

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 \*).

NASDAQ Options Fees

**Contact Information**

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

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

**Signature**

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

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

(Title \*)

Date 10/01/2015 Executive Vice President and General Counsel  
By Edward S. Knight

edward.knight@nasdaq.com

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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

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

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

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

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

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

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Exhibit Sent As Paper Document

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

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

1. Text of the Proposed Rule Change

(a) 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”) a proposed rule change to amend Chapter XV, entitled “Options Pricing,” at Section 2, which governs pricing for NASDAQ members using the NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options, to amend the Customer,<sup>3</sup> Professional<sup>4</sup> and NOM Market Maker<sup>5</sup> Penny Pilot<sup>6</sup> and Non-Penny Pilot Options Rebates to Add Liquidity.

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

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

<sup>3</sup> The term “Customer” applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of broker or dealer or for the account of a “Professional” (as that term is defined in Chapter I, Section 1(a)(48)).

<sup>4</sup> The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

<sup>5</sup> The term “NOM Market Maker” means a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

<sup>6</sup> See Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR-NASDAQ-2008-026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009)(SR-NASDAQ-2009-091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009)(SR-NASDAQ-2009-097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and a copy of the applicable rule text is attached hereto 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

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(February 1, 2010), 75 FR 6239 (February 8, 2010) (SR-NASDAQ-2010-013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR-NASDAQ-2010-053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR-NASDAQ-2011-169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR-NASDAQ-2012-075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR-NASDAQ-2012-143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013); 69787 (June 18, 2013), 78 FR 37858 (June 24, 2013) (SR-NASDAQ-2013-082) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2013); 71105 (December 17, 2013), 78 FR 77530 (December 23, 2013) (SR-NASDAQ-2013-154) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2014); 79 FR 31151 (May 23, 2014), 79 FR 31151 (May 30, 2014) (SR-NASDAQ-2014-056) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2014); 73686 (December 2, 2014), 79 FR 71477 (November 25, 2014) (SR-NASDAQ-2014-115) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2015) and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR-NASDAQ-2015-063) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted.) See also NOM Rules, Chapter VI, Section 5.

pursuant to delegated authority. No other action by NASDAQ is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to Angela Saccomandi Dunn, Associate General Counsel, The NASDAQ OMX Group, Inc. at (215) 496-5692.

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

a. Purpose

The Exchange proposes to amend Chapter XV, Section 2, entitled “NASDAQ Options Market – Fees and Rebates” to amend the Customer, Professional and NOM Market Maker Penny Pilot Options Rebates to Add Liquidity and to amend a Customer Non-Penny Pilot Options Rebate to Add Liquidity. Each of the proposed rule changes will be detailed below.

Proposed Change Number 1: Customer and Professional Penny Pilot Options Rebates to Add Liquidity

Today, the Exchange offers tiered Penny Pilot Options Rebates to Add Liquidity to Customers and Professionals based on various criteria with rebates ranging from \$0.20 to \$0.48 per contract. Participants may qualify for Customer and Professional Penny Pilot Options Rebates to Add Liquidity by adding a certain amount of liquidity as specified by each tier.<sup>7</sup>

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<sup>7</sup> Tiers 6 and 7 are calculated based on Total Volume. Total Volume is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM. See note “b” in Section 2(1) of Chapter XV. The Exchange utilizes data from OCC to determine the total industry customer equity and ETF options ADV figure. OCC classifies equity and ETF options volume under the equity options category. Also, both customer

*Tier 9*

The Exchange proposes to adopt a new Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier. New Tier 9 would pay a \$0.50 per contract rebate to Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 1.15% to 1.40% of total industry customer equity and ETF option average daily volume (“ADV”) contracts per day in a month. This new rebate tier is similar to the current requirement to obtain the \$0.02 incentive in note “e” for Tier 8 today.<sup>8</sup> The Exchange believes that this new rebate tier will encourage Participants to add even more liquidity on NOM to earn the higher rebate.

*Tier 10*

The Exchange proposes to adopt a new Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier. New Tier 10 would pay a \$0.51 per contract rebate to Participants that (1) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.85% of total industry customer equity and ETF option ADV contracts per day in

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and professional orders that are transacted on options exchanges clear in the customer range at OCC and therefore both customer and professional volume would be included in the total industry figure to calculate rebate tiers.

<sup>8</sup> Today, Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity and also add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month receive an additional \$0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. The \$0.02 per contract incentive is in addition to the \$0.48 Tier 8 Customer and Professional Penny Pilot Options rebate for a total of \$0.50 per contract. See note 12 herein for an explanation of the Tier 8 rebate.

a month and (2) the Participant has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs<sup>9</sup> that represent 1.00% or more of Consolidated Volume during the month. The Exchange believes that this new rebate tier will encourage Participants to add even more liquidity on NOM to earn the higher rebate.

*Tier 11*

The Exchange proposes to adopt a new Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier. New Tier 11 would pay a \$0.53 per contract rebate to Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 1.40% of total industry customer equity and ETF option ADV contracts per day in a month. This new rebate tier is similar to the current requirement to obtain the \$0.05 incentive in note “e” for Tier 8 today.<sup>10</sup> The Exchange believes that this new rebate tier will encourage Participants to add even more liquidity on NOM to earn the higher rebate.

*Note “d” of the Chapter XV, Section 2(1)*

Currently, note “d” of Chapter XV, Section 2(1) states that Participants that

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<sup>9</sup> MPIDS are four character alpha code market participant identifiers used to report trades.

<sup>10</sup> Today, Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity and also add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month receive an additional \$0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. The \$0.05 per contract incentive is in addition to the \$0.48 Tier 8 Customer and Professional Penny Pilot Options rebate for a total of \$0.53 per contract.

qualify for Customer or Professional Rebate to Add Liquidity Tiers 7<sup>11</sup> or 8<sup>12</sup> in a given month will be assessed a Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options of \$0.50 per contract. Currently, the Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options is \$0.54 per contract for these Participants. The Exchange proposes to remove this incentive to obtain a lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options from Tier 7 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity. This incentive will remain for Tier 8, as is the case today, and will be applicable to newly proposed Tiers 9, 10 and 11 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity. The Exchange desires to incentivize market participants to add liquidity in the highest four tiers in order to obtain the lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot

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<sup>11</sup> Tier 7 of the Customer and Professional Rebate to Add Liquidity Tiers pays a \$0.47 per contract rebate to Participants that have 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 in Penny Pilot Options. "Total Volume" is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM.

<sup>12</sup> Tier 8 of the Customer and Professional Rebate to Add Liquidity Tiers pays a \$0.48 per contract rebate to Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and/or (3) the Participant qualifies for rebates under the Qualified Market Maker Program set forth in Rule 7014.



