

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-DTC-2020-013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.
- All submissions should refer to File Number SR-DTC-2020-013. 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 website (<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 website 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 DTC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-

2020-013 and should be submitted on or before December 10, 2020.

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

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-25502 Filed 11-18-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90423; File No. SR-NASDAQ-2020-074]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Credits at Equity 7, Section 118

November 13, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 2, 2020, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange's transaction credits at Equity 7, Section 118, as described further below.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its schedule of credits at Equity 7, Section 118, to add a new credit for executing orders in securities in all three Tapes.

Presently, the Exchange offers its members a credit of \$0.00295 per share of displayed orders/quotes (other than Supplemental Orders or Designated Retail Orders) that provide liquidity to the extent such members (i) have shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.70% or more of Consolidated Volume³ during the month; (ii) execute 0.20% or more of Consolidated Volume during the month through providing midpoint orders and through MELO; and (iii) remove at least 1.10% of Consolidated Volume during the month of Consolidated Volume during the month through one or more of their Nasdaq Market Center MPIDs [sic]. The purpose of this credit is to incent members to engage in substantial volumes of liquidity adding and removal activity on the Exchange during a month and, in particular, to execute a substantial percentage of such volume through the provision of midpoint and Midpoint Extended Life Orders, or "MELOs."

The Exchange now proposes to add a new, higher credit for members that meet similar criteria, albeit with higher volume requirements. Specifically, the Exchange proposes to provide a new credit of \$0.00305 per share of displayed orders/quotes (other than Supplemental Orders or Designated Retail Orders) that provide liquidity to the extent such members (i) have shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.20% or more of Consolidated

³ Pursuant to Equity 7, Section 118(a), the term "Consolidated Volume" means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month 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 a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes is excluded from both total Consolidated Volume and the member's trading activity.

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Volume⁴ during the month; (ii) execute 0.40% or more of Consolidated Volume during the month through providing midpoint orders and through MELO; and (iii) remove at least 1.10% of Consolidated Volume during the month of Consolidated Volume during the month through one or more of their Nasdaq Market Center MPIDs [sic].

In incentivizing members to increase the extent of their liquidity adding and removal activity on the Exchange, and the extent of their midpoint and M-ELO execution activity on the Exchange, the Exchange intends to improve the overall quality and attractiveness of the market.

Impact of the Changes

Those participants that act as significant providers and removers of liquidity, and who execute substantial volumes of midpoint and M-ELO orders on the Exchange, will benefit directly from the proposed addition of the new credit. Other participants will also benefit from the new credit insofar as any increase in liquidity adding and removal activity on the Exchange will improve the overall quality of the market, to the benefit of all members.

The Exchange notes that its proposals are not otherwise targeted at or expected to be limited in their applicability to a specific segment of market participants nor will they apply differently to different types of market participants.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵ in general, and further the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁶ 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

⁴ Pursuant to Equity 7, Section 118(a), the term "Consolidated Volume" means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month 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 a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes is excluded from both total Consolidated Volume and the member's trading activity.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4) and (5).

The Proposal is Reasonable

The Exchange's proposed change to its schedule of credits is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'"⁷

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."⁸

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to

⁷ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

⁸ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

changes in their respective pricing schedules. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange has designed its proposed new credit to provide increased overall incentives to members to increase their liquidity adding and removal activity on the Exchange, and their execution activity in midpoint and M-ELO orders. An increase in liquidity adding and removal activity on the Exchange will, in turn, improve the quality of the Nasdaq market and increase its attractiveness to existing and prospective participants.

The Exchange notes that those market participants that are dissatisfied with the new credit are free to shift their order flow to competing venues that offer them lower charges or higher credits.

The Proposal is an Equitable Allocation of Credits

The Exchange believes its proposal will allocate its credits fairly among its market participants. It is equitable for the Exchange to establish the proposed new credit as a means of incentivizing members to provide and remove meaningful amounts of liquidity to the Exchange, including in midpoint and M-ELO orders. To the extent that the Exchange succeeds in increasing overall activity on the Exchange, including in midpoint and M-ELO orders, then the Exchange would experience improvements in its market quality, which would benefit all market participants.

