at those other venues to be more favorable.

As described above, the proposal is designed to enhance market quality on the Exchange and to encourage additional order flow and quoting activity on the Exchange and to promote market quality through pricing incentives that are comparable to, and competitive with, pricing programs in place at other exchanges with respect to executions of Added Displayed Volume.[41] Accordingly, the Exchange believes the proposal would not be a burden on, but rather promote, intermarket competition by enabling the Exchange to better compete with other exchanges that offer similar incentives to market participants that enhance market quality and/or achieve certain volume criteria and thresholds.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, 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.'' [42] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the DC circuit stated: ''[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 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 possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .''.[43] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[41] *See supra* note 19.

[42] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[43] *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–NYSE–2006–21)).

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,[44] and Rule 19b-4(f)(2) [45] thereunder. 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 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 (*https://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2023–45 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–PEARL–2023–45. 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 (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–PEARL–2023–45 and should be submitted on or before October 18, 2023.

[44] 15 U.S.C. 78s(b)(3)(A)(ii).

[45] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–20960 Filed 9–26–23; 8:45 am]

BILLING CODE 8011–01–P

[46] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98475; File No. SR–NASDAQ–2023–037]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NOM Options 7, Section 2

September 21, 2023.

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 September 13, 2023, 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.

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

[2] 17 CFR 240.19b–4.

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

The Exchange proposes to amend The Nasdaq Options Market LLC (''NOM'') Pricing Schedule at Options 7, Section 2.[3]

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 NOM's Pricing Schedule at Options 7, Section 2, Nasdaq Options Market—Fees and Rebates. Today, NOM Options 7, Section 2(1) provides for various fees and rebates applicable to NOM Participants.

Today, Customer,[4] Professional,[5] and NOM Market Maker[6] Rebates to Add Liquidity in Penny Symbols are paid per the highest tier achieved among the available tiers. The tiers for Customer and Professional Rebates to Add Liquidity in Penny Symbols are below.

Monthly Volume

Tier 1: Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols of up to 0.10% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month.

Tier 2: Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.10% of total industry customer equity and ETF option ADV contracts per day in a month.

Tier 3: Participant: (a) adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.20% of total industry customer equity and ETF option ADV contracts per day in a month; or (b) adds Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols above 0.05% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies for MARS.

Tier 4: Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.30% of total industry customer equity and ETF option ADV contracts per day in a month.

Tier 5: Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.40% of total industry customer equity and ETF option ADV contracts per day in a month.

Tier 6[##]: Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Symbols and/or Non-Penny Symbols above 0.70% or more of total industry customer equity and ETF option ADV contracts per day in a month, or Participant: (1) adds Customer and/or Professional liquidity in Penny Symbols and/or Non-Penny Symbols of 0.10% or more of total industry customer equity and ETF option ADV contracts per day in a month, and (2) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month or qualifies for MARS (defined below).

To determine the applicable percentage of total industry customer equity and ETF option average daily volume for a Customer and Professional Rebate to Add Liquidity in Penny Symbols, unless otherwise stated, the Participant's Penny Symbol and Non-Penny Symbol Customer and/or Professional volume that adds liquidity will be included.[7]

With respect to the NOM Market Maker Rebates to Add Liquidity in Penny Symbols, today, rebates are paid on the below tier qualifications.

Monthly Volume

Tier 1: Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of up to 0.10% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month.

Tier 2: Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.10% of total industry customer equity and ETF option ADV contracts per day in a month.

Tier 3: Participant: (a) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.20% of total industry customer equity and ETF option ADV contracts per day in a month; or (b)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.07% of total industry customer equity and ETF option ADV contracts per day in a month, (2) transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent (i) 0.70% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market or (ii) 70 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market, (3) transacts in Tape B securities through one or more of its Nasdaq Market Center MPIDs that represent 0.10% or more of CV which adds liquidity in the same month on The Nasdaq Stock Market, and (4) executes greater than 0.01% of CV via Market-on- Close/Limit-on-Close (''MOC/LOC'') volume within The Nasdaq Stock Market Closing Cross in the same month.

