driven test that was designed to evaluate the impact of a wider tick size on trading, liquidity, and the market quality of securities of smaller capitalization companies, and was therefore in furtherance of the purposes of the Act. To the extent that this proposal implements, interprets, and clarifies the Plan and applies specific requirements to Members, the Exchange believes that this proposal is in furtherance of the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

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. The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the quoting and trading requirements of the Plan will apply equally to all Members that trade Pilot Securities.

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

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act [47] and paragraph (f)(6) of Rule 19b–4 thereunder,[48] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

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: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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–BatsEDGX–2016–14 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 Number SR-BatsEDGX–2016–14. 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–BatsEDGX–2016–14, and should be submitted on or before June 6, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–11402 Filed 5–13–16; 8:45 am]

BILLING CODE 8011–01–P

---

[47] 15 U.S.C. 78s(b)(3)(A).

[48] 17 CFR 240.19b–4.

[49] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77800; File No. SR–NASDAQ–2016–065]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a New Limit Up-Limit Down Pricing Program Under Rule 7014

May 10, 2016.

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 May 3, 2016, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes a proposal to adopt a new Limit Up-Limit Down Pricing Program under Rule 7014 to improve liquidity during Limit Up-Limit Down events through incentive rebates.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

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

[2] 17 CFR 240.19b–4.

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

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

1. Purpose

The Exchange is proposing to adopt a new Limit Up-Limit Down Pricing Program under Rule 7014 to improve liquidity during Limit Up-Limit Down events pursuant to Rule 4120(a)(12) through incentive rebates.

Background

On May 6, 2010, the U.S. markets experienced excessive volatility in an abbreviated time period, commonly referred to as the ''flash crash.'' Many of the almost 8,000 equity securities and exchange-traded funds (''ETFs'') traded that day experienced rapid price declines and reversals within a short period of time. Staff of the SEC and the U.S. Commodity Futures Trading Commission (''CFTC'') (collectively, ''Staff'') worked together to study the events of the flash crash, issuing a report of their findings (''Report'') to the Joint CFTC–SEC Advisory Committee on Emerging Regulatory Issues (''Committee'').[3] Staff observed, among other things, that there was a ''liquidity crisis'' with respect to individual stocks, whereby market participants widened quote spreads, reduced offered liquidity, or withdrew from the markets altogether.[4] Staff stated that:

> While the withdrawal of a single participant may not significantly impact the entire market, a liquidity crisis can develop if many market participants withdraw at the same time. This, in turn, can lead to the breakdown of a fair and orderly price-discovery process, and in the extreme case trades can be executed at stub-quotes used by market makers to fulfill their continuous two-sided obligations.[5]

The Committee, in turn, issued a series of recommendations based on its analysis of Staff's findings.[6]

In response to the market structure issues uncovered by the flash crash and the recommendations of the Committee, the exchanges and FINRA (collectively, the ''SROs'') implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. One such measure was the adoption of a pilot plan for stock-by-stock trading pauses by SROs. On May 31, 2012, the SEC approved the National Market System Plan to Address Extraordinary Market Volatility, commonly referred to as the ''Limit Up-Limit Down Plan.'' [7] The Limit Up-Limit Down Plan created a market-wide limit up-limit down mechanism intended to address extraordinary market volatility in ''NMS Stocks,'' as defined in Rule 600(b)(47) of Regulation NMS under the Act.[8] The Limit Up-Limit Down Plan is designed to prevent trades in individual NMS Stocks from occurring outside of specified Price Bands,[9] which are based on a Reference Price [10] for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions [11] for the NMS Stock over the immediately preceding five-minute period (except for periods following openings and re-openings). The Price Bands are disseminated by the single plan processor responsible for the consolidation of information for an NMS Stock (''Processor'') pursuant to Rule 603(b) of Regulation NMS.

