualify for the lowest ISP tier is reasonable because it will reduce the likelihood that members that do not represent retail or institutional customers will be able to "game" the program by channeling a portion of their orders that they intend to execute through ISP-designated ports and thereby receive a credit with respect to those orders. The change is equitable because the ISP is designed to attract and benefit targeted liquidity, and therefore it is equitable to take measures to reduce the likelihood that ISP incentives will be paid to members that do not provide targeted liquidity. Finally, the change is not unfairly discriminatory

because excluding members that do not represent retail or institutional customers is consistent with the established purposes of the ISP.

Routing Fee Changes

The changes to fees for use of the SAVE, SOLV, and TFTY routing strategies are reasonable because the current fees for these routing strategies reflect promotional pricing incentives originally designed to encourage greater use of these routing strategies. Recognizing that NASDAQ is not required to maintain promotional pricing differentials indefinitely, NASDAQ believes that it is reasonable to remove these incentives for the following reasons: (i) the fee for SAVE and SOLV orders that execute at NASDAQ will be the same as the fee for most other order executions at NASDAQ, (ii) the fee for SAVE, SOLV, and TFTY orders that execute at NYSE will be same as the fee that NYSE charges to NASDAQ to execute such orders, and (iii) the fee for SAVE and SOLV orders that execute at venues other than NASDAQ, BX, PSX, and NYSE will be less than the fee for executing orders at NASDAQ, and less than the charge for certain other routing strategies, such as MOPP and directed orders, that execute at these venues. NASDAQ believes that these changes promote an equitable allocation of fees among market participants, because they allow NASDAQ to charge fees for these execution and routing services that are more similar to the fees otherwise charged for execution and routing. Finally, NASDAQ believes that the change is not unfairly discriminatory because it reduces the differentiation in NASDAQ's fee schedule with respect to the fees charged for different routing strategies.

Rebates for Non-Displayed Liquidity

The changes to the rebates payable with respect to liquidity provided through non-displayed orders are reasonable because, consistent with NASDAQ's goal of reducing

expenses, they direct the focus of rebates away from non-displayed liquidity in general and toward non-displayed liquidity provided through midpoint orders. Because such orders provide price improvement, NASDAQ believes that it is reasonable to use rebates to encourage their use, while still maintaining a rebate structure that places even greater emphasis on the value of displayed liquidity in advancing transparency and price discovery. As a result of the change, the rebate paid for non-displayed liquidity, other than liquidity provided through midpoint orders, will decrease for some market participants, but the rebate paid with respect to midpoint orders will remain constant or increase for all market participants. The change is consistent with an equitable allocation of fees because it is designed to encourage members that provide liquidity through non-displayed orders to benefit other market participants through price improvement. Finally, the change is not unfairly discriminatory: the elements of differentiation between displayed and non-displayed liquidity and midpoint orders and other non-displayed orders are fair because they promote the goals of price discovery and encouraging market participants to provide price improvement.

Rebates for Stocks Priced Under \$1

NASDAQ believes that the elimination of the rebate for liquidity provided in stocks priced under \$1 is reasonable because the amount of this rebate is extremely small and therefore of minimal value to market participants. For example, the rebate on a 1000 share trade is just \$0.09. NASDAQ believes that the change is consistent with an equitable allocation of fees, since the rebate is not being replaced by a fee, so there is no charge for liquidity providers to execute trades in these stocks. Finally, NASDAQ believes that the change is not unfairly discriminatory because the per-trade revenues associated with executions of these stocks are also very small. Accordingly, NASDAQ

believes that it is not unfair to pay a rebate with respect to higher priced stocks, while declining to pay a rebate with respect to these stocks.

Finally, NASDAQ 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, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. These competitive forces help to ensure that NASDAQ's fees are reasonable, equitably allocated, and not unfairly discriminatory since market participants can largely avoid fees to which they object by changing their trading behavior.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. For this reason and the reasons discussed in connection with the statutory basis for the proposed rule change, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

Written comments were neither solicited nor 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.²⁵ 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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2012-053 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2012-053. This file number should be included on the subject line if e-mail is used.

