

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

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

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

**Description**

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

Proposed changes to amend Nasdaq Rule 7014 and Nasdaq 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 action.

First Name \* Sean Last Name \* Bennett

Title \* Associate General Counsel

E-mail \* sean.bennett@nasdaq.com

Telephone \* (301) 978-8499 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 09/01/2015 Executive Vice President and General Counsel

By Edward S. Knight

(Name \*)

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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

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

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

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

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

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

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Exhibit Sent As Paper Document

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

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

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) proposed changes to amend Nasdaq Rule 7014, concerning the Exchange’s Market Quality Incentive Programs, and Nasdaq Rule 7018, governing fees and credits assessed for execution and routing of securities.

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 1, 2015. 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 will implement the proposed changes on September 1, 2015.

Questions regarding this rule filing may be directed to T. Sean Bennett, Associate General Counsel, Nasdaq at (301) 978-8499 (telephone).

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

<sup>2</sup> 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 to amend Rule 7014 to increase a rebate it provides under the NBBO Program. Currently, the Exchange provides a rebate per share executed with respect to all other displayed orders (other than Designated Retail Orders, as defined in Rule 7018) in securities priced at \$1 or more per share that provide liquidity and establish the NBBO. The rebate is in addition to any rebate or credit payable under Rule 7018(a) and the ISP and QMM Program under Rule 7014. To qualify for a \$0.0004 per share executed rebate in New York Stock Exchange ("NYSE")-listed securities ("Tape A") or a \$0.0002 per share executed rebate in Nasdaq-listed securities ("Tape C") and in securities listed on exchanges other than Nasdaq and NYSE ("Tape B") (collectively, the "Tapes"), a member firm must either (1) execute shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represents 0.5% or more of Consolidated Volume<sup>3</sup> during the month, or (2) add NOM Market Maker liquidity, as defined in Chapter XV, Section 2 of the Nasdaq Options Market rules, in Penny Pilot Options and/or Non-Penny Pilot Options above 0.90% of total industry customer equity and ETF option ADV contracts per day in a month. The Exchange is proposing to

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<sup>3</sup> Consolidated Volume is defined as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity. See Rule 7018(a).

increase the rebate available in Tape B securities from \$0.0002 per share executed to \$0.0004 per share executed.

Nasdaq also proposes to amend Rule 7018 to add a new credit tier for certain displayed quotes and orders, modify qualification criteria that a member firm must meet to receive certain credits under the rule, eliminate a credit provided for displayed Designated Retail Orders (“DRO”),<sup>4</sup> eliminate certain fee caps applied to Orders that employ the DOT and LIST Order routing strategies, and decrease the charge assessed for a LIST Order in a security listing on a venue other than Nasdaq or NYSE.

The Exchange is proposing to add a new credit of \$0.0030 per share executed for displayed quotes and orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity under Rules 7018(a)(1), (2) and (3). To qualify for the credit, a member firm must have shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.575% or more 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 0.15% or more of Consolidated Volume.

The Exchange is proposing to modify the criteria required to receive a credit for non-displayed orders (other than Supplemental Orders) that provide liquidity. Currently, the Exchange provides a \$0.0025 per share executed credit for midpoint orders if the member firm provides an average daily volume of 5 million or more shares through

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<sup>4</sup> A Designated Retail Order is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 and that originates from a natural person and is submitted to Nasdaq by a member that designates it pursuant to this rule, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Rule 7018.

midpoint orders during the month and either adds Customer<sup>5</sup> and/or Professional<sup>6</sup> liquidity in Penny Pilot Options<sup>7</sup> and/or Non- Penny Pilot Options<sup>8</sup> of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market (“NOM”) rules or adds 8 million shares of non-displayed liquidity (excluding RPI Orders). The Exchange provides this credit in Tape C securities under Rule 7018(a)(1), in Tape A securities under Rule 7018(a)(2) and in Tape B securities under Rule 7018(a)(3). The Exchange is proposing to eliminate the criteria that the member firm either adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the NOM rules applied to each of the Tapes under Rules 7018(a)(1) - (3). The Exchange is also proposing to delete superfluous text concerning exclusion of RPI Orders<sup>9</sup> from counting toward the remaining requirement that the member firm add at least 8 million shares of non-displayed liquidity. The Exchange notes that the RPI program, which was adopted as a

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<sup>5</sup> As defined by NASDAQ Options Rules, Chapter XV.

<sup>6</sup> Id.

<sup>7</sup> The Penny Pilot allows market participants to quote in penny increments in certain series of option classes and is designed to narrow the average quoted spreads in all classes in the Pilot, which may result in customers and other market participants to trade options at better prices. See NASDAQ Options Rules, Chapter XV, Sec. 2(1).

