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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [22] and Rule 19b–4(f)(6) thereunder.[23] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [24] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[25] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to designate an operative date of April 8, 2013. The Commission believes that waiving the operative delay and designating April 8, 2013 as the operative date of the proposed rule change is consistent with the protection of investors and the public interest because such waiver would allow the proposed rule change to be operative on the initial date of Plan operations. Accordingly, the Commission hereby grants the Exchange's request and designates an operative date of April 8, 2013.[26]

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.

[22] 15 U.S.C. 78s(b)(3)(A)(iii).

[23] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

[24] 17 CFR 240.19b–4(f)(6).

[25] 17 CFR 240.19b–4(f)(6)(iii).

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

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–Phlx–2013–26 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–Phlx–2013–26. 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 publicly available. All submissions should refer to File Number SR–Phlx–2013–26 and should be submitted on or before April 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07183 Filed 3–27–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69213; File No. SR–NSX–2013–11]

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

March 22, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act '' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 13, 2013, National Stock Exchange, Inc. (''NSX®'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

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

The Exchange is proposing to amend its Fee and Rebate Schedule (the ''Fee Schedule'') issued pursuant to Exchange Rule 16.1(a) to provide Equity Trading Permit (''ETP'') [3] Holders the choice between two pricing options which can be applied to their use of the Exchange's Order Delivery mode (''Order Delivery Mode'').

The text of the proposed rule change is available on the Exchange's Web site at *www.nsx.com,* at the Exchange's principal office, and at the Commission's Public Reference Room.

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

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

[27] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

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

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

1. Purpose

The Exchange proposes to amend its Fee Schedule to provide ETP Holders the choice between two pricing options which can be applied to their use of the Exchange's Order Delivery Mode. As explained in more detail below, the Exchange proposes to allow Order Delivery participants (''Order Delivery Participants'') the choice between two pricing options, ''A'' and ''B'' under Section II of the Fee Schedule for their use of Order Delivery Mode. ''Pricing Option A'' would consist of the Exchange's current fee structure for Order Delivery Mode, which is comprised of transaction-based rebates, an Order Deliver Notification Fee, and a Quotation Update Fee. Under ''Pricing Option B,'' Order Delivery Participants would not be subject to either the Order Delivery Notification Fee or Quotation Update Fee; however, they will not be eligible to receive any transaction-based rebates or market data rebates (''MDR'') under Section II of the Fee Schedule. Under both pricing options, new Order Delivery Participants would continue to be subject to the one-time $5,000 onboarding fee.

ETP Holders are to elect Pricing Option A or B by sending an email indicating their preference to *NSXTrading@NSX.com* prior to the first trading day of the calendar month. New Order Delivery Participants must email *NSXTrading@NSX.com* prior to the end of the first month they commence trading.

Pricing Option A

Currently, under Section II of the Fee Schedule, Order Delivery Participants are eligible to receive two rebates for transaction s executed in securities priced above $1.00: (i) a $0.0030 per share rebate; and (2) a 50% MDR.[4] ETP Holders using Order Delivery Mode are also subject to two fixed fees: (1) an Order Delivery Notification Fee of $0.35 per Order Delivery Notification,[5] which is capped at 1.5 million Order Delivery Notifications per month; and (2) a Quotation Update Fee for each quotation update[6] transmitted to the Exchange by the ETP Holder using Order Delivery Mode. The Quotation Update Fee is: (1) $0.000467 per quotation update for existing Order Delivery Participants; and (ii) $0.000667 per quotation update for new Order Delivery Participants during the first three (3) months of participation. The Quotation Update Fee is capped to the first 150 million quotation updates entered by each Order Delivery Participant per month. Order Delivery Participants that select Pricing Option A would continue to receive the $0.0030 per share rebate and a 50% MDR for transactions executed in securities priced at $1.00 or above and be charged both the Order Delivery Notification Fee and Quotation Update Fee. Revenue obtained from the Quotation Update Fee will continue to be earmarked to support the regulatory oversight of Order Delivery Mode.

Lastly, under Pricing Option A, the Exchange proposes to include the word ''Transaction'' in the title of the rebate to clearly distinguish the transaction-based rebate from the MDR rebate.

Pricing Option B

Under proposed Pricing Option B, Order Delivery Participants would not be subject to either the Order Delivery Notification Fee or Quotation Update Fee; however, they will also not be eligible to receive the $0.0030 per share rebate and a 50% MDR for all transactions executed by Order Delivery Participants in securities priced at $1.00 or above. Not providing transaction-based and MDR rebates is designed to allow the Exchange to recoup the expense of supporting the regulatory oversight of Order Delivery Mode as well as the development and ongoing operational costs that are otherwise covered by the Order Delivery Notification Fee and Quotation Update Fee.

