the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) [19] thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay.[20] The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Such waiver would allow the Exchange, without delay, to implement the proposed rule change, which is designed to provide a consistent methodology for handling error positions in a manner that does not discriminate among members. The Commission also notes that the proposed rule change is based on, and substantially similar to, NASDAQ Equity Rule 4758(d), which the Commission recently approved.[21] Accordingly, the Commission designates the proposal operative upon filing.[22]

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 email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2012–134 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–2012–134. This file number should be included on the subject line if email 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, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2012–134 and should be submitted on or before January 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30211 Filed 12–13–12; 8:45 am]

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[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See* Securities Exchange Act Release No. 67281 (June 27, 2012), 77 FR 39543 (July 3, 2012) (SR–NASDAQ–2012–057).

[22] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68392; File No. SR–NSX–2012–24]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Fee and Rebate Schedule

December 10, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 3, 2012, National Stock Exchange, Inc. (''NSX®'' 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 comment 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

The Exchange is proposing to amend its Fee and Rebate Schedule (the ''Fee Schedule'') issued pursuant to Exchange Rule 16.1(a) to: (1) Modify the Quotation Update Fee charged for each quotation update [3] transmitted to the Exchange by an Equity Trading Permit (''ETP'') [4] Holder using the Exchange's Order Delivery mode (''Order Delivery Mode''); and (2) cap the Quotation Update Fee to the first 150 million quotation updates entered by each ETP Holder per month. The text of the proposed rule change is available on the Exchange's Web site at *www.nsx.com,* at the Exchange'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, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

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

[2] 17 CFR 240.19b–4.

[3] A ''quotation update'' includes any change to the price, size or side of a quotation or submission of an updated quote with the same price, size or side. A quotation update does not include posting of a new quote to replace a quote that was fully executed.

[4] Exchange Rule 1.5 defines the term ''ETP'' as an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange's Trading Facilities.

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

The Exchange proposes to amend its Fee Schedule issued pursuant to Exchange Rule 16.1(a) to: (1) Modify the Quotation Update Fee charged for each quotation update transmitted to the Exchange by an ETP Holder using the Exchange's Order Delivery mode; [sic] and (2) cap the Quotation Update Fee to the first 150 million quotation updates entered by each ETP Holder per month.

Electronic Communication Networks (''ECNs'') can use Order Delivery Mode to provide quotations to the Exchange for publishing in the consolidated quotation feed as well as the Exchange's proprietary depth-of-book feed. The Exchange delivers Order Delivery Notifications [5] to an ECN when it receives an incoming order from another trading center which can potentially execute against the published quote. Except for very limited circumstances, the ECN must immediately and automatically execute the Order Delivery Notification. Under Section 6(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'' or ''Act''), the Exchange must have effective surveillance mechanisms to ensure that Order Delivery participants comply with the Exchange's rules and regulations as well as those of the SEC.[6]

On November 2, 2012, the Exchange amended Section IV of its Fee Schedule to adopt a separate Quotation Update Fee for existing and new Order Delivery participants.[7] The Exchange adopted the Quotation Update Fee as a means of recouping costs associated with regulating the marketplace and the Order Delivery program. The Quotation Update Fee is $0.000444 for each quotation update by an existing Order Delivery participant, and $0.006667 for each quotation update from a new Order Delivery participant during the first three (3) months of participation.

The Exchange now proposes to (i) Increase the Quotation Update Fee for existing Order Delivery participants from $0.000444 to $0.000467, (ii) decrease the Quotation Update Fee for new Order Delivery participants from $0.006667 to $0.000667 during the first three (3) months of participation, and (iii) cap the Quotation Update Fee to the first 150 million quotation updates entered by each ETP Holder per month.

The Exchange believes that this approach equitably allocates fees among its members and is not unfairly discriminatory because Order Delivery participants (i) constitute a substantial portion of the Exchange's processing activity including quotations, Order Delivery Notifications, and transactions, and (ii) require a heightened level of regulatory scrutiny and are utilizing significantly greater regulatory resources as compared to ETP Holders that post and execute orders on the Exchange using automatic execution. The Exchange also believes that a cap on the Quotation Update Fee is necessary to equitably allocate regulatory costs among Order Delivery participants. The Exchange will assess, on a quarterly basis, whether the Quotation Update Fee is equitably allocated among its members and to adjust the rate accordingly [sic]. The Exchange will consider any changes in the level of Order Delivery processing and other activity as well as any changes in the market, surveillance and system requirements required to effectively perform the regulatory, surveillance, investigative or enforcement functions.

Operative Date and Notice

The Exchange will make the proposed modifications, which are effective on filing of this proposed rule, operative as of commencement of trading on December 3, 2012.[8] 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 an Information Circular of the changes to the Fee Schedule and will post a copy of the rule filing on the Exchange's Web site (*www.nsx.com*).

