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

File No.* SR - 2021 - * 009
Amendment No. (req. for Amendments *)

Filing by NASDAQ BX, Inc.

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) * ☐

Pilot ☐ Extension of Time Period for Commission Action * ☐ Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☑ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

Description

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

A proposal to amend BX Options 7, Section 1, General Provisions, and Options 7, Section 2, BX Options Market-Fees and Rebates.

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 * Sun Last Name * Kim
Title * Associate General Counsel
E-mail * sun.kim@nasdaq.com
Telephone * (646) 420-7816 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.

Date 03/22/2021
By John Zecca
(Name *)

(Title *)
EVP and Chief Legal Counsel

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.

john.zecca@nasdaq.com

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications Add Remove View Exhibit Sent As Paper Document ☐	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.
Exhibit 3 - Form, Report, or Questionnaire Add Remove View Exhibit Sent As Paper Document ☐	Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.
Exhibit 4 - Marked Copies Add Remove View	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add Remove View	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.
Partial Amendment Add Remove View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Nasdaq BX, Inc. ("BX" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposal to amend BX Options 7, Section 1, "General Provisions," and Options 7, Section 2, "BX Options Market- Fees and Rebates."

The Exchange originally filed the proposed pricing changes on March 1, 2021 (SR-BX-2021-004). On March 11, 2021, the Exchange withdrew that filing and submitted SR-BX-2021-007. On March 22, 2021, the Exchange withdrew that filing and submitted this filing.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the "Board") on November 5, 2020. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Sun Kim
Associate General Counsel

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

Nasdaq, Inc.
646-420-7816

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

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

a. Purpose

The Exchange proposes to amend BX's Pricing Schedule at Options 7, Section 1, "General Provisions," and Options 7, Section 2, "BX Options Market-Fees and Rebates." The Exchange proposes to remove the current fees, rebates and tier schedules applicable to Penny Symbols and Non-Penny Symbols. Today, the Penny and Non-Penny fees and rebates are based on volume tiers and consider contra-parties to a transaction. With this proposal, BX's pricing will no longer be tiered and will not consider the contra-party, unless otherwise specified. Further, the proposed changes will replace the existing pricing schedule with a new maker/taker fee structure where market participants are assessed a rebate or lower fee for adding liquidity to the market, or charged a higher fee for removing liquidity from the market. This new pricing model is intended to reward Participants that bring order flow to the Exchange and thereby increase liquidity and trading opportunities for all market participants. BX believes that the proposed pricing model will encourage additional order flow to be sent to the Exchange, and contribute to a more active and quality market in BX-listed options to the benefit of all market participants that trade on the Exchange.

The current pricing schedule for Penny and Non-Penny Symbols is as follows:

Fees and Rebates (per executed contract)

	Customer	**Lead Market Maker**	**BX Options Market Maker**	**Non-Customer** [1]	**Firm**
Penny Symbols:					
Rebate to Add Liquidity	#	$0.11 [2]	$0.10 [2]	N/A	N/A
Fee to Add Liquidity	#	$0.38 [3]	$0.39 [3]	$0.45	$0.45
Rebate to Remove Liquidity	#	N/A	N/A	N/A	N/A
Fee to Remove Liquidity	N/A	#	#	$0.46	$0.46
Non-Penny Symbols:					
Rebate to Add Liquidity	*	N/A	N/A	N/A	N/A
Fee to Add Liquidity	*	$0.50/$0.95 [4]	$0.50/$0.95 [4]	$0.98	$0.98
Rebate to Remove Liquidity	*	N/A	N/A	N/A	N/A
Fee to Remove Liquidity	N/A	*	*	$0.89	$0.89

For purposes of the above fees and rebates, a Non-Customer includes a Professional, Broker-Dealer and Non-BX Options Market Maker.[3] The Rebate to Add Liquidity is paid to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Non-Customer, Firm, BX Options

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3 See note 1 within Options 7, Section 2.

Market Maker, or Lead Market Maker.[4] The Fee to Add Liquidity is assessed to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Customer.[5] Finally, the higher Fee to Add Liquidity is assessed to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Customer.[6]

The current Penny Symbol tier schedule is as follows:

Penny Symbols Tier Schedule

		Rebate to Add Liquidity	Fee to Add Liquidity	Rebate to Remove Liquidity	Fee to Remove Liquidity	Fee To Remove Liquidity
	When:	**Customer**	**Customer**	**Customer**	**Lead Market Maker or BX Options Market Maker**	**Lead Market Maker or BX Options Market Maker**
	Trading with:	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, Customer, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**
Tier 1	Participant executes less than 0.05% of	$0.00	$0.39	$0.00	$0.39	$0.46

4 See note 2 within Options 7, Section 2.

5 See note 3 within Options 7, Section 2.

6 See note 4 within Options 7, Section 2.

	total industry customer equity and ETF option ADV contracts per month.					
Tier 2	Participant executes 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month.	$0.10	$0.39	$0.25	$0.39	$0.46
Tier 3	Participant executes 0.15% or more of total industry customer equity and ETF option ADV contracts per month	$0.20	$0.39	$0.35	$0.30	$0.46

The current Non-Penny Symbol tier schedule is as follows:

* Non-Penny Symbols Tier Schedule

		Rebate to Add Liquidity	Fee to Add Liquidity	Rebate to Remove Liquidity	Fee to Remove Liquidity	Fee To Remove Liquidity
	When:	**Customer**	**Customer**	**Customer**	**Lead Market Maker or BX Options Market Maker**	**Lead Market Maker or BX Options Market Maker**
	Tradingwith:	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, Customer, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**
Tier 1	Participant executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month.	$0.00	$0.85	$0.80	$0.89	$0.89
Tier 2	Participant executes 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month.	$0.10	$0.85	$0.80	$0.89	$0.89
Tier 3	Participant executes 0.15% or more of total industry customer equity and ETF	$0.20	$0.85	$0.80	$0.60	$0.89

	option ADV contracts per month					

The Exchange now proposes to remove the above-referenced current fees, rebates and tier schedules. The Exchange proposes to amend the introductory paragraph which states, "The following charges shall apply to the use of the order execution and routing services of the BX Options market for all securities" by replacing the term "charges" with the term "pricing." The Exchange also proposes to amend Options 7, Section 2(1) which states, "Fees for Execution of Contracts on the BX Options Market." The Exchange proposes to instead provide, "Fees and Rebates for Execution of Contracts on the BX Options Market." Both of these changes are to account for rebates that are also offered to BX Participants.

The Exchange proposes to adopt the following Penny and Non-Penny Symbol fees and rebates in Options 7, Section 2(1):

(1) Fees and Rebates for Execution of Contracts on the BX Options Market:

Penny Symbols

Market Participant	**Maker Rebate**	**Taker Fee**
Lead Market Maker	(0.29)	$0.46
Market Maker	(0.25)	$0.46
Non-Customer	(0.12)	$0.46
Firm	(0.12)	$0.46
Customer	($0.30)	$0.46

Non-Penny Symbols

Market Participant	**Maker Rebate / Fee**	**Taker Fee**
Lead Market Maker	(0.45)	$1.10
Market Maker	(0.40)	$1.10

Non-Customer	$0.45	$1.10
Firm	$0.45	$1.10
Customer	($0.90)	$0.65

The Exchange proposes to reduce the Customer Taker Fee to $0.26 per contract for trades which remove liquidity in SPY.[7] Also, the Exchange proposes to offer a Maker Rebate for Lead Market Makers and Market Makers in SPY of $0.22 per contract. Finally, the Exchange proposes to offer a Maker Rebate for Lead Market Makers and Market Makers in AAPL, IWM, GLD, QQQ, SLV, and TSLA of $0.42 per contract.[8] The proposed fees and rebates are described in greater detail below.

Penny Symbols

With respect to the impact on pricing for Penny Symbols, the Exchange notes the below changes in pricing.

Lead Market Makers

Today, Lead Market Makers receive a Penny Symbol Rebate to Add Liquidity of $0.11 per contract only when the Lead Market Maker is contra to a Non-Customer, Firm, BX Options Market Maker, or Lead Market Maker. Today, Lead Market Makers receive no Penny Symbol Rebates to Remove Liquidity. Today, Lead Market Makers pay a $0.38 per contract Penny Symbol Fee to Add Liquidity only when the Lead Market Maker is contra to a Customer. Today, Lead Market Makers pay a Penny Symbol Fee to Remove Liquidity when trading against a Customer which ranges from $0.39 to $0.30

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7 See proposed note 1 to Options 7, Section 2.

8 See proposed note 2 within Options 7, Section 2.

per contract.[9] Today, Lead Market Makers pay a Penny Symbol Fee to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm of $0.46 per contract, regardless of tier.[10]

With this proposal, Lead Market Maker orders would receive a Maker Rebate of $0.29 per contract in all Penny Symbols, except SPY which would pay a Maker Rebate of $0.22 per contract, and except AAPL, IWM, GLD, QQQ, SLV, and TSLA which would pay a Maker Rebate of $0.42 per contract. With this proposal, Lead Market Maker orders would pay a Penny Symbol Taker Fee of $0.46 per contract.

The proposed Penny Symbol Maker Rebates for Lead Market Maker orders, for all Penny Symbols, are higher than the current Lead Market Maker Penny Symbol Rebate to Add Liquidity of $0.11 per contract when trading against Non-Customer, Firm, BX Options Market Maker or Lead Market Maker. Also, the proposed Penny Symbol Maker Rebates for Lead Market Maker orders do not consider the contra-party. The proposed Penny Symbol Taker Fee for Lead Market Maker orders of $0.46 per contract is higher

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9 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.39 per contract in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.39 per contract in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.30 per contract in Tier 3.

10 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 3.

than the current Lead Market Maker tiered Penny Symbol Fees to Remove Liquidity when trading against a Customer which range from $0.39 to $0.30 per contract[11] and is the same as the current Lead Market Maker tiered Penny Symbol Fee to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm of $0.46 per contract regardless of tier.[12] BX would no longer assess a fee to add liquidity for Lead Market Maker orders, rather Participants would obtain the Maker Rebate regardless of contra-party.

Market Maker

Today, BX Options Market Makers receive a Penny Symbol Rebate to Add Liquidity of $0.10 per contract only when the BX Options Market Maker is contra to a Non-Customer, Firm, or BX Options Market Maker. Today, BX Options Market Makers receive no Penny Symbol Rebate to Remove Liquidity. Today, BX Options Market Makers pay a $0.39 per contract Penny Symbol Fee to Add Liquidity only when the BX Options Market Maker is contra to a Customer. Today, BX Options Market Makers pay a Penny Symbol Fee to Remove Liquidity when trading against a Customer which ranges from $0.39 to $0.30 per contract.[13] Today, BX Options Market Makers pay a Penny

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11 See note 9 above.