Options. Note “d” will be amended to remove Tier 7 and add Tiers 9, 10 and 11.

*Note “e” of the Chapter XV, Section 2(1)*

Currently, note “e” of Chapter XV, Section 2(1) states that Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional \$0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional \$0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. This note “e” incentive applies solely to the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity.<sup>13</sup> The Exchange proposes to remove the note “e” incentive from Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity. The Exchange believes that this incentive is no longer necessary as it is offering Participants the opportunity to obtain the additional \$0.02 per contract incentive to Tier 8 with the newly proposed Tier 9 Customer and Professional Penny Pilot Options Rebate to Add Liquidity and the additional \$0.05 incentive to Tier 8

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<sup>13</sup>

Id.

with the newly proposed Tier 11 Customer and Professional Penny Pilot Options Rebate to Add Liquidity.<sup>14</sup> Note “e” will be deleted from Chapter XV, Section 2(1). The Exchange is also proposing to remove the period at the end of Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity for consistency.

Proposed Change Number 2: Customer Non-Penny Pilot Options Rebate to Add Liquidity

*Note “3” of the Chapter XV, Section 2(1)*

The Exchange currently pays a Customer Non-Penny Pilot Options Rebate to Add Liquidity of \$0.84 per contract. Currently, note “3” of Chapter XV, Section 2(1) states that a Participant that qualifies for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 in a given month will receive an additional \$0.01 per contract Non-Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month. The Exchange proposes to continue to offer this incentive for the Non-Penny Pilot Options Customer Rebate to Add Liquidity, however, the Exchange proposes to amend the applicable tiers to extend the incentive to newly proposed Tiers 9, 10 and 11, in addition to Tiers 7 and 8. The Exchange believes that this incentive will encourage Participants to add even more liquidity on NOM to earn the higher Non-Penny Pilot Options Customer Rebate to Add Liquidity.

Proposed Change Number 3: NOM Market Maker Penny Pilot Rebates to Add Liquidity

Today, the Exchange pays NOM Market Maker Penny Pilot Options Rebates to Add Liquidity based on various criteria in six tiers with rebates which range from \$0.20 to \$0.42 per contract as noted below.

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<sup>14</sup> See notes 8 and 10 herein.

<b>Monthly Volume</b>		<b>Rebate to Add Liquidity</b>
<b>Tier 1</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of up to 0.10% of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month	\$0.20
<b>Tier 2</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to 0.25% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.25
<b>Tier 3</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.25% to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.30 or \$0.40 in the following symbols AAPL, QQQ, IWM, SPY and VXX
<b>Tier 4</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.60% to 0.90% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.32 or \$0.40 in the following symbols AAPL, QQQ, IWM, VXX and SPY
<b>Tier 5</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options	\$0.40
<b>Tier 6</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above	\$0.42

0.90% of total industry customer equity and ETF option ADV contracts per day in a month or Participants that add Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month

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#### *Tier 5*

The Exchange proposes to amend Tier 5 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity which currently provides that a \$0.40 per contract rebate will be paid to Participants that adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options. The Exchange proposes to extend the qualification for the Tier 5 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to apply to newly proposed Tiers 9, 10 and 11, in addition to current Tiers 7 and 8. The Exchange believes that this incentive will encourage Participants to add even more liquidity on NOM to earn the NOM Market Maker Penny Pilot Options rebate.

#### *Tier 6*

The Exchange proposes to amend Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity which currently provides that a \$0.42 per contract rebate will be paid to a Participant that adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8

Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or Participant adds NOM Market Maker liquidity 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 or Participants that add Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month. The Exchange proposes to extend the qualification for Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to apply to newly proposed Tiers 9, 10 and 11, in addition to current Tiers 7 and 8. The Exchange believes that this incentive will encourage Participants to add even more liquidity on NOM to earn the NOM Market Maker rebate.

b. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>15</sup> in general, and with Section 6(b)(4) and 6(b)(5) of the Act,<sup>16</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 not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Customer volume is important because it continues to attract liquidity to the Exchange, which benefits all market participants. Further, with respect to Professional liquidity, the Exchange initially established

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

<sup>16</sup> 15 U.S.C. 78f(b)(4) and (5).

Professional pricing in order to “...bring additional revenue to the Exchange.”<sup>17</sup> The Exchange noted in the Professional Filing that it believes “...that the increased revenue from the proposal would assist the Exchange to recoup fixed costs.”<sup>18</sup> Further, the Exchange noted in that filing that it believes that establishing separate pricing for a Professional, which ranges between that of a Customer and market maker, accomplishes this objective.<sup>19</sup> The Exchange believes that offering NOM Market Makers the ability to obtain higher rebates will continue to encourage additional order interaction on the Exchange. NOM Market Makers have obligations to the market, unlike other market participants.<sup>20</sup>

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<sup>17</sup> See Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR-NASDAQ-2011-066) (“Professional Filing”). In this filing, the Exchange addressed the perceived favorable pricing of Professionals who were assessed fees and paid rebates like a Customer prior to the filing. The Exchange noted in that filing that a Professional, unlike a retail Customer, has access to sophisticated trading systems that contain functionality not available to retail Customers.<sup>17</sup>

<sup>18</sup> See Professional Filing.

<sup>19</sup> See Professional Filing. The Exchange also in the Professional Filing that it believes the role of the retail Customer in the marketplace is distinct from that of the Professional and the Exchange’s fee proposal at that time accounted for this distinction by pricing each market participant according to their roles and obligations.

<sup>20</sup> Pursuant to NOM Rules at Chapter VII, Section 5, entitled “Obligations of Market Makers”, in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a NOM Market Maker must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. See Chapter VII, Section 2.

Proposed Change Number 1: Customer and Professional Penny Pilot Options Rebates to Add Liquidity

*Tier 9*

The Exchange's proposal to adopt a new Tier 9 Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier is reasonable because this rebate equates to the same rebate offered to Participants that qualify for current Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 and the note "e" incentive, which qualifies the Participant for a \$0.02 per contract incentive. The note "e" incentive is being deleted as per this proposal. The new Tier 9 rebate provides Participants the opportunity to continue to earn the higher rebate of \$0.50 per contract rebate,<sup>21</sup> provided the qualifications are met. The Exchange believes that this new rebate tier will continue to incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume on NOM, which liquidity will benefit other market participants by providing them the opportunity to interact with that liquidity. The Exchange's proposal to adopt a new Tier 9 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is equitable and not unfairly discriminatory because all Participants that qualify to receive the new Tier 9 Customer and Professional Penny Pilot Options Rebate to Add Liquidity will be uniformly paid the rebate provided the requirements are met. In addition, all Participants are eligible to receive these rebates provided the criteria is met.