The Limit Up-Limit Down Plan prevents trades in individual NMS Stocks from occurring outside of the Price Bands by applying Limit States,[12] whereby trading is permitted to continue within certain upper and lower limits, and Trading Pauses [13] to accommodate more fundamental price moves in an NMS Stock. An NMS Stock will enter a Limit State if it has a National Best Offer (''NBO'') that equals the lower price band and does not cross the National Best Bid (''NBB''), or a NBB that equals the upper price band and does not cross the NBO. When an NMS Stock enters a Limit State, the Processor will disseminate the information by identifying the relevant quotation (*i.e.,* a NBO that equals the Lower Price Band or a NBB that equals the Upper Price Band) as a Limit State Quotation,[14] and ceases to calculate and disseminate updated Reference Prices and Price Bands for the NMS Stock until either trading exits the Limit State or trading resumes with an opening or re-opening. An NMS Stock will exit a Limit State if, within 15 seconds of entering the Limit State, the entire size of all Limit State Quotations are executed or cancelled, at which time the Processor begins to calculate and disseminate updated Price Bands based on a Reference Price that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period (including the period of the Limit State). If trading for an NMS Stock does not exit a Limit State within fifteen seconds of entry, the Limit State will terminate when the Primary Listing Exchange declares a Trading Pause, or at the end of Regular Trading Hours.

The Primary Listing Exchange must declare a Trading Pause if a [sic] NMS Stock does not exit a Limit State within fifteen seconds of entry during Regular Market Hours. The Primary Listing Exchange may also declare a Trading Pause for an NMS Stock if the NMS Stock is in a Straddle State, which is when the NBB is below the Lower Price Band or the NBO is above the Upper Price Band, the NMS Stock is not in a Limit State, and trading in that NMS Stock deviates from normal trading characteristics such that declaring a Trading Pause would support the Plan's goal to address extraordinary market volatility. The Primary Listing Exchange is responsible for declaring a Trading Pause in an NMS Stock and informing the Processor and during a Trading Pause the Processor disseminates Trading Pause information to the public. During a Trading Pause, no trades in a NMS Stock may occur, but all bids and offers may be displayed. A Trading Pause will conclude in one of two ways. First, if after five minutes from declaration of the Trading Pause the Primary Listing Exchange has not declared a Regulatory Halt, it will initiate established re-opening procedures. The Trading Pause will conclude when the Primary Listing Exchange reports a Reopening Price. Alternatively, a Trading Pause will conclude if the Primary Listing Exchange does not report a Reopening Price within ten minutes after the declaration of a Trading Pause in a NMS Stock, and has not declared a Regulatory Halt. When trading resumes after a Trading Pause, the Processor then will update the Prices Bands.

The Exchange believes that the Limit Up-Limit Down Plan has been successful at addressing extraordinary

[3] *See Report of the Staffs of the CFTC and SEC to the Joint Advisory Committee on Emerging Regulatory Issues,* ''Findings Regarding the Market Events of May 6, 2010,'' dated September 30, 2010, available at *http://www.sec.gov/news/studies/2010/marketevents-report.pdf.*

[4] *See* Report at 5.

[5] Report at 6.

[6] *See* Summary Report of the Committee, ''Recommendations Regarding Regulatory Responses to the Market Events of May 6, 2010'' (Feb, 18, 2011).

[7] *See* Securities Exchange Act Release No. 34–67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[8] *See* 17 CFR 242.600(b)(47).

[9] As defined by Section I.(N) of the Plan.

[10] As defined by Section I.(T) the Plan.

[11] As defined by Section I.(A) the Plan.

[12] As defined by Section I.(C) the Plan.

[13] As defined by Section I.(Y) the Plan.