²⁵ 15 U.S.C. 78s(b)(3)(a)(ii).

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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-NASDAQ-2012-053, 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.²⁶

Kevin M. O'Neill
Deputy Secretary

²⁶ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

The text of the proposed rule change is below. Proposed new language is underlined; deletions are bracketed.

7014. Investor Support Program; Extended Hours Investor Program**Investor Support Program**

(a) No change.

(b) Subject to the conditions set forth in section (c) of this Rule, Nasdaq shall issue to the member a monthly ISP credit, which shall be determined by multiplying [~~\$0.0001, \$0.0003, or \$0.0004~~] \$0.00005, \$0.000275, or \$0.000375 by the number of shares of displayed liquidity to which a particular rate applies, as described below.

An ISP credit issued under this Rule will be in addition to (and will not replace) any other credit or rebate for which a member may qualify.

(c) (1) A member shall be entitled to receive an ISP credit at the [~~\$0.0001~~] \$0.00005 rate with respect to all shares of displayed liquidity that are executed at a price of \$1 or more in the Nasdaq Market Center during a given month if:

(A) the member's ISP Execution Ratio for the month in question is less than 10;

(B) the shares of liquidity provided by the member through ISP-designated ports during the month are equal to or greater than 0.2% of the Consolidated Volume during the month;

(C) at least [~~25%~~] 30% of the liquidity provided by the member during the month is provided through ISP-designated ports; and

(D) the member's Participation Ratio for the month equals or exceeds its Baseline Participation Ratio.

(2) A member shall be entitled to receive an ISP credit at the [~~\$0.0003~~] \$0.000275 rate with respect to all shares of displayed liquidity that are executed at a price of \$1 or more in the Nasdaq Market Center and that are entered through ISP-designated ports, and at the [~~\$0.0001~~] \$0.00005 rate with respect to all other shares of displayed liquidity that are executed at a price of \$1 or more in the Nasdaq Market Center during a given month if:

(A) – (D) No change.

(3) Alternatively, a member shall be entitled to receive an ISP credit at the [~~\$0.0003~~] \$0.000275 rate with respect to all shares of displayed liquidity that are executed at a price of \$1 or more in the Nasdaq Market Center and that are entered through ISP-designated ports, and at the [~~\$0.0001~~] \$0.00005 rate with respect to all other shares of displayed liquidity that are executed at a price of \$1 or more in the Nasdaq Market Center during a given month if:

(A) – (F) No change.

(4) A member shall be entitled to receive an ISP credit at the [\$0.0004] \$0.000375 rate with respect to all shares of displayed liquidity that are executed at a price of \$1 or more in the Nasdaq Market Center and that are entered through ISP-designated ports, and at the [\$0.0001] \$0.00005 rate with respect to all other shares of displayed liquidity that are executed at a price of \$1 or more in the Nasdaq Market Center during a given month if:

(A) – (D) No change.

Extended Hours Investor Program

(d) – (f) No change.

Definitions and Certifications

(g) – (h) No change.

[(i) For purposes of all calculations under Rule 7014 for the month of December 2011, NASDAQ will exclude December 27, 2011 if doing so will allow a member to achieve more favorable pricing under the rule.]

* * * * *

7018. Nasdaq Market Center Order Execution and Routing

(a) The following charges shall apply to the use of the order execution and routing services of the Nasdaq Market Center by members for all securities priced at \$1 or more that it trades. For purposes of determining a member's shares of liquidity routed, TFTY, MOPP, SAVE, SOLV, CART, and directed orders are not counted.

