accuracy of the Commission's estimate of the burdens of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information collected; and (iv) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 16, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–29745 Filed 11–20–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76450; File No. SR–NASDAQ–2015–137]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Market Quality Incentive Program and Certain Other Fees and Credits for Execution and Routing

November 17, 2015.

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 November 3, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 the Substance of the Proposed Rule Change

Nasdaq is proposing to amend Nasdaq Rule 7014, concerning the Exchange's Market Quality Incentive Programs, and Nasdaq Rule 7018, governing fees and credits assessed for execution and routing of securities priced at $1 or more.

The text of the proposed rule change is available at *nasdaq.cchwallstreet.com* at Nasdaq principal office [*sic*], 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 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

Nasdaq is proposing to amend Rule 7014 to add new tiers to the Lead Market Maker (''LMM'') Program and to modify credits provided under Rule 7018(a).

Rule 7014

The Exchange is proposing to modify the benefits provided by the LMM Program under Rule 7014. Under the LMM Program, a LMM may receive a credit of $0.004 per share executed (or $0, in the case of executions against Quotes/Orders in the Nasdaq Market Center at less than $1.00 per share) if it provides displayed liquidity through the Nasdaq Market Center. The credit applies to transactions in a Qualified Security [3] and is provided in lieu of credits under Rules 7018 and 7014. A LMM is a registered Nasdaq market maker for a Qualified Security that has committed to maintain minimum performance standards. A LMM is selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded funds and index-linked securities, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. Nasdaq may limit the number of LMMs in a security, or modify a previously established limit, upon prior written notice to members.

Nasdaq sets minimum performance criteria to qualify as a LMM. These minimum performance standards are determined by Nasdaq from time to time and may vary depending on the price, liquidity, and volatility of the Qualified Security in which the LMM is registered. Nasdaq may apply performance measurements that include one or more of the following: (A) Percent of time at the national best bid (best offer) (''NBBO''); (B) percent of executions better than the NBBO; (C) average displayed size; and (D) average quoted spread (collectively, ''LMM Criteria''). The LMM Criteria will be established upon written notice to members. Currently, the established LMM Criteria requires a LMM to be at the NBBO more than 15% of the time.[4]

The Exchange is proposing to provide higher rebates to LMMs the greater percentage of the time they are at the NBBO. Specifically, the Exchange is creating three rebate tiers. The first tier will provide a LMM a rebate of $0.004 per share executed for displayed liquidity (for executions above $1) if the LMM is at the NBBO more than 15% of the time and up to 20% of the time. The second tier will provide a LMM a rebate of $0.0043 per share executed for displayed liquidity (for executions above $1) if the LMM is at the NBBO more than 20% of the time and up to 50% of the time. The third tier will provide a LMM a rebate of $0.0046 per share executed for displayed liquidity (for executions above $1) if the LMM is at the NBBO more than 50% of the time. As is the case currently under the LMM Program, a LMM will not receive a rebate for executions less than $1 per share.

Under each of the new tiers, the Exchange is also providing a new maximum fee for participation in the opening and closing crosses as additional incentive to LMMs. Under Rule 7018, a Participant,[5] including a LMM, is assessed a per share executed charge of $0.0015 to $0.0008 for participation in the Opening and Closing Crosses.[6] Under the LMM Program, the Exchange is proposing to cap the fee a LMM is charged if they qualify for one of the three new tiers. Specifically, Nasdaq will provide a maximum Opening and Closing Cross fee of $0.0010 per share executed to a LMM that qualifies under the first tier

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

[2] 17 CFR 240.19b–4.

[3] A Qualified Security: (1) Is an exchange-traded fund or index-linked security listed on Nasdaq pursuant to Nasdaq Rules 5705, 5710, or 5720; and (2) has at least one Lead Market Maker. *See* Rule 7014(f)(1).

[4] *See* Equity Trader Alert 2015–109 (*http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2015-109*).

[5] As defined by Rule 4701(c).