*Tier 10*

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<sup>21</sup> See note 8 herein.

The Exchange's proposal to adopt a new Tier 10 Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier is reasonable because the opportunity to earn a higher rebate of \$0.51 per contract rebate, provide the qualifications are met, will incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume, which liquidity will benefit other market participants by providing them the opportunity to interact with that liquidity. The Exchange's proposal to adopt a new Tier 10 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is equitable and not unfairly discriminatory because all Participants that qualify to receive the new Tier 10 Customer and Professional Penny Pilot Options Rebate to Add Liquidity will be uniformly paid the rebate provided the requirements are met. In addition, all Participants are eligible to receive these rebates provided the criteria is met.

*Tier 11*

The Exchange's proposal to adopt a new Tier 11 Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier is reasonable because this rebate equates to the same rebate offered to Participants that qualify for current Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity and the note "e" incentive, which provides a \$0.05 per contract incentive. The note "e" incentive is being deleted as per this proposal. The new Tier 11 rebate provides Participants the opportunity to continue to earn the higher rebate of \$0.53 per contract rebate,<sup>22</sup> provide the qualifications are met. The Exchange believes that this new rebate tier will continue to incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume on NOM, which will benefit other market participants by providing

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<sup>22</sup>

See note 10 herein.



them the opportunity to interact with that liquidity. The Exchange's proposal to adopt a new Tier 11 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is equitable and not unfairly discriminatory because all Participants that qualify to receive the new Tier 11 Customer and Professional Penny Pilot Options Rebate to Add Liquidity will be uniformly paid the rebate provided the requirements are met. In addition, all Participants are eligible to receive these rebates, provided the criteria is met.

*Note "d" of the Chapter XV, Section 2(1)*

The Exchange's proposal to remove the incentive in note "d" from Tier 7 and continue to apply the incentive to Tier 8 and add the incentive to newly proposed Tiers 9, 10 and 11 is reasonable because the Exchange desires to incentivize market participants to add liquidity in the highest four tiers in order to obtain the lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options.<sup>23</sup> The Exchange is proposing herein to adopt new Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tiers 9, 10 and 11. This proposal will shift the applicability of note "d" to the new four highest rebate tiers. The Exchange's proposal to remove the incentive in note "d" from Tier 7 and continue to apply the incentive to Tier 8 and add the incentive to newly proposed Tiers 9, 10 and 11 is equitable and not unfairly discriminatory because the Exchange will uniformly apply the incentive to all Participants. No Participant will receive the incentive in note "d" for Tier 7 and all Participants that have met the Customer and Professional

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<sup>23</sup> Currently, the Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options is \$0.54 per contract for these Participants.

Penny Pilot Options Rebate to Add Liquidity Tier 8, 9, 10 or 11 criteria would receive the note “d” incentive.

*Note “e” of the Chapter XV, Section 2(1)*

The Exchange’s proposal to remove the note “e” incentive from current Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 is reasonable because the Exchange is offering Participants the opportunity to obtain the additional \$0.02 per contract incentive to current Tier 8 with newly proposed Tier 9 of the Customer and Professional rebates and the additional \$0.05 incentive to current Tier 8 with newly proposed Tier 11 of the Customer and Professional rebates.<sup>24</sup> The Exchange’s proposal to remove the note “e” incentive from current Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 is equitable and not unfairly discriminatory because no Participant will be entitled to receive the note “e” incentive.

The Exchange’s proposal to remove the period at the end of Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 for consistency is reasonable, equitable and not unfairly discriminatory.

Proposed Change Number 2: Customer Non-Penny Pilot Options Rebate to Add Liquidity

*Note “3” of the Chapter XV, Section 2(1)*

The Exchange’s proposal to amend the note “3” incentive for Participants that qualify for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 to include newly proposed Tiers 9, 10 and 11 is reasonable because the Exchange is proposing to incentivize Participants to add more liquidity on NOM to earn the higher

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<sup>24</sup> See notes 8 and 10 herein.

Customer Non-Penny Pilot Options Rebate to Add Liquidity. With this proposal, any Participant that qualifies for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7, 8, 9, 10 or 11 in a given month will receive an additional \$0.01 per contract Non-Penny Pilot Options Customer Rebate to Add Liquidity for a total rebate of \$0.85 per contract.<sup>25</sup> The Exchange's proposal to amend the note "3" incentive for Participants that qualify for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 to include newly proposed Tiers 9, 10 and 11 is equitable and not unfairly discriminatory because all Participants are eligible to receive the Non-Penny Pilot Customer rebate and further to qualify for the note "3" incentive, provided the criteria is met.

Proposed Change Number 3: NOM Market Maker Penny Pilot Rebates to Add Liquidity

*Tier 5*

The Exchange's proposal to amend Tier 5 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity, which currently pays a \$0.40 per contract rebate to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options, to include newly proposed Customer and/or Professional rebate Tiers 9, 10 and 11, is reasonable because Participants will be encouraged to add even more liquidity on NOM to earn the NOM Market Maker rebate. It is reasonable to include the newly added higher Customer and/or Professional rebate Tiers 9, 10 and 11, in addition to current highest Customer

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<sup>25</sup> Currently, the Exchange pays Customers a Non-Penny Pilot Options Rebate to Add Liquidity of \$0.84 per contract.

and/or Professional rebate Tiers 7 and 8, to qualify for the Tier 5 NOM Market Maker rebate as those Participants are required to add greater liquidity in the newly proposed Customer and/or Professional rebate tiers. The Exchange will continue to permit Tiers 7 and 8 to qualify for this added incentive. The Exchange's proposal to amend Tier 5 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options, to include newly proposed Customer and Professional rebate Tiers 9, 10 and 11, is equitable and not unfairly discriminatory because all Participants are eligible to receive the NOM Market Maker Penny Pilot Options Tier 5 rebate, provided the criteria is met.

#### *Tier 6*

The Exchange's proposal to amend Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity, which currently provides that a \$0.42 per contract rebate will be paid to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 and now newly proposed Customer and/or Professional Rebate Tiers 9, 10 or 11 or Participant adds NOM Market Maker liquidity 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 or Participants that add Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-

Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month, is reasonable for the reasons that follow. This incentive will encourage Participants to add even more liquidity on NOM to earn the NOM Market Maker rebate. It is reasonable to include the newly added higher Customer and/or Professional rebate Tiers 9, 10 and 11, in addition to current highest Customer and/or Professional rebate Tiers 7 and 8, to qualify for the Tier 5 NOM Market Maker rebate as those Participants are required to add greater liquidity in the newly proposed Customer and/or Professional rebate tiers. The Exchange will continue to permit Tiers 7 and 8 to qualify for this added incentive. The Exchange's proposal to permit newly proposed Customer and Professional rebate Tiers 9, 10 and 11 to be added to the Tier 6 NOM Market Maker Penny Pilot Options Rebate to Add Liquidity qualifications, in addition to current Tiers 7 and 8, to meet the Tier 6 criteria, in addition to the other requirements of Tier 6, is equitable and not unfairly discriminatory because all Participants are eligible to receive the NOM Market Maker Penny Pilot Options Tier 6 rebate, provided the criteria is met.

