widely adopted in the equities markets, and are equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide rebates that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. The Exchange believes that any additional revenue that it may receive based on the amendment to the fee schedule as set forth above will allow the Exchange to devote additional capital to its operations and to continue to offer competitive pricing, which, in turn, will benefit Members of the Exchange.

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

The Exchange 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 is extremely competitive, Members may choose to preference other market centers ahead of the Exchange if they believe that they can receive better fees or rebates elsewhere. Further, because certain of the proposed changes are intended to provide incentives to Members that will result in increased activity on the Exchange, such changes are necessarily competitive. The Exchange also believes that its pricing for displayed orders is appropriately competitive vis-à-vis the Exchange's competitors. Further, the Exchange believes that continuing to incentivize the entry of aggressively priced, displayed liquidity fosters intra-market competition to the benefit of all market participants that enter orders to the Exchange. The Exchange does not believe that any of the changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors.

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.

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) of the Act [8] and paragraph (f) of Rule 19b–4 thereunder.[9] 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–BYX–2013–025 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–BYX–2013–025. 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 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–BYX–2013–025 and should be submitted on or before September 9, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–20065 Filed 8–16–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70175; File No. SR–NASDAQ–2013–104]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Non-Penny Pilot Option Rebate To Add Liquidity

August 13, 2013.

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 August 5, 2013, 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 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 Substance of the Proposed Rule Change

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2 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 offer an additional rebate for transacting certain Non-Penny Pilot Options.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.*

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f).

[10] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2(1) governing the rebates and fees assessed for option orders entered into NOM. The Exchange proposes to offer an additional $0.01 per contract Non-Penny Pilot Customer Rebate to Add Liquidity to Participants that qualify for certain rebate tiers of the Customer or Professional Penny Pilot [3] Options Rebates to Add Liquidity.

Today, the Exchange offers tiered Penny Pilot Options Rebates to Add Liquidity to Customers,[4] Professionals [5] and NOM Market Makers [6] and a $0.10 per contract Penny Pilot Options Rebate to Add Liquidity to Firms,[7] Non-NOM Market Makers [8] and Broker-Dealers.[9] With respect to Customers and Professionals, the Exchange pays Penny Pilot Options Rebates to Add Liquidity based on various criteria with rebates ranging from $0.25 to $0.48 per contract as follows:

	Monthly Volume	Rebate to Add Liquidity
Tier 1	Participant adds Customer and/or Professional liquidity of up to 0.20% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month.	$0.25
Tier 2	Participant adds Customer and/or Professional liquidity of 0.21% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month.	0.40
Tier 3	Participant adds Customer and/or Professional liquidity of 0.31% to 0.49% of total industry customer equity and ETF option ADV contracts per day in a month.	0.43
Tier 4	Participant adds Customer and/or Professional liquidity of 0.5% or more of total industry customer equity and ETF option ADV contracts per day in a month.	0.45
Tier 5	Participant adds (1) Customer and/or Professional liquidity of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and (3) the Participant executed at least one order on NASDAQ's equity market.	0.42
Tier 6	Participant has Total Volume of 130,000 or more contracts per day in a month, of which 25,000 or more contracts per day in a month must be Customer and/or Professional liquidity.	0.45
Tier 7	Participant has Total Volume of 175,000 or more contracts per day in a month, of which 50,000 or more contracts per day in a month must be Customer and/or Professional liquidity.	0.47
Tier 8	Participant (1) has Total Volume of 325,000 or more contracts per day in a month, or (2) Participant has Total Volume of 200,000 or more contracts per day in a month, of which 70,000 or more contracts per day in a month must be Customer and/or Professional liquidity or (3) adds Customer and/or Professional liquidity of 1.00% or more of national customer volume in multiply-listed equity and ETF options classes in a month..	0.48

The Exchange proposes to offer Participants that qualify for Tiers 7 or 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity an additional $0.01 per contract Non-Penny Pilot Options Customer Rebate to Add Liquidity on each transaction which adds Customer liquidity in Non-Penny Pilot Options. For example, a Participant that qualifies for Tier 8 of the Customer or Professional Penny Pilot Options Rebate to Add Liquidity and transacted 20,000 Non-Penny Pilot Options contracts in that month that added liquidity would receive a rebate of $0.82 per contract on the 20,000 contracts or $16,400. The Exchange believes that the additional rebate will encourage Participants to add additional liquidity in both Penny and Non-Penny Pilot Options on NOM.

[3] The Penny Pilot was established in March 2008 and in October 2009 was expanded and extended through December 31, 2013. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013); and 69787 (June 18, 2013), 78 FR 37858 (June 24, 2013) (SR–NASDAQ–2013–082). *See also* NOM Rules, Chapter VI, Section 5.