2. Statutory Basis

The Exchange believes that the amended Quotation Update Fee for existing Order Delivery participants is consistent with the provisions of Section 6(b) of the Act,[9] in general, and Section 6(b)(4) of the Act,[10] 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. Order Delivery Mode imposes on the Exchange greater regulatory and operational costs than should the Exchange offer only automatic execution mode of interaction (''Auto-Ex Mode''),[11] [sic] because Order Delivery is a model that requires increased regulatory procedures and resources to ensure effective oversight of compliance with the rules and regulations of the Exchange and the Commission. The Exchange believes that the amended Quotation Update Fee for existing Order Delivery participants is consistent with the provisions of Section 6(b)(5) of the Act,[12] is equitable and not unfairly discriminatory because Order Delivery participants constitute a substantial portion of the Exchange's processing activity including quotations, order delivery notifications, and transactions, and require a heightened level of regulatory scrutiny and resources as compared to ETP Holders that post and execute orders on the Exchange using Auto-Ex Mode. The Exchange believes that capping the Quotation Update Fee is necessary to equitably allocate regulatory costs among Order Delivery participants. Order Delivery participants are eligible to submit (or not submit) liquidity adding and quotes, and may do so at their discretion in the daily volumes they choose during any given trading day.

Therefore, the Exchange believes the revised fee structure is a reasonable means for the NSX to recover the regulatory costs of the marketplace and Order Delivery. The Quotation Update Fee is reasonable given that it is directly related to the Exchange's cost of regulation. The Exchange will review the rate of the Quotation Update Fee on a quarterly basis, and will consider any changes in the level of Order Delivery processing and other activity as well as any changes in the market, surveillance and system requirements required to effectively perform the surveillance, investigative or enforcement functions.

[5] An ''Order Delivery Notification'' refers to a message sent by the Exchange to the Order Delivery participant communicating the details of the full or partial quantity of an inbound contra-side order that potentially may be matched within the System for execution against an Order Delivery Order.

[6] 15 U.S.C. 78f(b)(1).

[7] *See* Securities Exchange Act Release No. 68215 (November 13, 2012), 77 FR 69522 (November 19, 2012) (SR–NSX–2012–20).

[8] While the Exchange proposes to amend the date of its Fee Schedule to December 1, 2012, it will not implement the proposed fee changes until Monday, December 3, 2012, the first day of trading. The Exchange proposes to amend the Fee Schedule's date to December 1 as it contains non-transaction based fees that are charged on a monthly basis.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] Under Auto-Ex Mode, the Exchange matches and executes like-priced orders (including against Order Delivery orders resting on the NSX book). Auto-Ex orders resting in the NSX book execute immediately when matched against a marketable incoming contra-side Auto-Ex order.

[12] 15 U.S.C. 78f(b)(5).

Furthermore, the Exchange also believes that the amended Quotation Update Fee for new Order Delivery participants during their first three (3) months of operation is consistent with the provisions of Section 6(b) of the Act,[13] in general, and Section 6(b)(4) of the Act,[14] 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. Oversight of a new Order Delivery participant's activities imposes on the Exchange additional regulatory and operational costs because the Exchange expends an increased regulatory focus over a new Order Delivery participant's activities to ensure compliance with Exchange Rule 11.13 and to gain familiarity with their quoting activities. The Exchange believes that continuing to charge a higher quotation update fee for new Order Delivery participants during their first three (3) months of operation is a reasonable means to cover the regulatory oversight costs. Moreover, the Exchange believes that the amended Quotation Update Fee for new Order Delivery participants during their first three (3) months of operation is consistent with the provisions of Section 6(b)(5) of the Act,[15] in that the proposed regulatory fee is not unfairly discriminatory. New participants may not quote with as much frequency as established Order Delivery participants. For example, a new Order Delivery participant may submit quotations in a few securities, and ramp up quotation activity with experience. However, the Exchange will need to expend additional resources to ensure that the new Order Delivery participant is complying with all regulations. In addition, new Order Delivery participants require increased regulatory oversight due to the Exchange's focus on their trading activity as well as Exchange staff developing familiarity with the new participant's [sic] trading behavior. Also, Order Delivery participants are eligible to submit (or not submit) liquidity adding and [sic] quotes, and may do so at their discretion in the daily volumes they choose during any given trading day.

Lastly, the Exchange believes that proposing to limit the Quotation Update Fee to an Order Delivery participant's first 150 million quotation updates each month is also consistent with the provisions of Section 6(b) of the Act,[16] in general, and Section 6(b)(4) of the Act,[17] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among Order Delivery participants, its members and other persons using the facilities of the Exchange. The Exchange found that capping the Quotation Update Fee was necessary to equitably allocate regulatory costs among Order Delivery participants. Moreover, the Exchange believes that the proposed cap on the Quotation Update fee is consistent with the provisions of Section 6(b)(5) of the Act,[18] in that the proposed regulatory fee is not unfairly discriminatory because it applies to all Order Delivery participants equally. Nonetheless, the Exchange understands that new participants may not quote with as much frequency as established Order Delivery participants, thereby not reaching the cap. As stated above, a new Order Delivery participant may submit quotations in a few securities, and ramp up quotation activity with experience. However, the Exchange will need to expend additional resources to ensure that the new Order Delivery participant is complying with all regulations. In addition, new Order Delivery participants require increased regulatory oversight due to the Exchange's focus on their trading activity as well as Exchange staff developing familiarity with the new participant's trading behavior.