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

NASDAQ does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Proposed Change Number 1: Customer and Professional Penny Pilot Options Rebates to Add Liquidity

*Tiers 9, 10 and 11*

The Exchange's proposal to adopt new Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tiers 9, 10 and 11 does not impose an undue burden on intra-market competition because all Participants are eligible for Tiers 9, 10 and 11 of the

Customer or Professional rebates provided they meet the qualifications for those rebates. Further, the rebates will be uniformly paid to those Participants that are eligible for the rebate. Additionally newly proposed Tiers 9 and 11 rebates are available today provided Participants qualify for Tier 8 and the incentives available in note "e," respectively.

*Note "d" of the Chapter XV, Section 2(1)*

The Exchange's proposal to remove the incentive in note "d" from Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 7 incentive and continue to apply the incentive to Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 and add the incentive to newly proposed Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tiers 9, 10 and 11 does not impose an undue burden on intra-market competition because the Exchange will uniformly apply the incentive to all Participants. No Participant will receive the incentive in note "d" for Tier 7 and all Participants that have met the criteria for Customer and Professional rebate Tiers 8, 9, 10 and 11 would receive the note "d" incentive.

*Note "e" of the Chapter XV, Section 2(1)*

The Exchange's proposal to remove the note "e" incentive from Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 does not impose an undue burden on intra-market competition because Participants are being offered the opportunity to obtain the current additional \$0.02 per contract rebate offered in note "e" to Participants that currently qualify for Tier 8 with the newly proposed Tier 9 Customer and Professional rebate and the additional \$0.05 per contract incentive to current Tier 8 with the newly proposed Tier 11 Customer and Professional rebate.<sup>26</sup>

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<sup>26</sup> See notes 8 and 10 herein.

Proposed Change Number 2: Customer Non-Penny Pilot Options Rebate to Add Liquidity

*Note “3” of the Chapter XV, Section 2(1)*

The Exchange’s proposal to apply the note “3” incentive for Participants that qualify for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 to newly proposed Tiers 9, 10 and 11, in addition to current Tiers 7 and 8, does not impose an undue burden on intra-market competition because all Participants are eligible to receive the Non-Penny Pilot Options Customer Rebate to Add Liquidity, provided the criteria is met.

Proposed Change Number 3: NOM Market Maker Penny Pilot Rebates to Add Liquidity

*Tiers 5 and 6*

The Exchange’s proposal to amend a qualifier to the Tier 5 and Tier 6 NOM Market Maker Penny Pilot Options Rebates to Add Liquidity to include newly proposed Tiers 9, 10 and 11 of the Customer and Professional Penny Pilot Options Rebates to Add Liquidity, in addition to current Customer and Professional rebate Tiers 7 and 8, for those specific qualifiers, does not impose an undue burden on intra-market competition because all Participants are eligible to receive the NOM Market Maker Penny Pilot Options Tier 5 and Tier 6 rebate, provided the criteria is met.

The Exchange’s proposal addressed herein does not impose an inter-market burden on competition because the Exchange operates in a highly competitive market in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a

particular exchange to be excessive or inadequate. These market forces support the Exchange belief that the proposed rebate structure and tiers proposed herein are competitive with rebates and tiers in place on other exchanges. The Exchange believes that this competitive marketplace continues to impact the rebates present on the Exchange today and substantially influences the proposals set forth above. Other options markets offer similar rebates to incentive market participants to direct order flow to their markets. The Exchange believes that continuing to offer rebates and increasing those rebates and providing opportunities to earn higher rebates will benefit the marketplace by continuing to reward liquidity providers and thereby offering other market participants an opportunity to interact with this order flow.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>27</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

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<sup>27</sup> 15 U.S.C. 78s(b)(3)(A)(ii).



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

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.

5. Applicable portion of the Exchange's rule text.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-NASDAQ-2015-115)

October \_\_, 2015

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to modify Chapter XV, entitled “Options Pricing,” at Section 2 governing pricing for NASDAQ members

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 October 1, 2015, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Chapter XV, entitled “Options Pricing,” at Section 2, which governs pricing for NASDAQ members using the NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options, to amend the Customer,<sup>3</sup> Professional<sup>4</sup> and NOM Market Maker<sup>5</sup> Penny Pilot<sup>6</sup> and Non-Penny Pilot Options Rebates to Add Liquidity.

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

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

<sup>3</sup> The term “Customer” applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of broker or dealer or for the account of a “Professional” (as that term is defined in Chapter I, Section 1(a)(48)).

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- <sup>4</sup> The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.
- <sup>5</sup> The term “NOM Market Maker” means a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.
- <sup>6</sup> See Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR-NASDAQ-2008-026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009)(SR-NASDAQ-2009-091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009)(SR-NASDAQ-2009-097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR-NASDAQ-2010-013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR-NASDAQ-2010-053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR-NASDAQ-2011-169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR-NASDAQ-2012-075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR-NASDAQ-2012-143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013); 69787 (June 18, 2013), 78 FR 37858 (June 24, 2013) (SR-NASDAQ-2013-082) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2013); 71105 (December 17, 2013), 78 FR 77530 (December 23, 2013) (SR-NASDAQ-2013-154) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2014); 79 FR 31151 (May 23, 2014), 79 FR 31151 (May 30, 2014) (SR-NASDAQ-2014-056) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2014); 73686 (December 2, 2014), 79 FR 71477 (November 25, 2014) (SR-NASDAQ-2014-115) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2015) and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR-NASDAQ-2015-063) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted.) See also NOM Rules, Chapter VI, Section 5.

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

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

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

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

1. Purpose

The Exchange proposes to amend Chapter XV, Section 2, entitled "NASDAQ Options Market – Fees and Rebates" to amend the Customer, Professional and NOM Market Maker Penny Pilot Options Rebates to Add Liquidity and to amend a Customer Non-Penny Pilot Options Rebate to Add Liquidity. Each of the proposed rule changes will be detailed below.