Any participant that is dissatisfied with the proposed new credit is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

The Proposed Credit is not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its

competitors have long employed with the assent of the Commission. It is fair because it incentivizes customer activity that increases liquidity, enhances price discovery, and improves the overall quality of the equity markets.

Moreover, the Exchange believes that its new proposed credit is not unfairly discriminatory because it stands to improve the overall market quality of the Exchange, to the benefit of all market participants, by incentivizing members to provide and remove meaningful amounts of liquidity.

Finally, any participant that is dissatisfied with the proposed new credit is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage. To the contrary, the proposed change will provide an opportunity for members to receive a higher credit based upon their market-improving behavior. Any member may elect to provide the levels of market activity required in order to receive the new credit. Furthermore, all members of the Exchange will benefit from any increase in market activity that the proposals effectuates.

Moreover, members are free to trade on other venues to the extent they believe that the proposed credit is too low or the qualification criteria are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. The Exchange notes that the tier structure is consistent with broker-dealer fee practices as well as the other industries, as described above.

Intermarket Competition

The Exchange believes that its proposal will not burden competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the multitude of other live exchanges and from off-exchange venues. The Exchange notes that it operates in a highly competitive market

in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee and credit changes in this market may impose any burden on competition is extremely limited.

The proposed new credit is reflective of this competition because, even as one of the largest U.S. equities exchanges by volume, the Exchange has less than 20% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises upwards of 40% of industry volume.

The Exchange's proposal is pro-competitive in that the Exchange intends for it to increase liquidity adding and removal activity on the Exchange and thereby render the Exchange a more attractive and vibrant venue to market participants.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.⁹

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

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. Please include File Number SR-NASDAQ-2020-074 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-2020-074. 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 website (<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 website 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. Persons submitting comments are cautioned that we do not redact or edit

personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2020–074, and should be submitted on or before December 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020–25501 Filed 11–18–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90427/November 13, 2020]

Securities Exchange Act of 1934

In the Matter of: Cboe Exchange, Inc., 400 South LaSalle Street, Chicago, IL 60605, File No. SR–CBOE–2018–060; Order Setting Aside the Order by Delegated Authority Approving SR–CBOE–2018–060

On August 16, 2018, Cboe Exchange, Inc. (“Exchange” or “Cboe”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to amend Rule 6.49A (Transfer of Positions). The proposed rule change was published for comment in the **Federal Register** on September 4, 2018.³ The Commission received no comments during the comment period.⁴ On October 16, 2018, the Division of Trading and Markets, for the Commission pursuant to delegated authority,⁵ approved the proposed rule change.⁶

On October 23, 2018, Susquehanna International Group, LLP submitted a notice of intention to petition the

Delegated Order,⁷ and on October 30, 2018, Susquehanna International Group, LLP filed a petition for review of the Delegated Order.⁸

On February 11, 2019, Cboe withdrew the proposed rule change (SR–CBOE–2018–060).⁹

Under Commission Rule of Practice 431(a), the Commission may “affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, any action made pursuant to” delegated authority.¹⁰ We find that, in light of Cboe’s withdrawal of the proposed rule change, it is appropriate to set aside the Delegated Order.

Accordingly, *it is ordered* that the October 16, 2018 order approving by delegated authority Cboe’s proposed rule change number SR–CBOE–2018–060, be, and it hereby is, set aside.

By the Commission.

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020–25505 Filed 11–18–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90430/November 13, 2020]

Order Setting Aside the Order by Delegated Authority Disapproving SR–NYSEArca–2018–02; In the Matter of NYSE Arca, Inc., 11 Wall St., New York, NY 10005; File No. SR–NYSEArca–2018–02

On January 4, 2018, NYSE Arca, Inc. (“NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to list and trade shares of Direxion Daily Bitcoin Bear 1X Shares, Direxion Daily Bitcoin 1.25X Bull

