

Required fields are shown with yellow backgrounds and asterisks.

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

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

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

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

A Proposed Rule Change to Make Minor Modifications to Pricing Incentive Programs under NASDAQ's Schedule of Fees and Credits Applicable to Trading on the NASDAQ Options Market.

Contact Information

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

First Name * Jeffrey	Last Name * Davis
Title * VP and Deputy General Counsel	
E-mail * jeffrey.davis@nasdaqomx.com	
Telephone * (301) 978-8484	Fax (301) 978-8472

Signature

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

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

(Title *)

Date 09/09/2013	Executive Vice President and General Counsel
By Edward S. Knight	
(Name *)	

Edward S Knight,

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

Add Remove View

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

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

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

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

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

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

Add Remove View

Exhibit Sent As Paper Document

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

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Exhibit Sent As Paper Document

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

Exhibit 4 - Marked Copies

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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

Add Remove View

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

Partial Amendment

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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”) a proposal to make minor modifications to pricing incentive programs under NASDAQ’s schedule of fees and credits applicable to trading on the NASDAQ Options Market (“NOM”). Specifically, NASDAQ is proposing to exclude from volume-based pricing calculations any trading day on which NOM is closed for trading due to early closing or a market-wide trading halt. This exclusion exists today for the trading of on NASDAQ’s equities trading facility.³

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 July 17, 2013.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ NASDAQ is not proposing to exclude trading on the day of the Russell Reconstitution from the calculation of volume-based pricing for the trading of options. The Russell Reconstitution has little or no impact on options trading because the options market does not operate a closing cross such as occurs on the equities market. Thus, there is little or no impact on the volume of options trades.

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 immediately.

Questions regarding this rule filing may be directed to Jeffrey S. Davis, Vice President and Deputy General Counsel, NASDAQ OMX, (301) 978-8497.

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

a. Purpose

NASDAQ Options Rule Chapter XV, Section 2 contains a number of pricing incentive programs that are designed to encourage member participation in NOM by increasing rebates or reducing fees for firms that trade on NOM in increasingly higher volumes.

NASDAQ has determined for purposes of calculating Monthly Volume Tiers under Chapter XV, Section 2, any day that the market is not open for the entire trading day should be excluded from such calculation. This formulation would exclude, for example, days on which the market closes early for holiday observances. It would also exclude days where NOM declares a trading halt in all securities or honors a market-wide halt initiated by another market. This would apply to the market-wide trading halt of approximately three hours on August 22, 2013, which NOM plans to exclude from Monthly Volume Tiers for the month of August.

The proposed rule change will impacted billing rates for all eight Monthly Volume Tiers by which NOM determines the rebate per share for firms that add Customer and/or Professional liquidity based on increasing percentages of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a

month (Tiers 1 through 4). It would also apply to the calculation of Average Daily Volume for a specific member (Tiers 5 through 8). The rebates range from \$0.25 to \$0.48 per contract:

Tier 1	Participant adds Customer and/or Professional liquidity of up to 0.20% of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month	\$0.25
Tier 2	Participant adds Customer and/or Professional liquidity of 0.21% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.40
Tier 3	Participant adds Customer and/or Professional liquidity of 0.31% to 0.49% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.43
Tier 4	Participant adds Customer and/or Professional liquidity of 0.5% or more of total industry customer equity and ETF option ADV contracts per day in a month	\$0.45
Tier 5	Participant adds (1) Customer and/or Professional liquidity of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and (3) the Participant executed at least one order on NASDAQ's equity market	\$0.42
Tier 6	Participant has Total Volume of 115,000 or more contracts per day in a month, of which 25,000 or more contracts per day in a month must be Customer and/or Professional liquidity	\$0.45
Tier 7	Participant has Total Volume of 150,000 or more contracts per day in a month, of which 50,000 or more contracts per day in a month must be Customer and/or Professional liquidity	\$0.47
Tier 8	Participant (1) has Total Volume of 325,000 or more contracts per day in a month, or (2) Participant has Total Volume of 200,000 or more contracts per day in a month, of which 70,000 or more contracts per day in a month must be Customer and/or Professional liquidity or (3) adds Customer and/or Professional liquidity of 1.00% or more of national customer volume in multiply-listed equity and ETF options classes in a month.	\$0.48

If the Exchange did not exclude aberrant low volume days when calculating ADV for the month, as a result of the decreased trading volume, the numerator for the calculation (e.g., trading volume) would be correspondingly lower, but the denominator for the threshold calculations (e.g., the number of trading days) would not be decreased. This would result in an effective cost increase.