<sup>8</sup> Id.

<sup>9</sup> RPI Order, or Retail Price Improvement Order, was defined by former Nasdaq Rule 4780(a)(3) as an order consisting of non-displayed liquidity on Nasdaq that is priced better than the protected NBBO by at least \$0.001 and that is identified as such.

pilot program to attract retail order flow to the Exchange and allow such order flow to receive potential price improvement, expired on December 31, 2014<sup>10</sup> and therefore rendered the exclusion under Rules 7018(a)(1) - (3) moot.

The Exchange is also proposing to eliminate the \$0.0033 per share executed credit provided to member firms for displayed DROs for each of the Tapes under Rules 7018(a)(1) - (3). In a related change, the Exchange is eliminating the criteria a member firm must satisfy to receive a \$0.0034 per share executed credit provided to member firms for displayed DROs in securities of each of the Tapes under Rules 7018(a)(1) - (3). Currently, to receive the \$0.0034 per share executed credit a member firm must add Customer and/or Professional liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market rules. As a consequence of the two proposed changes to these credits, a member firm that would have qualified for the \$0.0033 per share executed credit will now instead qualify for a higher per share executed credit.

The Exchange is proposing to eliminate certain fee caps under Rule 7018 as well. Currently, under Rule 7018(a)(2) the Exchange assesses a charge of \$0.0015 per share executed for DOT or LIST Orders in Tape A securities that execute in the NYSE opening or re-opening process, but limits the charge assessed member firms to no more than \$5,000 per month when combined with the LIST orders that execute in the NYSEArca

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<sup>10</sup> See Securities Exchange Act Release No. 73182 (September 23, 2014), 79 FR 57995 (September 26, 2014) (SR-NASDAQ-2014-094) (extending the pilot program through December 31, 2014); see also Securities Exchange Act Release No. 75252 (June 22, 2015), 80 FR 36865 (June 26, 2015) (SR-NASDAQ-2015-024) (removing rule text relating to the expired pilot).

and NYSEAmex opening or re-opening process if member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market Rules. The Exchange is eliminating the language concerning the cap and the criteria required to qualify for the fee cap.

The Exchange is also proposing to eliminate the fee caps applied to charges for LIST Orders in Tape B securities that execute in the NYSEArca and NYSEAmex opening or re-opening processes under Rule 7018(a)(3). Under the rule, such orders are assessed a charge of \$0.0005 per share executed. Currently, the Exchange limits the total charges assessed a member firm for all LIST Orders that execute in the NYSEArca opening or re-opening process, to no more than \$10,000 per month. The Exchange is proposing to eliminate this fee cap. In addition, the Exchange provides a second fee cap under the rule. This fee cap limits the total charges assessed for LIST Orders in Tape B securities that execute in the NYSEArca and NYSEAmex opening or re-opening processes when combined with DOT or LIST orders that execute in the NYSE opening process or reopening process to no more than \$5,000 per month. To be eligible for this fee cap, a member firm must add Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market Rules. The Exchange is proposing to eliminate this fee cap. As a consequence of these two changes, member firms will be assessed the

\$0.0005 per share executed charge for every share executed in the opening or re-opening processes of NYSEArca and NYSEAmex.

Lastly, the Exchange is proposing to decrease a charge assessed for LIST Orders that executes in the NYSEArca closing process. Currently, Nasdaq assesses a charge of \$0.0010 per share executed for a LIST Order that executes in the NYSEArca closing process. The Exchange is proposing to reduce the charge from \$0.0010 per share executed to \$0.0005 per share executed.

b. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>11</sup> in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,<sup>12</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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<sup>11</sup> 15 U.S.C. 78f.

<sup>12</sup> 15 U.S.C. 78f(b)(4) and (5).

The Exchange believes that the proposed change to amend Rule 7014(g) is reasonable because it provides an opportunity for members that qualify to receive a higher per share executed rebate for all other displayed orders (other than Designated Retail Orders, as defined in Rule 7018) in Tape B securities priced at \$1 or more per share that provide liquidity and establish the NBBO. Thus the rebate provides incentive to members to provide aggressively priced orders in Tape B securities that improve the market by setting the NBBO. Increasing the Tape B rebate is reflective of the Exchange's desire to improve the market on Nasdaq in Tape B securities in terms of setting the NBBO, which is currently not as robust as price setting in non-Tape B securities. Nasdaq believes the proposed change is equitable and not unfairly discriminatory because the \$0.0004 per share executed rebate under the NBBO Program is available to all members on an equal basis and provides a rebate for activity that improves the Exchange's market quality through increased activity and by encouraging the setting of the NBBO. In this regard, the NBBO Program encourages higher levels of liquidity provision into the price discovery process and is consistent with the overall goals of enhancing market quality.