Shares, Direxion Daily Bitcoin 1.5X Bull Shares, Direxion Daily Bitcoin 2X Bull Shares, and Direxion Daily Bitcoin 2X Bear Shares under NYSE Arca Rule 8.200–E, Commentary .02. The proposed rule change was published for comment in the **Federal Register** on January 24, 2018.³ On March 1, 2018, pursuant to Section 19(b)(2) of the Exchange Act,⁴ the Division of Trading and Markets (“Division”), for the Commission pursuant to delegated authority, designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.⁵ On April 23, 2018, the Division, for the Commission pursuant to delegated authority, instituted proceedings under Section 19(b)(2)(B) of the Exchange Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ On July 18, 2018, the Division, for the Commission pursuant to delegated authority, extended the period for consideration of the proposed rule change.⁸ On August 22, 2018, the Division, for the Commission pursuant to delegated authority,⁹ disapproved the proposed rule change.¹⁰

On August 23, 2018, the Secretary of the Commission notified NYSE Arca that, pursuant to Commission Rule of Practice 431,¹¹ the Commission would review the Division’s action pursuant to delegated authority and that the Division’s action pursuant to delegated authority was stayed until the Commission orders otherwise.¹² On October 4, 2018, the Commission issued a scheduling order allowing the filing of additional statements.¹³

On June 17, 2020, NYSE Arca withdrew the proposed rule change (SR–NYSEArca–2018–02).¹⁴

³ See Securities Exchange Act Release No. 82532 (Jan. 18, 2018), 83 FR 3380.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 82795, 83 FR 9768 (Mar. 7, 2018).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 83094, 83 FR 18603 (Apr. 27, 2018).

⁸ See Securities Exchange Act Release No. 83661, 83 FR 35040 (July 24, 2018).

⁹ 17 CFR 200.30–3(a)(12).

¹⁰ See Securities Exchange Act Release No. 83912, 83 FR 43912 (Aug. 28, 2018) (“Delegated Order”).

¹¹ 17 CFR 201.431.

¹² See Letter from Secretary, Commission, to Eugene Schlanger, Counsel, NYSE Group, Inc., dated Aug. 23, 2018, available at <https://www.sec.gov/rules/sro/nysearca/2018/34-83912-letter-from-secretary.pdf>.

¹³ See Securities Exchange Act Release No. 84370, 83 FR 51531 (Oct. 11, 2018).

¹⁴ See letter from David De Gregorio, Senior Counsel, NYSE Arca, to Secretary, Commission,

Continued

¹⁰ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 83968 (August 28, 2018), 83 FR 44938 (September 4, 2018) (SR–CBOE–2018–060).

⁴ Susquehanna International Group, LLP submitted a comment letter on October 19, 2018, three days after approval of the proposed rule change pursuant to delegated authority. See Letter from Richard J. McDonald, Regulatory Affairs, Susquehanna International Group, LLP, to Brent J. Fields, Secretary, Commission, dated October 19, 2018.

⁵ 17 CFR 200.30–3(a)(12).

⁶ See Securities Exchange Act Release No. 84437 (October 16, 2018), 83 FR 53336 (October 22, 2018) (SR–CBOE–2018–060) (“Delegated Order”).

⁷ See Letter from Joseph C. Lombard, Murphy & McGonigle, as Counsel for Susquehanna International Group, LLP, to Brent J. Fields, Secretary, Commission, dated October 23, 2018, available at <https://www.sec.gov/rules/sro/cboe/2018/srboe2018060-intention-to-petition.pdf>.

⁸ See *In the Matter of the Petition of Susquehanna International Group, LLP* (Petition for Review of Order Entered Pursuant to Delegated Authority Approving Amendments to Rule 6.49A by Cboe Exchange, Inc.) (October 30, 2018), available at <https://www.sec.gov/rules/sro/cboe/2018/srboe2018060-petition.pdf>.

⁹ See Letter from Laura G. Dickman, Vice President, Associate General Counsel, Cboe Exchange, Inc., to Eduardo A. Aleman, Assistant Secretary, Commission, dated February 11, 2019, available at <https://www.sec.gov/rules/sro/cboe/2019/cboe-2018-060-withdrawal.pdf>.

¹⁰ 17 CFR 201.431(a).

¹¹ 15 U.S.C. 78s(b)(1).

¹² 17 CFR 240.19b–4.