12 See note 10 above.

13 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.39 per contract in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.39 per contract in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.30 per contract in Tier 3.

Symbol Fee to Remove Liquidity when trading against a Non-Customer, BX Options Market Maker or Firm of $0.46 per contract, regardless of tier.[14]

With this proposal, the Exchange would rename "BX Options Market Maker" as "Market Maker." With this proposal, Market Maker orders would receive a Maker Rebate of $0.25 per contract in all Penny Symbols, except SPY which would pay a Maker Rebate of $0.22 per contract, and except AAPL, IWM, GLD, QQQ, SLV, and TSLA which would pay a Maker Rebate of $0.42 per contract. With this proposal, Market Maker orders would pay a Penny Symbol Taker Fee of $0.46 per contract.

The proposed Maker Rebates for Penny Symbol Market Maker orders, for all Penny Symbols, are higher than the current Market Maker Penny Symbol Rebate to Add Liquidity of $0.10 per contract when trading against Non-Customer, Firm, BX Options Market Maker, or Lead Market Maker and the proposed rebate does not consider the contra-party. The proposed Penny Symbol Taker Fee for Market Maker orders is higher than the current Market Maker tiered Penny Symbol Fee to Remove Liquidity when trading against a Customer which ranges from $0.39 to $0.30 per contract[15] and is the same as the current Market Maker tiered Penny Symbol Fees to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm

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14 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 3.

15 See note 13 above.

of $0.46 per contract regardless of tier.[16] BX would no longer assess a fee to add liquidity for Market Maker orders, rather Participants would obtain the Maker Rebate regardless of contra-party.

Non-Customers

Today, Non-Customers receive neither a Penny Symbol Rebate to Add Liquidity nor a Penny Symbol Rebate to Remove Liquidity. Today, Non-Customers pay a Penny Symbol Fee to Add Liquidity of $0.45 per contract. Today, Non-Customers pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract.

With this proposal, Non-Customer orders would receive a Maker Rebate of $0.12 per contract in all Penny Symbols. With this proposal, Non-Customer orders would pay a Penny Symbol Taker Fee of $0.46 per contract.

The Exchange would begin to pay a Penny Symbol Maker Rebate for Non-Customer orders. Today, Non-Customer Orders receive no rebates for adding liquidity in Penny Symbols. The proposed Non-Customer Penny Symbol Taker Fee of $0.46 per contract is higher than the Non-Customer Penny Symbol Fee to Add Liquidity of $0.45 per contract and is the same as the Non-Customer Penny Symbol Fee to Remove Liquidity of $0.46 per contract.

Firms

Today, Firms receive neither a Penny Symbol Rebate to Add Liquidity nor a Penny Symbol Rebate to Remove Liquidity. Today, Firms pay a Penny Symbol Fee to Add Liquidity of $0.45 per contract. Today, Firms pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract.

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16 See note 14 above.

With this proposal, Firm orders would receive a Maker Rebate of $0.12 per contract in all Penny Symbols. With this proposal, Firm orders would pay a Penny Symbol Taker Fee of $0.46 per contract.

The Exchange would begin to pay a Penny Symbol Maker Rebate for Firm orders. Today, Firm Orders receive no rebates for adding liquidity in Penny Symbols. The proposed Firm Penny Symbol Taker Fee of $0.46 per contract is higher than the Firm Penny Symbol Fee to Add Liquidity of $0.45 per contract and is the same as the Firm Penny Symbol Fee to Remove Liquidity of $0.46 per contract.

Customers

Today, Customers receive a Penny Symbol Rebate to Add Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm which ranges from $0.00 to $0.20 per contract.[17] Today, Customers receive a Penny Symbol Rebate to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker, Customer or Firm which ranges from $0.00 to $0.35 per contract.[18] Today, Customers pay a Penny Symbol Fee to Add Liquidity when trading

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17 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month receive no Penny Symbol Rebate to Add Liquidity in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month receive a $0.10 per contract Penny Symbol Rebate to Add Liquidity in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month receive a $0.20 per contract Penny Symbol Rebate to Add Liquidity in Tier 3.

18 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month would receive no Penny Symbol Rebate to Remove Liquidity in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month would receive a $0.25 per contract Penny Symbol Rebate to Remove Liquidity in Tier 2. Participants that execute 0.15% or more of total industry customer equity and

against a Customer of $0.39 per contract, regardless of tier.[19] Today, Customers do not pay a Penny Symbol Fee to Remove Liquidity.

With this proposal, Customer orders would receive a $0.30 per contract Penny Symbol Maker Rebate. With this proposal, Customer orders would pay a $0.46 per contract Penny Symbol Taker Fee, unless the Customer order removes liquidity in SPY, in which case the Taker Fee would be $0.26 per contract.

The proposed new Penny Symbol Customer Maker Rebate of $0.30 per contract is higher than the current Customer Rebates to Add Liquidity[20] and does not consider the contra-party. This proposal would no longer pay a Penny Symbol Customer rebate to remove liquidity with this pricing model. With this proposal, Customer orders would be assessed a Customer Taker Fee of $0.46 per contract, except for SPY where a Customer order would pay a Taker Fee of $0.26 per contract to remove liquidity. Today, Customer orders are not assessed a Penny Symbol Fee to Remove Liquidity. With this proposal, Customers would not pay to add liquidity, a Customer order would instead receive a

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ETF option ADV contracts per month will receive a $0.35 per contract Penny Symbol Rebate to Remove Liquidity in Tier 3.

19 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month would pay a $0.39 per contract Penny Symbol Fee to Add Liquidity in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month would pay a $0.39 per contract Penny Symbol Fee to Add Liquidity in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month would pay a $0.39 per contract Penny Symbol Fee to Add Liquidity in Tier 3.

20 See note 17 above.

rebate. Today, Customer orders are subject to the tiered Penny Symbol Fee to Add Liquidity when trading against a Customer of $0.39 per contract, regardless of tier.[21]

Non-Penny Symbols

With respect to the impact on pricing for Non-Penny Symbols, the Exchange notes the below changes in pricing.

Lead Market Makers

Today, Lead Market Makers are charged a $0.50 per contract Non-Penny Fee to Add Liquidity when the Lead Market Maker is trading with any market participant other than a Customer. If the contra-party is a Customer, the Lead Market Maker is charged a higher Fee to Add Liquidity of $0.95 per contract instead. Lead Market Makers are also currently charged a $0.89 per contract Non-Penny Fee to Remove Liquidity when the Lead Market Maker is trading with any market participant other than a Customer. If the contra-party is a Customer, the Lead Market Maker is charged a Fee to Remove Liquidity ranging from $0.89 to $0.60 per contract depending on the volume tier achieved, as described in the Non-Penny Symbols Tier Schedule above. Lead Market Makers are currently not offered any rebates for adding or removing liquidity.

With this proposal, the Exchange will eliminate the contra-party qualifications and volume tiers for Lead Market Maker pricing in Non-Penny Symbols. Lead Market Makers would instead receive a flat Maker Rebate of $0.45 per contract for adding liquidity in Non-Penny Symbols, regardless of contra-party. They would receive the proposed Maker Rebate for adding liquidity whereas today, they would be charged a fee for adding liquidity in Non-Penny Symbols. As proposed, Lead Market Makers would

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21 See note 19 above.

also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols, regardless of contra-party. The proposed fee would be higher than the current fee assessed to Lead Market Makers for removing liquidity in Non-Penny Symbols.

Market Makers

Today, Market Makers are charged a $0.50 per contract Non-Penny Fee to Add Liquidity when the Market Maker is trading with any market participant other than a Customer. If the contra-party is a Customer, the Market Maker is charged a higher Fee to Add Liquidity of $0.95 per contract instead. Market Makers are also currently charged a $0.89 per contract Non-Penny Fee to Remove Liquidity when the Market Maker is trading with any market participant other than a Customer. If the contra-party is a Customer, the Market Maker is charged a Fee to Remove Liquidity ranging from $0.89 to $0.60 per contract depending on the volume tier achieved, as described in the Non-Penny Symbols Tier Schedule above. Market Makers are currently not offered any rebates for adding or removing liquidity.

With this proposal, the Exchange will eliminate the contra-party qualifications and volume tiers for Market Maker pricing in Non-Penny Symbols. Market Makers would instead receive a flat Maker Rebate of $0.40 per contract for adding liquidity in Non-Penny Symbols, regardless of contra-party. They would receive this Maker Rebate for adding liquidity whereas today, they would be charged a fee for adding liquidity in Non-Penny Symbols. As proposed, Market Makers would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols, regardless of contra-party. The proposed fee would be higher than the current fee assessed to Market Makers for removing liquidity in Non-Penny Symbols.

Non-Customers

Today, Non-Customers are charged a $0.98 per contract Non-Penny Fee to Add Liquidity. Non-Customers are also currently charged a $0.89 per contract Non-Penny Fee to Remove Liquidity. Non-Customers are currently not offered any rebates for adding or removing liquidity.

With this proposal, Non-Customers would be charged a Maker Fee of $0.45 per contract for adding liquidity in Non-Penny Symbols, which is lower than the current Fee to Add Liquidity. Non-Customers would also be charged a Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols, which is higher than the current Fee to Remove Liquidity.

Firms

Today, Firms are charged a $0.98 per contract Non-Penny Fee to Add Liquidity. Firms are also currently charged a $0.89 per contract Non-Penny Fee to Remove Liquidity. Firms are currently not offered any rebates for adding or removing liquidity.

With this proposal, Firms would be charged a Maker Fee of $0.45 per contract for adding liquidity in Non-Penny Symbols, which is lower than the current Fee to Add Liquidity. Firms would also be charged a Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols, which is higher than the current Fee to Remove Liquidity.

Customers

Today, Customers trading with any market participant other than another Customer receive Non-Penny Rebates to Add Liquidity ranging from $0.00 to $0.20 per contract depending on the volume tier achieved, as described in the Non-Penny Symbols Tier Schedule above. If the contra-party is another Customer, the Customer is charged a Non-Penny Fee to Add Liquidity of $0.85 per contract instead, regardless of tier. As described in the Non-Penny Symbols Tier Schedule above, Customers also currently receive a Non-Penny Rebates to Remove Liquidity of $0.80 per contract, regardless of tier. This rebate is provided to Customers regardless of contra-party.