[6] *See* Rule 7018(d) and (e).

under new Rule 7014(f)(4), and a maximum opening and Closing Cross fee of $0.0000 per share executed to a LMM that qualifies under the second or third tier under new Rule 7014(f)(4). A LMM that qualifies for a maximum charge under Rule 7014(f)(4) would not be precluded from taking advantage of a lower charge provided under Rules 7018(d) or (e).[7]

Nasdaq is also deleting rule text that concerns the performance standards applied under Rule 7014(f). The Exchange notes that it is applying the current established LMM criteria [8] under the first tier of Rule 7014(f)(4), and expanding the use of the criteria under the second and third tiers. Nasdaq may apply the other performance measurements noted currently under Rule 7014(f)(2) in the future and will amend the rule text to reflect the new criteria based on those performance measurements. Nasdaq is also making clarifying changes to the rule under Rule 7014(f)(3).

Rule 7018(a)

Rule 7018(a) concerns fees and credits provided for the use of the order execution and routing services of the Nasdaq Market Center by members for all securities priced at $1 or more that it trades. Under the proposed changes to the rule, Nasdaq is proposing to eliminate certain credit tiers, add new credit tiers and modify existing credit tier [*sic*].

First, Nasdaq is proposing to delete four credit tiers that apply to securities of each of the three Tape securities. Specifically, Nasdaq is proposing to:

• Eliminate the $0.00305 per share executed credit provided to a member with (i) shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent 1.60% or more of Consolidated Volume during the month, or (ii) shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.60% or more of Consolidated Volume during the month, and shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent 0.75% or more of Consolidated Volume during the month.

• Eliminate the $0.0030 per share executed credit provided to a member with (i) shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent 1.20% or more of Consolidated Volume during the month, or (ii) shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.20% or more of Consolidated Volume during the month, and shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent 0.75% or more of Consolidated Volume during the month.

• Eliminate the $0.00295 per share executed credit provided to a member with shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent more than 0.90% of Consolidated Volume during the month.

• Eliminate the $0.00295 per share executed credit provided to a member (i) that is a registered market maker through one of its Nasdaq Market Center MPIDs in at least 7,000 securities, (ii) with shares of liquidity provided in all securities through one of its Nasdaq Market Center MPIDs that represent more than 0.75% of Consolidated Volume during the month, and (iii) with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.90% of Consolidated Volume during the month.

Second, Nasdaq is proposing to add two new credits that apply to securities of each of the three Tape securities. Specifically, Nasdaq is proposing to:

• Add a new credit of $0.00305 per share executed to a member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 1.25% of Consolidated Volume during the month.

• Add a new credit of $0.0030 per share executed to a member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.75% of Consolidated Volume during the month and member provides a daily average of at least 5 Million shares of non-displayed liquidity.

Lastly, the Exchange is proposing to amend the eligibility criteria for a credit applied to securities of each of the three Tape securities. Currently, Nasdaq provides a $0.0030 per share executed credit to a member (i) with shares of liquidity provided in all securities during the month representing at least 0.20% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) Adds Customer, Professional, Firm, Non-NOM Market Maker, NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 0.90% or more of total industry ADV in the customer clearing range for Equity and ETF option contracts per day in a month on the Nasdaq Options Market. Nasdaq is proposing to reduce the level of required Consolidated Volume under paragraph (i) of the tier from 0.20% to 0.15%. The Exchange is also limiting the type of liquidity allowed to qualify under paragraph (ii) of the tier to NOM Market Maker.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[10] 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 and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, for example, the Commission indicated that market forces should generally determine the price of non-core market data because national market system regulation ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [11] Likewise, in *NetCoalition* v. *NYSE Arca, Inc.,* 615 F.3d 525 (D.C. Cir. 2010), the DC Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress

[7] For example, if a LMM was eligible to receive a maximum charge of $0.0010 per share executed under the first tier of Rule 7014(f)(4), but also qualified for a charge of $0.0008 per share executed in the closing cross under Tier A of Rule 7018(d)(2), the Participant would receive the lower charge under Rule 7018(d)(2).