Nasdaq believes that the proposed new credit of \$0.0030 per share executed provided to a member firm for displayed quotes and orders (other than Supplemental Orders or Designated Retail Orders) is reasonable because it provides incentive to member firms to improve the market for all participants by requiring certain levels of monthly Consolidated Volume in shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs. A significant level of the required Consolidated Volume must be in shares of liquidity provided with respect to securities

that are listed on exchanges other than Nasdaq or NYSE. As a consequence, the Exchange is both providing an incentive to member firms to improve the market in terms of liquidity in securities of all Tapes with an additional requirement that a certain amount of that liquidity be in Tape B securities, the levels of which Nasdaq has determined to increase relative to securities of the other Tapes on Nasdaq. Such improvement liquidity generally benefits the investing public. Nasdaq believes that the proposed change is consistent with an equitable allocation of fees and is not unfairly discriminatory because the Exchange will provide the credit to any member firm that qualifies under the criteria. In addition, the Exchange notes that the proposed change is consistent with the Exchange's approach of providing credits in return for certain market-improving activity that benefits all market participants.

Nasdaq believes that the proposed changes to the criteria required to receive a \$0.0025 per share executed credit for midpoint orders under Nasdaq Rules 7018(a)(1) - (3) are reasonable because the Exchange has determined that removing the criteria may better promote the use of midpoint and non-displayed orders on the Exchange, which provide market-improving liquidity to all market participants. The Exchange believes that the removal of the rule text referencing RPI Orders is reasonable because there is no longer an RPI program on Nasdaq. Consequently, removing the text will help avoid any market participant confusion created by referencing a now-defunct program. The Exchange also believes that these proposed changes are equitable and not unfairly discriminatory because they will be applied uniformly to all market participants and to securities of all three Tapes. As such, all member firms transacting in midpoint orders will have the opportunity to receive the credit, regardless of their participation on NOM.

The Exchange believes the proposed changes to the credits provided for displayed DROs under Rules 7018(a)(1) - (3) are reasonable because they eliminate a lower credit, which did not have qualification criteria, and eliminate the criteria needed to qualify for a higher credit. As such, the proposed changes have the effect of increasing the credit provided to a member firm entering displayed DROs that would not have qualified under the deleted qualification criteria. Making the higher credit available to all market participants may encourage more activity in DROs, thus increasing the level of retail order liquidity available in Nasdaq. Retail orders are likely to reflect long-term investment intentions and therefore promote price discovery and dampen volatility to the benefit of all market participants. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it broadens the availability of credit used as a means to encourage greater retail participation in Nasdaq. Because the presence of retail orders in the Nasdaq market has the potential to benefit all market participants, it is therefore equitable and not unfairly discriminatory to provide financial incentives with respect to such orders. Lastly, the Exchange believes that these proposed changes are equitable and not unfairly discriminatory because all members that add displayed DROs will receive a higher credit than under the current rule, which was previously only available if a member firm also provided certain levels of volume on NOM.

The Exchange believes that the proposed elimination of the fee caps applicable to DOT and LIST Orders participating in the opening or re-opening processes of the exchanges under Rules 7018(a)(2) - (3) are reasonable because Nasdaq has determined that restricting fee liability for DOT and LIST orders is not warranted at this time. The

Exchange notes that it incurs fees in routing DOT and LIST orders for execution and, consequently, Nasdaq does not recapture those fees from routing DOT and LIST orders once a member firm qualifies for the cap. Therefore, elimination of the fee caps will help the Exchange recapture some of the costs it incurs routing DOT and LIST orders, while maintaining the relatively low charge for use of Nasdaq's routing functionality.

Moreover, the Exchange has determined that the market in DOT and LIST Orders is sufficiently robust to not warrant a capped fee. The Exchange also believes that the proposed elimination of the fee caps is equitable and not unfairly discriminatory because all member firms that enter DOT or LIST orders that participate in the opening or re-opening processes of NYSE, NYSEArca and NYSEAmex will be assessed a per share executed charge for all such orders executed thereon.

