the order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination, or the self-regulatory organization that filed the proposed rule change consents to the longer period.

The Commission is extending the 180-day time period for the issuance of an order approving or disapproving the proposed rule change for an additional 60 days.[9] The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that the Commission has sufficient time to consider the Exchange's proposal and whether it is consistent with the Act. The proposal would establish, for the first time, standards for listing securities of companies whose business plan is to buy and hold commodities.

Accordingly, pursuant to Section 19(b)(2) of the Act,[10] the Commission designates July 1, 2011 as the date by which the Commission shall issue an order either approving or disapproving the proposed rule change (File Number SR–NASDAQ–2010–134).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–8872 Filed 4–12–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64246; File No. SR–NASDAQ–2011–048]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the NASDAQ Market Center

April 7, 2011.

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 April 1, 2011, The NASDAQ Stock Market LLC ("NASDAQ") 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 NASDAQ. 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 the Substance of the Proposed Rule Change

NASDAQ proposes to modify pricing for NASDAQ members using the NASDAQ Market Center. NASDAQ will implement the proposed change on April 1, 2011. The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, NASDAQ included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ 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 amending Rule 7018 to make modifications to its pricing schedule for execution of quotes/orders through the NASDAQ Market Center of securities priced at $1 or more. Under the pricing schedule, NASDAQ offers a credit to liquidity providers, with the size of the credit varying based on a range of parameters specified in the fee schedule. The lowest liquidity provider rebate is $0.0020 per share executed for displayed quotes/orders and $0.0010 per share executed for non-displayed quotes/orders. One means by which members may currently receive a higher liquidity rebate is focused on the use of non-displayed quotes/orders: members providing 3 million shares or more of liquidity through one or more MPID using non-displayed quotes/orders receive a rebate of $0.0015 per share executed, rather than the basic rebate of $0.0010 per share executed, with respect to those quotes/orders.[3] Effective April 1, 2011, NASDAQ will eliminate this rebate provision. As NASDAQ noted when it introduced this rebate provision in January 2011,[4] NASDAQ believes that transparent markets should be encouraged wherever possible, but NASDAQ does offer members the option of providing liquidity through non-displayed quotes/orders in order to allow it to compete better with alternative trading systems that operate as dark pools. Accordingly, it was NASDAQ's expectation that the rebate tier might encourage some members that use dark pools extensively to make greater use of non-displayed liquidity on NASDAQ. Because such a response did not occur, NASDAQ has decided to eliminate the tier. NASDAQ notes that the tier's elimination will not impact any members, because there are no members that currently qualify for the tier that do not also qualify for the same rebate for non-displayed quotes/orders (and a higher rebate for displayed quotes/orders) under another volume-based pricing tier.

Second, NASDAQ is introducing a new rebate tier for members that are active in both the NASDAQ Market Center and the NASDAQ Options Market. Currently, a member is eligible to receive an enhanced rebate of $0.0029 per share executed for displayed quotes/orders and of $0.0015 per share executed for non-displayed quotes/orders if it achieves certain specified levels of activity in both markets. The required levels of monthly activity are an average daily volume of more than 10 million shares of liquidity provided through the NASDAQ Market Center and an average daily volume of more than 130,000 options contracts accessed or provided through the NASDAQ Options Market. In each case, the member may achieve the required volume levels through one or more of its market participant identifiers ("MPIDs"). While retaining this tier,[5] NASDAQ is proposing to add an additional tier for a market participant with (i) shares of liquidity provided through the NASDAQ Market Center in all securities during the month equal to 1% or more of the average total consolidated volume reported to all consolidated transaction

[9] The proposed rule change was published for notice and comment in the **Federal Register** on November 3, 2010. *See supra* note 2. The 180th date from publication in the **Federal Register** is May 2, 2011 and an additional 60-days from that date would extend the time period to July 1, 2011.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(31).

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

[2] 17 CFR 240.19b–4.

[3] The rebate for displayed quotes/orders for such members is the basic rate of $0.0020 per share executed, unless the member otherwise qualifies for a more favorable rebate with respect to its displayed quotes/orders.

[4] Securities Exchange Act Release No. 63648 (January 5, 2011), 76 FR 2178 (January 12, 2011) (SR–NASDAQ–2011–003).

[5] NASDAQ is, however, modifying the wording of the existing tier in Rule 7018 to improve its clarity. The changes do not result in any substantive changes to the applicability of the tier.

reporting plans by all exchanges and trade reporting facilities during the month, and (ii) an average daily volume during the month of more than 300,000 contracts of liquidity accessed or provided through the Nasdaq Options Market. In each case, the member may achieve the required volume levels through one or more of its MPIDs. A member reaching these volume levels would receive a liquidity provider rebate of $0.00295 per share executed for displayed liquidity, and $0.0015 per share executed for non-displayed liquidity. These rebate levels are equal to the rebate levels currently available to members that provide high levels of liquidity through the NASDAQ Market Center but that do not trade options contracts in volume through the NASDAQ Options Market.[6]

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. All similarly situated members are subject to the same fee structure, and access to NASDAQ is offered on fair and non-discriminatory terms. With respect to the elimination of the favorable rebate tier for non-displayed quotes/orders, NASDAQ believes that the change is equitable in that there are no members that currently qualify for the tier that do not also qualify for the same rebate for non-displayed quotes/orders (and a higher rebate for displayed quotes/orders) under another volume-based pricing tier; accordingly, its elimination will not impact the fees paid by any members. Moreover, NASDAQ believes that its liquidity provider rebates continue to be set at reasonable levels. Depending on their levels of liquidity provision using displayed and/or non-displayed quotes/orders, members are eligible to receive a rebate of $0.0015 per share executed for non-displayed quotes/orders, as well as rebates for displayed quotes/orders that are higher than the base rate of $0.0020 per share executed.

