For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71528; File No. SR–FINRA–2014–007]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 7510 and Rule 7540 Relating to Fees for the Alternative Display Facility

February 12, 2014.

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 January 31, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. 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

FINRA is proposing to amend Rule 7510 and Rule 7540 relating to fees for the Alternative Display Facility (''ADF'').[3]

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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 ADF is a quotation collection and trade reporting facility that provides ADF Market Participants (i.e., ADF-registered market makers or electronic communications networks (''ECNs''))[4] the ability to post quotations, display orders and report transactions in NMS stocks[5] for submission to the Securities Information Processors (''SIPs'') for consolidation and dissemination to vendors and other market participants. In addition, the ADF delivers real-time data to FINRA for regulatory purposes, including enforcement of requirements imposed by Regulation NMS.[6] Since the second quarter of 2010, there have been no ADF Market Participants.[7] FINRA is currently in the process of migrating the ADF to its multi-product platform (''MPP''). In connection with the migration to the MPP, and the addition of new ADF Market Participants, FINRA is proposing certain changes to the fees relating to ADF operations. Specifically, FINRA is proposing to (1) expand the web browser access that is currently available on the Trade Reporting and Compliance Engine (''TRACE'') to provide ADF Market Participants with trade reporting and trade management functionality for ADF trades and to adopt fees for such service; (2) expand the FINRA Automated Data Delivery Service (''ADDS'') that is currently available on TRACE to include ADF data and to adopt fees for such service; (3) revise Rule 7510(a) so that certain of the transaction charges would be assessed on a per-trade basis, with the fee being charged to the executing party; (4) revise Rule 7510(a) to provide a carve-out to the Corrective Transaction Charge pursuant to which the fee would be assessed to the executing party only; (5) delete the carve-out for fees for the late reporting of trades; and (6) delete a provision of Rule 7540(c) relating to a fee for certain testing services and make corresponding changes to the remaining testing service fee in that section.

Proposed Web Browser Access

Although there are currently no active ADF participants, an ADF participant today that wished to report a trade in an ADF-eligible security to the ADF would utilize FINRA's Trade Reporting and Comparison Service (''TRACS'') pursuant to Rule 6280.[8] Following the migration of the ADF to the MPP, FINRA will expand its current web browser access, which members may currently use to access the Trade Reporting and Compliance Engine (''TRACE''), so that ADF Market Participants may use this functionality to access the ADF and to report ADF trades.[9] Pursuant to proposed paragraph (c)(1) of Rule 7510, FINRA is proposing to charge ADF Market Participants $20 per user ID per month for web browser access.[10] In addition to reporting trades through the web browser, ADF Market Participants that elect to utilize the web browser feature will be able to access trade management functions, such as trade reconciliation, cancel and correct, and will be able to access up to three prior days' worth of their trade data as well as the current trading day's trades. The proposed web browser access will offer the same level of functionality as the Level I (Trade Report Only) web browser access and trade management functionality that is offered under Rule 7730(a) for TRACE. In addition, the proposed fee is identical to the fee currently charged under Rule 7730(a) for Level I (Trade Report Only) web browser access and trade management functionality for TRACE.[11]

[17] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] FINRA notes that it has submitted proposed rule change SR–FINRA–2013–053, which would, among other things, amend Rule 7510. *See* Securities Exchange Act Release No. 71147 (December 19, 2013), 78 FR 78451 (December 26, 2013). FINRA will amend this filing and/or SR–FINRA–2013–053, as necessary, to reflect Commission approval, or the effectiveness, of any of the proposed rule changes.

[4] *See* Rule 6220(a)(3).

[5] *See* 17 CFR 242.600.

[6] *See* 17 CFR 242.600.

[7] FINRA notes that it recently submitted a proposed rule change to add a new entrant, LavaFlow, to the ADF. *See* Securities Exchange Act Release No. 71042 (December 11, 2013), 78 FR 76341 (December 17, 2013) (Notice of Filing of File No. SR–FINRA–2013–52).