Tier 4: Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of above 0.60% of total industry customer equity and ETF option ADV contracts per day in a month.

Tier 5: Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of above 0.40% of total industry customer equity and ETF option ADV contracts per day in a

[3] On September 13, 2023, the Exchange withdrew SR–NASDAQ–2023–033 and replaced it with the instant rule change.

[4] The term ''Customer'' or (''C'') 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 Options 1, Section 1(a)(47)). *See* Options 7, Section 1(a).

[5] The term ''Professional'' or (''P'') 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 Options 1, Section 1(a)(47). All Professional orders shall be appropriately marked by Participants. *See* Options 7, Section 1(a).

[6] The term ''NOM Market Maker'' or (''M'') is a Participant that has registered as a Market Maker on NOM pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security. *See* Options 7, Section 1(a).

[7] *See* note 1 in Options 7, Section 2.

month and transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.40% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market.

Tier 6: Participant: (a)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.95% of total industry customer equity and ETF option ADV contracts per day in a month, (2) executes Total Volume of 250,000 or more contracts per day in a month, of which 30,000 or more contracts per day in a month must be removing liquidity, and (3) adds Firm, Broker-Dealer and Non-NOM Market Maker liquidity in Non-Penny Symbols of 10,000 or more contracts per day in a month; or (b)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 1.50% of total industry customer equity and ETF option ADV contracts per day in a month, and (2) executes Total Volume of 250,000 or more contracts per day in a month, of which 15,000 or more contracts per day in a month must be removing liquidity.

Total Volume is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Symbols and/or Non-Penny Symbols which either adds or removes liquidity on NOM. Finally, today, Broker-Dealers,[8] Firms[9] and Non-NOM Market Makers[10] are paid a $0.10 per contract Rebate to Add Liquidity in Penny Symbols regardless of the tier.

Proposal

NOM Market Maker—Note 4

At this time, the Exchange proposes to amend note 4 of Options 7, Section 2 which currently applies to Participants who achieve the NOM Market Maker Tier 3 or Tier 4 Rebate to Add Liquidity in Penny Symbols. Note 4 of Options 7, Section 2 currently states, ''Participants who achieve the NOM Market Maker Tier 3 or Tier 4 Rebate to Add Liquidity will receive $0.40 per contract to add liquidity in the following symbols: AAPL, SPY, QQQ, IWM, and VXX.'' The Exchange proposes to amend this rebate in note 4 of Options 7, Section 2 and also offer a second additional rebate.

First, the Exchange proposes to amend the existing rebate of $0.40 per contract in note 4 of Options 7, Section 2, which is paid to Participants who achieve the NOM Market Maker Tier 3 or Tier 4 Rebate to Add Liquidity in Penny Symbols to $0.39 per contract. Second, the Exchange proposes to remove the symbols ''AAPL'' and ''VXX'' as eligible for the existing rebate. Third, the Exchange proposes to offer an additional rebate, in note 4 of Options 7, Section 2, of $0.33 per contract to add liquidity in SPY, QQQ, and IWM to Participants who achieve the NOM Market Maker Tier 2 Rebate to Add Liquidity in Penny Symbols and execute 1 million shares or more ADV in the same month utilizing the M–ELO order type[11] on The Nasdaq Stock Market, provided the Participant also transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent (i) 0.45% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market or (ii) 45 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market.

Therefore, in order to qualify for the new $0.33 per contract rebate to add liquidity in SPY, QQQ, and IWM, in note 4 of Options 7, Section 2, a Participant must first qualify for the NOM Market Maker Tier 2 Rebate to Add Liquidity in Penny Symbols *and* execute 1 million shares or more ADV in the same month utilizing the M–ELO order type on The Nasdaq Stock Market. Further, a Participant must transact in all securities through one or more of its Nasdaq Market Center MPIDs that represent either (i) 0.45% or more of CV which adds liquidity in the same month[12] on The Nasdaq Stock Market; *or* (ii) 45 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market to receive a $0.33 per contract to add liquidity in SPY, QQQ, and IWM.