The proposed rule change would also apply to the monthly volume tiers NOM uses to determine the Rebate to Add Liquidity:

Monthly Volume		Rebate to Add Liquidity
Tier 1	Participant adds NOM Market Maker liquidity in Penny Pilot Options of up to 39,999 contracts per day in a month	\$0.25
Tier 2	Participant adds NOM Market Maker liquidity in Penny Pilot Options of 40,000 to 69,999 contracts per day in a month	\$0.30
Tier 3	Participant adds NOM Market Maker liquidity in Penny Pilot Options of 70,000 to 99,999 contracts per day in a month	\$0.32
Tier 4	Participant adds NOM Market Maker liquidity in Penny Pilot Options of 100,000 or more contracts per day in a month	\$0.32 or \$0.38 in the following symbols BAC, GLD, IWM, QQQ and VXX or \$0.40 in SPY

The proposal does not apply to other transaction fees or rebates in Section 2, or to other fees on the pricing schedule outside of Section 2.

Absent the authority to exclude days that the market is not open for the entire trading day, members will experience an effective increase in fees or decrease in rebates. The artificially low volumes of trading on such days reduce the average daily activity of NOM members both daily and monthly. Accordingly, excluding such days from the monthly calculation will diminish the likelihood of an effective increase in the cost of

trading on NOM, a result that is unintended and undesirable to NOM and to NOM members.

b. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,⁵ 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.

NASDAQ believes that the proposed change to eliminate from the calculation days on which the market is not open the entire trading day is reasonable because it preserves NASDAQ's full intent behind adopting volume-based pricing. The proposed change is equitable and non-discriminatory because it applies equally to all members and to all volume tiers. In the event that NASDAQ identifies a disparate impact on one or another volume tier in the future, NASDAQ may determine to modify that volume tier via an additional proposed rule change.

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. 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

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4) and (5).

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. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed rule change should not impact competition because it merely preserves the intent of NASDAQ's already-filed prices. Moreover, the proposed rule change regarding days on which the market is not open the entire trading day will result in an effective reduction of fees or increase in rebates such that the total cost of trading on NOM should decline. This is evidence that a proposed rule change is pro-competitive rather than anti-competitive.

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)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)⁶

⁶ 15 U.S.C. 78s(b)(3)(A).

of the Act and Rule 19b-4(f)(6) thereunder⁷ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

NASDAQ believes that the proposed rule change does not significantly affect the protection of investors or the public interest because there are very few instances where the rule will actually be invoked. Additionally, when the rule is invoked, the Exchange believes it has little or no impact on trading decisions or execution quality. This belief is based on the Exchange's experience administering a similar rule with respect to the trading of equities. Finally, the Exchange does not believe that the proposed rule change will impose a significant burden on competition. To the contrary, as explained in Section 4 of this Form, NASDAQ believes that the proposed rule change is pro-competitive and that it will result in lower total costs to end users, a positive outcome of competitive markets.

Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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

⁷ 17 CFR 240.19b-4(f)(6).

the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) so that NASDAQ can permit members and investors to benefit from the proposed rule change as quickly as possible. Specifically, as stated earlier, NASDAQ plans to exclude August 22, 2013, from the calculation of volume-based pricing for August of 2013. The decision to do so must be made quickly.

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

The proposed rule in totality is substantially similar to NASDAQ OMX BX Rule 7018(c) which applies to equities trading on NASDAQ OMX BX.⁸

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

Not applicable.

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

Not applicable.

⁸ See also Securities Exchange Act Release No. 56068 (July 13, 2007), 72 F.R. 39866 (July 20, 2007) (SR-NASDAQ-2007-062, establishing Rule 7018(j), which applies the same rule to NASDAQ's equities trading facility).

11. Exhibits

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

EXHIBIT 1SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASDAQ-2013-117)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Minor Modifications to Pricing Incentive Programs under NASDAQ's Schedule of Fees and Credits Applicable to Trading on the NASDAQ Options Market

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 September 9, 2013, 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, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NASDAQ is proposing to make minor modifications to pricing incentive programs under NASDAQ's schedule of fees and credits applicable to trading on the NASDAQ Options Market ("NOM"). Specifically, NASDAQ is proposing to exclude from volume-based pricing calculations any trading day on which NOM is closed for trading due to early closing or a market-wide trading halt. This exclusion exists today for the trading of on NASDAQ's equities trading facility.³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ NASDAQ is not proposing to exclude trading on the day of the Russell Reconstitution from the calculation of volume-based pricing for the trading of

The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com>, at NASDAQ's principal office, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

NASDAQ Options Rule Chapter XV, Section 2 contains a number of pricing incentive programs that are designed to encourage member participation in NOM by increasing rebates or reducing fees for firms that trade on NOM in increasingly higher volumes.

NASDAQ has determined for purposes of calculating Monthly Volume Tiers under Chapter XV, Section 2, any day that the market is not open for the entire trading day should be excluded from such calculation. This formulation would exclude, for example, days on which the market closes early for holiday observances. It would also exclude days where NOM declares a trading halt in all securities or honors a market-wide

options. The Russell Reconstitution has little or no impact on options trading because the options market does not operate a closing cross such as occurs on the equities market. Thus, there is little or no impact on the volume of options trades.

halt initiated by another market. This would apply to the market-wide trading halt of approximately three hours on August 22, 2013, which NOM plans to exclude from Monthly Volume Tiers for the month of August.