[8] *Supra* note 4.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *See* Exchange Act Release No. 34–51808 (June 9, 2005) (''Regulation NMS Adopting Release'').

mandated a cost-based approach.[12] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [13]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [14]

Rule 7014

The Exchange believes that the proposed changes to Rule 7014(f) are reasonable because they provide greater incentives to LMMs to improve market quality. The proposed changes achieve this by increasing the rebate provided under the rule. Currently, a LMM only is provided an incentive to be at the NBBO greater than 15% of the time, but is not provided any further incentive to exceed the threshold beyond what is needed to receive the current credit. To provide an incentive to exceed the current 15% threshold, Nasdaq is adding additional higher credit tiers based on a greater percentage of time at the NBBO. Nasdaq is also providing an Opening and Closing Cross incentive under each new tier, which does not exist today. Nasdaq believes increasing the rebates available to LMMs and limiting the charge assessed for participation in the Opening and Closing Crosses will improve market quality for all market participants because it may provide incentive to LMMs to add liquidity in the opening and closing processes as well as during regular market hours. Nasdaq also believes deletion of the language concerning minimum performance standards under Rule 7014(f)(2) is reasonable because new Rule 7014(f)(4) now provides the performance criteria needed to receive the rebates and fees under the program, which is based on the current criteria in place. If Nasdaq determines to modify the criteria, it will do so through a rule change in lieu of written notice to members. Lastly, The [*sic*] Exchange believes that providing LMMs a reduced charge in the Opening and Closing Crosses is equitable and not unfairly discriminatory because, in return for the reduced charges, LMMs are providing beneficial displayed liquidity to the benefit of all market participants.

The Exchange believes that the proposed changes to Rule 7014(f) are an equitable allocation and is [*sic*] not unfairly discriminatory because the Exchange will apply the same fees and provide the same rebates to all similarly situated members. The rebates and fees under the amended rule are available to all LMMs that qualify under the new tiers of the program. The Exchange does not believe that the proposed changes are unfairly discriminatory because all LMMs have the opportunity to achieve the level of time at the NBBO if they so choose.

Rule 7018

The Exchange believes that the proposed changes to Rule 7018(a) are reasonable because the Exchange must, from time to time, adjust the level of credits provided, and the criteria required to receive them, to provide the most efficient allocation of credits in terms of market improving behavior. In this regard, Nasdaq is limited in the amount of credits that it can provide to market participants. The Exchange determined that the eliminated credit tiers no longer provided the most efficient and effective use of the credits it is able to provide. With regard to the eliminated $0.00295 credit tiers, Nasdaq observed that no Participants qualified for the fees recently, rendering them ineffective at providing incentive. With regard to the eliminated $0.00305 and $0.0030 credit tiers, Nasdaq does not believe that they are achieving an adequate level of qualifying beneficial market activity and is consequently replacing them with two new credit tiers of the same amount. The Exchange is now requiring a reduced level of Consolidated Volume to qualify for the new $0.00305 per share executed credit tier and is not applying the additional criteria of the deleted $0.00305 credit tier. Consequently, the Exchange believes that the change may provide a more attainable level of incentive thereby promoting Participants to provide the liquidity needed to qualify for the tier. To receive a $0.0030 per share executed credit under the proposed new tier, a Participant must provide a significantly reduced level of Consolidated Volume, but must also provide a daily average of at least 5 million shares of non-displayed liquidity. The Exchange believes that the criteria of the new tier may make it more attainable for Participants than the deleted $0.0030 tier. The Exchange believes that elimination of the $0.00295 credit tiers reasonable [*sic*] because no Participants have recently qualified under the tiers, and the Exchange may accordingly allocate its resources in more effective ways to encourage market improving activity. Lastly, the changes to eligibility criteria to receive a $0.0030 per share executed credit is [*sic*] reasonable because by reducing the amount of Consolidated Volume required to receive the credit but limiting the Nasdaq Options Market based criteria to market making activity, the Exchange believes that it may provide greater incentive for market makers to improve liquidity on the Nasdaq Options Market. In addition, because of a limited amount of credits it can provide, the Exchange chose to continue to provide this tier to NOM market makers because they actively provide liquidity to the benefit of all NOM participants. In sum, the Exchange believes that the changes to Rule 7018(a) are reasonable because the Exchange has determined that the new tiers may better promote provision of liquidity and use of non-displayed orders on the Exchange, which improves market quality for all market participants.