[8] FINRA notes that it has recently proposed to replace the reference to TRACS in the rules relating to the ADF, including replacing the reference to TRACS in Rule 6281 with a more generalized reference to the ADF. *See* Securities Exchange Act Release No. 71147 (December 19, 2013), 78 FR 78451 (December 26, 2013) (Notice of Filing of File No. SR–FINRA–2013–053).

[9] Due to system capacity limitations, FINRA proposes to offer the web browser access to ADF Market Participants (i.e., Registered Reporting ADF Market Makers and Registered Reporting ADF ECNs) only. FINRA proposes to offer ADDS, which is discussed in greater detail below, to all ADF participants (i.e., a market participant that is a party to an ADF trade).

[10] An ADF Market Participant that elects to not utilize the web browser access would report trades directly to the ADF through FIX (Financial Information eXchange) protocol. Although a participant would incur connectivity costs when submitting trade reports to the ADF through FIX, FINRA will not assess a charge for a FIX connection to the ADF.

[11] In contrast to TRACE, FINRA does not propose to offer a Level II web browser access for the ADF. The Level II service for TRACE web browser access provides all real-time TRACE transaction data, in addition to the functionality of Level I. TRACE is the sole platform for the reporting of fixed-income

Proposed Fees for Equity Data Through FINRA's Automated Data Delivery Service

FINRA ADDS is a secure Web site that provides members, by market participant identifier (''MPID''), access to historical trade journal files containing key information regarding the member's trades reported to FINRA. Members use the trade journal files to reconcile the trade information captured by their own systems against the information captured by the FINRA trade reporting systems. Currently, FINRA ADDS makes recent TRACE trade journals available for free through the ADDS Web site and also offers subscribers the option of receiving additional data and retrieving data automatically via Secure File Transfer Protocol (''SFTP'') for a fee.

FINRA is proposing to enhance ADDS to include ADF data and to charge fees for additional historical data pursuant to proposed Rule 7510(d). Through the ADDS Web site, an ADF participant will have access to ADF trade data associated with its MPID for the three prior business days free of charge without having to subscribe to the additional optional data services discussed below. ADF participants can access data for dates older than the most recent three business days for a monthly fee, if they elect to subscribe to receive this additional data through ADDS (referred to as ''ADF Data Delivery Plus'' service).[12] The fee will be charged per month to an MPID that is a subscriber to ADF Data Delivery Plus reports (''Plus Reports''), which will be provided in response to requests by the MPID.[13] The proposed fees under Rule 7510(d)(1) are based on the number of Plus Reports the subscriber receives in a month.[14] The proposed fees range from a low of $60 (for a member requesting up to five Plus Reports per month) to a high of $100 a month (for a member requesting more than 25 Plus Reports per month). FINRA notes that the proposed fees for such ADF data, and corresponding number of Plus Reports received, is identical to the current fee schedule for Tier 1 TRACE data through ADDS under Rule 7730(g). However, unlike the fees governing the provision of TRACE data through ADDS, FINRA is not proposing to further divide the ADF Reporting Facility Data Delivery Plus fees into tiers that are based upon the average number of transactions reported per month to which the MPID was a party in the prior calendar year, as there is not currently a baseline of transaction activity from which FINRA can establish such thresholds. As FINRA acquires historical data for the ADF and is able to further assess this fee, however, it may revise this fee to establish different tiers, and corresponding different fees, for MPIDs that meet different volume thresholds.

ADF participants also will have the option of subscribing to the SFTP service for ADF trade data, which would enable them to automate the process of retrieving their daily trade journal files. Files will be made available on a daily basis to ADF participants that subscribe to the ADF Data Delivery SFTP service, and ADF participants will be able to connect to FINRA via SFTP to download their data. FINRA is proposing to charge the following fees to ADF Participants that elect to receive ADF data via SFTP: (1) A one-time set up fee of $250 for each MPID that subscribes to the service and (2) a monthly fee of $200 per MPID that subscribes to the service. The proposed fees are identical to the current fees charged under FINRA Rule 7730 for TRACE data through ADDS.