With respect to its pricing change for members active on both the NASDAQ Market Center and the NASDAQ Options Market, NASDAQ has noted in its prior filings with regard to the existing rebate tier focused on such members that the tier is responsive to the convergence of trading in which members simultaneously trade different asset classes within a single strategy.[9] NASDAQ also notes that cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other. Accordingly, pricing incentives that encourage market participant activity in both markets recognize that activity in the options markets also supports price discovery and liquidity provision in the NASDAQ Market Center.

Because the rebates available through the new tier are equal to the highest rebates otherwise available to market participants, members seeking to qualify for the new tier are required to maintain fairly high levels of activity on the NASDAQ Market Center and the NASDAQ Options Market. NASDAQ notes, however, that the new tier is not the only means of qualifying for the rebate levels associated with the new tier, and that the other means do not require any activity on the NASDAQ Options Market. Specifically, any member that provides the levels of liquidity on the NASDAQ Market Center required under the new tier would already qualify for the same rebate ($0.00295 per share for displayed liquidity and $0.0015 per share for non-displayed liquidity) under existing tiers focused solely on volume of liquidity provision, as long as the liquidity was provided through a single MPID. Under the new tier, however, a member that could not reach the NASDAQ Stock Market volume levels required to earn the highest rebate through a single MPID could be eligible for the same rebate level if it was able to attain high volume levels on the NASDAQ Stock Market through multiple MPIDs and also achieved required levels of activity through the NASDAQ Options Market. Accordingly, NASDAQ believes that the new tier is not unreasonably discriminatory, because NASDAQ already provides alternative means to achieve the same rebate level without use of the NASDAQ Options Market. NASDAQ also believes that the new tier is reasonable and equitable because it will provide members with an alternative method to earn the highest rebate, thereby potentially resulting in reduced fees for a wider range of market participants.

NASDAQ further notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that are exempted from compliance with the statutory standards applicable to exchanges. In the case of the fee changes effected by this filing, (i) the elimination of the enhanced rebate for non-displayed liquidity will impact no members, since those members that qualify for the tier also currently qualify to receive the same rebate for non-displayed quotes/orders (and a higher rebate for displayed quotes/orders) through other pricing tiers, and (ii) the new options tier will widen opportunities for market participants to earn the highest rebate and thereby reduce their fees.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution and routing is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. For this reason and the reasons discussed in connection with the statutory basis for the proposed rule change, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

Written comments were neither solicited nor received.

[6] Specifically, a member qualifies for the same rebate if it has an average daily volume through the NASDAQ Market Center in all securities during the month of: (i) More than 95 million shares of liquidity provided, if average total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities is more than 10 billion shares per day during the month; (ii) more than 85 million shares of liquidity provided, if average total consolidated volume is between 9,000,000,001 and 10 billion shares per day during the month; (iii) more than 75 million shares of liquidity provided, if average total consolidated volume is between 8,000,000,001 and 9 billion shares per day during the month; and (iv) more than 65 million shares of liquidity provided, if average total consolidated volume is 8 billion or fewer shares per day during the month. In each case, however, the member is required to achieve the required level through a single MPID.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] Securities Exchange Act Release No. 64003 (March 2, 2011), 76 FR 12784 (March 8, 2011) (SR–NASDAQ–2011–028); Securities Exchange Act Release No. 59879 (May 6, 2009), 74 FR 22619 (May 13, 2009) (SR–NASDAQ–2009–041).

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.[10] 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. 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–NASDAQ–2011–048 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–NASDAQ–2011–048. 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 Web site viewing and printing in the Commission's Public Reference Room 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2011–048, and should be submitted on or before May 4, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–8871 Filed 4–12–11; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(a)(ii).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64242; File No. SR–NSX–2011–05]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Extend Pilot Program Regarding Clearly Erroneous Executions

April 7, 2011.

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 April 6, 2011, National Stock Exchange, Inc. filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II 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 its rules to extend a certain pilot program regarding clearly erroneous executions.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

With this rule change, the Exchange is proposing to extend the pilot program currently in effect regarding clearly erroneous executions under NSX Rule 11.19. Currently, unless otherwise extended or approved permanently, this pilot program will expire on April 11, 2011. The instant rule filing proposes to extend the pilot program until the earlier of August 11, 2011 or the date on which the limit up/limit down mechanism to address extraordinary market volatility, if adopted, applies to the Circuit Breaker Securities as defined in Commentary .05 of Rule 11.20.

NSX Rule 11.19 (Clearly Erroneous Executions) was approved by the Securities and Exchange Commission (the "Commission") on September 10, 2010 on a pilot basis to end on December 10, 2010.[3] The pilot program end date was subsequently extended until April 11, 2011.[4] Similar rule changes were adopted by other markets in the national market system in a coordinated manner. During the pilot period, the Exchange, in conjunction with the Commission and other markets, has continued to assess the effectiveness of the pilot program. The Exchange, in consultation with other markets and the Commission, has determined that the duration of this pilot program should be extended until August 11, 2011 or to coincide, if applicable, with the earlier implementation date of the limit up/limit down mechanism. Accordingly,

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

[2] 17 CFR 240.19b–4 .

[3] *See* Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR–NSX–2010–07).

[4] *See* Securities Exchange Act Release No. 63484 (December 9, 2010), 75 FR 78330 (December 15, 2010) (SR–NSX–2010–16).