With this proposal, the Exchange will eliminate the contra-party qualifications and volume tiers for Customer pricing in Non-Penny Symbols. Customers would instead receive a flat Maker Rebate of $0.90 per contract for adding liquidity in Non-Penny Symbols, regardless of contra-party. Customers would receive the proposed Maker Rebate for adding liquidity whereas today, they would either receive a lower rebate or be charged a fee for adding liquidity in Non-Penny Symbols, depending on the contra-party. As proposed, Customers would also be charged a flat Taker Fee of $0.65 per contract for removing liquidity in Non-Penny Symbols, regardless of counterparty. Customers would pay the proposed Taker Fee for removing liquidity whereas today, they would receive a rebate for removing liquidity in Non-Penny Symbols.

<u>Non-Customer</u>

The Exchange proposes to relocate current note 1 of Options 7, Section 2, which describes a Non-Customer, to Options 7, Section 1 and provide, “The term ‘Non-Customer’ shall include a Professional, Broker-Dealer and Non-BX Options Market

Maker." The defined term as proposed within Options 7, Section 1 is applicable to Options 7 pricing. Further, the Exchange proposes to remove references to note 1 within Options 7, Section 2(1), as described above, as well as within Options 7, Section 2(4).

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[23] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no

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[22] 15 U.S.C. 78 f(b).

[23] 15 U.S.C. 78f(b)(4) and (5).

exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[24]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[25]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Generally, the Exchange's proposal will replace the existing fees and rebates in Options 7, Section 2(1) applicable to transactions in Penny and Non-Penny Symbols with a new maker/taker fee structure where market participants are assessed a rebate or lower

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24 NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

25 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

fee for adding liquidity to the market, or charged a higher fee for removing liquidity from the market. As described above, the proposed pricing will no longer be tiered and will not consider the contra-party, unless otherwise specified, thereby reducing complexity in the Exchange's Pricing Schedule. For the reasons discussed in the following paragraphs, the Exchange believes that the proposed fee structure will be beneficial to market participants and will encourage an active and liquid market in both Penny and Non-Penny Symbols on BX.

Penny Symbols

Lead Market Makers

The proposal to amend Lead Market Maker Penny Symbol pricing is reasonable. The proposed Penny Symbol Maker Rebates for Lead Market Maker orders, for all Penny Symbols, are higher than the current Lead Market Maker Penny Symbol Rebate to Add Liquidity of $0.11 per contract. Also, the proposed Penny Symbol Maker Rebates for Lead Market Maker orders do not consider the contra-party. The Exchange believes that these higher rebates will attract a greater amount of liquidity in all Penny Symbols to BX, which will benefit all market participants in the quality of order interaction. In addition, the Exchange's proposal to offer the Maker Rebate for Lead Market Makers of $0.22 per contract in SPY and offer the Maker Rebate for Lead Market Makers of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA, is reasonable for the reasons that follow. Today, BX segments its pricing as between Penny and Non-Penny Symbols. While the Exchange would pay a lower Maker Rebate of $0.22 per contract in SPY as compared to the proposed Penny Symbol Maker Rebate for Lead Market Makers of $0.29 per contract, the Exchange believes that the proposed SPY rebate is reasonable because

Lead Market Makers would still be eligible to receive rebates for such orders, albeit at a lower amount than for other Penny Symbols under this proposal. Furthermore, the Exchange notes that the proposed SPY rebate of $0.22 per contract will be significantly higher than the current rebate of $0.11 per contract. As such, the Exchange believes that the proposed SPY rebate is set at an appropriate level that would continue to encourage Lead Market Makers to add liquidity in SPY. In addition, the Exchange believes that it is reasonable to pay a higher Maker Rebate of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA as compared to the proposed Penny Symbol Maker Rebate for Lead Market Makers of $0.29 per contract as the Exchange is seeking to incentivize greater order flow in these symbols to BX. These highly liquid Penny Symbols are subject to greater competition among options exchanges and, therefore, a higher rebate is necessary to attract this order flow. The proposed Penny Symbol Taker Fee for Lead Market Maker orders of $0.46 per contract is higher than the current Lead Market Maker tiered Penny Symbol Fees to Remove Liquidity when trading against a Customer which range from $0.39 to $0.30 per contract[26] and is the same as the current Lead Market Maker tiered Penny Symbol Fees to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm of $0.46 per contract regardless of tier.[27] BX would no longer assess a fee to add liquidity for Lead Market Maker orders, rather Participants would obtain the Maker Rebate, notwithstanding the contra-party. The Exchange believes that the Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

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26 See note 9 above.

27 See note 10 above.

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols. The Exchange believes that the proposed differentiation between Lead Market Makers and other market participants through the proposed Maker Rebate recognizes the differing contributions made to the liquidity and trading environment on the Exchange by Lead Market Makers through their quoting obligations and their commitment of capital, unlike other market participants.[28] Furthermore, LMMs are subject to heightened quoting obligations compared to Market Makers.[29] Incentivizing Lead Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction. The Exchange's proposal to offer a lower Maker Rebate for Lead Market Makers of $0.22 per contract in SPY and offer a higher Maker Rebate for Lead Market Makers of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA is equitable and not unfairly discriminatory as the Exchange's proposal would be applied uniformly to similarly-situated Participants with quoting obligations.

Market Maker

The proposal to amend Market Maker Penny Symbol pricing is reasonable. The proposed Maker Rebates for Penny Symbol Market Maker orders, for all Penny Symbols, are higher than the current Market Maker Penny Symbol Rebate to Add Liquidity of $0.10 and the proposed rebate does not consider the contra-party. The Exchange believes that these higher rebates will attract a greater amount of liquidity in all Penny Symbols to

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28 See Options 2, Section 4.

29 See Options 2, Section 4(j) (setting forth the 90% or higher quoting requirements for LMMs) and Section 5(d) (setting forth the 60% or higher quoting obligations for Market Makers).

BX, which will benefit all market participants in the quality of order interaction. In addition, the Exchange's proposal to offer the Maker Rebate for Market Makers of $0.22 per contract in SPY and offer the Maker Rebate for Market Makers of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA, is reasonable for the reasons that follow. Today, BX segments its pricing as between Penny and Non-Penny Symbols. While the Exchange would pay a lower Maker Rebate of $0.22 per contract in SPY as compared to the proposed Penny Symbol Maker Rebate for Market Makers of $0.25 per contract, the Exchange believes that the proposed SPY rebate is reasonable because Market Makers would still be eligible to receive rebates for such orders, albeit at a lower amount than for other Penny Symbols under this proposal. Furthermore, the Exchange notes that the proposed SPY rebate of $0.22 per contract will be significantly higher than the current rebate of $0.10 per contract. As such, the Exchange believes that the proposed SPY rebate is set at an appropriate level that would continue to encourage Market Makers to add liquidity in SPY. In addition, the Exchange believes that it is reasonable to pay a higher rebate of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA as compared to the proposed Maker Rebate for Market Makers of $0.25 per contract as the Exchange is seeking to incentivize greater order flow in these symbols to BX. These highly liquid Penny Symbols are subject to greater competition among options exchanges and, therefore, a higher rebate is necessary to attract this order flow. The proposed Penny Symbol Taker Fee for Market Maker orders is higher than the current Market Maker tiered Penny Symbol Fee to Remove Liquidity when trading against a Customer which ranges from $0.39 to $0.30 per contract[30] and is the same as the current Market Maker

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30 See note 13 above.

tiered Penny Symbol Fee to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm of $0.46 per contract regardless of tier.[31] BX would no longer assess a fee to add liquidity for Market Maker orders, rather Participants would obtain the Maker Rebate, notwithstanding the contra-party. The Exchange believes that the Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols. Market Makers add value through continuous quoting and are subject to additional requirements and obligations unlike other market participants.[32] Incentivizing Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction. The Exchange's proposal to offer a lower Maker Rebate for Market Makers of $0.22 per contract in SPY and offer a higher Maker Rebate for Market Makers of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA is equitable and not unfairly discriminatory as the Exchange's proposal would be applied uniformly to similarly-situated Participants with quoting obligations.

Non-Customers

The proposal to amend Non-Customer Penny Symbol pricing is reasonable. The proposal would begin to pay a Penny Symbol Maker Rebate for Non-Customer orders. Today, Non-Customer Orders receive no rebates for adding liquidity in Penny Symbols. The Exchange believes that paying a rebate will attract a greater amount of liquidity to

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31 See note 14 above.

32 See Options 2, Sections 4 and 5.

BX. The Non-Customer Penny Symbol Taker Fee of $0.46 per contract is higher than the Non-Customer Penny Symbol Fee to Add Liquidity of $0.45 per contract and is the same as the Non-Customer Penny Symbol Fee to Remove Liquidity of $0.46 per contract. The Exchange believes that the Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols.

Firms

The proposal to amend Firm Penny Symbol pricing is reasonable. The proposal would begin to pay a Penny Symbol Maker Rebate for Firm orders. Today, Firm Orders receive no rebates for adding liquidity in Penny Symbols. The Exchange believes that paying a rebate will attract a greater amount of liquidity to BX. The Firm Penny Symbol Taker Fee of $0.46 per contract is higher than the Firm Penny Symbol Fee to Add Liquidity of $0.45 per contract and is the same as the Firm Penny Symbol Fee to Remove Liquidity of $0.46 per contract. The Exchange believes that the Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols.

Customers

The proposal to amend Customer Penny Symbol pricing is reasonable. The proposed new Penny Symbol Customer Maker Rebate of $0.30 per contract is higher than the current Customer Rebates to Add Liquidity[33] and does not consider the contra-party. The Exchange believes that these higher rebates will attract a greater amount of liquidity to BX. This proposal would no longer pay a Penny Symbol Customer rebate to remove liquidity with this pricing model. With this proposal, Customer orders would be assessed a Customer Taker Fee of $0.46 per contract, except for SPY where a Customer order would pay a Taker Fee of $0.26 per contract to remove liquidity. Today, Customer orders are not assessed a Penny Symbol Fee to Remove Liquidity. With this proposal, Customers would not pay to add liquidity, a Customer order would instead receive a rebate. Today, Customer orders are subject to the tiered Penny Symbol Fee to Add Liquidity when trading against a Customer of $0.39 per contract, regardless of tier.[34] The Exchange believes that the Customer Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants. The Exchange notes that the proposed Taker Fee for Customers remains below similar fees assessed by another options exchange.[35]

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols. Customers would continue to receive favorable pricing as compared to other market participants because Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by

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33 See note 17 above.