Proposed Change Number 1: Customer and Professional Penny Pilot Options Rebates to Add Liquidity

Today, the Exchange offers tiered Penny Pilot Options Rebates to Add Liquidity to Customers and Professionals based on various criteria with rebates ranging from \$0.20 to \$0.48 per contract. Participants may qualify for Customer and Professional Penny

Pilot Options Rebates to Add Liquidity by adding a certain amount of liquidity as specified by each tier.<sup>7</sup>

#### *Tier 9*

The Exchange proposes to adopt a new Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier. New Tier 9 would pay a \$0.50 per contract rebate to Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 1.15% to 1.40% of total industry customer equity and ETF option average daily volume (“ADV”) contracts per day in a month. This new rebate tier is similar to the current requirement to obtain the \$0.02 incentive in note “e” for Tier 8 today.<sup>8</sup> The Exchange believes that this new rebate tier will encourage Participants to add even more liquidity on NOM to earn the higher rebate.

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<sup>7</sup> Tiers 6 and 7 are calculated based on Total Volume. Total Volume is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM. See note “b” in Section 2(1) of Chapter XV. The Exchange utilizes data from OCC to determine the total industry customer equity and ETF options ADV figure. OCC classifies equity and ETF options volume under the equity options category. Also, both customer and professional orders that are transacted on options exchanges clear in the customer range at OCC and therefore both customer and professional volume would be included in the total industry figure to calculate rebate tiers.

<sup>8</sup> Today, Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity and also add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month receive an additional \$0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. The \$0.02 per contract incentive is in addition to the \$0.48 Tier 8 Customer and Professional Penny Pilot Options rebate for a total of \$0.50 per contract. See note 12 herein for an explanation of the Tier 8 rebate.

*Tier 10*

The Exchange proposes to adopt a new Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier. New Tier 10 would pay a \$0.51 per contract rebate to Participants that (1) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.85% of total industry customer equity and ETF option ADV contracts per day in a month and (2) the Participant has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs<sup>9</sup> that represent 1.00% or more of Consolidated Volume during the month. The Exchange believes that this new rebate tier will encourage Participants to add even more liquidity on NOM to earn the higher rebate.

*Tier 11*

The Exchange proposes to adopt a new Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier. New Tier 11 would pay a \$0.53 per contract rebate to Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 1.40% of total industry customer equity and ETF option ADV contracts per day in a month. This new rebate tier is similar to the current requirement to obtain the \$0.05 incentive in note “e” for Tier 8 today.<sup>10</sup> The Exchange believes that this new rebate tier

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<sup>9</sup> MPIDS are four character alpha code market participant identifiers used to report trades.

<sup>10</sup> Today, Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity and also add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month receive an additional

will encourage Participants to add even more liquidity on NOM to earn the higher rebate.

*Note “d” of the Chapter XV, Section 2(1)*

Currently, note “d” of Chapter XV, Section 2(1) states that Participants that qualify for Customer or Professional Rebate to Add Liquidity Tiers 7<sup>11</sup> or 8<sup>12</sup> in a given month will be assessed a Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options of \$0.50 per contract. Currently, the Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options is \$0.54 per contract for these Participants. The Exchange proposes to remove this incentive to obtain a lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options from Tier 7 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity. This incentive will

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\$0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. The \$0.05 per contract incentive is in addition to the \$0.48 Tier 8 Customer and Professional Penny Pilot Options rebate for a total of \$0.53 per contract.

<sup>11</sup> Tier 7 of the Customer and Professional Rebate to Add Liquidity Tiers pays a \$0.47 per contract rebate to Participants that have 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 in Penny Pilot Options. “Total Volume” is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM.

<sup>12</sup> Tier 8 of the Customer and Professional Rebate to Add Liquidity Tiers pays a \$0.48 per contract rebate to Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and/or (3) the Participant qualifies for rebates under the Qualified Market Maker Program set forth in Rule 7014.

remain for Tier 8, as is the case today, and will be applicable to newly proposed Tiers 9, 10 and 11 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity. The Exchange desires to incentivize market participants to add liquidity in the highest four tiers in order to obtain the lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options. Note “d” will be amended to remove Tier 7 and add Tiers 9, 10 and 11.

*Note “e” of the Chapter XV, Section 2(1)*

Currently, note “e” of Chapter XV, Section 2(1) states that Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional \$0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional \$0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. This note “e” incentive applies solely to the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity.<sup>13</sup> The Exchange proposes to remove the note “e” incentive from Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity. The Exchange believes that this incentive is no longer

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<sup>13</sup>

Id.



necessary as it is offering Participants the opportunity to obtain the additional \$0.02 per contract incentive to Tier 8 with the newly proposed Tier 9 Customer and Professional Penny Pilot Options Rebate to Add Liquidity and the additional \$0.05 incentive to Tier 8 with the newly proposed Tier 11 Customer and Professional Penny Pilot Options Rebate to Add Liquidity.<sup>14</sup> Note “e” will be deleted from Chapter XV, Section 2(1). The Exchange is also proposing to remove the period at the end of Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity for consistency.

Proposed Change Number 2: Customer Non-Penny Pilot Options Rebate to Add Liquidity

*Note “3” of the Chapter XV, Section 2(1)*

The Exchange currently pays a Customer Non-Penny Pilot Options Rebate to Add Liquidity of \$0.84 per contract. Currently, note “3” of Chapter XV, Section 2(1) states that a Participant that qualifies for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 in a given month will receive an additional \$0.01 per contract Non-Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month. The Exchange proposes to continue to offer this incentive for the Non-Penny Pilot Options Customer Rebate to Add Liquidity, however, the Exchange proposes to amend the applicable tiers to extend the incentive to newly proposed Tiers 9, 10 and 11, in addition to Tiers 7 and 8. The Exchange believes that this incentive will encourage Participants to add even more liquidity on NOM to earn the higher Non-Penny Pilot Options Customer Rebate to Add Liquidity.

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<sup>14</sup> See notes 8 and 10 herein.

Proposed Change Number 3: NOM Market Maker Penny Pilot Rebates to Add Liquidity

Today, the Exchange pays NOM Market Maker Penny Pilot Options Rebates to Add Liquidity based on various criteria in six tiers with rebates which range from \$0.20 to \$0.42 per contract as noted below.

<b>Monthly Volume</b>		<b>Rebate to Add Liquidity</b>
<b>Tier 1</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of up to 0.10% of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month	\$0.20
<b>Tier 2</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to 0.25% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.25
<b>Tier 3</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.25% to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.30 or \$0.40 in the following symbols AAPL, QQQ, IWM, SPY and VXX
<b>Tier 4</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.60% to 0.90% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.32 or \$0.40 in the following symbols AAPL, QQQ, IWM, VXX and SPY
<b>Tier 5</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add	\$0.40

### Liquidity in Penny Pilot Options

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<b>Tier 6</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or Participant adds NOM Market Maker liquidity 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 or Participants that add Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month	\$0.42
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#### *Tier 5*

The Exchange proposes to amend Tier 5 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity which currently provides that a \$0.40 per contract rebate will be paid to Participants that adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options. The Exchange proposes to extend the qualification for the Tier 5 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to apply to newly proposed Tiers 9, 10 and 11, in addition to current Tiers 7 and 8. The Exchange believes that this incentive will encourage Participants to add even more liquidity on NOM to earn the NOM Market Maker Penny Pilot Options rebate.