[4] The term ''Customer'' 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 Chapter I, Section 1(a)(48).

[5] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[6] The term ''NOM Market Maker'' is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security. NOM Market Maker Rebates range from $0.25 to $0.38 per contract depending on various criteria.

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

[8] The term ''Non-NOM Market Maker'' or (''O'') is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

[9] The term ''Broker-Dealer'' or (''B'') applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[10] in general, and with Section 6(b)(4) of the Act,[11] in particular, in that they provide 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 as described in detail below.

The Exchange believes that the opportunity to earn an additional Non-Penny Pilot Options Customer Rebate to Add Liquidity is reasonable because the incentive encourages Participants to qualify for higher Customer or Professional Penny Pilot Options rebate tiers in order to also qualify for an additional Non-Penny Pilot Options Customer rebate. Participants would be encouraged to add liquidity in both Penny Pilot and Non-Penny Options liquidity because Tiers 7 and 8 allow Total Volume to be counted in qualifying for those tiers. Total Volume is defined at Chapter XV, Section 2(1) at note b as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM. The Exchange believes that offering Customers and Professionals the continued opportunity to earn higher rebates is reasonable because by incentivizing Participants to select the Exchange as a venue to post Customer and Professional liquidity will attract additional order flow to the benefit of all market participants. Today the Exchange also incentivizes NOM Market Makers to post liquidity, by offering NOM Market Makers rebates, which also benefit market participants through increased order interaction. Firms, Non-NOM Market Makers and Broker-Dealers are also offered rebates under the current pricing structure.

The Exchange believes that the opportunity to earn an additional Non-Penny Pilot Options Customer Rebate to Add Liquidity is equitable and not unfairly discriminatory because the rebate would continue to encourage Participants to transact a greater number of Customer and Professional orders to obtain higher rebates. The Exchange believes that continuing to pay Customers and Professionals tiered Rebates to Add Liquidity in Penny Pilot Options, as compared to other market participants, is equitable and not unfairly discriminatory because Customer order flow brings unique benefits to the market through increased liquidity which benefits all market participants. The Exchange believes that continuing to offer Professionals the same Penny Pilot Options Rebates to Add Liquidity as Customers is equitable and not unfairly discriminatory because the Exchange believes that offering Professionals the opportunity to earn the same rebates as Customers, as is the case today, and higher rebates as compared to Firms, Broker-Dealers and Non-NOM Market Makers, and in some cases NOM Market Makers, is equitable and not unfairly discriminatory because the Exchange does not believe that the amount of the rebate offered by the Exchange has a material impact on a Participant's ability to execute orders in Penny Pilot Options. By offering Professionals, as well as Customers, higher rebates, the Exchange hopes to simply remain competitive with other venues so that it remains a choice for market participants when posting orders and the result may be additional Professional order flow for the Exchange, in addition to increased Customer order flow.

In addition, a Participant may not be able to gauge the exact rebate tier it would qualify for until the end of the month because Professional volume would be commingled with Customer volume in calculating tier volume.[12] A Professional could only otherwise presume the Tier 1 rebate would be achieved in a month when determining price.[13] Further, the Exchange initially established Professional pricing in order to ''. . . bring additional revenue to the Exchange.'' [14] The Exchange noted in the Professional Filing that it believes ''. . . that the increased revenue from the proposal would assist the Exchange to recoup fixed costs.'' [15] The Exchange also noted in that filing that it believes that establishing separate pricing for a Professional, which ranges between that of a Customer and market maker, accomplishes this objective.[16] The Exchange does not believe that providing Professionals with the opportunity to obtain higher rebates equivalent to that of a Customer creates a competitive environment where Professionals would be necessarily advantaged on NOM as compared to NOM Market Makers, Firms, Broker-Dealers or Non-NOM Market Makers. Also, a Professional is assessed the same fees as other market participants, except Customers and NOM Market Makers, as discussed herein.[17] For these reasons, the Exchange believes that continuing to offer Professionals the same rebates as Customers is equitable and not unfairly discriminatory. The Exchange believes that continuing to offer NOM Market Makers the opportunity to earn higher rebates as compared to Non-NOM Market Makers, Firms and Broker Dealers is equitable and not unfairly discriminatory because NOM Market Makers add value through continuous quoting [18] and a commitment of capital. Firms, Non-NOM Market Makers and Broker-Dealers would continue to be offered a $0.10 per contract Rebate to Add Liquidity in Penny Pilot Options, as is the case today.[19]

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] Customer and Professional volume is aggregated for purposes of determining which rebate tier a Participant qualifies for with respect to the Professional Rebate to Add Liquidity in Penny Pilot Options.