34 See note 19 above.

35 NYSE Arca Options ("Arca") currently assesses Customers a Take Liquidity fee of $0.49 per contract in Penny Issues. See Arca Fees and Charges, Transaction Fee for Electronic Executions – Per Contract.

providing more trading opportunities which attracts market makers. An increase in the activity of these market participants (particularly in response to pricing) in turn facilitates tighter spreads which may cause an additional corresponding increase in order flow from other market participants.

Non-Penny Symbols

Lead Market Makers

The Exchange believes that the proposed Lead Market Maker Non-Penny Symbol pricing is reasonable. As discussed above, Lead Market Makers would receive the proposed flat Maker Rebate of $0.45 per contract for adding liquidity in Non-Penny Symbols whereas today, they would be charged a fee. The Exchange believes that the proposed Maker Rebate will attract a greater amount of liquidity to BX to the benefit of all market participants. As proposed, Lead Market Makers would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols. While the proposed Taker Fee would be higher than the current fees assessed to Lead Market Makers for removing liquidity in Non-Penny Symbols described above, the Exchange believes that the proposed fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.[36]

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated

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[36] The Exchange notes that the proposed Taker Fee is within the range of similar fees charged by other options exchanges. See, e.g., Arca Fees and Charges, Transaction Fee for Electronic Executions – Per Contract (assessing all market participants except Customers a Take Liquidity fee of $1.10 per contract in Non-Penny Issues); and Nasdaq MRX ("MRX") Pricing Schedule at Options 7, Section 3 (assessing all market participants except Priority Customers a $1.10 per contract Taker Fee in Non-Penny Symbols.

Participants for Non-Penny Symbols. The Exchange believes that the proposed differentiation between Lead Market Makers and other market participants through the proposed Maker Rebate recognizes the differing contributions made to the liquidity and trading environment on the Exchange by Lead Market Makers through their quoting obligations and their commitment of capital, unlike other market participants.[37] In addition, LMMs are subject to heightened quoting obligations compared to Market Makers.[38] Incentivizing Lead Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction.

Market Makers

The Exchange believes that the proposed Market Maker Non-Penny Symbol pricing is reasonable. As discussed above, Market Makers would receive the proposed flat Maker Rebate of $0.40 per contract for adding liquidity in Non-Penny Symbols whereas today, they would be charged a fee. The Exchange believes that the proposed Maker Rebate will attract a greater amount of liquidity to BX to the benefit of all market participants. As proposed, Market Makers would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols. While the proposed Taker Fee would be higher than the current fees assessed to Market Makers for removing liquidity in Non-Penny Symbols described above, the Exchange believes that the proposed fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.[39]

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37 See Options 2, Section 4.

38 See Options 2, Section 4.

39 See note 36 above.

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated Participants for Non-Penny Symbols. Market Makers add value through continuous quoting and are subject to additional requirements and obligations unlike other market participants.[40] Incentivizing Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction.

Non-Customers

The Exchange believes that the proposed Non-Customer pricing in Non-Penny Symbols is reasonable. As discussed above, Non-Customers would be charged a Maker Fee of $0.45 per contract for adding liquidity in Non-Penny Symbols, which is significantly lower than the current Fee to Add Liquidity. As such, the Exchange believes that the proposed Maker Fee will continue to attract Non-Customer order flow to BX to the benefit of all market participants. As proposed, Non-Customers would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols. While the proposed Taker Fee would be higher than the current fee assessed to Non-Customers for removing liquidity in Non-Penny Symbols, the Exchange believes that the proposed fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.[41]

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated Participants for Non-Penny Symbols.

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40 See Options 2, Sections 4 and 5.

41 See note 36 above.

Firms

The Exchange believes that the proposed Firm pricing in Non-Penny Symbols is reasonable. As discussed above, Firms would be charged a Maker Fee of $0.45 per contract for adding liquidity in Non-Penny Symbols, which is significantly lower than the current Fee to Add Liquidity. As such, the Exchange believes that the proposed Maker Fee will continue to attract Firm order flow to BX to the benefit of all market participants. As proposed, Firms would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols. While the proposed Taker Fee would be higher than the current fee assessed to Firms for removing liquidity in Non-Penny Symbols, the Exchange believes that the proposed fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.[42]

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated Participants for Non-Penny Symbols.

Customers

The Exchange believes that the proposed Customer pricing in Non-Penny Symbols is reasonable. As discussed above, Customers would receive a flat Maker Rebate of $0.90 per contract for adding liquidity whereas today, they would either receive a lower rebate or be charged a fee for adding liquidity in Non-Penny Symbols, depending on the contra-party. The Exchange believes that these higher rebates will attract a greater amount of liquidity to BX. In addition, Customers would no longer receive a rebate for removing liquidity in Non-Penny Symbols, and would instead be

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42 See note 36 above.

charged a flat Taker Fee of $0.65 per contract under this proposal. While Customers would be assessed a fee, the Exchange notes that this fee will be lower than the $1.10 per contract Taker Fees assessed to all other market participants under this proposal. The Exchange further notes that the proposed Customer Taker Fee remains below similar fees assessed by another options exchange.[43] Accordingly, the Exchange believes that the proposed Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated Participants for Non-Penny Symbols. Customers would continue to receive favorable pricing as compared to other market participants because Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities which attracts market makers. An increase in the activity of these market participants (particularly in response to pricing) in turn facilitates tighter spreads which may cause an additional corresponding increase in order flow from other market participants.

Non-Customer

The Exchange's proposal to relocate current note 1 of Options 7, Section 2 to Options 7, Section 1 and remove references to note 1 within Options 7, Section 2(1), as described above, as well as within Options 7, Section 2(4) is reasonable, equitable and

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43 Arca currently assesses Customers a Take Liquidity fee of $0.85 per contract in Non-Penny Issues (or $0.67 per contract if the Customer is trading against an LMM). See Arca Fees and Charges, Transaction Fee for Electronic Executions – Per Contract.

not unfairly discriminatory. The amendments will bring greater clarity to the term Non-Customer throughout Options 7 pricing.

4. <u>Self-Regulatory Organization's Statement on Burden on Competition</u>

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

<u>Inter-market Competition</u>

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

<u>Intra-market Competition</u>

The proposed pricing does not impose an undue burden on intra-market competition as all pricing would be uniformly assessed to similarly situated market participants. Customers would continue to receive favorable pricing as compared to other market participants because Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities which attracts market makers. An increase in the activity of these market participants (particularly in response to pricing) in turn facilitates tighter spreads which may cause an additional corresponding increase in order flow from other market participants. Lead Market Makers and Market Makers add value through continuous quoting[44] and are subject to additional requirements and obligations[45] unlike other market participants. Incentivizing Lead Market Makers and Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction.

Non-Customer

The Exchange's proposal to relocate current note 1 of Options 7, Section 2 to Options 7, Section 1 and remove references to note 1 within Options 7, Section 2(1), as described above, as well as within Options 7, Section 2(4) does not impose an undue burden on competition. The amendments will bring greater clarity to the term Non-Customer throughout Options 7 pricing.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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44 See Options 2, Sections 4 and 5.

45 See Options 2, Section 4.

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,[46] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization which renders the proposed rule change effective upon filing.

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

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.

5. Text of the proposed rule change.

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46 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-BX-2021-009)

March__, 2021

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend BX Options 7, Section 1, "General Provisions," and Options 7, Section 2, "BX Options Market- Fees and Rebates."

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on March 22, 2021, Nasdaq BX, Inc. ("BX" 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 BX Options 7, Section 1, "General Provisions," and Options 7, Section 2, "BX Options Market- Fees and Rebates."

The text of the proposed rule change is available on the Exchange's Website at https://listingcenter.nasdaq.com/rulebook/bx/rules, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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 BX's Pricing Schedule at Options 7, Section 1, "General Provisions," and Options 7, Section 2, "BX Options Market-Fees and Rebates." The Exchange proposes to remove the current fees, rebates and tier schedules applicable to Penny Symbols and Non-Penny Symbols. Today, the Penny and Non-Penny fees and rebates are based on volume tiers and consider contra-parties to a transaction. With this proposal, BX's pricing will no longer be tiered and will not consider the contra-party, unless otherwise specified. Further, the proposed changes will replace the existing pricing schedule with a new maker/taker fee structure where market participants are assessed a rebate or lower fee for adding liquidity to the market, or charged a higher fee for removing liquidity from the market. This new pricing model is intended to reward Participants that bring order flow to the Exchange and thereby increase liquidity and trading opportunities for all market participants. BX believes that the proposed pricing model will encourage additional order flow to be sent to the Exchange, and contribute to a more active and quality market in BX-listed options to the benefit of all market participants that trade on the Exchange.

The current pricing schedule for Penny and Non-Penny Symbols is as follows:

Fees and Rebates (per executed contract)

	Customer	**Lead Market Maker**	**BX Options Market Maker**	**Non-Customer** [1]	**Firm**
Penny Symbols:					
Rebate to Add Liquidity	#	$0.11 [2]	$0.10 [2]	N/A	N/A
Fee to Add Liquidity	#	$0.38 [3]	$0.39 [3]	$0.45	$0.45
Rebate to Remove Liquidity	#	N/A	N/A	N/A	N/A
Fee to Remove Liquidity	N/A	#	#	$0.46	$0.46
Non-Penny Symbols:					
Rebate to Add Liquidity	*	N/A	N/A	N/A	N/A
Fee to Add Liquidity	*	$0.50/$0.95 [4]	$0.50/$0.95 [4]	$0.98	$0.98
Rebate to Remove Liquidity	*	N/A	N/A	N/A	N/A
Fee to Remove Liquidity	N/A	*	*	$0.89	$0.89

For purposes of the above fees and rebates, a Non-Customer includes a Professional, Broker-Dealer and Non-BX Options Market Maker.[3] The Rebate to Add Liquidity is paid to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Non-Customer, Firm, BX Options

[3] See note 1 within Options 7, Section 2.