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

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 Exchange Act [19] and subparagraph (f)(2) of Rule 19b–4.[20] At any time within 60 days of the filing of such 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 email to *rule-comments@sec.gov.* Please include File Number SR–NSX–2012–24 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–NSX–2012–24. This file number should be included on the subject line if email 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 10:00 a.m. and 3:00 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–NSX–2012–24, and should be submitted on or before January 4, 2013.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

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

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

[20] 17 CFR 240.19b–4.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30167 Filed 12–13–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68391; File No. SR–NSX–2012–25]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Fee and Rebate Schedule

December 10, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 3, 2012, National Stock Exchange, Inc. (''NSX®'' 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 comment 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

The Exchange is proposing to amend its Fee and Rebate Schedule (the ''Fee Schedule'') issued pursuant to Exchange Rule 16.1(a) to: (1) Modify the rebates provided to Equity Trading Permit (''ETP'') [3] Holders that execute orders on the Exchange using Order Delivery mode (''Order Delivery Mode''); and (2) charge a fee for each Order Delivery Notification,[4] which is capped on a monthly basis. The text of the proposed rule change is available on the Exchange's Web site at *www.nsx.com,* at the Exchange'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, 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

The Exchange is proposing to amend its Fee Schedule issued pursuant to Exchange Rule 16.1(a) to: (1) Modify the rebates for orders executed by ETP Holders using the Exchange's Order Delivery Mode; and (2) charge a fee for each Order Delivery Notification, which is capped on a monthly basis.

Modification of Order Delivery Rebates for Securities Priced at $1.00 or Above

Under Section II of the Fee Schedule, the Exchange offers ETP Holders both a Primary and Alternate Fee Schedule with four (4) tiers of progressively greater rebates. An ETP Holder's monthly average daily trading volume (''ADV'') determines which rebate tier the ETP Holder meets. The Exchange proposes to replace these tiers and the Primary and Alternate Fee Schedules under Section II of the Fee Schedule with a single rebate for all shares executed by ETP Holders against displayed and undisplayed orders using the Order Delivery Mode (''Order Delivery Participants'').[5] The Exchange also [sic] proposes a $0.0030 per share rebate and a 50% Market Data Rebate (''MDR'') for all transactions executed by Order Delivery Participants in securities priced at $1.00 or above.[6] These rebates will replace the current 25% MDR paid to ETP Holders that meet the ADV requirements under the fourth tier of Section II of the Fee Schedule. The Exchange believes that Order Delivery Participants will post additional liquidity on the Exchange if it (i) increases the rebate to $0.0030 per share when the Order Deliver [sic] Participant adds liquidity in a security quoted at a price of $1.00 or greater, and (ii) provides Order Delivery Participants with 50% of the attributable MDR received by the Exchange.

Modification of Order Delivery Rebates for Securities Priced Below $1.00

The Exchange is proposing to amend Section II of the Fee Schedule to no longer provide ETP Holders with a rebate for transactions executed using Order Delivery Mode for securities quoted at prices less than $1.00. The Fee Schedule currently provides ETP Holders with a rebate of the ''[l]esser of: 0.20% of trade value and 20% of the quote spread'' for securities quoted at prices less than $1.00.

Rationale for Revised Order Delivery Rebates

The Exchange believes that the higher rebates [7] will provide ETP Holders with an incentive to post additional liquidity on the Exchange via Order Delivery Mode. The Exchange also notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive. The Exchange believes that the proposed rule change reflects this competitive environment.

Order Delivery Notification Fee

The Exchange proposes to introduce an Order Delivery Notification Fee. The Exchange proposes to charge ETP Holders $0.29 for each Order Delivery Notification delivered to each ETP Holder for potential execution against a posted displayed or undisplayed order. Currently, the Exchange provides this service to ETP Holders at no charge. The proposed Order Delivery Notification Fee will only apply to the first 1.5 million Order Delivery Notifications from [sic] a single Order Delivery Participant in a given calendar month.

Rationale for Order Delivery Notification Fee

The Exchange's Order Delivery Mode provides Electronic Communication Networks (''ECNs'') with an electronic trading platform to interact with the

[21] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Exchange Rule 1.5 defines the term ''ETP'' as an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange's Trading Facilities.

[4] An Order Delivery Notification refers to a message sent by the Exchange to the Order Delivery participant communicating the details of the full or partial quantity of an inbound contra-side order that potentially may be matched within the System for execution against an Order Delivery Order.

[5] As a result of consolidating the Primary and Alternate Fee Schedules, ETP Holders that are Order Delivery Participants will no longer automatically receive the Alternate Fee Schedule upon meeting a minimum ADV in both Auto-Ex Mode and Order Delivery Mode because a separate Alternate Fee Schedule will not be available.

[6] As part of the proposed rebate consolidation, Midpoint Peg Zero Display Reserve Orders will receive the proposed $0.0030 per share rebate described above rather than the existing fixed rebate of $0.0017 per executed share.

[7] The Commission notes that this rule filing increases rebates for transactions in stocks priced over $1, but actually eliminates rebates for transactions in stocks priced under $1.