2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (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 its facilities. The Exchange believes that the proposal does not constitute an inequitable allocation of fees, as all similarly situated member organizations will be charged the same amount and access to the Exchange's market is offered on fair and non-discriminatory terms.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[7] of the Act and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because it establishes a due, fee, or other charge imposed on its members by the NYSE.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

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

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

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

[8] 17 CFR 240.19b–4(f)(2).

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–NYSE–2010–70 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSE–2010–70. 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 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 Web site 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 a.m. and 3 p.m. Copies of the filing will also 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–NYSE–2010–70 and should be submitted on or before November 4, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25747 Filed 10–13–10; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63056; File No. SR–NYSEArca–2010–87]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Fee Schedule

October 6, 2010.

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 September 30, 2010, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 through its wholly-owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities") proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (the "Schedule"). While changes to the Schedule pursuant to this proposal will be effective on filing, the changes will become operative on October 1, 2010. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and the Exchange's Web site at *http://www.nyse.com.*

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

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

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

[3] 17 CFR 240.19b–4.

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

1. Purpose

Effective October 1, 2010, the Exchange proposes to amend the Schedule to modify the structure of the transaction credits it provides to Lead Market Makers ("LMMs") for providing displayed liquidity in the NYSE Arca marketplace primary listed securities in which they are registered as the LMM. Currently, an LMM receives a rebate of $0.004 per share for execution of orders that provide displayed liquidity in such a security, regardless of the trading volume in the security. The Exchange is proposing to replace this with a tiered rebate structure that is based on the consolidated average daily volume ("CADV") of the security in the previous month. Specifically, the transaction credits under the new structure would be as follows:

- $0.0035 per share for orders that provide displayed liquidity in securities that have a CADV in the previous month greater than 5 million shares
- $0.004 per share for orders that provide displayed liquidity in securities that have a CADV in the previous month of between 1 million and 5 million shares inclusive
- $0.0045 per share for orders that provide displayed liquidity in securities that have a CADV in the previous month of less than 1 million shares

In addition, for each rate level of trade related fees in the Schedule, the Exchange proposes to institute a fee of $0.0005 per share for orders executed in the Opening Auction or Market Order Auction, as those terms are defined in NYSE Arca Equities Rule 7.35. The fee will be applicable to Tape A, Tape B and Tape C securities, and will be capped at $10,000 per month per Equity Trading Permit ID.

Additionally, the Exchange proposes to change the pricing for Mid-Point Passive Liquidity ("MPL") Orders. Currently the rebate for MPL Orders that provide liquidity, as well as the fee for orders that take liquidity, is $0.0010 in Tape A, Tape B and Tape C securities. Under this proposal, MPL orders will receive a rebate of $0.0015 for orders that provide liquidity and be charged a fee of $0.0025 for orders that take liquidity in Tape A, Tape B and Tape C securities. These changes apply to all pricing levels.

Finally, the Exchange proposes to assess monthly fees for the use of all ports that provide connectivity to its equity trading systems. A number of other markets already charge such fees, but the Exchange has not previously done so.

The level of activity with respect to a particular port will not affect the assessment of monthly fees, so even if a particular port that is available to a participant is not used, the participant will still be billed for that port. The monthly fee for ports will be $100 per pair per month up to five pairs, then $500 for each additional five pairs. For example, the fee for seven pairs of ports will be $1,000 per month. Billing for ports will be based on the number of ports on the third business day prior to the end of the month.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the "Act"),[4] in general, and Section 6(b)(4) of the Act,[5] 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 its facilities. The Exchange believes that the proposal does not constitute an inequitable allocation of fees, as all similarly situated member organizations and other market participants will be charged the same amount and access to the Exchange's market is offered on fair and non-discriminatory terms.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[6] of the Act and subparagraph (f)(2) of Rule 19b–4[7] thereunder, because it establishes a due, fee, or other charge imposed on its members by NYSE Arca.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2010–87 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEArca–2010–87. 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange.[8] All comments received will be posted without change; the Commission does not edit personal identifying information from

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

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

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

[8] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.*

submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2010–87 and should be submitted on or before November 4, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25746 Filed 10–13–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63055; File No. SR–NASDAQ–2010–124]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the NASDAQ Stock Market LLC Relating to Fees During Opening Cross

October 6, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2010, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to modify Exchange Rule 7050 governing pricing for NASDAQ members using the NASDAQ Options Market ("NOM"), NASDAQ's facility for executing and routing standardized equity and index options. Specifically, NOM proposes to amend the applicability of its Fees for Execution of Contracts on the NASDAQ Options Market to the Opening Cross.[3]

While changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative for transactions on October 1, 2010.

The text of the proposed rule change is set forth below. Proposed new text is in *italics* and deleted text is in [brackets].

* * * * *

7050. NASDAQ Options Market

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

(1) Fees for Execution of Contracts on the NASDAQ Options Market

FEES AND REBATES (PER EXECUTED CONTRACT)

	Customer	Firm	Non-NOM market maker	NOM market maker
Penny Pilot Options:				
Rebate to Add Liquidity	$0.32	$0.10	$0.25	$0.30
Fee for Removing Liquidity	$0.43	$0.45	$0.45	$0.45
NDX and MNX:				
Rebate to Add Liquidity	$0.10	$0.10	$0.10	$0.20
Fee for Removing Liquidity	$0.50	$0.50	$0.50	$0.40
All Other Options:				
Fee for Adding Liquidity	$0.00	$0.45	$0.45	$0.30
Fee for Removing Liquidity	$0.43	$0.45	$0.45	$0.45
Rebate to Add Liquidity	$0.20	$0.00	$0.00	$0.00

(2) Opening Cross

All orders executed in the Opening Cross*:* [No Charge]

Customer orders will receive the Rebate to Add Liquidity during the Exchange's Opening Cross, unless the contra-side is also a Customer. Firms, Non-NOM Market Makers and NOM Market Makers will be assessed the Fee for Removing Liquidity during the Exchange's Opening Cross.

(3) Closing Cross

* * * * *

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

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

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

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

1. Purpose

NASDAQ is proposing to modify Rule 7050 governing the fees assessed for options orders entered into NOM. Specifically, NASDAQ is proposing to modify pricing for its Fees for Execution of Contracts on NOM with respect to orders during the Exchange's Opening Cross. The Exchange believes that its proposal will incentivize routers to send

[9] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Chapter VI, Section 8 titled Nasdaq Opening Cross.