(1) Fees for Execution and Routing of Orders in Nasdaq-Listed Securities

[Charge to enter SAVE or SOLV order that executes in the Nasdaq Market Center:] [\$0.0027 per share executed]

Charge to enter [other] orders that execute in the Nasdaq Market Center: \$0.0030 per share executed

Charge to member entering STGY, SCAN, SKNY, or SKIP order that executes in a venue other than the Nasdaq Market Center and charge to member entering a LIST order that executes in a venue other than the Nasdaq Market Center, but not in an opening, re-opening, or closing process: \$0.0030 per share executed

Charge or credit to member entering TFTY, MOPP, SAVE, SOLV, CART, or directed order that executes in a venue other than the Nasdaq Market Center:

Credit of \$0.0005 per share executed for directed orders sent to NASDAQ OMX BX

Charge of \$0.0029 per share executed for directed orders sent to NASDAQ OMX PSX

Charge of \$0.0035 per share executed for other directed orders For TFTY, SOLV, CART, or SAVE orders that execute at NASDAQ OMX PSX, Nasdaq will pass through all fees assessed and rebates offered by NASDAQ OMX PSX

Credit of \$0.0014 for TFTY, SOLV, CART, or SAVE orders that execute at NASDAQ OMX BX

Charge of [~~\$0.0026~~] \$0.0029 per share executed for SAVE or SOLV orders that execute at venues other than NASDAQ OMX BX or NASDAQ OMX PSX

Charge of \$0.0035 per share executed for a MOPP order

Charge of \$0.0005 per share executed for TFTY orders that execute on venues other than NASDAQ OMX BX or NASDAQ OMX PSX

Credit to member for quotes/orders (other than Supplemental Orders) that provide liquidity:

member with shares of liquidity provided in all securities through one of its Nasdaq Market Center market participant identifiers (MPIDs) that represent more than 0.90% of the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities ("Consolidated Volume") during the month:

[\$0.0015 per share executed for quotes/orders that are not displayed] \$0.00295 per share executed for displayed [other] quotes/orders \$0.0017 per share executed for midpoint pegged or midpoint peg post-only orders ("midpoint orders") if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month \$0.0015 per share executed for

midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month \$0.0010 per share executed for other quotes/orders that are not displayed

member (i) that is a registered market maker through one of its Nasdaq Market Center MPIDs in at least 7,000 securities, (ii) with shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent more than 0.75% of Consolidated Volume during the month, and (iii) with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.90% of Consolidated Volume during the month:

[\$0.0015 per share executed for quotes/orders that are not displayed] \$0.00295 per share executed for displayed [other] quotes/orders \$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month \$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month \$0.0010 per share executed for other quotes/orders that are not displayed

member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.45% of Consolidated Volume during the month:

[\$0.0015 per share executed for quotes/orders that are not displayed] \$0.0029 per share executed for displayed [other] quotes/orders \$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month \$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month \$0.0010 per share executed for other quotes/orders that are not displayed

member with an average daily volume in all securities of more than 25 million shares of

[\$0.0010 per share executed for quotes/orders that are not displayed]

liquidity provided through one or more of its Nasdaq Market Center MPIDs during the month:

\$0.0027 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.30% of Consolidated Volume during the month, including shares of liquidity provided with respect to securities that are listed on exchanges other than NASDAQ or NYSE that represent more than 0.10% of Consolidated Volume:

[\$0.0015 per share executed for quotes/orders that are not displayed]
\$0.0029 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with an average daily volume in all securities of more than 20 million shares of liquidity provided through one or more of its Nasdaq Market Center MPIDs:

[\$0.001 per share executed for quotes/orders that are not displayed]
\$0.0025 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of