The proposed fees for access and ADF data would allow FINRA to recoup some of the costs of developing and maintaining services for the ADF on the MPP that are already provided for TRACE. FINRA believes that extending the availability of these services to ADF participants will provide ADF participants with the enhanced tools to meet their trade reporting and management obligations without placing significant financial or operational burdens on them.

Changes to Rule 7510

Pursuant to Rule 7510(a), FINRA currently assesses certain transaction-related fees for utilizing TRACS,[15] including charges for Automated Give Up (''AGU'') and Qualified Special Representative (''QSR'') trades of $0.029 per side.[16] FINRA proposes to change these transaction charges so that they will be assessed on a per-trade basis, which will be charged only to the executing party. FINRA proposes to change the assessment of the fee from a per-side basis to a per-trade basis to clarify that the fee is assessed only once per trade. FINRA believes that it will better be able to collect this charge from the executing party to an AGU or QSR trade, as the executing party will generally be a Registered Reporting ADF ECN, while FINRA may not have a direct relationship with the contra-party to these trades.[17]

Pursuant to Rule 7510, FINRA assesses a fee for the submission of T+N late reports.[18] Currently, that fee is $0.30 per side, unless the trade is executed outside normal ADF operating hours of 8:00 a.m. to 6:30 p.m. and the member's average publicly disseminated trades reported to the media through the ADF per day during the billing period is 150,000 or greater, in which case the fee is waived. FINRA proposes to delete this exception, and the corresponding fee waiver, as it will result in a simpler and more uniform application of the late report fee. FINRA also proposes to assess this fee on a per-trade basis, which will be charged to the executing party. With this change, the fees for late reports will be consistent with the manner in which fees for late reports are assessed by the FINRA/Nasdaq Trade Reporting Facility.[19]

FINRA also proposes to modify the Corrective Transaction Charge, which is currently $0.25 for a Break, Decline, or Reversal transaction, which is paid by each party. FINRA proposes to assess this charge on the executing party only, if the trade at issue is a locked-in

trades, so the transaction data that is provided through the Level II access is already available to FINRA. In contrast, offering all real-time NMS transaction data through the ADF web browser would entail gathering such information from the relevant Securities Information Processors.

A member that utilizes the TRACE web browser and the ADF web browser would pay both the applicable TRACE web browser fee pursuant to Rule 7730 and the $20 fee ADF web browser fee pursuant to Rule 7510.

[12] Subscribers ultimately will be able to access up to two years of trade journal files.

[13] To access trade information for multiple MPIDs, an ADF participant must obtain a subscription for each MPID.

[14] A subscriber's fee will be assessed each month and accordingly may vary during a calendar year, depending on the number of reports FINRA sends to the subscriber in response to the subscriber's requests. The ADF Data Delivery Plus fee is based upon the number of reports provided to avoid charging for data requests that FINRA may be unable to provide.

[15] As noted above, FINRA has submitted a proposed rule change that would replace references to TRACS throughout the rules relating to the ADF, including replacing a reference to TRACS in Rule 7510(a) to ''System.'' *See supra* note 3.

[16] An Automated Give Up is the process by which a market participant agrees to allow an ADF Participant to report and lock in trades for clearing on its behalf.

A Qualified Special Representative is responsible for sending a trade directly to the National Securities Clearing Corporation for clearing on behalf of another broker-dealer.

[17] FINRA is not proposing to make a similar change to the comparison charge, as FINRA believes that the manner in which the compare functionality is used is sufficiently different (namely, FINRA will have to register users for the compare functionality, and therefore can establish a billing relationship with those users).

