

that FTSE 100 options are designed to provide different and additional opportunities for investors to hedge or speculate on the market risk on the FTSE 100 Index by listing an option directly on the FTSE 100 Index.

The Exchanges believes that the FTSE 100 Index is not easily susceptible to manipulation. The index is a broad-based index and has high market capitalizations. The FTSE 100 Index is comprised of 100 of the largest companies traded on the London Stock Exchange and no single component comprises more than 10% of the index, making it not easily subject to market manipulation.

Additionally, because the index has 100 of the largest and most liquid stocks listed on the London Stock Exchange, the Exchange believes that the initial listing requirements are appropriate to trade options on the index. In addition, similar to other broad-based indexes, the Exchange proposes to adopt various maintenance criteria, which would require continual compliance and periodic compliance.

FTSE 100 options would be subject to the same rules that currently govern other CBOE index options, including sales practice rules,<sup>30</sup> margin requirements<sup>31</sup> and trading rules.<sup>32</sup> The Exchange would apply the same default position limits for broad-based index options to FTSE 100 options. Specifically, the applicable position limits would be 25,000 contracts (standard limit/on the same side of the market) and 15,000 contracts (near-term limit). The exercise limit for FTSE 100 options would be equivalent to the position limit for FTSE 100 options. These same position and exercise limits would apply to FLEX trading. All position limit hedge exemptions would apply. The Exchange would apply existing index option margin requirements for the purchase and sale of FTSE 100 options.

The Exchange represents that it has an adequate surveillance program in place for FTSE 100 options. The Exchange also represents that it has the necessary systems capacity to support the new option series.

[www.lseg.com/sites/default/files/content/documents/%E2%80%A2LSEG\\_ITA\\_Products\\_Factsheet\\_v10.pdf](http://www.lseg.com/sites/default/files/content/documents/%E2%80%A2LSEG_ITA_Products_Factsheet_v10.pdf).

<sup>30</sup> See Chapter IX (Doing Business with the Public).

<sup>31</sup> See Chapter XII (Margins).

<sup>32</sup> See e.g., Chapters IV (Business Conduct), VI (Doing Business on the Exchange Floor), Chapter VIII (Market-Makers, Trading Crowds and Modified Trading Systems) and Chapter XXIV (Index Options).

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

CBOE 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. Specifically, CBOE believes that the introduction of new cash index options will enhance competition among market participants and will provide a new type of options to compete with FTSE 100 futures and European-traded derivatives on the FTSE 100 Index to the benefit of investors and the marketplace.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2015-100 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-CBOE-2015-100. 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-CBOE-2015-100 and should be submitted on or before December 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Brent J. Fields,**  
*Secretary.*

[FR Doc. 2015-28516 Filed 11-9-15; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76344; File No. SR-NASDAQ-2015-115]

### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Chapter XV, Entitled "Options Pricing," at Section 2 Governing Pricing for NASDAQ Members**

November 4, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 22, 2015, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange

<sup>33</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 to amend Chapter XV, entitled “Options Pricing,” at Section 2, which governs pricing for NASDAQ members using the NASDAQ Options Market (“NOM”), NASDAQ’s facility for executing and routing standardized equity and index options, to amend the Customer<sup>3</sup> and Professional<sup>4</sup> Penny Pilot<sup>5</sup> Options

<sup>3</sup> The term “Customer” applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of broker or dealer or for the account of a “Professional” (as that term is defined in Chapter I, Section 1(a)(48)).

<sup>4</sup> The term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

<sup>5</sup> See Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013); 69787 (June 18, 2013), 78 FR 37858 (June 24, 2013) (SR–NASDAQ–2013–082) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2013); 71105 (December 17, 2013), 78 FR 77530 (December 23, 2013) (SR–NASDAQ–2013–154) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2014); 79 FR 31151 (May 23, 2014), 79 FR 31151 (May 30, 2014) (SR–NASDAQ–2014–056) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2014); 73686 (December 2, 2014), 79 FR 71477 (November 25, 2014) (SR–NASDAQ–

Rebates to Add Liquidity. The proposed amendments apply to volume from October 22, 2015 through October 30, 2015.

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 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend Chapter XV, Section 2, entitled “NASDAQ Options Market—Fees and Rebates” to amend the Customer and Professional Penny Pilot Options Rebates to Add Liquidity. Each of the proposed rule changes will be detailed below.