[13] A Professional would be unable to determine the exact rebate that would be paid on a transaction by transaction basis with certainty until the end of a given month when all Customer and Professional volume is aggregated for purposes of determining which tier the Participant qualified for in a given month.

[14] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066) (''Professional Filing''). In this filing, the Exchange addressed the perceived favorable pricing of Professionals who were assessed fees and paid rebates like a Customer prior to the filing. The Exchange noted in that filing that a Professional, unlike a retail Customer, has access to sophisticated trading systems that contain functionality not available to retail Customers.

[15] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066).

[16] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066). The Exchange noted in this filing that it believes the role of the retail customer in the marketplace is distinct from that of the professional and the Exchange's fee proposal at that time accounted for this distinction by pricing each market participant according to their roles and obligations.

[17] The Fee for Removing Liquidity in Penny Pilot Options is $0.48 per contract for all market participants, except Customers and NOM Market Makers. Customers are assessed $0.45 per contract and NOM Market Makers would continue to be assessed $0.47 per contract.

[18] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 5.

[19] Similar to other market participants, Firms, Non-NOM Market Makers and Broker-Dealers have the opportunity to earn a higher Penny Pilot Options Rebate to Add Liquidity if they transact 15,000 contracts per day or more of Penny Pilot Options or Non-Penny Pilot Options liquidity in a

Continued

The Exchange believes that offering Participants that qualify for Tiers 7 or 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity an opportunity to earn an additional $0.01 per contract Non-Penny Pilot Customer Rebate to Add Liquidity is equitable and not unfairly discriminatory because all Customers and Professionals have an opportunity to qualify for a Tier 7 or 8 Penny Pilot Option Rebate to Add Liquidity and, in turn, qualify to obtain the Customer Non-Penny Pilot Options rebate. Today, no other market participant is entitled to a Non-Penny Pilot Options Rebate to Add Liquidity other than a Customer. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to only pay Customers a rebate in Non-Penny Pilot Options because Customer order flow is unique and benefits all market participants through the increased liquidity that such order flow brings to the market. The opportunity to increase the Non-Penny Pilot Options rebate will further encourage the addition of Penny Pilot and Non-Penny Pilot Options liquidity as well as Customer and Professional liquidity. Today, Total Volume [20] includes both Penny and Non-Penny Options volume so Tiers 7 or 8 encourage Participants to add and remove liquidity in Penny and Non-Penny Pilot Options.[21]

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

NASDAQ does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

Customers have traditionally been paid the highest rebates offered by options exchanges. The Exchange does not believe that continuing to provide Professionals with the opportunity to obtain higher rebates equivalent to that of a Customer creates an undue burden on competition where Professionals would be necessarily advantaged on NOM as compared to NOM Market Makers, Firms, Broker-Dealers or Non-NOM Market Makers because the Exchange does not believe that the amount of the rebate offered by the Exchange has a material impact on a Participant's ability to execute orders in Penny Pilot Options. The Exchange does not believe that offering Participants that qualify for Tier 7 or 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity an additional Non-Penny Pilot Options Customer rebate would result in any burden on competition as between market participants because the remaining market participants, NOM Market Makers, Firms, Non-NOM Market Makers and Broker-Dealers would continue to have an opportunity to earn Penny Pilot Options rebates. Today, the Exchange only pays Customers Non-Penny Pilot Options Rebates to Add Liquidity.[22] Customer order flow brings unique benefits to the market through increased liquidity which benefits all market participants.

The Exchange's proposal to pay an additional Non-Penny Pilot Options Customer Rebate to Add Liquidity, presuming the Participant qualifies for Tier 7 or 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity, will incentivize Participants to direct Penny and Non-Penny Pilot Options order flow, as well as Customer and Professional order flow, to NOM to the benefit of all other market participants. The Exchange believes the proposed pricing incentives contribute to the overall health of the market and benefit all Participants willing to choose to transact options on NOM. For the reasons specified herein, the Exchange does not believe this proposal creates an undue burden on competition.

The Exchange operates in a hyper competitive market comprised of twelve U.S. options exchanges in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. These market forces support the Exchange belief that the proposed rebate structure and tiers proposed herein are competitive with rebates and tiers in place on other exchanges. The Exchange believes that this competitive marketplace continues to impact the rebates present on the Exchange today and substantially influences the proposals set forth above.