The Exchange believes the proposed reduction in the charge assessed for LIST Orders that execute in the NYSEArca closing process is reasonable because the Exchange has determined to provide an additional incentive, in the form of a reduced charge, to member firms to enter to enter LIST Orders on the Exchange that receive execution in the NYSEArca closing process. The Exchange also believes that the proposed reduction in the charge assessed for LIST Orders that execute in the NYSEArca closing process is equitable and not unfairly discriminatory because all members that enter LIST Orders NYSEArca-listed securities that are executed in the NYSEArca closing process will receive the lower charge. The Exchange notes that, although it currently charges a higher rate for LIST Orders in NYSEAmex securities that execute in the NYSEAmex closing process, it believes the proposed fee does not discriminate unfairly because the Exchange is providing incentive to market participants to improve the market on Nasdaq in LIST

Orders in NYSEArca securities. The Exchange notes that LIST orders may provide liquidity to Nasdaq prior to executing in the closing cross of another exchange, thereby improving liquidity on Nasdaq.

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. 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. Nasdaq believes that the proposed rule change reflects this competitive environment because it is designed, in part, to increase credits and reduce charges for members that enhance the quality of Nasdaq's market.

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

Nasdaq does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.<sup>13</sup> 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.

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<sup>13</sup> 15 U.S.C. 78f(b)(8).

With regard to the proposed changes, the Exchange is increasing a rebate in an effort to improve market quality. Similarly, the Exchange is providing a new credit to incentivize member firms to add liquidity in the market. Such changes may foster competition among exchanges and other market venues to provide similar incentives, which would benefit all market participants. The Exchange notes that it is eliminating fee caps, which the Exchange has determined is not economically warranted at this juncture. As a consequence, member firms will pay for all executed shares under the respective charges and not for a limited number. The Exchange is also effectively reducing requirements to receive certain credits and reduced fees in an effort to make such reduced fees and credits more attainable, which in turn would improve the market to the extent more member firms meet the remaining criteria required to receive such reduced fees and credits. The Exchange must weigh the costs of offering incentives to market participants against the desired benefit the Exchange seeks to achieve. To the extent these incentives achieve these goals, the Exchange may from time to time adjust the level of incentive to pare back the level of incentive. Conversely, to the extent the incentive is not effective, the Exchange may increase the incentive or adopt an alternative incentive. Such changes are reflective of robust competition among exchanges and other market venues. In sum, if the changes proposed herein are unattractive to market participants it is likely that Nasdaq will lose market share as a result. As such, the Exchange does not believe the proposed changes will place a burden on competition.

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,<sup>14</sup> 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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

5. Text of the proposed rule change.

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

**EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-NASDAQ-2015-105)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Nasdaq Rules 7014 and 7018

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 12, 2015, 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 amend Nasdaq Rule 7014, concerning the Exchange’s Market Quality Incentive Programs, and Nasdaq Rule 7018, governing fees and credits assessed for execution and routing of securities.

The text of the proposed rule change is available at [nasdaq.cchwallstreet.com](http://nasdaq.cchwallstreet.com) at Nasdaq 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

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

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

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 is proposing to amend Rule 7014 to increase a rebate it provides under the NBBO Program. Currently, the Exchange provides a rebate per share executed with respect to all other displayed orders (other than Designated Retail Orders, as defined in Rule 7018) in securities priced at \$1 or more per share that provide liquidity and establish the NBBO. The rebate is in addition to any rebate or credit payable under Rule 7018(a) and the ISP and QMM Program under Rule 7014. To qualify for a \$0.0004 per share executed rebate in New York Stock Exchange ("NYSE")-listed securities ("Tape A") or a \$0.0002 per share executed rebate in Nasdaq-listed securities ("Tape C") and in securities listed on exchanges other than Nasdaq and NYSE ("Tape B") (collectively, the "Tapes"), a member firm must either (1) execute shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represents 0.5% or more of Consolidated Volume<sup>3</sup> during the month, or (2) add NOM Market Maker liquidity, as defined in Chapter XV, Section 2 of the Nasdaq Options Market rules, in Penny Pilot

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<sup>3</sup> Consolidated Volume is defined as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity. See Rule 7018(a).

Options and/or Non-Penny Pilot Options above 0.90% of total industry customer equity and ETF option ADV contracts per day in a month. The Exchange is proposing to increase the rebate available in Tape B securities from \$0.0002 per share executed to \$0.0004 per share executed.

Nasdaq also proposes to amend Rule 7018 to add a new credit tier for certain displayed quotes and orders, modify qualification criteria that a member firm must meet to receive certain credits under the rule, eliminate a credit provided for displayed Designated Retail Orders (“DRO”),<sup>4</sup> eliminate certain fee caps applied to Orders that employ the DOT and LIST Order routing strategies, and decrease the charge assessed for a LIST Order in a security listing on a venue other than Nasdaq or NYSE.

The Exchange is proposing to add a new credit of \$0.0030 per share executed for displayed quotes and orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity under Rules 7018(a)(1), (2) and (3). To qualify for the credit, a member firm must have shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.575% or more 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 0.15% or more of Consolidated Volume.