*Tier 6*

The Exchange proposes to amend Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity which currently provides that a \$0.42 per contract rebate will be paid to a Participant that adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or Participant adds NOM Market Maker liquidity 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 or Participants that add Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month. The Exchange proposes to extend the qualification for Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to apply to newly proposed Tiers 9, 10 and 11, in addition to current Tiers 7 and 8. The Exchange believes that this incentive will encourage Participants to add even more liquidity on NOM to earn the NOM Market Maker rebate.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>15</sup> in general, and with Section 6(b)(4) and 6(b)(5) of the Act,<sup>16</sup> in

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

<sup>16</sup> 15 U.S.C. 78f(b)(4) and (5).

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. Customer volume is important because it continues to attract liquidity to the Exchange, which benefits all market participants. Further, with respect to Professional liquidity, the Exchange initially established Professional pricing in order to “...bring additional revenue to the Exchange.”<sup>17</sup> The Exchange noted in the Professional Filing that it believes “...that the increased revenue from the proposal would assist the Exchange to recoup fixed costs.”<sup>18</sup> Further, the Exchange noted in that filing that it believes that establishing separate pricing for a Professional, which ranges between that of a Customer and market maker, accomplishes this objective.<sup>19</sup> The Exchange believes that offering NOM Market Makers the ability to obtain higher rebates will continue to encourage additional order interaction on the

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<sup>17</sup> See Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR-NASDAQ-2011-066) (“Professional Filing”). In this filing, the Exchange addressed the perceived favorable pricing of Professionals who were assessed fees and paid rebates like a Customer prior to the filing. The Exchange noted in that filing that a Professional, unlike a retail Customer, has access to sophisticated trading systems that contain functionality not available to retail Customers.<sup>17</sup>

<sup>18</sup> See Professional Filing.

<sup>19</sup> See Professional Filing. The Exchange also in the Professional Filing that it believes the role of the retail Customer in the marketplace is distinct from that of the Professional and the Exchange’s fee proposal at that time accounted for this distinction by pricing each market participant according to their roles and obligations.

Exchange. NOM Market Makers have obligations to the market, unlike other market participants.<sup>20</sup>

Proposed Change Number 1: Customer and Professional Penny Pilot Options Rebates to Add Liquidity

*Tier 9*

The Exchange's proposal to adopt a new Tier 9 Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier is reasonable because this rebate equates to the same rebate offered to Participants that qualify for current Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 and the note "e" incentive, which qualifies the Participant for a \$0.02 per contract incentive. The note "e" incentive is being deleted as per this proposal. The new Tier 9 rebate provides Participants the opportunity to continue to earn the higher rebate of \$0.50 per contract rebate,<sup>21</sup> provided the qualifications are met. The Exchange believes that this new rebate tier will continue to incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume on NOM, which liquidity will benefit other market participants by providing them the opportunity to interact with that liquidity. The Exchange's proposal to adopt a new Tier 9 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is equitable and not unfairly discriminatory because all Participants that qualify to receive the new Tier 9 Customer and Professional Penny Pilot

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<sup>20</sup> Pursuant to NOM Rules at Chapter VII, Section 5, entitled "Obligations of Market Makers", in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a NOM Market Maker must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. See Chapter VII, Section 2.

<sup>21</sup> See note 8 herein.

Options Rebate to Add Liquidity will be uniformly paid the rebate provided the requirements are met. In addition, all Participants are eligible to receive these rebates provided the criteria is met.

*Tier 10*

The Exchange's proposal to adopt a new Tier 10 Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier is reasonable because the opportunity to earn a higher rebate of \$0.51 per contract rebate, provide the qualifications are met, will incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume, which liquidity will benefit other market participants by providing them the opportunity to interact with that liquidity. The Exchange's proposal to adopt a new Tier 10 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is equitable and not unfairly discriminatory because all Participants that qualify to receive the new Tier 10 Customer and Professional Penny Pilot Options Rebate to Add Liquidity will be uniformly paid the rebate provided the requirements are met. In addition, all Participants are eligible to receive these rebates provided the criteria is met.

*Tier 11*

The Exchange's proposal to adopt a new Tier 11 Customer and Professional Penny Pilot Options Rebate to Add Liquidity tier is reasonable because this rebate equates to the same rebate offered to Participants that qualify for current Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity and the note "e" incentive, which provides a \$0.05 per contract incentive. The note "e" incentive is being deleted as per this proposal. The new Tier 11 rebate provides Participants the opportunity to

continue to earn the higher rebate of \$0.53 per contract rebate,<sup>22</sup> provide the qualifications are met. The Exchange believes that this new rebate tier will continue to incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume on NOM, which will benefit other market participants by providing them the opportunity to interact with that liquidity. The Exchange's proposal to adopt a new Tier 11 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is equitable and not unfairly discriminatory because all Participants that qualify to receive the new Tier 11 Customer and Professional Penny Pilot Options Rebate to Add Liquidity will be uniformly paid the rebate provided the requirements are met. In addition, all Participants are eligible to receive these rebates, provided the criteria is met.

*Note "d" of the Chapter XV, Section 2(1)*

The Exchange's proposal to remove the incentive in note "d" from Tier 7 and continue to apply the incentive to Tier 8 and add the incentive to newly proposed Tiers 9, 10 and 11 is reasonable because the Exchange desires to incentivize market participants to add liquidity in the highest four tiers in order to obtain the lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options.<sup>23</sup> The Exchange is proposing herein to adopt new Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tiers 9, 10 and 11. This proposal will shift the applicability of note "d" to the new four highest rebate tiers. The Exchange's proposal to remove the incentive in note "d" from Tier 7 and continue to apply the incentive to Tier 8 and add the incentive to newly proposed Tiers 9,

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<sup>22</sup> See note 10 herein.

<sup>23</sup> Currently, the Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options is \$0.54 per contract for these Participants.



10 and 11 is equitable and not unfairly discriminatory because the Exchange will uniformly apply the incentive to all Participants. No Participant will receive the incentive in note “d” for Tier 7 and all Participants that have met the Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8, 9, 10 or 11 criteria would receive the note “d” incentive.