Rationale and Background

The Exchange's Order Delivery Mode provides Electronic Communication Networks (''ECNs'') with an electronic trading platform to interact with the National Market System. Order Delivery Mode provides ECNs with the ability to (i) publish quotations into the consolidated quotation system, (ii) receive ''protected quotation'' status under Rule 611 of Regulation NMS,[7] (iii) receive an Order Delivery Notification when there is a potential match against a published quotation, and (iv) distribute attributed quotations through the Exchange's Depth-of-Book market data product.[8]

The Exchange amended its Fee Schedule on November 2, 2012 to adopt the Quotation Update Fee[9] and on December 3, 2012 to adopt the Order Delivery Notification Fee for Order Delivery Participants.[10] When adopting the Order Delivery Notification Fee, the Exchange also increased the rebate to its current level at $0.0030 per share for securities quoted at a price of $1.00 or greater, and provided Order Delivery Participants with 50% of the attributable MDR received by the Exchange as a means to increase the liquidity posted to the Exchange.

The Order Delivery Notification is designed to recover Order Delivery Mode's development and ongoing operational costs, while all revenue raised through the Quotation Update Fee is earmarked to support its regulatory oversight. At the time it adopted these fees, the Exchange experienced a disproportionate trade-to-quote ratio in Order Delivery Mode which resulted from ECNs successfully leveraging the Exchange's infrastructure to develop their businesses away from the Exchange, even as the majority of the Exchange's operational costs were fixed. Consequently, the Exchange believed that relying on transaction-

[4] The Exchange does not provide ETP Holders with a rebate for transactions executed using Order Delivery Mode for securities quoted at prices less than $1.00. *See* Securities Exchange Act Release No. 68391 (December 10, 2012), 77 FR 74536 (December 14, 2012) (SR–NSX–2012–25).

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

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

[7] 17 CFR 611.

[8] ECNs can also use Order Delivery Mode to fulfill certain regulatory obligations such as qualifying as an ECN Display Alternative (17 CFR 242.602(b)(5)(i)) or publishing quotations in the consolidated quotation system when the five (5) percent order display requirement is triggered (17 CFR 242.301(b)(3)(B)).

[9] *See* Securities Exchange Act Release No. 68215 (November 13, 2012), 77 FR 69522 (November 19, 2012) (SR–NSX–2012–20) (adopting the Quotation Update Fee). *See also* Securities Exchange Act Release No. 68392 (December 10, 2012), 77 FR 74533 (December 14, 2012) (SR–NSX–2012–24) (amending the Quotation Update Fee).

[10] *See* Securities Exchange Act Release No. 68391 (December 10, 2012), 77 FR 74536 (December 14, 2012) (SR–NSX–2012–25) (adopting the Order Delivery Notification Fee); *see also* Securities Exchange Act Release No. 68612 (January 9, 2013), 78 FR 3058 (January 15, 2013) (SR–NSX–2012–27) (amending the Order Delivery Notification Fee).

based revenues to support Order Delivery Mode was not feasible and moved to the current pricing structure as a means to charge for the actual services provided by Order Delivery Mode.

The Exchange has continued to reassess its Fee Schedule for Order Delivery Mode and considered adjusting its fees and rebates to remain competitive with other exchanges. Also, since the adoption of the Order Delivery Notification Fee and Quotation Update Fee, certain Order Delivery Participants have altered their activity in Order Delivery Mode in order to minimize the amount of fees paid to the Exchange. Therefore, the Exchange proposes to allow Order Delivery Participants the choice between two pricing options, ''A'' and ''B'' under Section II of the Fee Schedule for their use of Order Delivery Mode.

The Exchange believes the availability of Pricing Option B would allow Order Delivery Participants with lower trading volumes and lower rebate or fee driven models to increase their activity on the Exchange. By not providing transaction-based and MDR rebates, the Exchange believes it will recoup the expense of supporting its regulatory programs and operation. Specifically, under Section I of the Fee Schedule, the Exchange currently charges ETP Holders that enter orders via the Exchange's automatic execution mode of interaction (''Auto-Ex Mode'') [11] a per share fee for orders that remove liquidity. The Exchange, in turn, shares that fee in the form of a rebate with the ETP Holder that posted the contra-side order to the NSX Book (including those that execute against an order posted via Order Delivery Mode). Where an Order Delivery Participant elected Pricing Option B, the Exchange will retain the entire fee it collected under Section I of the Fee Schedule and not rebate a portion of it to the Order Delivery Participant. The Exchange will also retain all the attributable MDR received on that transaction. The Exchange believes the retention of these fees and MDR will continue to allow it to recoup the cost of regulating, operating and maintaining Order Delivery Mode.