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| <p>member with shares of liquidity accessed in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.65% of Consolidated Volume during the month; provided that the member also provides a daily average of at least 2 million shares of liquidity in all securities through one or more of its Nasdaq Market Center MPIDs during the month:</p> | <p><u>3 million or fewer shares through midpoint orders during the month</u> <u>\$0.0010 per share executed for other quotes/orders that are not displayed</u></p> <p>[\$0.0015 per share executed for quotes/orders that are not displayed \$0.0029 per share executed for <u>displayed</u> [other] quotes/orders <u>\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month</u> <u>\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month</u> <u>\$0.0010 per share executed for other quotes/orders that are not displayed</u></p> |
| <p>member with shares of liquidity accessed in all securities through one or more of its Nasdaq Market Center MPIDs representing more than 0.45% of Consolidated Volume during the month; provided that the member also provides a daily average of at least 2 million shares of liquidity in all securities through one or more of its Nasdaq Market Center MPIDs during the month:</p> | <p>[\$0.0010 per share executed for quotes/orders that are not displayed] \$0.0025 per share executed for <u>displayed</u> [other] quotes/orders <u>\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month</u> <u>\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month</u> <u>\$0.0010 per share executed for other quotes/orders that are not displayed</u></p> |
| <p>member with (i) shares of liquidity provided in all securities during the month representing 0.10% or more of Consolidated Volume during the month, through one or</p> | <p>[\$0.0010 per share executed for quotes/orders that are not displayed] \$0.0025 per share executed for <u>displayed</u> [other] quotes/orders</p> |

more of its Nasdaq Market Center MPIDs, and (ii) shares of liquidity accessed in all securities during the month representing 0.20% or more of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs:

\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity provided in all securities during the month representing more than 0.10% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs:

[\$0.0010 per share executed for quotes/orders that are not displayed]
 \$0.0025 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity provided in all securities during the month representing more than 0.15% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Option Market MPIDs:

[\$0.0015 per share executed for quotes/orders that are not displayed]
 \$0.0029 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month

\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity provided in all securities during the month representing more than 1.0% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 200,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs:

[\$0.0015 per share executed for quotes/orders that are not displayed]
 \$0.00295 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

[member that provides 3 million shares or more of liquidity through quotes/orders that are not displayed]

[\$0.0015 per share executed for quotes/orders that are not displayed
 \$0.0020 per share executed for other quotes/orders (unless the member qualifies for a higher rebate tier for such orders under another provision of this rule)]

Credit to other members:

[\$0.001 per share executed for quotes/orders that are not displayed]
 \$0.0020 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not

displayed

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| Credit for Supplemental Orders: | \$0.0018 per share executed for Supplemental Orders entered through a Nasdaq Market Center MPID through which the member provides an average daily volume during the month of more than 1 million shares of liquidity via Supplemental Orders \$0.0015 per share executed for other Supplemental Orders |
| LIST order that executes in Nasdaq's closing process: | Applicable charges as provided in Rule 7018(d) |
| LIST order that executes in Nasdaq's opening process: | Applicable charges as provided in Rule 7018(e) |
| LIST order that executes in Nasdaq's halt cross process: | Applicable charges as provided in Rule 7018(f) |

(2) Fees for Execution and Routing of Securities Listed on NYSE

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| [Charge to enter SAVE or SOLV order that executes in the Nasdaq Market Center:] | [\$0.0027 per share executed] |
| Charge to enter [other] orders that execute in the Nasdaq Market Center: | \$0.0030 per share executed |
| Charge to member entering DOTI, STGY, SCAN, SKNY, or SKIP order that executes in a venue other than the Nasdaq Market Center, and charge to member entering a LIST order that executes in a venue other than the Nasdaq Market Center, but not in an opening, closing, or reopening process: | For DOTI orders that execute in NASDAQ OMX BX, NASDAQ will pass-through all fees assessed and rebates offered by NASDAQ OMX BX \$0.0015 credit for orders that add liquidity at the NYSE after routing \$0.0023 fee per share executed for other orders executed at NYSE \$0.0030 fee per share executed for other orders |
| Charge or credit to member entering TFTY, MOPP, SAVE, SOLV, CART, | Credit of \$0.0005 per share executed for directed orders sent to NASDAQ OMX |

or directed order that executes in a venue other than the Nasdaq Market Center:

BX

Charge of \$0.0029 per share executed for directed orders sent to NASDAQ OMX PSX

For directed orders designated as Intermarket Sweep Orders that execute: (i) at venues other than NYSE, NASDAQ OMX BX, or NASDAQ OMX PSX, charge of \$0.0035 per share executed, or (ii) at NYSE, charge of \$0.0025 per share executed