#### *Customer and Professional Penny Pilot Options Rebates To Add Liquidity*

Today, the Exchange offers tiered Penny Pilot Options Rebates to Add Liquidity to Customers and Professionals based on various criteria with rebates ranging from \$0.20 to \$0.48 per contract. Participants may qualify for Customer and Professional Penny Pilot Options Rebates to Add Liquidity by adding a certain amount of liquidity as specified by each tier.<sup>6</sup>

2014–115) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2015) and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR–NASDAQ–2015–063) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange’s Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted.) See also NOM Rules, Chapter VI, Section 5.

<sup>6</sup> Tiers 6 and 7 are calculated based on Total Volume. Total Volume is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on

#### *Note “e” of Chapter XV, Section 2(1)*

The Exchange proposes to amend current note “e” to permit Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity<sup>7</sup> to achieve a higher rebate. Currently, note “e” states: “[P]articipants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional \$0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month. Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional \$0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month.” The Exchange is amending note “e” to clearly denote that there will now be three ways to earn an additional rebate for Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity. The first two additional rebates currently apply today, and will be demarcated as “1” and “2.” The Exchange proposes to pay a new additional \$0.05 per contract rebate to Participants that qualify for the Tier 8 rebate of \$0.48 per contract, from October 22, 2015 through October 30, 2015, for a total of \$0.53 per contract,

NOM. See note “b” in Section 2(1) of Chapter XV. The Exchange utilizes data from OCC to determine the total industry customer equity and ETF options ADV figure. OCC classifies equity and ETF options volume under the equity options category. Also, both customer and professional orders that are transacted on options exchanges clear in the customer range at OCC and therefore both customer and professional volume would be included in the total industry figure to calculate rebate tiers.

<sup>7</sup> Tier 8 of the Customer and Professional Rebate to Add Liquidity Tiers pays a \$0.48 per contract rebate to Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and/or (3) the Participant qualifies for rebates under the Qualified Market Maker Program set forth in Rule 7014.

provide the Participant meets the requisite criteria. The new incentive would require the Participant to: (a) Add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.85% of total industry customer equity and ETF option ADV contracts per day from October 22, 2015 through October 30, 2015 in a month and (b) add liquidity in all securities through one or more of its Nasdaq Market Center MPIDs<sup>8</sup> that represent 1.00% or more of Consolidated Volume from October 22, 2015 through October 30, 2015. Consolidated Volume shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month<sup>9</sup> in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

The Exchange believes that this new added incentive will encourage Participants to add even more liquidity on NOM to earn a higher rebate. Also, the Exchange is not only providing Participants another manner in which to earn a higher options rebate by participating in the options market, but is also permitting equities volume to qualify for the options rebate, thereby benefitting the Nasdaq Market Center as well as the NOM market, by incentivizing order flow to these markets.

#### Note "d" of Chapter XV, Section 2(1)

Currently, note "d" of Chapter XV, Section 2(1) states that Participants that qualify for Customer or Professional Rebate to Add Liquidity Tiers 7<sup>10</sup> or 8 in a given month will be assessed a Professional, Firm, Non-NOM Market

Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options of \$0.50 per contract. Currently, the Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options is \$0.54 per contract for these Participants.<sup>11</sup>

The Exchange proposes to remove the incentive to obtain a lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options for Participants that qualify for Tier 7 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity as of October 22, 2015. This incentive will remain for Participants that qualify for Tier 8, as is the case today. The Exchange desires to incentivize market participants to add liquidity in the highest tier in order to obtain the lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options. Note "d" will be amended to remove Tier 7. Additionally, from October 1, 2015 through the date of this filing, no member has qualified for the lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options of \$0.50 per contract with Tier 7.

#### Typographical Correction

The Exchange proposes to remove the period at the end of Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 to conform the rule text.

#### 2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>12</sup> in general, and with Section 6(b)(4) and 6(b)(5) of the Act,<sup>13</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Customer volume is important because it continues to attract liquidity to the Exchange, which benefits all market participants. Further, with respect to Professional liquidity, the Exchange initially established Professional pricing

in order to ". . . bring additional revenue to the Exchange."<sup>14</sup> The Exchange noted in the Professional Filing that it believes ". . . that the increased revenue from the proposal would assist the Exchange to recoup fixed costs."<sup>15</sup> Further, the Exchange noted in that filing that it believes that establishing separate pricing for a Professional, which ranges between that of a Customer and market maker, accomplishes this objective.<sup>16</sup>

#### Customer and Professional Penny Pilot Options Rebates to Add Liquidity

##### Note "e" of Chapter XV, Section 2(1)

The Exchange's proposal to amend note "e" to provide for an additional means to earn a higher rebate for Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is reasonable because the opportunity to earn a higher rebate of \$0.53<sup>17</sup> per contract, provided the qualifications are met, will incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume, which liquidity will benefit other market participants by providing them the opportunity to interact with that liquidity. The Exchange's proposal to permit Participants to obtain a higher rebate of \$0.53 per contract, provided they qualify for the Tier 8 rebate and the new criteria<sup>18</sup> by adding volume from October 22, 2015 through October 30,

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

<sup>15</sup> See Professional Filing.