*Note “e” of the Chapter XV, Section 2(1)*

The Exchange’s proposal to remove the note “e” incentive from current Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 is reasonable because the Exchange is offering Participants the opportunity to obtain the additional \$0.02 per contract incentive to current Tier 8 with newly proposed Tier 9 of the Customer and Professional rebates and the additional \$0.05 incentive to current Tier 8 with newly proposed Tier 11 of the Customer and Professional rebates.<sup>24</sup> The Exchange’s proposal to remove the note “e” incentive from current Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 is equitable and not unfairly discriminatory because no Participant will be entitled to receive the note “e” incentive.

The Exchange’s proposal to remove the period at the end of Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 for consistency is reasonable, equitable and not unfairly discriminatory.

Proposed Change Number 2: Customer Non-Penny Pilot Options Rebate to Add Liquidity

*Note “3” of the Chapter XV, Section 2(1)*

The Exchange’s proposal to amend the note “3” incentive for Participants that qualify for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers

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<sup>24</sup> See notes 8 and 10 herein.

7 or 8 to include newly proposed Tiers 9, 10 and 11 is reasonable because the Exchange is proposing to incentivize Participants to add more liquidity on NOM to earn the higher Customer Non-Penny Pilot Options Rebate to Add Liquidity. With this proposal, any Participant that qualifies for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7, 8, 9, 10 or 11 in a given month will receive an additional \$0.01 per contract Non-Penny Pilot Options Customer Rebate to Add Liquidity for a total rebate of \$0.85 per contract.<sup>25</sup> The Exchange's proposal to amend the note "3" incentive for Participants that qualify for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 to include newly proposed Tiers 9, 10 and 11 is equitable and not unfairly discriminatory because all Participants are eligible to receive the Non-Penny Pilot Customer rebate and further to qualify for the note "3" incentive, provided the criteria is met.

Proposed Change Number 3: NOM Market Maker Penny Pilot Rebates to Add Liquidity

*Tier 5*

The Exchange's proposal to amend Tier 5 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity, which currently pays a \$0.40 per contract rebate to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options, to include newly proposed Customer and/or Professional rebate Tiers 9, 10 and 11, is reasonable because Participants will be encouraged to add even more liquidity on NOM to earn the NOM

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<sup>25</sup> Currently, the Exchange pays Customers a Non-Penny Pilot Options Rebate to Add Liquidity of \$0.84 per contract.

Market Maker rebate. It is reasonable to include the newly added higher Customer and/or Professional rebate Tiers 9, 10 and 11, in addition to current highest Customer and/or Professional rebate Tiers 7 and 8, to qualify for the Tier 5 NOM Market Maker rebate as those Participants are required to add greater liquidity in the newly proposed Customer and/or Professional rebate tiers. The Exchange will continue to permit Tiers 7 and 8 to qualify for this added incentive. The Exchange's proposal to amend Tier 5 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options, to include newly proposed Customer and Professional rebate Tiers 9, 10 and 11, is equitable and not unfairly discriminatory because all Participants are eligible to receive the NOM Market Maker Penny Pilot Options Tier 5 rebate, provided the criteria is met.

#### *Tier 6*

The Exchange's proposal to amend Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity, which currently provides that a \$0.42 per contract rebate will be paid to Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the Tier 7 or Tier 8 and now newly proposed Customer and/or Professional Rebate Tiers 9, 10 or 11 or Participant adds NOM Market Maker liquidity 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 or Participants that add Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month, is reasonable for the reasons that follow. This incentive will encourage Participants to add even more liquidity on NOM to earn the NOM Market Maker rebate. It is reasonable to include the newly added higher Customer and/or Professional rebate Tiers 9, 10 and 11, in addition to current highest Customer and/or Professional rebate Tiers 7 and 8, to qualify for the Tier 5 NOM Market Maker rebate as those Participants are required to add greater liquidity in the newly proposed Customer and/or Professional rebate tiers. The Exchange will continue to permit Tiers 7 and 8 to qualify for this added incentive. The Exchange's proposal to permit newly proposed Customer and Professional rebate Tiers 9, 10 and 11 to be added to the Tier 6 NOM Market Maker Penny Pilot Options Rebate to Add Liquidity qualifications, in addition to current Tiers 7 and 8, to meet the Tier 6 criteria, in addition to the other requirements of Tier 6, is equitable and not unfairly discriminatory because all Participants are eligible to receive the NOM Market Maker Penny Pilot Options Tier 6 rebate, provided the criteria is met.

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

NASDAQ does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Proposed Change Number 1: Customer and Professional Penny Pilot Options Rebates to Add Liquidity

*Tiers 9, 10 and 11*

The Exchange's proposal to adopt new Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tiers 9, 10 and 11 does not impose an undue burden on intra-market competition because all Participants are eligible for Tiers 9, 10 and 11 of the Customer or Professional rebates provided they meet the qualifications for those rebates. Further, the rebates will be uniformly paid to those Participants that are eligible for the rebate. Additionally newly proposed Tiers 9 and 11 rebates are available today provided Participants qualify for Tier 8 and the incentives available in note "e," respectively.

*Note "d" of the Chapter XV, Section 2(1)*

The Exchange's proposal to remove the incentive in note "d" from Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 7 incentive and continue to apply the incentive to Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 and add the incentive to newly proposed Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tiers 9, 10 and 11 does not impose an undue burden on intra-market competition because the Exchange will uniformly apply the incentive to all Participants. No Participant will receive the incentive in note "d" for Tier 7 and all Participants that have met the criteria for Customer and Professional rebate Tiers 8, 9, 10 and 11 would receive the note "d" incentive.

*Note "e" of the Chapter XV, Section 2(1)*

The Exchange's proposal to remove the note "e" incentive from Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 does not impose an undue burden on intra-market competition because Participants are being offered the

opportunity to obtain the current additional \$0.02 per contract rebate offered in note “e” to Participants that currently qualify for Tier 8 with the newly proposed Tier 9 Customer and Professional rebate and the additional \$0.05 per contract incentive to current Tier 8 with the newly proposed Tier 11 Customer and Professional rebate.<sup>26</sup>

Proposed Change Number 2: Customer Non-Penny Pilot Options Rebate to Add Liquidity

*Note “3” of the Chapter XV, Section 2(1)*

The Exchange’s proposal to apply the note “3” incentive for Participants that qualify for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7 or 8 to newly proposed Tiers 9, 10 and 11, in addition to current Tiers 7 and 8, does not impose an undue burden on intra-market competition because all Participants are eligible to receive the Non-Penny Pilot Options Customer Rebate to Add Liquidity, provided the criteria is met.