The Exchange believes that the proposed changes to Rule 7018(a) are an equitable allocation and are not unfairly discriminatory because the Exchange will provide the same credits to all similarly situated members. The credits Nasdaq provides are designed to improve market quality for all market participants, and Nasdaq allocates its credits in a manner that it believes are the most likely to achieve that result. Elimination of the existing credits under the rule is an equitable allocation and is not unfairly discriminatory because the credits were ineffective at providing adequate incentive to Participants to provide market improving order activity. Consequently, the Exchange is proposing to change the criteria needed to receive $0.00305 and $0.0030 credits by adopting new tiers it believes will be more effective. The Exchange believes that elimination of the $0.00295 credit tiers is an equitable allocation and is not unfairly discriminatory because no participants qualified under the tiers, therefore their removal will not impact any Participants. With regard to the changes to eligibility criteria to receive a $0.0030 per share executed credit, the Exchange believes that they are an equitable allocation and are not unfairly discriminatory because Nasdaq must be selective in providing credits to

[12] *See NetCoalition,* 615 F.3d at 534.

[13] *Id.* at 537.

[14] *NetCoalition I,* 615 F.3d at 539 (quoting ArcaBook Order, 73 FR at 74782–74783).

Participants, and allocates credits to where it believes it will receive the best result in terms of improvement to market quality. In this case, Nasdaq is limiting the credit to NOM market makers because it believes that market quality will be improved the most by market makers actively providing liquidity and this benefits both Nasdaq and NOM participants.

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.[15] Nasdaq 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, or rebate opportunities available at other venues to be more favorable. In such an environment, Nasdaq must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices. [*sic*]

In this instance, the proposed changes to the LMM Program and the charges assessed and credits available to Participants for execution of securities in securities of all three Tapes do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The Exchange is modifying a market improving incentive program and is also adjusting credit tiers provided Participants in return for market improving activity, in an effort to make them more effective. Such changes may foster competition among exchanges and other market venues to provide similar incentives, which would benefit all market participants. The Exchange must weigh the costs of offering incentives to market participants against the desired benefit the Exchange seeks to achieve. To the extent these incentives are inefficient or at [*sic*] fail to achieve these goals, the Exchange may from time to time adjust the level of incentive and/or the market improving activity required to qualify for the incentive credits and fees, or adopt an alternative incentive in lieu thereof. Such changes are reflective of robust competition among exchanges and other market venues. In sum, if the changes proposed herein are unattractive to market participants it is likely that Nasdaq will lose market share as a result. As such, the Exchange does not believe the proposed changes will place a burden on competition.

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.

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

The foregoing change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[16] and Rule 19b–4(f)(2) thereunder.[17] 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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act[18] to determine whether the proposed rule change 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 No. SR–NASDAQ–2015–137 on the subject line.

Paper Comments

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

All submissions should refer to File No. SR–NASDAQ–2015–137. 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 No. SR–NASDAQ–2015–137, and should be submitted on or before December 14, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–29705 Filed 11–20–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76452; File No. SR–Phlx–2015–93]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Sponsored Access

November 17, 2015.

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 November 4, 2015, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II,

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

[16] 15 U.S.C. 78fs(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

[18] 15 U.S.C. 78fs(b)(2)(B).

[19] 17 CFR 200.30–3(a)(31).

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

[2] 17 CFR 240.19b–4.