The Exchange is proposing to modify the criteria required to receive a credit for non-displayed orders (other than Supplemental Orders) that provide liquidity. Currently,

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<sup>4</sup> A Designated Retail Order is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 and that originates from a natural person and is submitted to Nasdaq by a member that designates it pursuant to this rule, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Rule 7018.

the Exchange provides a \$0.0025 per share executed credit for midpoint orders if the member firm provides an average daily volume of 5 million or more shares through midpoint orders during the month and either adds Customer<sup>5</sup> and/or Professional<sup>6</sup> liquidity in Penny Pilot Options<sup>7</sup> and/or Non- Penny Pilot Options<sup>8</sup> of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market (“NOM”) rules or adds 8 million shares of non-displayed liquidity (excluding RPI Orders). The Exchange provides this credit in Tape C securities under Rule 7018(a)(1), in Tape A securities under Rule 7018(a)(2) and in Tape B securities under Rule 7018(a)(3). The Exchange is proposing to eliminate the criteria that the member firm either adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the NOM rules applied to each of the Tapes under Rules 7018(a)(1) - (3). The Exchange is also proposing to delete superfluous text concerning exclusion of RPI Orders<sup>9</sup> from counting toward the

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<sup>5</sup> As defined by NASDAQ Options Rules, Chapter XV.

<sup>6</sup> Id.

<sup>7</sup> The Penny Pilot allows market participants to quote in penny increments in certain series of option classes and is designed to narrow the average quoted spreads in all classes in the Pilot, which may result in customers and other market participants to trade options at better prices. See NASDAQ Options Rules, Chapter XV, Sec. 2(1).

<sup>8</sup> Id.

<sup>9</sup> RPI Order, or Retail Price Improvement Order, was defined by former Nasdaq Rule 4780(a)(3) as an order consisting of non-displayed liquidity on Nasdaq that is priced better than the protected NBBO by at least \$0.001 and that is identified as such.

remaining requirement that the member firm add at least 8 million shares of non-displayed liquidity. The Exchange notes that the RPI program, which was adopted as a pilot program to attract retail order flow to the Exchange and allow such order flow to receive potential price improvement, expired on December 31, 2014<sup>10</sup> and therefore rendered the exclusion under Rules 7018(a)(1) - (3) moot.

The Exchange is also proposing to eliminate the \$0.0033 per share executed credit provided to member firms for displayed DROs for each of the Tapes under Rules 7018(a)(1) - (3). In a related change, the Exchange is eliminating the criteria a member firm must satisfy to receive a \$0.0034 per share executed credit provided to member firms for displayed DROs in securities of each of the Tapes under Rules 7018(a)(1) - (3). Currently, to receive the \$0.0034 per share executed credit a member firm must add Customer and/or Professional liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market rules. As a consequence of the two proposed changes to these credits, a member firm that would have qualified for the \$0.0033 per share executed credit will now instead qualify for a higher per share executed credit.

The Exchange is proposing to eliminate certain fee caps under Rule 7018 as well. Currently, under Rule 7018(a)(2) the Exchange assesses a charge of \$0.0015 per share executed for DOT or LIST Orders in Tape A securities that execute in the NYSE opening

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<sup>10</sup> See Securities Exchange Act Release No. 73182 (September 23, 2014), 79 FR 57995 (September 26, 2014) (SR-NASDAQ-2014-094) (extending the pilot program through December 31, 2014); see also Securities Exchange Act Release No. 75252 (June 22, 2015), 80 FR 36865 (June 26, 2015) (SR-NASDAQ-2015-024) (removing rule text relating to the expired pilot).

or re-opening process, but limits the charge assessed member firms to no more than \$5,000 per month when combined with the LIST orders that execute in the NYSEArca and NYSEAmex opening or re-opening process if member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market Rules. The Exchange is eliminating the language concerning the cap and the criteria required to qualify for the fee cap.

The Exchange is also proposing to eliminate the fee caps applied to charges for LIST Orders in Tape B securities that execute in the NYSEArca and NYSEAmex opening or re-opening processes under Rule 7018(a)(3). Under the rule, such orders are assessed a charge of \$0.0005 per share executed. Currently, the Exchange limits the total charges assessed a member firm for all LIST Orders that execute in the NYSEArca opening or re-opening process, to no more than \$10,000 per month. The Exchange is proposing to eliminate this fee cap. In addition, the Exchange provides a second fee cap under the rule. This fee cap limits the total charges assessed for LIST Orders in Tape B securities that execute in the NYSEArca and NYSEAmex opening or re-opening processes when combined with DOT or LIST orders that execute in the NYSE opening process or reopening process to no more than \$5,000 per month. To be eligible for this fee cap, a member firm must add Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market Rules. The Exchange is proposing to eliminate

this fee cap. As a consequence of these two changes, member firms will be assessed the \$0.0005 per share executed charge for every share executed in the opening or re-opening processes of NYSEArca and NYSEAmex.