Market Maker, or Lead Market Maker.[4] The Fee to Add Liquidity is assessed to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Customer.[5] Finally, the higher Fee to Add Liquidity is assessed to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Customer.[6]

The current Penny Symbol tier schedule is as follows:

[#] Penny Symbols Tier Schedule

		Rebate to Add Liquidity	**Fee to Add Liquidity**	**Rebate to Remove Liquidity**	**Fee to Remove Liquidity**	**Fee To Remove Liquidity**
	When:	**Customer**	**Customer**	**Customer**	**Lead Market Maker or BX Options Market Maker**	**Lead Market Maker or BX Options Market Maker**
	Trading with:	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, Customer, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**
Tier 1	Participant executes less than 0.05% of	$0.00	$0.39	$0.00	$0.39	$0.46

4 See note 2 within Options 7, Section 2.

5 See note 3 within Options 7, Section 2.

6 See note 4 within Options 7, Section 2.

	total industry customer equity and ETF option ADV contracts per month.					
Tier 2	Participant executes 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month.	$0.10	$0.39	$0.25	$0.39	$0.46
Tier 3	Participant executes 0.15% or more of total industry customer equity and ETF option ADV contracts per month	$0.20	$0.39	$0.35	$0.30	$0.46

The current Non-Penny Symbol tier schedule is as follows:

* Non-Penny Symbols Tier Schedule

		Rebate to Add Liquidity	Fee to Add Liquidity	Rebate to Remove Liquidity	Fee to Remove Liquidity	Fee To Remove Liquidity
	When:	**Customer**	**Customer**	**Customer**	**Lead Market Maker or BX Options Market Maker**	**Lead Market Maker or BX Options Market Maker**
	Tradingwith:	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, Customer, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**
Tier 1	Participant executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month.	$0.00	$0.85	$0.80	$0.89	$0.89
Tier 2	Participant executes 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month.	$0.10	$0.85	$0.80	$0.89	$0.89
Tier 3	Participant executes 0.15% or more of total industry customer equity and ETF	$0.20	$0.85	$0.80	$0.60	$0.89

	option ADV contracts per month					

The Exchange now proposes to remove the above-referenced current fees, rebates and tier schedules. The Exchange proposes to amend the introductory paragraph which states, "The following charges shall apply to the use of the order execution and routing services of the BX Options market for all securities" by replacing the term "charges" with the term "pricing." The Exchange also proposes to amend Options 7, Section 2(1) which states, "Fees for Execution of Contracts on the BX Options Market." The Exchange proposes to instead provide, "Fees and Rebates for Execution of Contracts on the BX Options Market." Both of these changes are to account for rebates that are also offered to BX Participants.

The Exchange proposes to adopt the following Penny and Non-Penny Symbol fees and rebates in Options 7, Section 2(1):

(1) Fees and Rebates for Execution of Contracts on the BX Options Market:

Penny Symbols

Market Participant	**Maker Rebate**	**Taker Fee**
Lead Market Maker	(0.29)	$0.46
Market Maker	(0.25)	$0.46
Non-Customer	(0.12)	$0.46
Firm	(0.12)	$0.46
Customer	($0.30)	$0.46

Non-Penny Symbols

Market Participant	**Maker Rebate / Fee**	**Taker Fee**
Lead Market Maker	(0.45)	$1.10
Market Maker	(0.40)	$1.10

Non-Customer	$0.45	$1.10
Firm	$0.45	$1.10
Customer	($0.90)	$0.65

The Exchange proposes to reduce the Customer Taker Fee to $0.26 per contract for trades which remove liquidity in SPY.[7] Also, the Exchange proposes to offer a Maker Rebate for Lead Market Makers and Market Makers in SPY of $0.22 per contract. Finally, the Exchange proposes to offer a Maker Rebate for Lead Market Makers and Market Makers in AAPL, IWM, GLD, QQQ, SLV, and TSLA of $0.42 per contract.[8] The proposed fees and rebates are described in greater detail below.

Penny Symbols

With respect to the impact on pricing for Penny Symbols, the Exchange notes the below changes in pricing.

Lead Market Makers

Today, Lead Market Makers receive a Penny Symbol Rebate to Add Liquidity of $0.11 per contract only when the Lead Market Maker is contra to a Non-Customer, Firm, BX Options Market Maker, or Lead Market Maker. Today, Lead Market Makers receive no Penny Symbol Rebates to Remove Liquidity. Today, Lead Market Makers pay a $0.38 per contract Penny Symbol Fee to Add Liquidity only when the Lead Market Maker is contra to a Customer. Today, Lead Market Makers pay a Penny Symbol Fee to Remove Liquidity when trading against a Customer which ranges from $0.39 to $0.30

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7 See proposed note 1 to Options 7, Section 2.

8 See proposed note 2 within Options 7, Section 2.

per contract.[9] Today, Lead Market Makers pay a Penny Symbol Fee to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm of $0.46 per contract, regardless of tier.[10]

With this proposal, Lead Market Maker orders would receive a Maker Rebate of $0.29 per contract in all Penny Symbols, except SPY which would pay a Maker Rebate of $0.22 per contract, and except AAPL, IWM, GLD, QQQ, SLV, and TSLA which would pay a Maker Rebate of $0.42 per contract. With this proposal, Lead Market Maker orders would pay a Penny Symbol Taker Fee of $0.46 per contract.

The proposed Penny Symbol Maker Rebates for Lead Market Maker orders, for all Penny Symbols, are higher than the current Lead Market Maker Penny Symbol Rebate to Add Liquidity of $0.11 per contract when trading against Non-Customer, Firm, BX Options Market Maker or Lead Market Maker. Also, the proposed Penny Symbol Maker Rebates for Lead Market Maker orders do not consider the contra-party. The proposed Penny Symbol Taker Fee for Lead Market Maker orders of $0.46 per contract is higher

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9 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.39 per contract in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.39 per contract in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.30 per contract in Tier 3.

10 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 3.

than the current Lead Market Maker tiered Penny Symbol Fees to Remove Liquidity when trading against a Customer which range from $0.39 to $0.30 per contract[11] and is the same as the current Lead Market Maker tiered Penny Symbol Fee to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm of $0.46 per contract regardless of tier.[12] BX would no longer assess a fee to add liquidity for Lead Market Maker orders, rather Participants would obtain the Maker Rebate regardless of contra-party.

Market Maker

Today, BX Options Market Makers receive a Penny Symbol Rebate to Add Liquidity of $0.10 per contract only when the BX Options Market Maker is contra to a Non-Customer, Firm, or BX Options Market Maker. Today, BX Options Market Makers receive no Penny Symbol Rebate to Remove Liquidity. Today, BX Options Market Makers pay a $0.39 per contract Penny Symbol Fee to Add Liquidity only when the BX Options Market Maker is contra to a Customer. Today, BX Options Market Makers pay a Penny Symbol Fee to Remove Liquidity when trading against a Customer which ranges from $0.39 to $0.30 per contract.[13] Today, BX Options Market Makers pay a Penny

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[11] See note 9 above.

[12] See note 10 above.

[13] Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.39 per contract in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.39 per contract in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.30 per contract in Tier 3.

Symbol Fee to Remove Liquidity when trading against a Non-Customer, BX Options Market Maker or Firm of $0.46 per contract, regardless of tier.[14]

With this proposal, the Exchange would rename "BX Options Market Maker" as "Market Maker." With this proposal, Market Maker orders would receive a Maker Rebate of $0.25 per contract in all Penny Symbols, except SPY which would pay a Maker Rebate of $0.22 per contract, and except AAPL, IWM, GLD, QQQ, SLV, and TSLA which would pay a Maker Rebate of $0.42 per contract. With this proposal, Market Maker orders would pay a Penny Symbol Taker Fee of $0.46 per contract.

The proposed Maker Rebates for Penny Symbol Market Maker orders, for all Penny Symbols, are higher than the current Market Maker Penny Symbol Rebate to Add Liquidity of $0.10 per contract when trading against Non-Customer, Firm, BX Options Market Maker, or Lead Market Maker and the proposed rebate does not consider the contra-party. The proposed Penny Symbol Taker Fee for Market Maker orders is higher than the current Market Maker tiered Penny Symbol Fee to Remove Liquidity when trading against a Customer which ranges from $0.39 to $0.30 per contract[15] and is the same as the current Market Maker tiered Penny Symbol Fees to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm

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14 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month would pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract in Tier 3.

15 See note 13 above.

of $0.46 per contract regardless of tier.[16] BX would no longer assess a fee to add liquidity for Market Maker orders, rather Participants would obtain the Maker Rebate regardless of contra-party.

Non-Customers

Today, Non-Customers receive neither a Penny Symbol Rebate to Add Liquidity nor a Penny Symbol Rebate to Remove Liquidity. Today, Non-Customers pay a Penny Symbol Fee to Add Liquidity of $0.45 per contract. Today, Non-Customers pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract.

With this proposal, Non-Customer orders would receive a Maker Rebate of $0.12 per contract in all Penny Symbols. With this proposal, Non-Customer orders would pay a Penny Symbol Taker Fee of $0.46 per contract.

The Exchange would begin to pay a Penny Symbol Maker Rebate for Non-Customer orders. Today, Non-Customer Orders receive no rebates for adding liquidity in Penny Symbols. The proposed Non-Customer Penny Symbol Taker Fee of $0.46 per contract is higher than the Non-Customer Penny Symbol Fee to Add Liquidity of $0.45 per contract and is the same as the Non-Customer Penny Symbol Fee to Remove Liquidity of $0.46 per contract.

Firms

Today, Firms receive neither a Penny Symbol Rebate to Add Liquidity nor a Penny Symbol Rebate to Remove Liquidity. Today, Firms pay a Penny Symbol Fee to Add Liquidity of $0.45 per contract. Today, Firms pay a Penny Symbol Fee to Remove Liquidity of $0.46 per contract.

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16 See note 14 above.

With this proposal, Firm orders would receive a Maker Rebate of $0.12 per contract in all Penny Symbols. With this proposal, Firm orders would pay a Penny Symbol Taker Fee of $0.46 per contract.

The Exchange would begin to pay a Penny Symbol Maker Rebate for Firm orders. Today, Firm Orders receive no rebates for adding liquidity in Penny Symbols. The proposed Firm Penny Symbol Taker Fee of $0.46 per contract is higher than the Firm Penny Symbol Fee to Add Liquidity of $0.45 per contract and is the same as the Firm Penny Symbol Fee to Remove Liquidity of $0.46 per contract.

Customers

Today, Customers receive a Penny Symbol Rebate to Add Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm which ranges from $0.00 to $0.20 per contract.[17] Today, Customers receive a Penny Symbol Rebate to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker, Customer or Firm which ranges from $0.00 to $0.35 per contract.[18] Today, Customers pay a Penny Symbol Fee to Add Liquidity when trading

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[17] Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month receive no Penny Symbol Rebate to Add Liquidity in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month receive a $0.10 per contract Penny Symbol Rebate to Add Liquidity in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month receive a $0.20 per contract Penny Symbol Rebate to Add Liquidity in Tier 3.