[14] As defined by Section I.(D) the Plan.

volatility in the markets, through its combination of price bands and trading pauses. A fundamental underpinning to re-establishing a less volatile and stable market in times of market stress is liquidity. As quoted above, Staff observed that a liquidity crisis arising from the withdrawal of market participants can lead to the breakdown of a fair and orderly price-discovery process.[15] There is great risk to market participants when markets are volatile and many firms employ their own versions of a trading pause to withdraw from the markets as risk mitigation.[16] In its analysis of the flash crash, Staff observed that the markets suffered significant reductions in liquidity as prices fell, particularly evidenced by a significant reduction in buy-side market depth. The lack of adequate incentives to address such liquidity crisis is a concern of the Committee, which noted in its report that ''incentives to display liquidity may be deficient in [a] normal market, and are seriously deficient in turbulent markets.'' [17] Arising from this concern, the Committee recommended that the CFTC and SEC ''consider incentives to supply liquidity that vary with market conditions.'' [18]

Proposal

The Exchange is proposing to implement a new rebate program designed to provide incentive to market participants to provide liquidity during Limit States, Straddle States and Trading Pause [sic] in a select group of NMS Stocks chosen by the Exchange (''LULD Liquidity Symbols''). The new incentive program is being proposed in light of the Committee's recommendation that exchanges adopt a ''peak load'' pricing model as a solution to encouraging liquidity during turbulent markets.[19] In its purest form, a peak load pricing model increases both fees and rebates to improve liquidity. A higher access fee in comparison to other exchanges may discourage entry of aggressive liquidity-removing trades. By contrast, a higher rebate in comparison to other markets may encourage entry of liquidity-providing limit orders. Under Regulation NMS, exchanges are limited in level of access fees that they may assess their members. The Exchange's access fee schedule under Rule 7018(a) provides that, under certain circumstances, removal of displayed liquidity is assessed as the highest permissible rate. As consequence, any additional fee for removal of liquidity would exceed that limit. Exchanges are not so constrained, however, in level of rebate provided for liquidity.

The Exchange agrees with the Committee that more must be done to encourage liquidity during times of market stress, and providing market participants with incentives to provide liquidity may further that goal. While the Exchange is limited in the level of fee-based disincentives that it can assess for liquidity removal during turbulent markets, the Exchange is able to adopt incentives to address the Committee's concern that there are insufficient incentives to market participants to provide displayed liquidity in such markets. Specifically, the Exchange is proposing to provide two new incentives that are focused on promoting liquidity when a LULD Liquidity Symbol is in a Limit State, Straddle State, or a Trading Pause. [20] The Exchange has selected a group of 200 LULD Liquidity Symbols that are Exchange-listed stocks and ETFs of various sizes based on market capitalization. In selecting the securities, the Exchange first considered how individual Exchange-listed securities were impacted on particularly volatile days, and when a Limit State, Straddle State or Trading Pause occurred, with a particular focus on liquidity. From this pool of potential LULD Liquidity Symbols, the Exchange next eliminated very low volume stocks that frequently have LULD bands based on bid-ask midpoint rather than a trade price. Last, the Exchange used stratified random sampling of the remaining pool of potential LULD Liquidity Symbols to assure that the stocks represented a wide range of market capitalization levels. The Exchange may add to or modify the list of securities covered by the Limit Up-Limit Down Pricing Program. To the extent the Exchange determines to modify the list of LULD Liquidity Symbol, it will file a rule change proposal with the Commission. In selecting new LULD Liquidity Symbols, the Exchange will apply the same criteria used in selecting the initial group of LULD Liquidity Symbols.