<sup>16</sup> See Professional Filing. The Exchange also in the Professional Filing that it believes the role of the retail Customer in the marketplace is distinct from that of the Professional and the Exchange's fee proposal at that time accounted for this distinction by pricing each market participant according to their roles and obligations.

<sup>17</sup> Tier 8 pays a rebate of \$0.48 per contract and the additional rebate proposed for note "e" would be a \$0.05 per contract rebate for a total of \$0.53 per contract.

<sup>18</sup> New note "e" requires Participants to (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.85% of total industry customer equity and ETF option ADV contracts per day from October 22, 2015 through October 30, 2015 and (b) add liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume from October 22, 2015 through October 30, 2015 in order to receive an additional \$0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity.

<sup>8</sup> MPIDS are four character alpha code market participant identifiers used to report trades.

<sup>9</sup> For purposes of this filing, the Consolidated Volume shall only apply to volume from October 22, 2015 through October 30, 2015.

<sup>10</sup> Customer and Professional Rebate to Add Liquidity Tier 7 pays a \$0.47 per contract rebate to Participants that have Total Volume of 150,000 or more contracts per day in a month, of which 50,000 or more contracts per day in a month must be Customer and/or Professional liquidity in Penny Pilot Options. "Total Volume" is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM.

<sup>11</sup> SPY transactions are assessed a \$0.50 per contract Fee for Removing Liquidity in Penny Pilot Options for all Participants except Customer.

<sup>12</sup> 15 U.S.C. 78f.

<sup>13</sup> 15 U.S.C. 78f(b)(4) and (5).

2015,<sup>19</sup> which criteria includes the addition of options and equity volume, is reasonable because the Exchange is encouraging market participants to send order flow to both the options and equity markets to receive the rebate. Incentivizing Participants to add options liquidity through the payment of an additional rebate is not novel and exists today.<sup>20</sup> Today, the Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 includes, as part of the qualifying criteria, a certification for the Investor Support Program<sup>21</sup> as set forth in Rule 7014 and qualification in the QMM Program.<sup>22</sup> These two programs are equity programs which require participation in the form of adding liquidity. The concept of participating in the equities market as a means to qualify for an options rebate exists today. The Exchange's proposal would require Participants to add liquidity in all securities through one or more of its Nasdaq Market Center

<sup>19</sup> Monthly volume prior to October 22, 2015 will not count toward the calculation of this rebate incentive.

<sup>20</sup> Today, note "e" provides two opportunities to earn a higher rebate. Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month receive an additional \$0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or Participants may add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month to receive an additional \$0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month.

<sup>21</sup> For a detailed description of the Investor Support Program or ISP, see Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ-2010-141) (notice of filing and immediate effectiveness) (the "ISP Filing"). See also Securities Exchange Act Release Nos. 63414 (December 2, 2010), 75 FR 76505 (December 8, 2010) (NASDAQ-2010-153) (notice of filing and immediate effectiveness); and 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (NASDAQ-2010-154) (notice of filing and immediate effectiveness).

<sup>22</sup> A QMM is a NASDAQ member that makes a significant contribution to market quality by providing liquidity at the national best bid and offer ("NBBO") in a large number of stocks for a significant portion of the day. In addition, the NASDAQ equity 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 "QMM" 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).

MPIDS that represent 1.00% or more of Consolidated Volume during the month.<sup>23</sup> Consolidated Volume shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month<sup>24</sup> in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

The Exchange is not only providing Participants with a manner in which to earn an additional options rebate, but also expanding the qualifications to permit participation in the equities market to qualify for the additional rebate. This participation benefits the Nasdaq Market Center as well as the NOM market by incentivizing order flow to these markets. As with existing tiers that require participation in both the Nasdaq Market Center and NOM, this additional rebate recognizes the prevalence of trading in which members simultaneously trade different asset classes within the same strategy. Because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other, the Exchange believes that pricing incentives that encourage market participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center. Further, because the proposed incentive which is being added in note "e" require significant levels of liquidity provision, which benefits all market participants, and because activity in NOM also supports price discovery and liquidity provision in the Nasdaq Market Center due to the increasing propensity of market participants to be active in both markets and the influence of each market on the pricing of securities in the other, this proposal is reasonable. Moreover, the incentive has the potential to make the applicable higher rebate available to a wider range of market participants by introducing an additional means of qualification. Finally, other options exchanges today pay rebates to

<sup>23</sup> For purposes of this filing, the Consolidated Volume shall only apply to volume from October 22, 2015 through October 30, 2015.