Lastly, the Exchange is proposing to decrease a charge assessed for LIST Orders that executes in the NYSEArca closing process. Currently, Nasdaq assesses a charge of \$0.0010 per share executed for a LIST Order that executes in the NYSEArca closing process. The Exchange is proposing to reduce the charge from \$0.0010 per share executed to \$0.0005 per share executed.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>11</sup> in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,<sup>12</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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<sup>11</sup> 15 U.S.C. 78f.

<sup>12</sup> 15 U.S.C. 78f(b)(4) and (5).

The Exchange believes that the proposed change to amend Rule 7014(g) is reasonable because it provides an opportunity for members that qualify to receive a higher per share executed rebate for all other displayed orders (other than Designated Retail Orders, as defined in Rule 7018) in Tape B securities priced at \$1 or more per share that provide liquidity and establish the NBBO. Thus the rebate provides incentive to members to provide aggressively priced orders in Tape B securities that improve the market by setting the NBBO. Increasing the Tape B rebate is reflective of the Exchange's desire to improve the market on Nasdaq in Tape B securities in terms of setting the NBBO, which is currently not as robust as price setting in non-Tape B securities. Nasdaq believes the proposed change is equitable and not unfairly discriminatory because the \$0.0004 per share executed rebate under the NBBO Program is available to all members on an equal basis and provides a rebate for activity that improves the Exchange's market quality through increased activity and by encouraging the setting of the NBBO. In this regard, the NBBO Program encourages higher levels of liquidity provision into the price discovery process and is consistent with the overall goals of enhancing market quality.

Nasdaq believes that the proposed new credit of \$0.0030 per share executed provided to a member firm for displayed quotes and orders (other than Supplemental Orders or Designated Retail Orders) is reasonable because it provides incentive to member firms to improve the market for all participants by requiring certain levels of monthly Consolidated Volume in shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs. A significant level of the required

Consolidated Volume must be in shares of liquidity provided with respect to securities that are listed on exchanges other than Nasdaq or NYSE. As a consequence, the Exchange is both providing an incentive to member firms to improve the market in terms of liquidity in securities of all Tapes with an additional requirement that a certain amount of that liquidity be in Tape B securities, the levels of which Nasdaq has determined to increase relative to securities of the other Tapes on Nasdaq. Such improvement liquidity generally benefits the investing public. Nasdaq believes that the proposed change is consistent with an equitable allocation of fees and is not unfairly discriminatory because the Exchange will provide the credit to any member firm that qualifies under the criteria. In addition, the Exchange notes that the proposed change is consistent with the Exchange's approach of providing credits in return for certain market-improving activity that benefits all market participants.

Nasdaq believes that the proposed changes to the criteria required to receive a \$0.0025 per share executed credit for midpoint orders under Nasdaq Rules 7018(a)(1) - (3) are reasonable because the Exchange has determined that removing the criteria may better promote the use of midpoint and non-displayed orders on the Exchange, which provide market-improving liquidity to all market participants. The Exchange believes that the removal of the rule text referencing RPI Orders is reasonable because there is no longer an RPI program on Nasdaq. Consequently, removing the text will help avoid any market participant confusion created by referencing a now-defunct program. The Exchange also believes that these proposed changes are equitable and not unfairly discriminatory because they will be applied uniformly to all market participants and to

securities of all three Tapes. As such, all member firms transacting in midpoint orders will have the opportunity to receive the credit, regardless of their participation on NOM.

The Exchange believes the proposed changes to the credits provided for displayed DROs under Rules 7018(a)(1) - (3) are reasonable because they eliminate a lower credit, which did not have qualification criteria, and eliminate the criteria needed to qualify for a higher credit. As such, the proposed changes have the effect of increasing the credit provided to a member firm entering displayed DROs that would not have qualified under the deleted qualification criteria. Making the higher credit available to all market participants may encourage more activity in DROs, thus increasing the level of retail order liquidity available in Nasdaq. Retail orders are likely to reflect long-term investment intentions and therefore promote price discovery and dampen volatility to the benefit of all market participants. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it broadens the availability of credit used as a means to encourage greater retail participation in Nasdaq. Because the presence of retail orders in the Nasdaq market has the potential to benefit all market participants, it is therefore equitable and not unfairly discriminatory to provide financial incentives with respect to such orders. Lastly, the Exchange believes that these proposed changes are equitable and not unfairly discriminatory because all members that add displayed DROs will receive a higher credit than under the current rule, which was previously only available if a member firm also provided certain levels of volume on NOM.