[18] For purposes of this fee, ''T'' refers to the trade date, and ''N'' refers to the applicable date following the trade date which renders the reporting late.

[19] *See* Rule 7620A.

transaction, such as an AGU or QSR.[20] Given that, with this proposed rule change, transaction charges for AGU and QSR trades will be assessed on the executing party only, FINRA believes that assessing a Corrective Transaction Charge on the executing party only for AGU and QSR trades is consistent with the manner in which transaction fees on the underlying trades will be assessed.

Proposed Deletion of Rule 7540

Rule 7540(c) provides for the assessment of fees for certain testing services, including the assessment of a fee of $285 per hour for computer-to-computer (''CTCI'') or digital interface (''DIS'' or ''CHIPS'') testing between 9:00 a.m. and 5:00 p.m. Eastern Time on business days. FINRA proposes to delete this fee because the MPP will not support such testing for the ADF, and this fee is thus not applicable. Given this deletion, FINRA will make a corresponding change to the description of the fee of $333 per hour for other testing, so that this fee will be assessed at all times on business days, holidays and weekends. FINRA also proposes to delete the introductory language in Rule 7540(c) that refers to such interfaces to reflect the deletion of the corresponding fee. FINRA also proposes a grammatical change; namely, inserting ''the'' before the reference to the ADF.

FINRA has filed the proposed rule change for immediate effectiveness.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[21] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed fees are reasonable in light of FINRA's regulatory and operational costs, including personnel and technology costs. The proposed fees are equitably allocated and not unfairly discriminatory because they will apply uniformly to all similarly situated members using the ADF.

FINRA believes that the proposed fee for web browser access under proposed Rule 7510(c) is reasonable because it will allow FINRA to recover some of the cost of developing and maintaining the web browser system for the ADF. FINRA also notes that the fee is identical to the existing fee for Level I web browser access to TRACE under Rule 7730. FINRA believes that the fee is equitably allocated and not unfairly discriminatory because it will apply uniformly to all ADF Market Participants that elect to utilize this service.

FINRA also believes that the proposed fees for ADF data through the FINRA ADDS are reasonable because these fees will allow FINRA to recover some of the cost of expanding and maintaining ADDS to include ADF data. FINRA also notes that these fees are comparable to the existing fees for TRACE data through ADDS under Rule 7730. FINRA believes that the fees are equitably allocated and not unfairly discriminatory. Because ADDS is an optional service, the fees would only be charged to ADF participants that elect to subscribe, and the fees would apply uniformly to all ADF participants that subscribe.

FINRA believes that the proposed deletion to the carve-out for the fee for late reports in Rule 7510(a) is consistent with the Act because this deletion will result in a simpler and more uniform application of the late report fee, as all ADF participants will be charged $0.30 per side. FINRA believes that changing the assessment of the transaction fee for AGU and QSR trades from a per-side to a per-trade basis is consistent with the Act because it will clarify that the fee shall be assessed only once per trade. FINRA believes that assessing the fee for AGU and QSR trades on the executing party is consistent with the Act because, given the way in which AGU and QSR trades are typically structured, FINRA will be better able to collect this charge from the executing party to an AGU or QSR trade than the contra-side. FINRA believes that assessing a Corrective Transaction Charge on the executing party only for locked-in trades such as AGUs and QSRs is consistent with the Act because assessing the Corrective Transaction Charge in this manner for such trades is consistent with the way in which transaction charges on the underlying trades will be assessed. FINRA believes that charging fees for late reports on a per-trade basis to be assessed to the executing party is consistent with the Act because it aligns this provision with the corresponding provision governing fees for late reports that are assessed by the FINRA/Nasdaq Trade Reporting Facility.

FINRA believes that the proposed deletion of the provision in Rule 7540(c) providing for an hourly fee of $285 for testing of certain computer-to-computer and digital interfaces, and corresponding revisions to that rule to reflect this deletion, is consistent with the Act because the MPP will not support such testing for the ADF, and this fee is thus not applicable.