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.[23] 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 email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–104 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–2013–104. 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

given month. The volume requirement for Firms, Non-NOM Market Makers and Broker-Dealers to qualify for the higher Penny Pilot Options Rebate to Add Liquidity is less than is required to earn a Tier 1 Customer or Professional Rebate to Add Liquidity in Penny Pilot Options or a Tier 1 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Option. The 15,000 contract threshold for Firms, Non-NOM Market Makers and Broker-Dealers to earn the Penny Pilot Options Rebate to Add Liquidity equates to approximately 0.12% of the industry customer equity and ETF volume.

[20] For purposes of Tiers 6, 7 and 8, "Total Volume" is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM.

[21] Tier 7 requires a certain amount of the Total Volume to be comprised of Customer and/or Professional liquidity. Tier 8 provides three options to qualify for the rebate including Total Volume, some of which must be comprised of Customer and/or Professional liquidity.

[22] NASDAQ OMX BX, Inc. Options pays a Rebate to Remove Liquidity in All Other Penny Pilot Options of $0.32 per contract to Customers only.

[23] 15 U.S.C. 78s(b)(3)(A)(ii).

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–2013–104, and should be submitted on or before September 9, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–20099 Filed 8–16–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70168; File No. SR–NYSEArca–2013–79]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .07 to Rule 6.4 To Modify the Short-Term Option Series Program To Increase the Number of Classes That Are Eligible To Participate in the Program From Five to 30

August 13, 2013.

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 August 7, 2013, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 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 Commentary .07 to Rule 6.4 to modify the short-term option series ("Short-Term Option Series" or "STOS") Program to increase the number of classes that are eligible to participate in the Program from five to 30. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.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 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.

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

1. Purpose

The Exchange first proposes to amend Commentary .07(b) to Rule 6.4 related to the STOS Program to increase the number of classes that are eligible to participate in the STOS Program from five to 30.[3] Currently, for each option class that has been approved for listing and trading on the Exchange, the Exchange may select up to five listed options classes for the STOS Program. The Exchange may also include in the STOS Program any option classes that are selected by other exchanges that employ a similar program under their respective rules.

The Exchange is proposing to amend Commentary .07(b) to compete equally and fairly with other options exchanges in satisfying high market demand for weekly options. The Exchange believes that limiting the number of options classes eligible to participate in its STOS Program to five places the Exchange at a competitive disadvantage relative to substantially similar STOS Programs offered by other exchanges. Options exchanges operated by BATS Exchange, Inc. ("BATS"), Chicago Board Options Exchange ("CBOE"), NASDAQ Stock Market LLC ("NOM"), International Securities Exchange ("ISE"), and NASDAQ OMX PHLX LLC ("PHLX") now have rules that allow up to 30 classes to participate in their respective STOS Programs.[4] The Exchange's proposed increase in the number of classes eligible to participate in the STOS Program would not only improve its competitive position relative to other exchanges, but would also promote consistency and uniformity among the competing options exchanges that have adopted similar STOS Programs.

The Exchange notes that its STOS Program has been well-received by market participants, particularly retail investors. The Exchange believes that the current proposed revision to the STOS Program will permit the Exchange to meet increased customer demand and provide market participants with the ability to hedge securities positions with a greater number of option classes and series.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with the proposed expansion of the STOS Program. While the expansion of the STOS Program is expected to generate additional quote traffic, the Exchange believes that this increased traffic will be manageable. The Exchange also notes that any series added under this expansion would be subject to quote

[24] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] A Short-Term Option Series is a series of an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Thursday or Friday that is a business day and that expires at the close of business on the next Friday that is a business day. If a Thursday or Friday is not a business day, the series may be opened on the first business day immediately prior to that Thursday or Friday. If a Friday is not a business day, the series shall expire on the first business day immediately prior to that Friday. *See* NYSE Arca Rule 5.10(b)(24); Commentary .07(a) to NYSE Arca Rule 6.4.

[4] *See* BATS Rule 19.6, Interpretations and Policies .05(a); BATS Rule 29.11(h); CBOE Rules 5.5 and 24.9; NOM Rules Chapter IV, Section 6; Chapter XIV, Section 11; ISE Rules 504 and 2009; and PHLX Rules 1012 and 1101A. NOM and BATS, like NYSE Arca, each began its STOS Program in 2010, with 5-class limits similar to that provided for in Commentary .07 to NYSE Arca Rule 6.4. *See* Securities Exchange Act Release Nos. 62297 (June 15, 2010), 75 FR 35111 (June 21, 2010) (SR–NASDAQ–2010–073); 62597 (July 29, 2010), 75 FR 47335 (August 5, 2010) (SR–BATS–2010–020).