The Exchange believes the amendment to the current rebate in note 4 of Options 7, Section 2 will continue to incentivize Participants to add liquidity to NOM to qualify for the $0.39 per contract rebate to add liquidity in SPY, QQQ, and IWM despite the lower rebate ($0.40 to $0.39 per contract) and removal of AAPL and VXX. Additionally, the Exchange believes that introducing a new $0.33 rebate for Participants who achieve the NOM Market Maker Tier 2 Rebate to Add Liquidity in Penny Symbols, in addition to other qualifications, will create an additional opportunity for Market Makers to increase their liquidity adding activity on the Exchange's equity market. The Exchange believes that the new note 4 rebate qualifying criteria will incentivize participation in greater volume from cross asset activity, which would improve the overall quality of the Exchange's marketplace to the benefit of all market participants, both on NOM and The Nasdaq Stock Market.

NOM Market Maker—Tier 3 Qualifier

The Exchange also proposes to amend the qualifications in the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Symbol that currently state,

> Participant: (a) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.20% of total industry customer equity and ETF option ADV contracts per day in a month; or (b)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.07% of total industry customer equity and ETF option ADV contracts per day in a month, (2) transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent (i) 0.70% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market or (ii) 70 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market, (3) transacts in Tape B securities through one or more of its Nasdaq Market Center MPIDs that represent 0.10% or more of CV which adds liquidity in the same month on The Nasdaq Stock Market, and (4) executes greater than 0.01% of CV via Market-on-Close/Limit-on-Close (''MOC/LOC'') volume within The Nasdaq Stock Market Closing Cross in the same month.

The Exchange proposes to amend the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Symbol qualifications in several ways. First, the Exchange proposes to amend the (b)(1) qualifier to require NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.15% of total industry customer equity and ETF

[8] The term ''Broker-Dealer'' or (''B'') applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. *See* Options 7, Section 1(a).

[9] The term ''Firm'' or (''F'') applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC. *See* Options 7, Section 1(a).

[10] The term ''Non-NOM Market Maker'' or (''O'') is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM. *See* Options 7, Section 1(a).

[11] The M–ELO order type, also known as the ''Midpoint Extended Life Order,'' is a Non-Displayed Order priced at the midpoint between the National Best Bid and Offer (''NBBO'') and is eligible for execution only against other eligible M–ELOs and only after a minimum period of 10 milliseconds (''Holding Period'') has passed after acceptance of the Order by the System. All market participants on The Nasdaq Stock Market LLC may utilize this order type. *See* Nasdaq Equities 4, Rule 4702(b)(14). Of note, the Commission recently approved a rule proposal amending the Holding Period of the M–ELO order type so that it may adjust dynamically between .025 and 2.5 milliseconds upon real-time assessments of market conditions. *See* Securities and Exchange Act Release No. 98321 (September 7, 2003), 88 FR 62850 (September 13, 2023) (SR–NASDAQ–2022–079). This rule change has not yet been implemented.

[12] The Exchange notes that 0.45% or more of Consolidated Volume (''CV'') is approximately $44 million.

option ADV contracts per day in a month (a change from 0.07% to 0.15%). Second, the Exchange proposes to amend the (b)(2)(i) qualifier to require 0.50% or more of CV which adds liquidity in the same month on The Nasdaq Stock Market (a change from 0.70% to 0.50%). Third, the Exchange proposes to amend the (b)(2)(ii) qualifier to require 50 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market (a change from 70 million to 50 million shares). Fourth, the Exchange proposes to remove the current (b)(3) and (4) qualifiers and replace those qualifiers with a new (b)(3) qualifier that requires a Participant to execute 1.5 million shares or more ADV in the same month utilizing the M–ELO order type on The Nasdaq Stock Market. In order to qualify for the Tier 3 NOM Market Maker Rebate to Add Liquidity a Participant must meet either the Tier 3 (a) or (b) requirements. To the extent a Participant desires to qualify for the Tier 3 (b) requirements, all 3 parts of the requirement must be met. The proposed new language of the Tier 3 NOM Market Maker Rebate to Add Liquidity would provide,