The Exchange anticipates the availability of Pricing Option B will encourage ETP Holders considering whether to offer a ''lit'' ECN to participate in Order Delivery Mode while encouraging existing Order Delivery Participants to increase their execution rates on the Exchange by not being subject to the Order Delivery Notification Fee and Quotation Update Fee. The Exchange will continue to earmark the fees and MDR it collects from executions against orders posted via Order Delivery Mode to support the regulatory oversight of Order Delivery Mode.

The Exchange anticipates that Order Delivery Participants with higher trading volumes or rebate driven business models would continue to operate under the current pricing structure, which is available under Pricing Option A, because they are able to exceed the cap limits of both the Order Delivery Notification and Quotation Update Fee. Revenue obtained from the Quotation Update Fee will also continue to be earmarked to support the regulatory oversight of Order Delivery Mode.

Operative Date and Notice

The Exchange will make the proposed modifications, which are effective on filing of this proposed rule, operative as of commencement of trading on March 15, 2013. Pursuant to Exchange Rule 16.1(c), the Exchange will ''provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange'' through the issuance of an Information Circular of the changes to the Fee Schedule and will post a copy of the rule filing on the Exchange's Web site (*www.nsx.com*).

2. Statutory Basis

The Exchange believes that the amended Order Delivery Notification Fee for Order Delivery participants is consistent with the provisions of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[12] in general, and furthers the objectives of Section 6(b)(4) of the Act,[13] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its ETP Holders and other persons using the facilities of the Exchange.

The Exchange believes providing Order Delivery Participants the choice between two pricing options is reasonable and will allow Order Delivery Participants to select a pricing structure that is appropriate to its business model. For example, the Exchange believes Pricing Option B will encourage ETP Holders, considering whether to offer a ''lit'' ECN, to participate in Order Delivery Mode while also encouraging existing Order Delivery Participants to increase their execution rates on the Exchange by not being subject to the Order Delivery Notification and Quotation Update Fees. The Exchange will continue to earmark the fees and MDR it collects from transactions against orders posted via Order Delivery Mode to support the regulatory oversight of Order Delivery Mode as well as its development and ongoing operational expenses. The Exchange also anticipates that Order Delivery Participants with higher trading volumes or high rebate business models would continue to operate under the current pricing structure, which is available under Pricing Option A, because they are able to exceed the cap for both the Order Delivery Notification and Quotation Update Fee or due to their rebate sensitive business model. Once they exceed these caps, these Order Delivery Participants will share in the transaction and MDR rebates without being subject to the Order Delivery Notification and Quotation Update Fees. Furthermore, the Exchange believes providing the choice between two pricing options is not unfairly discriminatory because it will allow Order Delivery Participants to select a pricing structure that is appropriate to its business model.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes providing Order Delivery Participants the choice between two pricing options is reasonable because it will allow Order Delivery Participants to select a pricing structure that is appropriate to its business model. The Exchange anticipates the availability of Pricing Option B will enhance competition by encouraging ETP Holders who are considering whether to offer a ''lit'' ECN to participate in Order Delivery Mode while encouraging existing Order Delivery Participants to increase their execution rates on the Exchange by not being subject to the Order Delivery and

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

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

[13] 15 U.S.C. 78f(b)(4).

Quotation Update fees. Therefore, the Exchange does not believe the modified Order Delivery Notification Fee imposes any burden on completion that is not necessary or appropriate in furtherance of the Act.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [14] and subparagraph (f)(2) of Rule 19b–4.[15] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSX–2013–11 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NSX–2013–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSX–2013–11, and should be submitted on or before April 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07182 Filed 3–27–13; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4.

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69217; File No. SR–NASDAQ–2013–045]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 4120

March 22, 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 March 11, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange''), 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

NASDAQ proposes to amend Exchange Rule 4120 to establish rules to comply with the requirements of the Plan to Address Extraordinary Market Volatility submitted to the Commission pursuant to Rule 608 of Regulation NMS.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant 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 proposes to amend Exchange Rule 4120 to establish rules to comply with the requirements of the Plan to Address Extraordinary Market Volatility submitted to the Commission pursuant to Rule 608 of Regulation NMS under the Act (the ''Plan''). The Exchange proposes to adopt the changes for a pilot period that coincides with the pilot period for the Plan, which is currently scheduled as a one-year pilot to begin on April 8, 2013.[3]

Background

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, *i.e.,* the ''flash crash,'' the equities exchanges and FINRA have implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. Among the

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68953 (Feb. 20, 2013) (Notice of Filing and Immediate Effectiveness of the Second Amendment to the National Market System Plan to Address Extraordinary Market Volatility, File No. 4–631).