<sup>24</sup> *Id.*

participants that add order both options and equity order flow.<sup>25</sup>

The Exchange's proposal to amend note "e" to provide for an additional means to earn a higher rebate for Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is equitable and not unfairly discriminatory because all Participants may qualify for Tier 8 and the additional incentive. Qualifying Participants will be uniformly paid the rebate provided the requirements are met for the time period from October 22, 2015 through October 30, 2015. The Exchange's proposal to permit Participants to receive an additional \$0.05 per contract rebate in addition to the Tier 8 rebate of \$0.48 per contract, provided they qualify for Tier 8 and add options and equity volume as specified in the new note "e" criteria,<sup>26</sup> is equitable and not unfairly discriminatory because market participants today may qualify for a comparable or a higher rebate through alternative means that does not require participation in NOM.

*Note "d" of Chapter XV, Section 2(1)*

The Exchange's proposal to remove the incentive in note "d" for Participants that qualify for Tier 7 and continue to apply the incentive for Participants that qualify for Tier 8 is reasonable because the Exchange desires to incentivize market participants to add liquidity in the highest tier in order to obtain the lower Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options.<sup>27</sup> This proposal will shift the applicability of note "d" to the highest rebate tier only.

The Exchange's proposal to remove the incentive in note "d" for Participants that qualify for Tier 7 and continue to apply the incentive for Participants that qualify for Tier 8 is equitable and not unfairly discriminatory because the Exchange will uniformly apply the incentive to all Participants that qualify for Tier 8.<sup>28</sup> No

<sup>25</sup> BATS Exchange Inc. ("BATS") and NYSE Arca, Inc. (NYSE Arca) offer Cross-Asset Step-Up Tiers on its equity market. See BATS BZX Exchange Fee Schedule. See also NYSE Arca Equities Schedule of Fees and Charges for Exchange Services and NYSE Arca Options Fees and Charges.

<sup>26</sup> See note 20.

<sup>27</sup> Currently, the Professional, Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options is \$0.54 per contract for these Participants, except in SPY where it is \$0.50 per contract for these Participants.

<sup>28</sup> To date for the month of October 2015, no member has qualified for the lower Professional,

Participant will receive the incentive in note “d” for qualification in Tier 7 as of October 22, 2015 and all Participants that have met the Customer and Professional Penny Pilot Options Rebate to Add Liquidity in Tier 8 would continue to receive the note “d” incentive.

#### *Typographical Correction*

The Exchange’s proposal to remove the period at the end of Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 for consistency is reasonable, equitable and not unfairly discriminatory.

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

NASDAQ 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.

#### *Customer and Professional Penny Pilot Options Rebates to Add Liquidity*

##### *New Note “e” of Chapter XV, Section 2(1)*

The Exchange’s proposal to adopt a new note “e” incentive does not impose an undue burden on intra-market competition because all Participants are eligible to qualify for the Tier 8 Customer or Professional Rebate to Add Liquidity Tier, provided they meet the qualifications for that tier, and additionally all Participants may qualify for the additional requirements in new note “e”.<sup>29</sup> Further, this new additional note “e” rebate will be uniformly paid to those Participants that are eligible for the rebate.

Furthermore, incentivizing Participants to add not only options, but equities volume does not impose an undue burden on intra-market competition because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other, the Exchange believes that pricing incentives that encourage market participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center. Further, the pricing incentives require significant levels of liquidity provision, which benefits all market participants on NOM and the Nasdaq Market Center. Moreover, the changes have the potential to make the applicable incentives available to a wider range of

market participants by introducing an additional means of qualification.

##### *Note “d” of Chapter XV, Section 2(1)*

The Exchange’s proposal to remove the incentive in note “d” from Participants that qualify for Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 7 and continue to apply the incentive to Participants that qualify for Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier 8 does not impose an undue burden on intra-market competition because the Exchange will uniformly apply the incentive to all Participants. No Participant will receive the incentive in note “d” for Tier 7 qualification as of October 22, 2015 and all Participants that have met the criteria for Customer and Professional rebate Tier 8 would continue to receive the note “d” incentive. Further, there are no Participants that qualified for the Tier 7 incentive from October 1, 2015 through the date of this filing.