Participant: (a) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.20% of total industry customer equity and ETF option ADV contracts per day in a month; or (b)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.15% of total industry customer equity and ETF option ADV contracts per day in a month, (2) transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent (i) 0.50% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market or (ii) 50 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market, and (3) executes 1.5 million shares or more ADV in the same month utilizing the M–ELO order type on The Nasdaq Stock Market.

The Exchange believes that the proposed Tier 3 NOM Market Maker Rebate to Add Liquidity will continue to provide NOM Participants an opportunity to qualify for the NOM Market Maker Tier 3 Rebate to Add Liquidity in more than one way. The proposed new Tier 3 NOM Market Maker Rebate to Add Liquidity (b) qualifiers will incentivize greater options participation with the amendment to (b)(1) increasing the percentage of total industry customer equity and ETF option ADV contracts per day in a month from 0.07% to 0.15%; decreasing the (b)(2)(i) percentage of CV required to add liquidity on The Nasdaq Stock Market from 0.70% to 0.50%; lowering the current share requirement for participation in The Nasdaq Stock Market as part of (b)(2)(ii) from 70 to 50 million shares; and adding a new (b)(3) requirement to utilize M–ELO to execute 1.5 million shares or more ADV on The Nasdaq Stock Market. The amended qualifiers for (b) within Tier 3 will incentivize participation in greater volume from cross asset activity, which would improve the overall quality of the Exchange's marketplace to the benefit of all market participants, both on NOM and The Nasdaq Stock Market.

2. Statutory Basis

The proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options 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* [13] (''NetCoalition''), the D.C. Circuit stated, ''[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'. . . .'' [14]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to attract additional order flow to the Exchange and increase its market share relative to its competitors.

[13] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[14] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca-2006–21)).

NOM Market Maker—Note 4

Amending note 4 of Options 7, Section 2, which currently applies to Participants who achieve the NOM Market Maker Tier 3 or Tier 4 Rebate to Add Liquidity in Penny Symbols is reasonable in several ways. The Exchange believes the amendment to the current rebate in note 4 of Options 7, Section 2 will continue to incentivize Participants to add liquidity to NOM to qualify for the $0.39 per contract rebate to add liquidity in SPY, QQQ, and IWM despite the lower rebate ($0.40 to $0.39 per contract) and removal of AAPL and VXX. The Exchange notes that it proposes to limit the rebate to adding liquidity in SPY, QQQ, and IWM, and not AAPL and VXX, because options on these broad-based Exchange-Traded Funds collectively have large volumes. The amended $0.39 per contract rebate remains higher than the NOM Market Maker Tier 3 or Tier 4 Rebates to Add Liquidity of $0.30 and $0.32 per contract, respectively. Additionally, amending note 4 of Options 7, Section 2 to introduce an additional rebate for Participants who achieve the NOM Market Maker Tier 2 Rebate to Add Liquidity in Penny Symbols is reasonable because it will create an additional opportunity for Market Makers to increase their liquidity adding activity on the Exchange's equity market. The Exchange believes that the new note 4 rebate qualifying criteria will incentivize participation in greater volume from cross asset activity, which would improve the overall quality of the Exchange's marketplace to the benefit of all market participants, both on NOM and The Nasdaq Stock Market. The proposed new Tier 2 NOM Market Maker Rebate to Add Liquidity in Penny Symbols of $0.33 per contract is higher than the Tier 2 NOM Market Maker Rebate to Add Liquidity of $0.25 per contract. Finally, the Exchange notes that all NOM Participants are required to become members of The Nasdaq Stock Market pursuant to General 3 Membership and Access rules. Therefore, a NOM Participant is able to transact the requisite volume on NOM as an Options Participant and also utilize the M–ELO order type as a member of The Nasdaq Stock Market. All members of The Nasdaq Stock Market LLC may utilize the M–ELO order type.