For other directed orders that execute at NYSE: (i) charge of \$0.0024 per share executed for members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 35 million shares of liquidity provided through one or more of its MPIDs, or (ii) charge of \$0.0025 per share executed for other members

For other directed orders, charge of \$0.0035 per share executed

For TFTY, SOLV, CART, or SAVE orders that execute at NASDAQ OMX PSX, Nasdaq will pass through all fees assessed and rebates offered by NASDAQ OMX PSX

Credit of \$0.0014 for TFTY, SOLV, CART, or SAVE orders that execute at NASDAQ OMX BX

For a MOPP order: charge of \$0.0035 per share executed at venues other than NYSE; or charge of \$0.0025 per share executed at NYSE

For TFTY orders that execute: (i) at venues other than NYSE, NASDAQ OMX BX or NASDAQ OMX PSX, charge of \$0.0005 per share executed; or (ii) at the NYSE, charge of [~~\$0.0022~~] \$0.0023 per share executed

For SAVE or SOLV orders that execute: (i) at venues other than NYSE, NASDAQ OMX BX, or NASDAQ OMX PSX, charge of [~~\$0.0026~~] \$0.0029 per share executed, or (ii) at NYSE,

charge of [~~\$0.0022~~] \$0.0023 per share executed

Credit to member for quotes/orders (other than Supplemental Orders) that provide liquidity:

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| member with shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent more than 0.90% of Consolidated Volume during the month: | <p>[\$0.0015 per share executed for quotes/orders that are not displayed] <u>\$0.00295 per share executed for displayed [other] quotes/orders</u> <u>\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month</u> <u>\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month</u> <u>\$0.0010 per share executed for other quotes/orders that are not displayed</u></p> |
| member (i) that is a registered market maker through one of its Nasdaq Market Center MPIDs in at least 7,000 securities, (ii) with shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent more than 0.75% of Consolidated Volume during the month, and (iii) with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.90% of Consolidated Volume during the month: | <p>[\$0.0015 per share executed for quotes/orders that are not displayed] <u>\$0.00295 per share executed for displayed [other] quotes/orders</u> <u>\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month</u> <u>\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month</u> <u>\$0.0010 per share executed for other quotes/orders that are not displayed</u></p> |
| member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.45% | <p>[\$0.0015 per share executed for quotes/orders that are not displayed] <u>\$0.0029 per share executed for displayed [other] quotes/orders</u></p> |

of Consolidated Volume during the month:

\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month

\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month

\$0.0010 per share executed for other quotes/orders that are not displayed

member with an average daily volume in all securities of more than 25 million shares of liquidity provided through one or more of its Nasdaq Market Center MPIDs during the month:

[\$0.0010 per share executed for quotes/orders that are not displayed]

\$0.0027 per share executed for displayed [other] quotes/orders

\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month

\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month

\$0.0010 per share executed for other quotes/orders that are not displayed

member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.30% of Consolidated Volume during the month, including shares of liquidity provided with respect to securities that are listed on exchanges other than NASDAQ or NYSE that represent more than 0.10% of Consolidated Volume:

[\$0.0015 per share executed for quotes/orders that are not displayed]

\$0.0029 per share executed for displayed [other] quotes/orders

\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month

\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month

\$0.0010 per share executed for other

quotes/orders that are not displayed

member with an average daily volume in all securities of more than 20 million shares of liquidity provided through one or more of its Nasdaq Market Center MPIDs:

[\$0.001 per share executed for quotes/orders that are not displayed]
 \$0.0025 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with shares of liquidity accessed in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.65% of Consolidated Volume during the month; provided that the member also provides a daily average of at least 2 million shares of liquidity in all securities through one or more of its Nasdaq Market Center MPIDs during the month:

[\$0.0015 per share executed for quotes/orders that are not displayed]
 \$0.0029 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with shares of liquidity accessed in all securities through one or more of its Nasdaq Market Center MPIDs representing more than 0.45% of Consolidated Volume during the month; provided that the member also provides a daily average of at least 2 million shares of liquidity in all securities through one or more of its Nasdaq