Proposed Change Number 3: NOM Market Maker Penny Pilot Rebates to Add Liquidity

*Tiers 5 and 6*

The Exchange’s proposal to amend a qualifier to the Tier 5 and Tier 6 NOM Market Maker Penny Pilot Options Rebates to Add Liquidity to include newly proposed Tiers 9, 10 and 11 of the Customer and Professional Penny Pilot Options Rebates to Add Liquidity, in addition to current Customer and Professional rebate Tiers 7 and 8, for those specific qualifiers, does not impose an undue burden on intra-market competition because all Participants are eligible to receive the NOM Market Maker Penny Pilot Options Tier 5 and Tier 6 rebate, provided the criteria is met.

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<sup>26</sup> See notes 8 and 10 herein.

The Exchange's proposal addressed herein does not impose an inter-market burden on competition because the Exchange operates in a highly competitive market in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. These market forces support the Exchange belief that the proposed rebate structure and tiers proposed herein are competitive with rebates and tiers in place on other exchanges. The Exchange believes that this competitive marketplace continues to impact the rebates present on the Exchange today and substantially influences the proposals set forth above. Other options markets offer similar rebates to incentive market participants to direct order flow to their markets. The Exchange believes that continuing to offer rebates and increasing those rebates and providing opportunities to earn higher rebates will benefit the marketplace by continuing to reward liquidity providers and thereby offering other market participants an opportunity to interact with this order flow.

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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>27</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

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<sup>27</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

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

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2015-115 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.

All submissions should refer to File Number SR-NASDAQ-2015-115. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any



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

All submissions should refer to File Number SR-NASDAQ-2015-115 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>28</sup>

Robert W. Errett  
Deputy Secretary

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<sup>28</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

**NASDAQ Stock Market Rules**

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**Options Rules**

\* \* \* \* \*

**Chapter XV Options Pricing**

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**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) Fees for Execution of Contracts on the NASDAQ Options Market**

	<b>Fees and Rebates (per executed contract)</b>					
	<b>Customer</b>	<b>Professional</b>	<b>Firm</b>	<b>Non-NOM Market Maker</b>	<b>NOM Market Maker</b>	<b>Broker- Dealer</b>
<b>Penny Pilot Options:</b>						
Rebate to Add Liquidity	***	***	\$0.10	\$0.10	#	\$0.10
Fee for Removing Liquidity	\$0.48	\$0.54 <sup>d</sup>	\$0.54 <sup>d</sup>	\$0.54 <sup>d</sup>	\$0.54 <sup>d</sup>	\$0.54 <sup>d</sup>
Fee for Removing Liquidity (SPY Only)	\$0.48	\$0.50	\$0.50	\$0.50	\$0.50	\$0.50
<b>Non-Penny Pilot Options:</b>						
Fee for Adding Liquidity	N/A	\$0.45	\$0.45	\$0.45	\$0.35	\$0.45
Fee for Removing	\$0.85	\$0.94	\$0.94	\$0.94	\$0.94	\$0.94

## Liquidity

Rebate to Add	\$0.84 <sup>3</sup>	N/A	N/A	N/A	N/A
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## Liquidity

<sup>3</sup>A Participant that qualifies for Penny Pilot Options Customer or Professional Rebate to Add Liquidity Tiers 7, [or ]8, 9, 10 or 11 in a given month will receive an additional \$0.01 per contract Non-Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month.

\*\*\* The Customer and Professional Rebate to Add Liquidity in Penny Pilot Options will be paid as noted below. To determine the applicable percentage of total industry customer equity and ETF option average daily volume, the Participant's Penny Pilot and Non-Penny Pilot Customer and/or Professional volume that adds liquidity will be included.

		<b>Rebate to Add Liquidity</b>
<b>Monthly Volume</b>		
<b>Tier 1</b>	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of up to 0.10% of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month	\$0.20
<b>Tier 2</b>	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to 0.20% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.25
<b>Tier 3</b>	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.20% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.42
<b>Tier 4</b>	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.30% to 0.40% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.43
<b>Tier 5<sup>a</sup></b>	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.40% to 0.75% of total industry customer equity and ETF option ADV contracts per day in a month[, or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor	\$0.45

Support Program set forth in Rule 7014, and (3) the Participant executed at least one order on NASDAQ's equity market]

<b>Tier 6<sup>b</sup></b>	Participant has Total Volume of 100,000 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 in Penny Pilot Options	\$0.45
<b>Tier 7<sup>b,[d]</sup></b>	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 in Penny Pilot Options	\$0.47
<b>Tier 8<sup>a,d</sup></b>	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and/or (3) the Participant qualifies for rebates under the Qualified Market Maker ("QMM") Program set forth in Rule 7014[.]	\$0.48 <sup>[e]</sup>
<b><u>Tier 9<sup>d</sup></u></b>	<u>Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 1.15% to 1.40% of total industry customer equity and ETF option ADV contracts per day in a month</u>	<u>\$0.50</u>
<b><u>Tier 10<sup>d</sup></u></b>	<u>Participant (1) adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.85% of total industry customer equity and ETF option ADV contracts per day in a month and (2) the Participant has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume during the month</u>	<u>\$0.51</u>
<b><u>Tier 11<sup>d</sup></u></b>	<u>Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 1.40% of total industry customer equity and ETF option ADV contracts per day in a month</u>	<u>\$0.53</u>

<sup>a</sup>For purposes of Tiers 5 and 8, the Exchange will allow a NOM Participant to qualify for the rebate if a NASDAQ member has certified for the Investor Support Program and executed at least one order on NASDAQ's equity market.

<sup>b</sup>For purposes of Tiers 6 and 7, "Total Volume" shall be defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM.

<sup>d</sup> Participants that qualify for Customer or Professional Rebate to Add Liquidity Tiers [7 or] 8, 9, 10 or 11 in a given month will be assessed a Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options of \$0.50 per contract.

<sup>e</sup> Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional \$0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional \$0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month.]

# The NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options will be paid as noted below.

<b>Monthly Volume</b>	<b>Rebate to Add Liquidity</b>
<b>Tier 1</b> Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of up to 0.10% of total industry customer equity and ETF option average daily volume ("ADV") contracts per day in a month	\$0.20
<b>Tier 2</b> Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.10% to 0.25% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.25
<b>Tier 3</b> Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.25% to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.30 or \$0.40 in the following symbols AAPL, QQQ, IWM, SPY and VXX

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<b>Tier 4</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.60% to 0.90% of total industry customer equity and ETF option ADV contracts per day in a month	\$0.32 or \$0.40 in the following symbols AAPL, QQQ, IWM, VXX and SPY
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<b>Tier 5</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the <u>Tiers 7, 8, 9, 10 or 11</u> [or Tier 8] Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options	\$0.40
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<b>Tier 6</b>	Participant adds NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for the <u>Tiers 7, 8, 9, 10 or 11</u> [or Tier 8] Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or Participant adds NOM Market Maker liquidity 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 or Participants that add Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month	\$0.42
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(2) – (5) No change

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