First, for LULD Liquidity Symbol securities priced $1 or more the Exchange is adopting an incentive in the form of a $0.0010 per share executed rebate to Exchange market makers that enter displayed orders to buy (other than Designated Retail Orders, as defined in Rule 7018) when the LULD Liquidity Symbol security enters a Limit State based on an NBO that equals the lower price band and does not cross the NBB (''Limit Down Limit State''). To be eligible, the market maker must be registered as a market maker for the LULD Liquidity Symbol. The Exchange believes the incentive will promote liquidity in LULD Liquidity Symbols during times of significant price declines in those securities, which is typically a time when buy liquidity is scarce. The rebate will be provided to all buy orders entered by an Exchange market maker priced at or higher than the Lower Price Band of the Limit Down Limit State entered after initiation thereof until its conclusion, and that add liquidity at any time during continuous trading.[21] Similarly, for LULD Liquidity Symbol securities priced $1 or more the Exchange will provide the $0.0010 per share executed rebate to Exchange market makers that enter displayed orders to buy (other than Designated Retail Orders, as defined in Rule 7018) when the LULD Liquidity Symbol security enters a Straddle State based on an NBB that is below the lower price band (''Limit Down Straddle State''). To be eligible, the market maker must be registered as a market maker for the LULD Liquidity Symbol. The rebate will be provided to all buy orders entered by an Exchange market maker priced at or higher than the Lower Price Band of the Limit Down Straddle State entered after initiation thereof until its conclusion, and that receive an execution any time after the order is entered during regular market hours, except for executions received in subsequent Halt Crosses or Closing Cross. The Exchange will use the time that it receives the message from the Processor that a LULD Liquidity Symbol is in a Limit Down Limit State or Limit Down Straddle State as the time at which the rebate is available, and the message from the Processor that the security has emerged from the Limit Down Limit State or Limit Down Straddle State as the time at which the rebate is no longer available.

The following is an example of how the rebate will be applied. For this example market maker refers to an Exchange market maker registered in symbol ABC. Assume symbol ABC has a lower price band of $10.00 and is a LULD Liquidity Symbol. Further

[15] *See Supra* note 6.

[16] *See* Report at 36.

[17] *See Supra* note 6 at 9.

[18] *Id.*

[19] *Id.*

[20] The Exchange notes that nothing proposed in this rule change will alter how the Exchange handles quotes and orders in compliance with Regulation NMS, including member obligations with respect to avoiding quotes and orders that lock or cross the markets.

[21] Orders are considered to have added liquidity if they are posted on the Exchange book and are executed during continuous trading. Executions during a Halt, IPO, Open, and Closing Crosses are note considered to have added or removed liquidity.

assume the Exchange is the only market with a displayed offer at $10.00 for 300 shares and the Exchange has received the message from the Processor that ABC is in a Limit Down Limit State. Market maker #1 enters a 1,000 share displayable buy order priced at $10.00. Market maker #1's order trades against the 300 shares offered and the remaining 700 shares post to the Exchange's book at $10.00. The Bid on the Exchange is now $10.00. The 700 shares from market maker #1 are eligible to receive the additional $0.0010 rebate per share executed when adding liquidity. Market maker #2 enters a 200 share displayable buy order at $10.00. The 200 shares are also eligible to receive the additional $0.0010 rebate when adding liquidity. The Exchange receives the message from the Processor that the security has emerged from the Limit Down Limit State. Market maker #3 enters a 100 share displayable buy order at $10.00. The 100 shares are not eligible to receive the additional $0.0010 rebate since the Exchange has already received the message from the Processor that the security has emerged from the Limit Down Limit State. Market maker #1 and #2's posted orders are still eligible to receive the $0.0010 per share rebate if the orders add liquidity at a later point.

Second, the Exchange is proposing to provide an incentive to all market participants that enter Orders in an LULD Liquidity Symbol during a Trading Pause and receive an execution of that Order. The Exchange will provide a $0.0005 per share executed rebate, which will be provided upon execution of the eligible Order in the reopening process at the conclusion of the Trading Pause. The rebate will be provided in lieu of the fee assessed under Rule 7018(f) for execution of quotes and orders executed halt crosses.[22] Unlike the proposed $0.0010 per share executed rebate, which focuses on providing incentive to Exchange Market Makers to provide liquidity when the price of a LULD Liquidity Symbol has dropped significantly, this proposed $0.0005 per share executed rebate targets all market participants during a Trading Pause. The Exchange will use the time at which it declares a Trading Pause in the LULD Liquidity Symbol up to the point at which it completes the halt cross in the security as the time during which orders are eligible to receive the $0.0005 per share executed rebate