[18] Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month would receive no Penny Symbol Rebate to Remove Liquidity in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month would receive a $0.25 per contract Penny Symbol Rebate to Remove Liquidity in Tier 2. Participants that execute 0.15% or more of total industry customer equity and

against a Customer of $0.39 per contract, regardless of tier.[19] Today, Customers do not pay a Penny Symbol Fee to Remove Liquidity.

With this proposal, Customer orders would receive a $0.30 per contract Penny Symbol Maker Rebate. With this proposal, Customer orders would pay a $0.46 per contract Penny Symbol Taker Fee, unless the Customer order removes liquidity in SPY, in which case the Taker Fee would be $0.26 per contract.

The proposed new Penny Symbol Customer Maker Rebate of $0.30 per contract is higher than the current Customer Rebates to Add Liquidity[20] and does not consider the contra-party. This proposal would no longer pay a Penny Symbol Customer rebate to remove liquidity with this pricing model. With this proposal, Customer orders would be assessed a Customer Taker Fee of $0.46 per contract, except for SPY where a Customer order would pay a Taker Fee of $0.26 per contract to remove liquidity. Today, Customer orders are not assessed a Penny Symbol Fee to Remove Liquidity. With this proposal, Customers would not pay to add liquidity, a Customer order would instead receive a

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ETF option ADV contracts per month will receive a $0.35 per contract Penny Symbol Rebate to Remove Liquidity in Tier 3.

19 Participants that executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month would pay a $0.39 per contract Penny Symbol Fee to Add Liquidity in Tier 1. Participants that execute 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month would pay a $0.39 per contract Penny Symbol Fee to Add Liquidity in Tier 2. Participants that execute 0.15% or more of total industry customer equity and ETF option ADV contracts per month would pay a $0.39 per contract Penny Symbol Fee to Add Liquidity in Tier 3.

20 <u>See</u> note 17 above.

rebate. Today, Customer orders are subject to the tiered Penny Symbol Fee to Add Liquidity when trading against a Customer of $0.39 per contract, regardless of tier.[21]

Non-Penny Symbols

With respect to the impact on pricing for Non-Penny Symbols, the Exchange notes the below changes in pricing.

Lead Market Makers

Today, Lead Market Makers are charged a $0.50 per contract Non-Penny Fee to Add Liquidity when the Lead Market Maker is trading with any market participant other than a Customer. If the contra-party is a Customer, the Lead Market Maker is charged a higher Fee to Add Liquidity of $0.95 per contract instead. Lead Market Makers are also currently charged a $0.89 per contract Non-Penny Fee to Remove Liquidity when the Lead Market Maker is trading with any market participant other than a Customer. If the contra-party is a Customer, the Lead Market Maker is charged a Fee to Remove Liquidity ranging from $0.89 to $0.60 per contract depending on the volume tier achieved, as described in the Non-Penny Symbols Tier Schedule above. Lead Market Makers are currently not offered any rebates for adding or removing liquidity.

With this proposal, the Exchange will eliminate the contra-party qualifications and volume tiers for Lead Market Maker pricing in Non-Penny Symbols. Lead Market Makers would instead receive a flat Maker Rebate of $0.45 per contract for adding liquidity in Non-Penny Symbols, regardless of contra-party. They would receive the proposed Maker Rebate for adding liquidity whereas today, they would be charged a fee for adding liquidity in Non-Penny Symbols. As proposed, Lead Market Makers would

21 See note 19 above.

also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols, regardless of contra-party. The proposed fee would be higher than the current fee assessed to Lead Market Makers for removing liquidity in Non-Penny Symbols.

Market Makers

Today, Market Makers are charged a $0.50 per contract Non-Penny Fee to Add Liquidity when the Market Maker is trading with any market participant other than a Customer. If the contra-party is a Customer, the Market Maker is charged a higher Fee to Add Liquidity of $0.95 per contract instead. Market Makers are also currently charged a $0.89 per contract Non-Penny Fee to Remove Liquidity when the Market Maker is trading with any market participant other than a Customer. If the contra-party is a Customer, the Market Maker is charged a Fee to Remove Liquidity ranging from $0.89 to $0.60 per contract depending on the volume tier achieved, as described in the Non-Penny Symbols Tier Schedule above. Market Makers are currently not offered any rebates for adding or removing liquidity.

With this proposal, the Exchange will eliminate the contra-party qualifications and volume tiers for Market Maker pricing in Non-Penny Symbols. Market Makers would instead receive a flat Maker Rebate of $0.40 per contract for adding liquidity in Non-Penny Symbols, regardless of contra-party. They would receive this Maker Rebate for adding liquidity whereas today, they would be charged a fee for adding liquidity in Non-Penny Symbols. As proposed, Market Makers would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols, regardless of contra-party. The proposed fee would be higher than the current fee assessed to Market Makers for removing liquidity in Non-Penny Symbols.

Non-Customers

Today, Non-Customers are charged a $0.98 per contract Non-Penny Fee to Add Liquidity. Non-Customers are also currently charged a $0.89 per contract Non-Penny Fee to Remove Liquidity. Non-Customers are currently not offered any rebates for adding or removing liquidity.

With this proposal, Non-Customers would be charged a Maker Fee of $0.45 per contract for adding liquidity in Non-Penny Symbols, which is lower than the current Fee to Add Liquidity. Non-Customers would also be charged a Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols, which is higher than the current Fee to Remove Liquidity.

Firms

Today, Firms are charged a $0.98 per contract Non-Penny Fee to Add Liquidity. Firms are also currently charged a $0.89 per contract Non-Penny Fee to Remove Liquidity. Firms are currently not offered any rebates for adding or removing liquidity.

With this proposal, Firms would be charged a Maker Fee of $0.45 per contract for adding liquidity in Non-Penny Symbols, which is lower than the current Fee to Add Liquidity. Firms would also be charged a Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols, which is higher than the current Fee to Remove Liquidity.

Customers

Today, Customers trading with any market participant other than another Customer receive Non-Penny Rebates to Add Liquidity ranging from \$0.00 to \$0.20 per contract depending on the volume tier achieved, as described in the Non-Penny Symbols Tier Schedule above. If the contra-party is another Customer, the Customer is charged a Non-Penny Fee to Add Liquidity of \$0.85 per contract instead, regardless of tier. As described in the Non-Penny Symbols Tier Schedule above, Customers also currently receive a Non-Penny Rebates to Remove Liquidity of \$0.80 per contract, regardless of tier. This rebate is provided to Customers regardless of contra-party.

With this proposal, the Exchange will eliminate the contra-party qualifications and volume tiers for Customer pricing in Non-Penny Symbols. Customers would instead receive a flat Maker Rebate of \$0.90 per contract for adding liquidity in Non-Penny Symbols, regardless of contra-party. Customers would receive the proposed Maker Rebate for adding liquidity whereas today, they would either receive a lower rebate or be charged a fee for adding liquidity in Non-Penny Symbols, depending on the contra-party. As proposed, Customers would also be charged a flat Taker Fee of \$0.65 per contract for removing liquidity in Non-Penny Symbols, regardless of counterparty. Customers would pay the proposed Taker Fee for removing liquidity whereas today, they would receive a rebate for removing liquidity in Non-Penny Symbols.

<u>Non-Customer</u>

The Exchange proposes to relocate current note 1 of Options 7, Section 2, which describes a Non-Customer, to Options 7, Section 1 and provide, “The term ‘Non-Customer’ shall include a Professional, Broker-Dealer and Non-BX Options Market

Maker." The defined term as proposed within Options 7, Section 1 is applicable to Options 7 pricing. Further, the Exchange proposes to remove references to note 1 within Options 7, Section 2(1), as described above, as well as within Options 7, Section 2(4).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[23] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no

22 15 U.S.C. 78 f(b).

23 15 U.S.C. 78f(b)(4) and (5).

exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[24]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[25]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Generally, the Exchange's proposal will replace the existing fees and rebates in Options 7, Section 2(1) applicable to transactions in Penny and Non-Penny Symbols with a new maker/taker fee structure where market participants are assessed a rebate or lower

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24 NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

25 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

fee for adding liquidity to the market, or charged a higher fee for removing liquidity from the market. As described above, the proposed pricing will no longer be tiered and will not consider the contra-party, unless otherwise specified, thereby reducing complexity in the Exchange's Pricing Schedule. For the reasons discussed in the following paragraphs, the Exchange believes that the proposed fee structure will be beneficial to market participants and will encourage an active and liquid market in both Penny and Non-Penny Symbols on BX.

Penny Symbols

Lead Market Makers

The proposal to amend Lead Market Maker Penny Symbol pricing is reasonable. The proposed Penny Symbol Maker Rebates for Lead Market Maker orders, for all Penny Symbols, are higher than the current Lead Market Maker Penny Symbol Rebate to Add Liquidity of $0.11 per contract. Also, the proposed Penny Symbol Maker Rebates for Lead Market Maker orders do not consider the contra-party. The Exchange believes that these higher rebates will attract a greater amount of liquidity in all Penny Symbols to BX, which will benefit all market participants in the quality of order interaction. In addition, the Exchange's proposal to offer the Maker Rebate for Lead Market Makers of $0.22 per contract in SPY and offer the Maker Rebate for Lead Market Makers of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA, is reasonable for the reasons that follow. Today, BX segments its pricing as between Penny and Non-Penny Symbols. While the Exchange would pay a lower Maker Rebate of $0.22 per contract in SPY as compared to the proposed Penny Symbol Maker Rebate for Lead Market Makers of $0.29 per contract, the Exchange believes that the proposed SPY rebate is reasonable because

Lead Market Makers would still be eligible to receive rebates for such orders, albeit at a lower amount than for other Penny Symbols under this proposal. Furthermore, the Exchange notes that the proposed SPY rebate of $0.22 per contract will be significantly higher than the current rebate of $0.11 per contract. As such, the Exchange believes that the proposed SPY rebate is set at an appropriate level that would continue to encourage Lead Market Makers to add liquidity in SPY. In addition, the Exchange believes that it is reasonable to pay a higher Maker Rebate of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA as compared to the proposed Penny Symbol Maker Rebate for Lead Market Makers of $0.29 per contract as the Exchange is seeking to incentivize greater order flow in these symbols to BX. These highly liquid Penny Symbols are subject to greater competition among options exchanges and, therefore, a higher rebate is necessary to attract this order flow. The proposed Penny Symbol Taker Fee for Lead Market Maker orders of $0.46 per contract is higher than the current Lead Market Maker tiered Penny Symbol Fees to Remove Liquidity when trading against a Customer which range from $0.39 to $0.30 per contract[26] and is the same as the current Lead Market Maker tiered Penny Symbol Fees to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm of $0.46 per contract regardless of tier.[27] BX would no longer assess a fee to add liquidity for Lead Market Maker orders, rather Participants would obtain the Maker Rebate, notwithstanding the contra-party. The Exchange believes that the Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

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26 See note 9 above.