The proposed rule change will impacted billing rates for all eight Monthly Volume Tiers by which NOM determines the rebate per share for firms that add Customer and/or Professional liquidity based on increasing percentages of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month (Tiers 1 through 4). It would also apply to the calculation of Average Daily Volume for a specific member (Tiers 5 through 8). The rebates range from \$0.25 to \$0.48 per contract:

Tier 1	Participant adds Customer and/or Professional liquidity of up to 0.20% of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month	\$0.25
Tier 2	Participant adds Customer and/or Professional liquidity of 0.21% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.40
Tier 3	Participant adds Customer and/or Professional liquidity of 0.31% to 0.49% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.43
Tier 4	Participant adds Customer and/or Professional liquidity of 0.5% or more of total industry customer equity and ETF option ADV contracts per day in a month	\$0.45
Tier 5	Participant adds (1) Customer and/or Professional liquidity of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and (3) the Participant executed at least one order on NASDAQ's equity market	\$0.42
Tier 6	Participant has Total Volume of 115,000 or more contracts per day in a month, of which 25,000 or more contracts per day in a month must be Customer and/or Professional liquidity	\$0.45
Tier 7	Participant has Total Volume of 150,000 or more contracts per day in a month, of which 50,000 or more contracts per day in a month must be Customer and/or Professional liquidity	\$0.47
Tier 8	Participant (1) has Total Volume of 325,000 or more contracts per day in a month, or (2) Participant has Total Volume of 200,000 or more contracts per day in a month, of which 70,000 or more contracts per day in a month must be Customer and/or Professional liquidity or (3) adds Customer and/or Professional liquidity of	\$0.48

1.00% or more of national customer volume in multiply-listed equity and ETF options classes in a month.

If the Exchange did not exclude aberrant low volume days when calculating ADV for the month, as a result of the decreased trading volume, the numerator for the calculation (e.g., trading volume) would be correspondingly lower, but the denominator for the threshold calculations (e.g., the number of trading days) would not be decreased. This would result in an effective cost increase.

The proposed rule change would also apply to the monthly volume tiers NOM uses to determine the Rebate to Add Liquidity:

Monthly Volume	Rebate to Add Liquidity
Tier 1 Participant adds NOM Market Maker liquidity in Penny Pilot Options of up to 39,999 contracts per day in a month	\$0.25
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Tier 3 Participant adds NOM Market Maker liquidity in Penny Pilot Options of 70,000 to 99,999 contracts per day in a month	\$0.32
Tier 4 Participant adds NOM Market Maker liquidity in Penny Pilot Options of 100,000 or more contracts per day in a month	\$0.32 or \$0.38 in the following symbols BAC, GLD, IWM, QQQ and VXX or \$0.40 in SPY

The proposal does not apply to other transaction fees or rebates in Section 2, or to other fees on the pricing schedule outside of Section 2.

Absent the authority to exclude days that the market is not open for the entire trading day, members will experience an effective increase in fees or decrease in rebates. The artificially low volumes of trading on such days reduce the average daily activity of NOM members both daily and monthly. Accordingly, excluding such days from the monthly calculation will diminish the likelihood of an effective increase in the cost of trading on NOM, a result that is unintended and undesirable to NOM and to NOM members.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,⁵ 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.

NASDAQ believes that the proposed change to eliminate from the calculation days on which the market is not open the entire trading day is reasonable because it preserves NASDAQ's full intent behind adopting volume-based pricing. The proposed change is equitable and non-discriminatory because it applies equally to all members and to all volume tiers. In the event that NASDAQ identifies a disparate impact on one or

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4) and (5).

another volume tier in the future, NASDAQ may determine to modify that volume tier via an additional proposed rule change.

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. 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. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed rule change should not impact competition because it merely preserves the full intent of NASDAQ's already-filed prices. Moreover, the proposed rule change regarding days on which the market is not open the entire trading day will result in an effective reduction of fees or increase in rebates such that the total cost of trading on NOM should decline. This is evidence that a proposed rule change is pro-competitive rather than anti-competitive.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁶ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁷

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form

(<http://www.sec.gov/rules/sro.shtml>); or

⁶ 15 U.S.C. 78s(b)(3)(a)(ii).

⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2013-117 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-2013-117. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room 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-2013-117, 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.⁸

Kevin M. O'Neill
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined.

Chapter XV Options Pricing

* * * * *

Sec. 2 NASDAQ Options Market—Fees and Rebates

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market for all securities.

(1)–(4) No Change.

(5) For purposes of determining Monthly Volume Tiers under this rule, any day that the market is not open for the entire trading day will be excluded from such calculation.

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