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[23] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[24] 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 the Exchange 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. As a general principle, the Exchange applies rebates and reduced fees in an effort to promote beneficial market-improving behavior among market participants. Under Rule 7014, the Exchange currently provides four Market Quality Incentive Programs that are designed to improve the markets by providing rebates and reduced fees as incentive to market participants. The proposed Limit Up-Limit Down Pricing Program is consistent with these other market-improving programs because it is designed to promote liquidity when liquidity is scarce and most needed. The proposed program is also consistent with recommendations made by the Committee to support trading during events when there is a shortage of liquidity. The Exchange is proposing to offer the program for a period no less than six months from its adoption so that it can measure the effectiveness of the rebates.

Market Maker Rebate

The Exchange believes that the proposed $0.0010 per share executed rebate is reasonable because it rewards market makers for providing liquidity when the price of a security is falling significantly and many market participants have withdrawn. As discussed above, a stock that is in a Limit Down Limit State or Limit Down Straddle State has experienced a significant drop in a relatively short time. It has been the Exchange's observation that Limit Down Limit States and Limit Down Straddle States on the lower band are often characterized by a significant disparity between the number of buyers and sellers. Orders that provide buy side liquidity promote price discovery and help to normalize trading. The proposed rebate is designed to support buy side liquidity during Limit Down Limit States and Limit Down Straddle States in LULD Liquidity Symbols by providing market makers with an incentive to provide bids at or above the Limit Down Price band. The proposed rebate may also provide incentive to Members to register as market makers in the LULD Liquidity Symbols so that they may avail themselves of the rebate, thereby potentially improving overall market quality in such securities. Moreover, the Exchange believes that the proposed $0.0010 per share executed rebate is reasonable because it is consistent with rebates of other market quality incentive programs under Rule 7014. While the Exchange acknowledges that the $0.0010 per share executed rebate is significantly higher than provided by most incentive programs under Rule 7014, which provide additional rebates ranging from $0.0001 to $0.0004 per share executed, the Exchange notes that the Lead Market Maker (''LMM'') Program under Rule 7014 provides rebates in Qualified Securities to LMMs for adding displayed liquidity ranging from $0.0040 to $0.0046 per share executed, depending on the qualification criteria met.[25] The rebate under the LMM Program is provided in lieu of the rebates provided under Rule 7018(a) for providing displayed liquidity, which are as high as $0.00305 per share executed. Thus, the lowest effective rebate available to a LMM under the LMM Program is $0.00095 ($0.0040—$0.00305). Consequently, the Exchange believes that the proposed $0.0010 per share executed rebate is reasonable because it is similar to the rebates provided under the LMM Program.

The Exchange believes that the proposed rebate is an equitable allocation and is not unfairly discriminatory because the Exchange will provide the same rebate to all similarly situated market makers. The Exchange believes that limiting the $0.0010 per share executed rebate to registered market makers is an equitable allocation and is not unfairly discriminatory because the incentive may encourage Members to register as

[22] Under Rule 7018(f), a member is assessed a $0.0010 per share executed fee for any quote or order that receives an execution in a halt cross, which includes a Limit Up-Limit Down trading pause halt cross.

[23] 15 U.S.C. 78f.

[24] 15 U.S.C. 78f(b)(4) and (5).

[25] *See* Rule 7014(d) and (e).

market makers in LULD Liquidity Symbols. Market makers have certain quoting and pricing obligations [26] for the securities in which they are registered; however, such obligations do not require them to enter buy orders priced at or higher than the Lower Price Band of the Limit Down Limit State or Limit Down Straddle State. The proposed $0.0010 per share executed rebate is designed to incentivize market makers to provide liquidity in LULD Liquidity Symbols for which they are registered as market makers at a price higher than they would otherwise be obligated in order to satisfy their market making obligations. Moreover, an increased number of market makers registered in LULD Liquidity Symbols may increase the potential for improved liquidity in LULD Liquidity Symbols during Limit States, and may improve overall market quality in LULD Liquidity Symbols because of market makers' quoting and pricing obligations, which would benefit all market participants that trade LULD Liquidity Symbols.