The Exchange believes that the proposed elimination of the fee caps applicable to DOT and LIST Orders participating in the opening or re-opening processes of the

exchanges under Rules 7018(a)(2) - (3) are reasonable because Nasdaq has determined that restricting fee liability for DOT and LIST orders is not warranted at this time. The Exchange notes that it incurs fees in routing DOT and LIST orders for execution and, consequently, Nasdaq does not recapture those fees from routing DOT and LIST orders once a member firm qualifies for the cap. Therefore, elimination of the fee caps will help the Exchange recapture some of the costs it incurs routing DOT and LIST orders, while maintaining the relatively low charge for use of Nasdaq's routing functionality.

Moreover, the Exchange has determined that the market in DOT and LIST Orders is sufficiently robust to not warrant a capped fee. The Exchange also believes that the proposed elimination of the fee caps is equitable and not unfairly discriminatory because all member firms that enter DOT or LIST orders that participate in the opening or re-opening processes of NYSE, NYSEArca and NYSEAmex will be assessed a per share executed charge for all such orders executed thereon.

The Exchange believes the proposed reduction in the charge assessed for LIST Orders that execute in the NYSEArca closing process is reasonable because the Exchange has determined to provide an additional incentive, in the form of a reduced charge, to member firms to enter to enter LIST Orders on the Exchange that receive execution in the NYSEArca closing process. The Exchange also believes that the proposed reduction in the charge assessed for LIST Orders that execute in the NYSEArca closing process is equitable and not unfairly discriminatory because all members that enter LIST Orders NYSEArca-listed securities that are executed in the NYSEArca closing process will receive the lower charge. The Exchange notes that, although it currently charges a higher rate for LIST Orders in NYSEAmex securities that execute in the NYSEAmex closing

process, it believes the proposed fee does not discriminate unfairly because the Exchange is providing incentive to market participants to improve the market on Nasdaq in LIST Orders in NYSEArca securities. The Exchange notes that LIST orders may provide liquidity to Nasdaq prior to executing in the closing cross of another exchange, thereby improving liquidity on Nasdaq.

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. 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. Nasdaq believes that the proposed rule change reflects this competitive environment because it is designed, in part, to increase credits and reduce charges for members that enhance the quality of Nasdaq's market.

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

Nasdaq does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.<sup>13</sup> 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.

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<sup>13</sup> 15 U.S.C. 78f(b)(8).

Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices.

With regard to the proposed changes, the Exchange is increasing a rebate in an effort to improve market quality. Similarly, the Exchange is providing a new credit to incentivize member firms to add liquidity in the market. Such changes may foster competition among exchanges and other market venues to provide similar incentives, which would benefit all market participants. The Exchange notes that it is eliminating fee caps, which the Exchange has determined is not economically warranted at this juncture. As a consequence, member firms will pay for all executed shares under the respective charges and not for a limited number. The Exchange is also effectively reducing requirements to receive certain credits and reduced fees in an effort to make such reduced fees and credits more attainable, which in turn would improve the market to the extent more member firms meet the remaining criteria required to receive such reduced fees and credits. The Exchange must weigh the costs of offering incentives to market participants against the desired benefit the Exchange seeks to achieve. To the extent these incentives achieve these goals, the Exchange may from time to time adjust the level of incentive to pare back the level of incentive. Conversely, to the extent the incentive is not effective, the Exchange may increase the incentive or adopt an alternative incentive. Such changes are reflective of robust competition among exchanges and other market venues. In sum, if the changes proposed herein are unattractive to market participants it is likely that Nasdaq will lose market share as a result. As such, the Exchange does not believe the proposed changes will place a burden on competition.

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 change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>14</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2015-105 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-NASDAQ-2015-105. 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-2015-105, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

Robert W. Errett  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

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

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**7014. Market Quality Incentive Programs**

\* \* \* \* \*

**NBBO Program**

(g) Nasdaq will provide a rebate per share executed with respect to all other displayed orders (other than Designated Retail Orders, as defined in Rule 7018) in securities priced at \$1 or more per share that provide liquidity and establish the NBBO. The rebate will be in addition to any rebate or credit payable under Rule 7018(a) and the ISP and QMM Program under Rule 7014.