[\$0.0010 per share executed for quotes/orders that are not displayed]
 \$0.0025 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month

Market Center MPIDs during the month: \$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity provided in all securities during the month representing 0.10% or more of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) shares of liquidity accessed in all securities during the month representing 0.20% or more of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs: [\$0.0010 per share executed for quotes/orders that are not displayed]
\$0.0025 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity provided in all securities during the month representing more than 0.10% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs: [\$0.0010 per share executed for quotes/orders that are not displayed]
\$0.0025 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity provided in all securities during the month representing more than 0.15% of Consolidated Volume during the month, [\$0.0015 per share executed for quotes/orders that are not displayed]
\$0.0029 per share executed for displayed [other] quotes/orders

through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs:

\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month

\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month

\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity provided in all securities during the month representing more than 1.0% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 200,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs:

[\$0.0015 per share executed for quotes/orders that are not displayed]

\$0.00295 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month

\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month

\$0.0010 per share executed for other quotes/orders that are not displayed

[member that provides 3 million shares or more of liquidity through quotes/orders that are not displayed]

[\$0.0015 per share executed for quotes/orders that are not displayed]
\$0.0020 per share executed for other quotes/orders (unless the member qualifies for a higher rebate tier for such orders under another provision of this rule)]

Credit to other members:

[\$0.001 per share executed for quotes/orders that are not displayed]
\$0.0020 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3

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| | <u>million shares through midpoint orders during the month</u> <u>\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month</u> <u>\$0.0010 per share executed for other quotes/orders that are not displayed</u> |
| Credit for Supplemental Orders: | \$0.0018 per share executed for Supplemental Orders entered through a Nasdaq Market Center MPID through which the member provides an average daily volume during the month of more than 1 million shares of liquidity via Supplemental Orders \$0.0015 per share executed for other Supplemental Orders |
| Order that is routed to NYSE and then routed to another venue for execution: | NASDAQ will pass-through any routing fees charged to NASDAQ by NYSE |
| DOT or LIST Order that executes in the NYSE closing process: | \$0.00095 per share executed |
| DOT or LIST Order that executes in the NYSE opening process or reopening process: | \$0.0005 per share executed, but not to exceed \$15,000 per month per member |
| Per order charge for round lot or mixed lot DOTI orders: | \$0.01 fee per DOTI Order when during a month: (i) a market participant sends an average of more than 10,000 DOTI Orders per day through one or more of its MPIDs; and (ii) the ratio of DOTI Orders to executions exceeds 300 to 1. The fee will apply to each DOTI Order that exceeds the 300 to 1 ratio. In calculating daily average DOTI Orders, Nasdaq will exclude the day with the highest ratio of DOTI Orders to executions. |

(3) Fees for Execution and Routing of Orders in Securities Listed on Exchanges other than Nasdaq and NYSE ("Tape B Securities")

Charge to member entering order that executes in the Nasdaq Market Center:

[SAVE or SOLV order that executes in the Nasdaq Market Center:] [\$0.0027 per share executed]

order [(other than a SAVE or SOLV order)] entered through a Nasdaq Market Center MPID through which a member (i) accesses shares of liquidity in Tape B Securities that represent more than 1.5% of Consolidated Volume in Tape B Securities during the month, and (ii) provides shares of liquidity in Tape B Securities that represent more than 0.5% of Consolidated Volume in Tape B Securities during the month: \$0.0027 per share executed

order [(other than a SAVE or SOLV order)] entered through a Nasdaq Market Center MPID through which a member (i) accesses shares of liquidity in Tape B Securities that represent more than 0.5% of Consolidated Volume in Tape B Securities during the month, and (ii) provides shares of liquidity in Tape B Securities that represent more than 0.25% of Consolidated Volume in Tape B Securities during the month: \$0.0028 per share executed

other orders that execute in the Nasdaq Market Center: \$0.0030 per share executed