27 See note 10 above.

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols. The Exchange believes that the proposed differentiation between Lead Market Makers and other market participants through the proposed Maker Rebate recognizes the differing contributions made to the liquidity and trading environment on the Exchange by Lead Market Makers through their quoting obligations and their commitment of capital, unlike other market participants.[28] Furthermore, LMMs are subject to heightened quoting obligations compared to Market Makers.[29] Incentivizing Lead Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction. The Exchange's proposal to offer a lower Maker Rebate for Lead Market Makers of $0.22 per contract in SPY and offer a higher Maker Rebate for Lead Market Makers of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA is equitable and not unfairly discriminatory as the Exchange's proposal would be applied uniformly to similarly-situated Participants with quoting obligations.

Market Maker

The proposal to amend Market Maker Penny Symbol pricing is reasonable. The proposed Maker Rebates for Penny Symbol Market Maker orders, for all Penny Symbols, are higher than the current Market Maker Penny Symbol Rebate to Add Liquidity of $0.10 and the proposed rebate does not consider the contra-party. The Exchange believes that these higher rebates will attract a greater amount of liquidity in all Penny Symbols to

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28 See Options 2, Section 4.

29 See Options 2, Section 4(j) (setting forth the 90% or higher quoting requirements for LMMs) and Section 5(d) (setting forth the 60% or higher quoting obligations for Market Makers).

BX, which will benefit all market participants in the quality of order interaction. In addition, the Exchange's proposal to offer the Maker Rebate for Market Makers of $0.22 per contract in SPY and offer the Maker Rebate for Market Makers of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA, is reasonable for the reasons that follow. Today, BX segments its pricing as between Penny and Non-Penny Symbols. While the Exchange would pay a lower Maker Rebate of $0.22 per contract in SPY as compared to the proposed Penny Symbol Maker Rebate for Market Makers of $0.25 per contract, the Exchange believes that the proposed SPY rebate is reasonable because Market Makers would still be eligible to receive rebates for such orders, albeit at a lower amount than for other Penny Symbols under this proposal. Furthermore, the Exchange notes that the proposed SPY rebate of $0.22 per contract will be significantly higher than the current rebate of $0.10 per contract. As such, the Exchange believes that the proposed SPY rebate is set at an appropriate level that would continue to encourage Market Makers to add liquidity in SPY. In addition, the Exchange believes that it is reasonable to pay a higher rebate of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA as compared to the proposed Maker Rebate for Market Makers of $0.25 per contract as the Exchange is seeking to incentivize greater order flow in these symbols to BX. These highly liquid Penny Symbols are subject to greater competition among options exchanges and, therefore, a higher rebate is necessary to attract this order flow. The proposed Penny Symbol Taker Fee for Market Maker orders is higher than the current Market Maker tiered Penny Symbol Fee to Remove Liquidity when trading against a Customer which ranges from $0.39 to $0.30 per contract[30] and is the same as the current Market Maker

[30] See note 13 above.

tiered Penny Symbol Fee to Remove Liquidity when trading against a Non-Customer, Lead Market Maker, BX Options Market Maker or Firm of $0.46 per contract regardless of tier.[31] BX would no longer assess a fee to add liquidity for Market Maker orders, rather Participants would obtain the Maker Rebate, notwithstanding the contra-party. The Exchange believes that the Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols. Market Makers add value through continuous quoting and are subject to additional requirements and obligations unlike other market participants.[32] Incentivizing Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction. The Exchange's proposal to offer a lower Maker Rebate for Market Makers of $0.22 per contract in SPY and offer a higher Maker Rebate for Market Makers of $0.42 per contract in AAPL, IWM, GLD, QQQ, SLV, and TSLA is equitable and not unfairly discriminatory as the Exchange's proposal would be applied uniformly to similarly-situated Participants with quoting obligations.

Non-Customers

The proposal to amend Non-Customer Penny Symbol pricing is reasonable. The proposal would begin to pay a Penny Symbol Maker Rebate for Non-Customer orders. Today, Non-Customer Orders receive no rebates for adding liquidity in Penny Symbols. The Exchange believes that paying a rebate will attract a greater amount of liquidity to

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31 See note 14 above.

32 See Options 2, Sections 4 and 5.

BX. The Non-Customer Penny Symbol Taker Fee of $0.46 per contract is higher than the Non-Customer Penny Symbol Fee to Add Liquidity of $0.45 per contract and is the same as the Non-Customer Penny Symbol Fee to Remove Liquidity of $0.46 per contract. The Exchange believes that the Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols.

Firms

The proposal to amend Firm Penny Symbol pricing is reasonable. The proposal would begin to pay a Penny Symbol Maker Rebate for Firm orders. Today, Firm Orders receive no rebates for adding liquidity in Penny Symbols. The Exchange believes that paying a rebate will attract a greater amount of liquidity to BX. The Firm Penny Symbol Taker Fee of $0.46 per contract is higher than the Firm Penny Symbol Fee to Add Liquidity of $0.45 per contract and is the same as the Firm Penny Symbol Fee to Remove Liquidity of $0.46 per contract. The Exchange believes that the Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols.

Customers

The proposal to amend Customer Penny Symbol pricing is reasonable. The proposed new Penny Symbol Customer Maker Rebate of $0.30 per contract is higher than the current Customer Rebates to Add Liquidity[33] and does not consider the contra-party. The Exchange believes that these higher rebates will attract a greater amount of liquidity to BX. This proposal would no longer pay a Penny Symbol Customer rebate to remove liquidity with this pricing model. With this proposal, Customer orders would be assessed a Customer Taker Fee of $0.46 per contract, except for SPY where a Customer order would pay a Taker Fee of $0.26 per contract to remove liquidity. Today, Customer orders are not assessed a Penny Symbol Fee to Remove Liquidity. With this proposal, Customers would not pay to add liquidity, a Customer order would instead receive a rebate. Today, Customer orders are subject to the tiered Penny Symbol Fee to Add Liquidity when trading against a Customer of $0.39 per contract, regardless of tier.[34] The Exchange believes that the Customer Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants. The Exchange notes that the proposed Taker Fee for Customers remains below similar fees assessed by another options exchange.[35]

The proposal is equitable and not unfairly discriminatory as all pricing would be uniformly assessed to similarly situated Participants for Penny Symbols. Customers would continue to receive favorable pricing as compared to other market participants because Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by

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33 See note 17 above.

34 See note 19 above.

35 NYSE Arca Options ("Arca") currently assesses Customers a Take Liquidity fee of $0.49 per contract in Penny Issues. See Arca Fees and Charges, Transaction Fee for Electronic Executions – Per Contract.

providing more trading opportunities which attracts market makers. An increase in the activity of these market participants (particularly in response to pricing) in turn facilitates tighter spreads which may cause an additional corresponding increase in order flow from other market participants.

Non-Penny Symbols

Lead Market Makers

The Exchange believes that the proposed Lead Market Maker Non-Penny Symbol pricing is reasonable. As discussed above, Lead Market Makers would receive the proposed flat Maker Rebate of $0.45 per contract for adding liquidity in Non-Penny Symbols whereas today, they would be charged a fee. The Exchange believes that the proposed Maker Rebate will attract a greater amount of liquidity to BX to the benefit of all market participants. As proposed, Lead Market Makers would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols. While the proposed Taker Fee would be higher than the current fees assessed to Lead Market Makers for removing liquidity in Non-Penny Symbols described above, the Exchange believes that the proposed fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.[36]

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated

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36 The Exchange notes that the proposed Taker Fee is within the range of similar fees charged by other options exchanges. See, e.g., Arca Fees and Charges, Transaction Fee for Electronic Executions – Per Contract (assessing all market participants except Customers a Take Liquidity fee of $1.10 per contract in Non-Penny Issues); and Nasdaq MRX ("MRX") Pricing Schedule at Options 7, Section 3 (assessing all market participants except Priority Customers a $1.10 per contract Taker Fee in Non-Penny Symbols.

Participants for Non-Penny Symbols. The Exchange believes that the proposed differentiation between Lead Market Makers and other market participants through the proposed Maker Rebate recognizes the differing contributions made to the liquidity and trading environment on the Exchange by Lead Market Makers through their quoting obligations and their commitment of capital, unlike other market participants.[37] In addition, LMMs are subject to heightened quoting obligations compared to Market Makers.[38] Incentivizing Lead Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction.

Market Makers

The Exchange believes that the proposed Market Maker Non-Penny Symbol pricing is reasonable. As discussed above, Market Makers would receive the proposed flat Maker Rebate of $0.40 per contract for adding liquidity in Non-Penny Symbols whereas today, they would be charged a fee. The Exchange believes that the proposed Maker Rebate will attract a greater amount of liquidity to BX to the benefit of all market participants. As proposed, Market Makers would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols. While the proposed Taker Fee would be higher than the current fees assessed to Market Makers for removing liquidity in Non-Penny Symbols described above, the Exchange believes that the proposed fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.[39]

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[37] See Options 2, Section 4.

[38] See Options 2, Section 4.

[39] See note 36 above.

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated Participants for Non-Penny Symbols. Market Makers add value through continuous quoting and are subject to additional requirements and obligations unlike other market participants.[40] Incentivizing Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction.

Non-Customers

The Exchange believes that the proposed Non-Customer pricing in Non-Penny Symbols is reasonable. As discussed above, Non-Customers would be charged a Maker Fee of $0.45 per contract for adding liquidity in Non-Penny Symbols, which is significantly lower than the current Fee to Add Liquidity. As such, the Exchange believes that the proposed Maker Fee will continue to attract Non-Customer order flow to BX to the benefit of all market participants. As proposed, Non-Customers would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols. While the proposed Taker Fee would be higher than the current fee assessed to Non-Customers for removing liquidity in Non-Penny Symbols, the Exchange believes that the proposed fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.[41]

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated Participants for Non-Penny Symbols.

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40 See Options 2, Sections 4 and 5.