Trading Pause Rebate

The Exchange believes that the proposed $0.0005 per share executed rebate provided to members that enter Orders in a LULD Liquidity Symbol during a Trading Pause and receive an execution of that Order is reasonable because it may provide incentive to all market participants to provide liquidity during a Trading Pause in the securities of the program. The Exchange believes that all participants that provide liquidity during a Trading Pause should be rewarded for taking on the risk of entering orders during a volatile market. These orders promote price discovery, which may in turn help reestablish normal trading in a security covered by the program. Moreover, the Exchange believes that the proposed $0.0005 per share executed rebate is reasonable because it is consistent with rebates of other market quality incentive programs under Rule 7014, which provide additional rebates ranging from $0.0001 to $0.0004 per share executed. Unlike those rebates, which are provided in addition to any fee or other rebate the member may receive under Rule 7018, the proposed $0.0005 per share executed rebate is provided in lieu of the $0.0010 per share executed fee assessed for executions in halt crosses, including a Limit Up-Limit Down trading pause halt cross. As a consequence, a member that qualifies for the proposed new rebate will receive a net benefit of $0.0015 per share executed. The Exchange notes that this net benefit is similar to the net benefit provided LMMs under the LMM Program. Specifically, an LMM that meets the highest performance criteria under the LMM Program is eligible to receive no charge for executions in the Halt Cross, Opening Cross and Closing Cross. In certain circumstances, a member may be assessed a charge of $0.0015 per share executed for participation in the Opening and Closing Crosses. Thus, the net benefit provided by the proposed $0.0005 per share executed rebate is reasonable. The Exchange believes that the proposed $0.0005 per share executed rebate is an equitable allocation and is not unfairly discriminatory because the Exchange will provide the rebate to all members that provide orders during a Trading Pause in a LULD Liquidity Symbol that receive an execution

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 not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange 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, the Exchange 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, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the Exchange is offering rebates in an effort to improve market quality during times of high volatility. The Exchange does not believe that the proposed change will place a burden on inter-market competition because the Limit Up-Limit Down Pricing Program is designed to improve market quality for all market participants by promoting price discovery for LULD Liquidity Symbols that have triggered Limit Up-Limit Down processes, and other exchanges are free to offer similar programs. If successful, the proposed Limit Up-Limit Down Pricing Program may promote competition among exchanges to provide incentives of their own to address low liquidity in NMS Stocks during a Limit Up-Limit Down process. Further, the Exchange does not believe that the proposed incentive program imposes a burden on competition among market participants because participation in the market during a Limit Up-Limit Down Limit State, Straddle State, or Trading Pause is completely voluntary. Moreover, the proposed incentive program will not be a burden on competition among market participants because the Exchange is offering a rebate to all members that qualify under the program. The Exchange notes that it is limiting the $0.0010 per share executed rebate to Exchange market makers registered in LULD Liquidity Symbols as an incentive to such market makers to provide liquidity priced better than they otherwise would be required to do so as market makers. In addition, the proposal may incentivize market participants to register as market makers with the Exchange. Providing incentive to members to become market makers will benefit all market participants trading in LULD Liquidity Symbols for the reasons discussed above. In this regard, all member firms may register as market makers in the LULD Liquidity Symbols if they choose to meet the qualification criteria. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

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.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

[26] Rule 4613 requires market maker to be willing to buy and sell a security that it is registered as such on a continuous basis during regular market hours and to enter and maintain a two-sided trading interest that is identified to the Exchange as the interest meeting the obligation and is displayed in the Exchange's quotation montage at all times. Exchange market makers must also adhere to certain pricing obligations in their registered securities, as established by Rule 4613.