Amending note 4 of Options 7, Section 2, which currently applies to Participants who achieve the NOM Market Maker Tier 3 or Tier 4 Rebate to Add Liquidity in Penny Symbols is equitable and not unfairly discriminatory because the Exchange will pay the Tier 3 and 4 NOM Market Maker rebates uniformly to any qualifying Participants. Additionally, amending note 4 of Options 7, Section 2 to introduce an additional rebate for Participants who achieve the NOM Market Maker Tier 2 Rebate to Add Liquidity in Penny Symbols is equitable and not unfairly discriminatory because the Exchange will pay the new Tier 2 NOM Market Maker rebate uniformly to any qualifying Participants. The Exchange notes that all NOM Participants are required to become members of The Nasdaq Stock Market pursuant to General 3 Membership and Access rules. Therefore, a NOM Participant is able to transact the requisite volume on NOM as an Options Participant and also utilize the M–ELO order type as a member of The Nasdaq Stock Market. All members of The Nasdaq Stock Market LLC may utilize the M–ELO order type. Additionally, Market Makers add value through continuous quoting and the commitment of capital.[15] Because Market Makers have these obligations to the market and regulatory requirements that normally do not apply to other market participants, the Exchange believes that offering these rebates to Market Makers is equitable and not unfairly discriminatory in light of their obligations. Finally, encouraging Market Makers to add greater liquidity benefits all market participants, both on NOM and The Nasdaq Stock Market, in the quality of order interaction.

NOM Market Maker—Tier 3 Qualifier

Amending the Tier 3 NOM Market Maker Rebate to Add Liquidity qualifications in several ways[16] is reasonable because Participants will continue to have more than one way to qualify for the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Symbols.[17] The proposed new Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Symbols part (b) qualifier will incentivize greater options participation with the amendment to (b)(1) as it increases the percentage of total industry customer equity and ETF option ADV contracts per day in a month from 0.07% to 0.15%. Further part (b)(2)(i) decreases the percentage of CV required to add liquidity on The Nasdaq Stock Market from 0.70% to 0.50%, lowers the current share requirement for participation in The Nasdaq Stock Market as part of (b)(2)(ii) from 70 to 50 million shares, and adds a new (b)(3) requirement to utilize M–ELO to execute 1.5 million shares or more ADV on The Nasdaq Stock Market. The amended qualifiers for (b) within Tier 3 will incentivize participation in greater volume from cross asset activity, which would improve the overall quality of the Exchange's marketplace to the benefit of all market participants, both on NOM and The Nasdaq Stock Market. All NOM Participants are required to become members of The Nasdaq Stock Market pursuant to General 3 Membership and Access rules. Therefore, a NOM Participant is able to transact the requisite volume on NOM as an Options Participant and also utilize the M–ELO order type as a member of The Nasdaq Stock Market.

Amending the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Symbols qualifications in several ways[18] is equitable and not unfairly discriminatory because the Exchange will pay the Tier 3 NOM Market Maker Rebate to Add Liquidity uniformly to all Participants that qualify for this tier. All NOM Participants are required to become members of The Nasdaq Stock Market pursuant to General 3 Membership and Access rules. Therefore, a NOM Participant is able to transact the requisite volume on NOM as an Options Participant and also utilize the M–ELO order type as a member of The Nasdaq Stock Market. Additionally, Market Makers add value through continuous quoting and the commitment of capital.[19] Because Market Makers have these obligations to the market and regulatory requirements that normally do not apply to other market participants, the Exchange believes that offering the rebate to only Market Makers is equitable and not unfairly discriminatory in light of their obligations. Finally, encouraging Market Makers to add greater liquidity on both NOM and The Nasdaq Stock Market benefits all market participants, both on NOM and The Nasdaq Stock Market, in the quality of order interaction.