Charge to member entering DOTI, STGY, SCAN, SKNY, or SKIP order that executes in a venue other than the Nasdaq Market Center, and charge to member entering a LIST order that executes in a venue other than the Nasdaq Market Center, but not in an opening, closing or re-

For DOTI orders that execute in NASDAQ OMX BX, Nasdaq will pass through all fees assessed and rebates offered by NASDAQ OMX BX
For other orders, \$0.0030 per share executed

opening process:

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| <p>Charge or credit to member entering TFTY, MOPP, SAVE, SOLV, CART, or directed order that executes in a venue other than the Nasdaq Market Center:</p> | <p>Credit of \$0.0005 per share executed for directed orders sent to NASDAQ OMX BX</p> <p>Charge of \$0.0029 per share executed for directed orders sent to NASDAQ OMX PSX</p> <p>Charge of \$0.0035 per share executed for other directed orders</p> <p>For TFYY, SOLV, CART, or SAVE orders that execute at NASDAQ OMX PSX, Nasdaq will pass through all fees assessed and rebates offered by NASDAQ OMX PSX</p> <p>Credit of \$0.0014 for TFTY, SOLV, CART, or SAVE orders that execute at NASDAQ OMX BX</p> <p>Charge of [\$0.0026] <u>\$0.0029</u> per share executed for SAVE or SOLV orders that execute at venues other than NASDAQ OMX BX or NASDAQ OMX PSX</p> <p>Charge of \$0.0035 per share executed for a MOPP order</p> <p>Charge of \$0.0005 per share executed for TFTY orders that execute in venues other than NASDAQ OMX BX or NASDAQ OMX PSX</p> |
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Credit to member for quotes/orders (other than Supplemental Orders) that provide liquidity:

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| <p>member with shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent more than 0.90% of Consolidated Volume during the month:</p> | <p>[\$0.0015 per share executed for quotes/orders that are not displayed]</p> <p><u>\$0.00295 per share executed for displayed</u></p> <p><u>[other] quotes/orders</u></p> <p><u>\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month</u></p> <p><u>\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month</u></p> <p><u>\$0.0010 per share executed for other quotes/orders that are not displayed</u></p> |
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member (i) that is a registered market maker through one of its Nasdaq Market Center MPIDs in at least 7,000 securities, (ii) with shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent more than 0.75% of Consolidated Volume during the month, and (iii) with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.90% of Consolidated Volume during the month:

[\$0.0015 per share executed for quotes/orders that are not displayed]
 \$0.00295 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.45% of Consolidated Volume during the month:

[\$0.0015 per share executed for quotes/orders that are not displayed]
 \$0.0029 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with an average daily volume in all securities of more than 25 million shares of liquidity provided through one or more of its Nasdaq Market Center MPIDs during the month:

[\$0.0010 per share executed for quotes/orders that are not displayed]
 \$0.0027 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.30% of Consolidated Volume during the month, including shares of liquidity provided with respect to securities that are listed on exchanges other than NASDAQ or NYSE that represent more than 0.10% of Consolidated Volume:

[\$0.0015 per share executed for quotes/orders that are not displayed]
 \$0.0029 per share executed for displayed [other] quotes/orders
 \$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
 \$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
 \$0.0010 per share executed for other quotes/orders that are not displayed

member with an average daily volume in all securities of more than 20 million shares of liquidity provided through one or more of its Nasdaq Market Center MPIDs:

[\$0.001 per share executed for quotes/orders that are not displayed]
 \$0.0025 per share executed for displayed [other] quotes/orders
 \$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
 \$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
 \$0.0010 per share executed for other quotes/orders that are not displayed

member with shares of liquidity accessed in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.65% of Consolidated Volume during the month; provided that the member also provides a daily average of at least 2 million shares of liquidity in all securities through one or more of its Nasdaq Market Center MPIDs during the month:

[\$0.0015 per share executed for quotes/orders that are not displayed]
 \$0.0029 per share executed for displayed [other] quotes/orders
 \$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
 \$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
 \$0.0010 per share executed for other quotes/orders that are not displayed

member with shares of liquidity accessed in all securities through one or more of its Nasdaq Market Center MPIDs representing more than 0.45% of Consolidated Volume during the month; provided that the member also provides a daily average of at least 2 million shares of liquidity in all securities through one or more of its Nasdaq Market Center MPIDs during the month:

[\$0.0010 per share executed for quotes/orders that are not displayed]
 \$0.0025 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity provided in all securities during the month representing 0.10% or more of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) shares of liquidity accessed in all securities during the month representing 0.20% or more of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs:

[\$0.0010 per share executed for quotes/orders that are not displayed]
 \$0.0025 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity provided in all securities during the month representing more than 0.10% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs:

[\$0.0010 per share executed for quotes/orders that are not displayed]
 \$0.0025 per share executed for displayed [other] quotes/orders
\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month
\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month
\$0.0010 per share executed for other quotes/orders that are not displayed

member with (i) shares of liquidity [\$0.0015 per share executed for

| | |
|---|--|
| <p>provided in all securities during the month representing more than 0.15% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs:</p> | <p>quotes/orders that are not displayed] <u>\$0.0029 per share executed for displayed [other] quotes/orders</u> <u>\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month</u> <u>\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month</u> <u>\$0.0010 per share executed for other quotes/orders that are not displayed</u></p> |
| <p>member with (i) shares of liquidity provided in all securities during the month representing more than 1.0% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 200,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs:</p> | <p>[\$0.0015 per share executed for quotes/orders that are not displayed] <u>\$0.00295 per share executed for displayed [other] quotes/orders</u> <u>\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month</u> <u>\$0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month</u> <u>\$0.0010 per share executed for other quotes/orders that are not displayed</u></p> |
| <p>[member that provides 3 million shares or more of liquidity through quotes/orders that are not displayed]</p> | <p>[\$0.0015 per share executed for quotes/orders that are not displayed] <u>\$0.0020 per share executed for other quotes/orders (unless the member qualifies for a higher rebate tier for such orders under another provision of this rule)]</u></p> |
| <p>Credit to other members:</p> | <p>[\$0.001 per share executed for quotes/orders that are not displayed] <u>\$0.0020 per share executed for displayed [other] quotes/orders</u> <u>\$0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month</u> <u>\$0.0015 per share executed for midpoint</u></p> |

orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month \$0.0010 per share executed for other quotes/orders that are not displayed

Credit for Supplemental Orders: 0.0018 per share executed for Supplemental Orders entered through a Nasdaq Market Center MPID through which the member provides an average daily volume during the month of more than 1 million shares of liquidity via Supplemental Orders
\$0.0015 per share executed for other Supplemental Orders

Order that is routed to NYSEAmex or NYSEArca and then routed to another venue for execution: NASDAQ will pass-through any routing fees charged to NASDAQ by NYSEAmex or NYSEArca, as applicable

LIST order that executes in an exchange's closing process: \$0.001 per share executed in the NYSEArca closing process
\$0.00095 per share executed in the NYSEAmex closing process

LIST order that executes in an exchange's opening process: \$0.0005 per share executed in the NYSEArca opening process; provided, however, that total charges for all LIST orders that execute in the NYSEArca opening process shall not exceed \$10,000 per month
\$0.0005 per share executed in the NYSEAmex opening process

LIST order that executes in an exchange's re-opening process: \$0.001 per share executed in the NYSEArca re-opening process
\$0.0005 per share executed in the NYSEAmex re-opening process

(b) The following charges shall apply to the use of the order execution and routing services of the Nasdaq Market Center by members for all orders at all times for all securities priced at less than \$1.

Charge to member entering order that executes in the Nasdaq Market Center: 0.3% of the total transaction cost

Charge to member entering order that routes and executes at an away market: 0.3% of the total transaction cost

[Credit to member providing liquidity through the Nasdaq Market Center:] [\$0.00009 per share executed for securities priced at \$0.05 or more but less than \$1
\$0 per share executed for securities priced at less than \$0.05]

(c) (1) No change.