The Exchange’s proposal addressed herein does not impose an inter-market burden on competition because the Exchange operates in a highly competitive market in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. These market forces support the Exchange belief that the proposed rebate structure and tiers proposed herein are competitive with rebates and tiers in place on other exchanges. The Exchange believes that this competitive marketplace continues to impact the rebates present on the Exchange today and substantially influences the proposals set forth above. Other options markets offer similar rebates to incentive market participants to direct order flow to their markets. The Exchange believes that continuing to offer rebates and increasing those rebates and providing opportunities to earn higher rebates will benefit the marketplace by continuing to reward liquidity providers and thereby offering other market participants an opportunity to interact with this order flow.

#### *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.<sup>30</sup>

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: (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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2015-115 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-NASDAQ-2015-115. 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.,

Firm, Non-NOM Market Maker, NOM Market Maker or Broker-Dealer Fee for Removing Liquidity in Penny Pilot Options of \$0.50 per contract with Tier 7.

<sup>29</sup> See note 20.

<sup>30</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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–2015–115, and should be submitted on or before December 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

**Brent J. Fields,**  
Secretary.

[FR Doc. 2015–28508 Filed 11–9–15; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76352; File No. SR–CBOE–2015–093]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

November 4, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on October 30, 2015, Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the Fees Schedule relating to Continuing Education Fees. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary,

and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change 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 the Fees Schedule.<sup>3</sup> Specifically, the Exchange proposes to make changes to the Continuing Education Fees section of the Fees Schedule to provide that continuing education for all registration except the Series 56 will be \$55 if conducted via Web-delivery. Continuing education for all registration except the Series 56 will remain \$100 if conducted at a testing center.

On August 8, 2015, the Securities and Exchange Commission approved SR–FINRA–2015–015 relating proposed changes to FINRA Rule 1250 to provide a Web-based delivery method for completing the Regulatory Element of the continuing education requirements.<sup>4</sup> Pursuant to the rule change, effective October 1, 2015, the Regulatory Element of the Continuing Education Programs for the S106 for Investment Company and Variable Contracts Representatives, the S201 for Registered Principals and Supervisors, and the S901 for Operations Professionals will be administered through Web-based delivery or such other technological manner and format as specified by FINRA. The Regulatory Element of these Continuing Education Programs will continue to be offered at testing centers until no later than six months after

January 4, 2016.<sup>5</sup> Pursuant to the Approval Order to SR–FINRA–2015–015, the fee for test-center delivery of the Regulatory Element of the S106, S201, and S901 Continuing Education Programs will continue to be \$100 per session through no later than six months after January 4, 2016 when the programs will no longer be offered at testing centers. The fee for Web-based delivery of the Regulatory Elements of the S106, S201, and S901 Continuing Education Programs, however, will be \$55.

The Exchange currently utilizes FINRA’s Continuing Education Programs for its own continuing education requirements. Consistent with SR–FINRA–2015–015, the Exchange recently filed SR–CBOE–2015–084<sup>6</sup> relating to continuing education. In that filing, the Exchange proposed to follow the changes set forth in SR–FINRA–2015–015 with respect to Web-based delivery of the Regulatory Element of the Continuing Education Programs for the S106 for Investment Company and Variable Contracts Representatives, the S201 for Registered Principals and Supervisors, and the S901 for Operations Professionals. Consistent with SR–CBOE–2015–084, this proposed rule change, proposes to amend the Fees Schedule to provide that effective immediately, the fee for Web-based delivery of the Regulatory Elements of the S106, S201, and S901 Continuing Education Programs will be \$55. The fee for test-center delivery of the Regulatory Element of the S106, S201, and S901 Continuing Education Programs will continue to be \$100 per session until test-center delivery of the Regulatory Element is phased out and the programs are no longer offered at testing centers. At that time, the Exchange will file another fee filing to remove the test center option for delivery of the Regulatory Element from the Fees Schedule.

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>7</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section

<sup>3</sup> The Exchange initially filed the proposed fee change on October 2, 2015 (SR–CBOE–2015–086). On October 9, 2015, the Exchange withdrew SR–CBOE–2015–086.

<sup>4</sup> See Securities Exchange Act Release No. 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (Order Approving a Proposed Rule Change to Provide a Web-based Delivery Method for Completing the Regulatory Element of the Continuing Education Requirements) (SR–FINRA–2015–015).

<sup>5</sup> Test-center delivery of the Regulatory Element will be phased out by no later than six months after January 4, 2016. See Securities Exchange Act Release No. 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (Order Approving a Proposed Rule Change To Provide a Web-Based Delivery Method for Completing the Regulatory Element of the Continuing Education) (SR–FINRA–2015–015).

<sup>6</sup> Available at <http://www.cboe.com/publish/RuleFilingsSEC/SR-CBOE-2015-084.pdf>

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>31</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.