you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2008–67 and should be submitted on or before October 31, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–24119 Filed 10–9–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58731; File No. SR–NSX–2008–17]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 16 and NSX Fee Schedule Concerning Liquidity—Adding Rebates and Market Data Credits for Order Delivery Transactions

October 3, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 22, 2008, National Stock Exchange, Inc. (''NSX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''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 comment on the proposed rule change from interested persons.

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

National Stock Exchange, Inc. (''NSX'' or ''Exchange'') is proposing to amend Exchange Rule 16 and the NSX Fee and Rebate Schedule (the ''Fee Schedule'') in order to (i) reduce the rebate for adding liquidity in Order Delivery mode of order interaction for those securities trading at one dollar or more and (ii) eliminate the trade and quote market data revenue credit in Order Delivery mode for all Tape A securities.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

Purpose

With this rule change, the Exchange is proposing to reduce the liquidity adding rebates and market data revenue credits in Order Delivery mode of order interaction (''Order Delivery Mode'').[3] In particular, this rule change proposes to reduce the rebate for adding liquidity in securities trading at or above one dollar in Order Delivery Mode to a flat rebate of $0.0023 per share executed for Tape A, and to $0.0025 per share executed for Tapes B and C. In addition, the Exchange is proposing to eliminate the trade and quote market data revenue credit for all Tape A securities executed in Order Delivery Mode.

Reduction of Rebate for Adding Liquidity in Order Delivery Mode

With respect to securities traded at one dollar or more in Order Delivery Mode, the instant filing proposes simplifying the Fee Schedule by reducing the per share executed rebate to a flat rate of $0.0023 for Tape A securities and to $0.0025 for Tapes B and C securities. Currently, the per share rebate for adding liquidity across all tapes in Order Delivery Mode for securities executed at one dollar or more is $0.0027 if ''Executed ADV'' is equal to or greater than 60 million, and $0.0026 if ''Executed ADV'' is less than 60 million. As set forth in explanatory endnote number 6 to the Fee Schedule (which endnote is proposed to be deleted as no longer necessary), ''Executed ADV'' means, with respect to an ETP Holder, ''the number of shares such ETP Holder has executed on average per trading day (excluding partial trading days and securities under one dollar) across all tapes on NSX for the calendar month in which the executions occurred.'' The instant filing proposes to simplify the Fee Schedule by eliminating the tiered rebate structure in Order Delivery Mode based on ''Executed ADV'' and replacing it with a flat fee based solely on whether the security is Tape A, B or C. The instant filing will affect the calculation of the ''Executed ADV'' for the month of September, 2008. Accordingly, the ''Executed ADV'' will be calculated based on the average per trading day (excluding partial trading days and securities under one dollar) across all tapes on NSX for the period beginning September 1, 2008 and ending September 22, 2008, the period when the old Fee Schedule (prior to the instant modification) was in effect. Notice will be provided to ETP Holders respecting the calculation of the Executed ADV.

The instant rule filing proposes no changes to the liquidity adding rebates applicable to securities trading at less than one dollar in Order Delivery Mode.[4]

Elimination of Market Data Revenue Credit for Tape A Securities in Order Delivery Mode

With respect to Tape A securities in Order Delivery Mode, the instant filing proposes to eliminate the market data revenue credit in both trades and quotes. Currently in Order Delivery Mode, ETP Holders receive a credit of 50% of both trade and quote market data revenues across all tapes. This credit is proposed to be eliminated for all Tape A securities in Order Delivery Mode, regardless of price.

No Changes to Auto Ex

For purposes of clarity, the proposed rule change proposes no modifications to the fees and rebates relating to any trades in Auto Ex.

Rationale

The Exchange has determined that these changes are necessary to increase the revenue of the Exchange and to adequately fund its regulatory and general business functions. The proposed modification is reasonable and equitably allocated to those ETP Holders that opt to provide liquidity in Order Delivery Mode, and is not discriminatory because ETP Holders are free to elect whether to send orders in

[13] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] This rule change proposes no changes to the fees and rebates applicable to securities executed in the Automatic Execution (''Auto Ex'') mode of order interaction under NSX Rule 16.2(b)(1).

[4] Securities which trade under one dollar in Order Delivery Mode and which add liquidity currently receive a rebate of 0.10% of the trade value, where ''trade value'' means a dollar amount equal to the price per share multiplied by the number of shares executed.

all tapes through the Order Delivery Mode, through Auto Ex, and as liquidity providing trades and quotes. Based upon the information above, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest.

Operative Date and Notice

The Exchange intends to make the proposed credit and rebate structure effective on filing of this proposed rule for trading on September 23, 2008. Pursuant to Exchange Rule 16.1(c), the Exchange will ''provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange'' through the issuance of a Regulatory Circular of the changes to the Fee Schedule and will provide a copy of the rule filing on the Exchange's Web site (*http://www.nsx.com*).

Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[5] in general, and Section 6(b)(4) of the Act,[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using the facilities of the Exchange. Moreover, the proposed fee and rebate structure is not discriminatory in that all ETP Holders are eligible to submit (or not submit) liquidity adding trades and quotes in Order Delivery Mode in all tapes and may do so at their discretion.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because, as provided in (f)(2), it ''changes a due, fee or other charge imposed by the Exchange applicable only to a member'' (known on the Exchange as an ETP Holder). At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NSX–2008–17 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–NSX–2008–17. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such 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–NSX–2008–17 and should be submitted on or before October 31, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–24118 Filed 10–9–08; 8:45 am]

BILLING CODE 8011–01–P

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

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4 [sic].

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58741; File No. SR–NYSE–2008–97]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange LLC To Adopt an Initial Listing Standard Applicable Only to Companies Transferring From NYSE Arca

October 6, 2008.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on October 1, 2008, New York Stock Exchange LLC (the ''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission the proposed rule changes 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 changes from interested persons.

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

The Exchange proposes to amend Section 102.01C of the Exchange's Listed Company Manual (the ''Manual'') to adopt an initial listing standard that will be applicable only to companies that are listed on NYSE Arca, Inc. (''NYSE Arca'') as of October 1, 2008 and that transfer to the Exchange on or before March 31, 2009. The Exchange also proposes to apply the continued listing standard applicable under Section 802.01B to companies listed under the Earnings Test to companies listed under the proposed new initial listing standard.[4]

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission notes that NYSE is also proposing to adopt a new initial listing standard for