[27] 15 U.S.C. 78s(b)(3)(A)(ii).

it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–2016–065 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NASDAQ–2016–065. 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–2016–065 and should be submitted on or before June 6, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–11411 Filed 5–13–16; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77795; File No. SR–ISE Gemini–2016–05]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing of Proposed Rule Change Relating to a Corporate Transaction Involving Its Indirect Parent

May 10, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 28, 2016 ISE Gemini, LLC (the "Exchange" or "ISE Gemini") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is hereby filing with the U.S. Securities and Exchange Commission ("Commission") a proposed rule change (the "Proposed Rule Change") in connection with a proposed business transaction (the "Transaction") involving the Exchange's ultimate, indirect, non-U.S. upstream owners, Deutsche Börse AG ("Deutsche Börse") and Eurex Frankfurt AG ("Eurex Frankfurt"), and Nasdaq, Inc. ("Nasdaq"). Nasdaq is the parent company of The NASDAQ Stock Market LLC ("NASDAQ Exchange"), NASDAQ PHLX LLC ("Phlx Exchange"), NASDAQ BX, Inc. ("BX Exchange"), Boston Stock Exchange Clearing Corporation ("BSECC") and Stock Clearing Corporation of Philadelphia ("SCCP").[3] Upon completion of the Transaction (the "Closing"), the Exchange's indirect parent company, U.S. Exchange Holdings, Inc. ("U.S. Exchange Holdings"), will become a direct subsidiary of Nasdaq. The Exchange will therefore become an indirect subsidiary of Nasdaq and, in addition to the Exchange's current affiliation with International Securities Exchange, LLC ("ISE") and ISE Mercury, LLC ("ISE Mercury"), an affiliate of NASDAQ Exchange, Phlx Exchange, BX Exchange, BSECC and SCCP through common, ultimate ownership by Nasdaq. Nasdaq will become the ultimate parent of the Exchange.[4]

In order to effect the Transaction, the Exchange hereby seeks the Commission's approval of the following: (i) That certain corporate resolutions that were previously established by entities that will cease to be non-U.S. upstream owners of the Exchange after the Transaction will cease to be considered rules of the Exchange upon Closing; (ii) that certain governing documents of Nasdaq will be considered rules of the Exchange upon Closing; (iii) that the Third Amended and Restated Trust Agreement (the "Trust Agreement") that currently exists among International Securities Exchange Holdings, Inc. ("ISE Holdings"), U.S. Exchange Holdings, and the Trustees (as defined therein) with respect to the "ISE Trust" will cease to be considered rules of the Exchange upon Closing and, thereafter, that the parties to the Trust Agreement would be permitted to take the corporate steps necessary to repeal the Trust Agreement and dissolve the ISE Trust; (iv) to amend and restate the Second Amended and Restated Certificate of Incorporation of ISE Holdings ("ISE Holdings COI") to eliminate provisions relating to the Trust Agreement and the ISE Trust and, in this respect, to reinstate certain text of the ISE Holdings COI that existed prior to Deutsche Börse's ownership of ISE Holdings; (v) to amend and restate the Second Amended and Restated Bylaws of ISE Holdings (the "ISE Holdings Bylaws") to waive certain voting and ownership restrictions in the ISE Holdings COI to permit Nasdaq to indirectly own 100% of the outstanding

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 58179 (July 17, 2008), 73 FR 42874 (July 23, 2008) (SR–Phlx–2008–31); 58324 (August 7, 2008), 73 FR 46936 (August 12, 2008) (SR–BSE–2008–02; SR–BSE–2008–23; SR–BSE–2008–25; SR–BSECC–2008–01).

[4] The Exchange's current affiliates, ISE and ISE Mercury, have submitted nearly identical proposed rule changes. *See* SR–ISE–2016–11 and SR–ISEMercury–2016–10.