41 See note 36 above.

Firms

The Exchange believes that the proposed Firm pricing in Non-Penny Symbols is reasonable. As discussed above, Firms would be charged a Maker Fee of $0.45 per contract for adding liquidity in Non-Penny Symbols, which is significantly lower than the current Fee to Add Liquidity. As such, the Exchange believes that the proposed Maker Fee will continue to attract Firm order flow to BX to the benefit of all market participants. As proposed, Firms would also be charged a flat Taker Fee of $1.10 per contract for removing liquidity in Non-Penny Symbols. While the proposed Taker Fee would be higher than the current fee assessed to Firms for removing liquidity in Non-Penny Symbols, the Exchange believes that the proposed fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.[42]

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated Participants for Non-Penny Symbols.

Customers

The Exchange believes that the proposed Customer pricing in Non-Penny Symbols is reasonable. As discussed above, Customers would receive a flat Maker Rebate of $0.90 per contract for adding liquidity whereas today, they would either receive a lower rebate or be charged a fee for adding liquidity in Non-Penny Symbols, depending on the contra-party. The Exchange believes that these higher rebates will attract a greater amount of liquidity to BX. In addition, Customers would no longer receive a rebate for removing liquidity in Non-Penny Symbols, and would instead be

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42 See note 36 above.

charged a flat Taker Fee of $0.65 per contract under this proposal. While Customers would be assessed a fee, the Exchange notes that this fee will be lower than the $1.10 per contract Taker Fees assessed to all other market participants under this proposal. The Exchange further notes that the proposed Customer Taker Fee remains below similar fees assessed by another options exchange.[43] Accordingly, the Exchange believes that the proposed Taker Fee remains competitive and will continue to attract order flow to BX to the benefit of all market participants.

The Exchange believes that its proposal is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated Participants for Non-Penny Symbols. Customers would continue to receive favorable pricing as compared to other market participants because Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities which attracts market makers. An increase in the activity of these market participants (particularly in response to pricing) in turn facilitates tighter spreads which may cause an additional corresponding increase in order flow from other market participants.

Non-Customer

The Exchange's proposal to relocate current note 1 of Options 7, Section 2 to Options 7, Section 1 and remove references to note 1 within Options 7, Section 2(1), as described above, as well as within Options 7, Section 2(4) is reasonable, equitable and

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43 Arca currently assesses Customers a Take Liquidity fee of $0.85 per contract in Non-Penny Issues (or $0.67 per contract if the Customer is trading against an LMM). See Arca Fees and Charges, Transaction Fee for Electronic Executions – Per Contract.

not unfairly discriminatory. The amendments will bring greater clarity to the term Non-Customer throughout Options 7 pricing.

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

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

Inter-market Competition

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

Intra-market Competition

The proposed pricing does not impose an undue burden on intra-market competition as all pricing would be uniformly assessed to similarly situated market participants. Customers would continue to receive favorable pricing as compared to other market participants because Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities which attracts market makers. An increase in the activity of these market participants (particularly in response to pricing) in turn facilitates tighter spreads which may cause an additional corresponding increase in order flow from other market participants. Lead Market Makers and Market Makers add value through continuous quoting[44] and are subject to additional requirements and obligations[45] unlike other market participants. Incentivizing Lead Market Makers and Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction.

Non-Customer

The Exchange's proposal to relocate current note 1 of Options 7, Section 2 to Options 7, Section 1 and remove references to note 1 within Options 7, Section 2(1), as described above, as well as within Options 7, Section 2(4) does not impose an undue burden on competition. The amendments will bring greater clarity to the term Non-Customer throughout Options 7 pricing.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[46]

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44 See Options 2, Sections 4 and 5.

45 See Options 2, Section 4.

46 15 U.S.C. 78s(b)(3)(A)(ii).

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BX-2021-009 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-BX-2021-009. 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-BX-2021-009 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.[47]

J. Matthew DeLesDernier
Assistant Secretary

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[47] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text underlined; deleted text in brackets.

Nasdaq BX, Inc. Rules

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Options Rules

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Options 7 Pricing Schedule

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Section 1 General Provisions

BX Options Participants may be subject to the Charges for Membership, Services and Equipment in the Equity 7 Rules, General 8, Sections 1–2, as well as the fees in this Options 7. For purposes of assessing fees and paying rebates, the following references should serve as guidance.

The term "**Customer**" or ("C") 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 Options 1, Section 1(a)(48)).

The term "**BX Options Market Maker**" or ("M") is a Participant that has registered as a Market Maker on BX Options pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security.

The term **"Lead Market Maker"** or ("LMM") applies to a registered BX Options Market Maker that is approved pursuant to Options 2, Section 3 to be the LMM in an options class (options classes).

The term "**Non-BX Options Market Maker**" or ("O") is a registered market maker on another options exchange that is not a BX Options Market Maker. A Non-BX Options Market Maker must append the proper Non-BX Options Market Maker designation to orders routed to BX Options.

<u>The term "**Non-Customer**" shall include a Professional, Broker-Dealer and Non-BX Options Market Maker.</u>

The term "**Firm**" or ("F") applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

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Section 2 BX Options Market-Fees and Rebates

The following [charges]pricing shall apply to the use of the order execution and routing services of the BX Options market for all securities.

(1) Fees and rebates for Execution of Contracts on the BX Options Market:

Penny Symbols

Market Participant	**Maker Rebate**	**Taker Fee**
Lead Market Maker	(0.29)[2]	$0.46
Market Maker	(0.25)[2]	$0.46
Non-Customer	(0.12)	$0.46
Firm	(0.12)	$0.46
Customer	($0.30)	$0.46[1]

Non-Penny Symbols

Market Participant	**Maker Rebate / Fee**	**Taker Fee**
Lead Market Maker	(0.45)	$1.10
Market Maker	(0.40)	$1.10
Non-Customer	$0.45	$1.10
Firm	$0.45	$1.10
Customer	($0.90)	$0.65

1. Customer Taker Fee will be $0.26 per contract for trades which remove liquidity in SPY.

2. The Maker Rebate for Lead Market Makers and Market Makers in SPY will be $0.22 per contract. The Maker Rebate for Lead Market Makers and Market Makers in AAPL, IWM, GLD, QQQ, SLV, and TSLA will be $0.42 per contract.

[**Fees and Rebates (per executed contract)**

	Customer	**Lead Market Maker**	**BX Options Market Maker**	**Non-Customer** [1]	**Firm**
Penny					

Symbols:					
Rebate to Add Liquidity	#	$0.11 [2]	$0.10 [2]	N/A	N/A
Fee to Add Liquidity	#	$0.38 [3]	$0.39 [3]	$0.45	$0.45
Rebate to Remove Liquidity	#	N/A	N/A	N/A	N/A
Fee to Remove Liquidity	N/A	#	#	$0.46	$0.46
Non-Penny Symbols:					
Rebate to Add Liquidity	*	N/A	N/A	N/A	N/A
Fee to Add Liquidity	*	$0.50/$0.95 [4]	$0.50/$0.95 [4]	$0.98	$0.98
Rebate to Remove Liquidity	*	N/A	N/A	N/A	N/A
Fee to Remove Liquidity	N/A	*	*	$0.89	$0.89

[1] A Non-Customer includes a Professional, Broker-Dealer and Non-BX Options Market Maker.

[2] The Rebate to Add Liquidity will be paid to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Non-Customer, Firm, BX Options Market Maker, or Lead Market Maker.

[3] The Fee to Add Liquidity will be assessed to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Customer.

[4] The higher Fee to Add Liquidity will be assessed to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Customer.

[#] Penny Symbols Tier Schedule

		Rebate to Add Liquidity	Fee to Add Liquidity	Rebate to Remove Liquidity	Fee to Remove Liquidity	Fee To Remove Liquidity
	When:	**Customer**	**Customer**	**Customer**	**Lead Market Maker or BX Options Market Maker**	**Lead Market Maker or BX Options Market Maker**
	Trading with:	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, Customer, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**
Tier 1	Participant executes less than 0.05% of total industry customer equity and ETF option ADV contracts per month.	$0.00	$0.39	$0.00	$0.39	$0.46
Tier 2	Participant executes 0.05% to less than 0.15% of total industry customer equity and ETF option	$0.10	$0.39	$0.25	$0.39	$0.46

	ADV contracts per month.					
Tier 3	Participant executes 0.15% or more of total industry customer equity and ETF option ADV contracts per month	$0.20	$0.39	$0.35	$0.30	$0.46

* Non-Penny Symbols Tier Schedule

		Rebate to Add Liquidity	Fee to Add Liquidity	Rebate to Remove Liquidity	Fee to Remove Liquidity	Fee To Remove Liquidity
	When:	**Customer**	**Customer**	**Customer**	**Lead Market Maker or BX Options Market Maker**	**Lead Market Maker or BX Options Market Maker**
	Tradingwith:	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, Customer, or Firm**	**Customer**	**Non-Customer, Lead Market Maker, BX Options Market Maker, or Firm**
Tier 1	Participant executes less than 0.05% of total industry customer equity and ETF option ADV	$0.00	$0.85	$0.80	$0.89	$0.89

		Rebate to Add Liquidity	**Fee to Add Liquidity**	**Rebate to Remove Liquidity**	**Fee to Remove Liquidity**	**Fee To Remove Liquidity**
	When:	**Customer**	**Customer**	**Customer**	**Lead Market Maker or BX Options Market Maker**	**Lead Market Maker or BX Options Market Maker**
	contracts per month.					
Tier 2	Participant executes 0.05% to less than 0.15% of total industry customer equity and ETF option ADV contracts per month.	$0.10	$0.85	$0.80	$0.89	$0.89
Tier 3	Participant executes 0.15% or more of total industry customer equity and ETF option ADV contracts per month	$0.20	$0.85	$0.80	$0.60	$0.89]

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(4) Fees for execution of contracts on the BX Options Market that generate an order exposure alert per BX Options 5, Section 4:

Fees and Rebates (per executed contract)

	Customer	**Lead Market Maker**	**BX Options Market Maker**	**Non-Customer** [1]
Penny Symbols:				
Rebate for Order	$0.34	$0.00	$0.00	$0.00

triggering order exposure alert:				
Fee for Order responding to order exposure alert:	$0.39	$0.39	$0.39	$0.45
Non-Penny Symbols:				
Rebate for Order triggering order exposure alert:	$0.70	$0.00	$0.00	$0.00
Fee for Order responding to order exposure alert:	$0.85	$0.85	$0.85	$0.89

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