To qualify for the \$0.0004 per share executed NBBO Program rebate in NYSE-listed securities and in Securities Listed on Exchanges other than Nasdaq and NYSE and the \$0.0002 per share executed NBBO Program rebate in Nasdaq-listed Securities[ and in Securities Listed on Exchanges other than Nasdaq and NYSE], a member must either:

- (1) Execute shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represents 0.5% or more of Consolidated Volume during the month, or
- (2) Add NOM Market Maker liquidity, as defined in Chapter XV, Section 2 of the Nasdaq Options Market rules, in Penny Pilot Options and/or Non-Penny Pilot Options above 0.90% of total industry customer equity and ETF option ADV contracts per day in a month.

\* \* \* \* \*

**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, MOPB, MOPP, SAVE, SOLV, CART, QDRK, QCST and directed orders are not counted. As used in this rule, the term "Consolidated Volume" shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume

and the member's trading activity.

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

\* \* \* \* \*

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

\* \* \* \* \*

<u>member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.575% or more 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 0.15% or more of Consolidated Volume:</u>	<u>\$0.0030 per share executed</u>
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\* \* \* \* \*

Credit for non-displayed orders (other than Supplemental Orders) that provide liquidity:	\$0.0025 per share executed for midpoint orders if the member provides an average daily volume of 5 million or more shares through midpoint orders during the month and[ either adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market rules or] adds 8 million shares of non-displayed liquidity[ (excluding RPI Orders)]
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\* \* \* \* \*

Credit for displayed Designated	[\$0.0033 per share executed or ]\$0.0034 per share
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Retail Orders:\*

executed[ if member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market rules]

\* \* \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.575% or more 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 0.15% or more of Consolidated Volume:

\$0.0030 per share executed

\* \* \* \* \*

Credit for non-displayed orders (other than Supplemental Orders) that provide liquidity:

\$0.0025 per share executed for midpoint orders if the member provides an average daily volume of 5 million or more shares through midpoint orders during the month and[ either adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to

Chapter XV, Section 2 of the Nasdaq Options Market rules or] adds 8 million shares of non-displayed liquidity[ (excluding RPI Orders)]

\* \* \* \* \*

Credit for displayed Designated Retail Orders:\*

[\$0.0033 per share executed or ]\$0.0034 per share executed[ if member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market rules]

\* \* \* \* \*

Charge for DOT or LIST Order that executes in the NYSE opening process or reopening process:

\$0.0015 per share executed.[ Not to exceed \$5,000 per month when combined with the LIST orders that execute in the NYSEArca and NYSEAmex opening or re-opening process if member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market Rules]

\* \* \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

member with shares of liquidity provided in all securities through

\$0.0030 per share executed

one or more of its Nasdaq Market Center MPIDs that represent 0.575% or more 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 0.15% or more of Consolidated Volume:

\* \* \* \* \*

Credit for non-displayed orders (other than Supplemental Orders) that provide liquidity:	\$0.0025 per share executed for midpoint orders if the member provides an average daily volume of 5 million or more shares through midpoint orders during the month and[ either adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market rules or] adds 8 million shares of non-displayed liquidity[ (excluding RPI Orders)]
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\* \* \* \* \*

Credit for displayed Designated Retail Orders:*	[\$0.0033 per share executed or ]\$0.0034 per share executed[ if member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market rules]
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\* \* \* \* \*

Charge for LIST order that executes in an exchange's closing process:	\$0.00[1]05 per share executed in the NYSEArca closing process \$0.00095 per share executed in the NYSEAmex closing process
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Charge for LIST order that executes in an exchange's	\$0.0005 per share executed in the NYSEArca opening or re-opening process[; provided, however,
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opening or re-opening process: that total charges for all LIST orders that execute in the NYSEArca opening or re-opening process shall not exceed \$10,000 per month]  
 \$0.0005 per share executed in the NYSEAmex opening or re-opening process  
 [Not to exceed \$5,000 per month when executed in the NYSEArca and NYSEAmex opening or re-opening process combined with the DOT or List Orders that execute in the NYSE opening process or reopening process if member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market Rules]

**(b) – (m)** No change.

\* \* \* \* \*

\* A “Designated Retail Order” is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 and that originates from a natural person and is submitted to Nasdaq by a member that designates it pursuant to this rule, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. An order from a “natural person” can include orders on behalf of accounts that are held in a corporate legal form -- such as an Individual Retirement Account, Corporation, or a Limited Liability Company -- that has been established for the benefit of an individual or group of related family members, provided that the order is submitted by an individual. Members must submit a signed written attestation, in a form prescribed by Nasdaq, that they have implemented policies and procedures that are reasonably designed to ensure that substantially all orders designated by the member as “Designated Retail Orders” comply with these requirements. Orders may be designated on an order-by-order basis, or by designating all orders on a particular order entry port as Designated Retail Orders.

\* \* \* \* \*