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

FINRA 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 proposed rule change will not affect all FINRA members, but only ADF participants and, in the case of the proposed web browser access fee, only ADF Market Participants. With respect to the proposed fee for web browser access, FINRA believes that, because this proposed fee is reasonable in amount, payment of such fee by any member, or any group or class of members, will not result in a burden on competition to such members. Similarly, with respect to the proposed fees for ADF data through ADDS, because the proposed fees are both optional and reasonable in amount, FINRA does not believe that the payment of such fees by any member, or any group or class of members, will result in a burden on competition to such industry members relative to other industry members that elect not to subscribe to the optional services.[22]

*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 rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[23] and paragraph (f)(2) of Rule 19b–4 thereunder.[24] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the

[20] If the transaction at issue is not a locked-in trade, then the corrective transaction charge to be assessed does not change, i.e., it will be assessed to both parties to the trade.

[21] 15 U.S.C. 78*o*–3(b)(5).

[22] FINRA notes that today, the number of subscribers for TRACE data through ADDS is small: 16 firms subscribe to the Plus Reports and five firms subscribe to the SFTP service. FINRA anticipates that there may be more interest in ADF data through ADDS, given the differences in the equity versus fixed income markets, but is unable to provide an estimate of the number of firms that are likely to subscribe at this time.

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

[24] 17 CFR 240.19b–4(f)(2).

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–FINRA–2014–007 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–FINRA–2014–007. 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 FINRA. 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–FINRA–2014–007, and should be submitted on or before March 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71530; File No. SR–NASDAQ–2014–015]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Qualified Market Maker Incentive Program and NBBO Setter Incentive Program Under Rule 7014, and the Schedule of Fees and Rebates Under Rule 7018

February 12, 2014.

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 January 31, 2014, 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, 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 the Substance of the Proposed Rule Change

NASDAQ is proposing to make changes to the Qualified Market Maker (''QMM'') Incentive Program and NBBO Setter Incentive Program under Rule 7014, and the schedule of fees and rebates for execution and routing of orders under Rule 7018. NASDAQ will begin assessing the fees effective February 3, 2014.

The text of the proposed rule change is available at NASDAQ'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, 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 several changes to the QMM Incentive Program and NBBO Setter Incentive Program under Rule 7014, and to its schedule of fees and credits applicable to execution and routing of orders under Rule 7018, which is described in detail below.

QMM Incentive Program

A QMM is a member that makes a significant contribution to market quality by providing liquidity at the NBBO in a large number of stocks for a significant portion of the day. In addition, the member must avoid imposing the burdens on NASDAQ and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation. The designation reflects the QMM's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities. In return for its contributions, certain financial benefits are provided to a QMM with respect to a particular MPID (a ''QMM MPID''), as described under Rule 7014(e). These benefits include a lower rate charged for executions of orders in securities priced at $1 or more per share that access liquidity on the NASDAQ Market Center and that are entered through a QMM MPID.[3] The current charge assessed on a member for removing liquidity on NASDAQ is $0.0030 per share executed, irrespective of the security's listing venue (i.e., NASDAQ, NYSE, or other).[4] QMM MPIDs, however, receive a lower charge of $0.0029 per share executed, also irrespective of the securities listing

[25] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Rule 7014(e)(3) further requires, however, that after the first month in which an MPID becomes a QMM MPID, the QMM's volume of liquidity added, provided, and/or routed through the QMM MPID during the month (as a percentage of Consolidated Volume) is not less than 0.05% lower than the volume of liquidity added, provided, and/or routed through such QMM MPID during the first month in which the MPID qualified as a QMM MPID (as a percentage of Consolidated Volume).

[4] NASDAQ provides lower charges for removing liquidity from the NASDAQ Market Center, as described in Rule 7018(a).