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to pay a rebate to add liquidity in SPY, QQQ, and IWM, as compared to other options, because pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in the most actively traded options classes, in this case actively traded Penny Symbols. SPY, QQQ, and IWM are among the most actively traded options in the U.S. The Exchange believes that this pricing will incentivize members to transact options in SPY, QQQ, and IWM on NOM in order to obtain higher NOM Market Maker rebates in Penny Symbols.

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.

Intermarket Competition

The Exchange 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 pricing to remain competitive with other exchanges. Because competitors are free to modify their pricing in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which pricing changes in this market may impose any burden on competition is extremely limited because other options exchanges offer similar pricing.

Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and rebate changes. In sum, if the changes proposed herein are 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 changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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[15] *See* Options 2, Sections 4 and 5.

[16] First, the Exchange proposes to amend the (b)(1) qualifier to require NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.15% of total industry customer equity and ETF option ADV contracts per day in a month (a change from 0.07% to 0.15%). Second, the Exchange proposes to amend the (b)(2)(i) qualifier to require 0.50% or more of CV which adds liquidity in the same month on The Nasdaq Stock Market (a change from 0.70% to 0.50%). Third, the Exchange proposes to amend the (b)(2)(ii) qualifier to require 50 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market (a change from 70 million to 50 million shares). Fourth, the Exchange proposes to remove the current (b)(3) and (4) qualifiers and replace those qualifiers with a new (b)(3) qualifier that requires a Participant to execute 1.5 million shares or more ADV in the same month utilizing the M–ELO order type on The Nasdaq Stock Market.

[17] In order to qualify for the Tier 3 NOM Market Maker Rebate to Add Liquidity a Participant must meet the (a) or (b) requirements within the tier.

[18] *See supra* note 14.

[19] *See* Options 2, Sections 4 and 5.

Intramarket Competition

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

Amending note 4 of Options 7, Section 2, which currently applies to Participants who achieve the NOM Market Maker Tier 3 or Tier 4 Rebate to Add Liquidity in Penny Symbols does not impose an undue burden on competition because the Exchange will pay the Tier 3 and 4 NOM Market Maker rebates uniformly to any qualifying Participants. Additionally, amending note 4 of Options 7, Section 2 to introduce an additional rebate for Participants who achieve the NOM Market Maker Tier 2 Rebate to Add Liquidity in Penny Symbols does not impose an undue burden on competition because the Exchange will pay the new Tier 2 NOM Market Maker rebate uniformly to any qualifying Participants. The Exchange notes that all NOM Participants are required to become members of The Nasdaq Stock Market pursuant to General 3 Membership and Access rules. Therefore, a NOM Participant is able to transact the requisite volume on NOM as an Options Participant and also utilize the M–ELO order type as a member of The Nasdaq Stock Market. All members of The Nasdaq Stock Market LLC may utilize the M–ELO order type. Additionally, Market Makers add value through continuous quoting and the commitment of capital.[20] Because Market Makers have these obligations to the market and regulatory requirements that normally do not apply to other market participants, the Exchange believes that offering these rebates to Market Makers does not impose an undue burden on competition in light of their obligations. Finally, encouraging Market Makers to add greater liquidity benefits all market participants, both on NOM and The Nasdaq Stock Market, in the quality of order interaction.

Amending the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Symbols qualifications in several ways [21] does not impose an undue burden on competition because the Exchange will pay the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Symbols uniformly to all Participants that qualify for this tier. All NOM Participants are required to become members of The Nasdaq Stock Market pursuant to General 3 Membership and Access rules. Therefore, a NOM Participant is able to transact the requisite volume on NOM as an Options Participant and also utilize the M–ELO order type as a member of The Nasdaq Stock Market. Additionally, Market Makers add value through continuous quoting and the commitment of capital.[22] Because Market Makers have these obligations to the market and regulatory requirements that normally do not apply to other market participants, the Exchange believes that offering the rebate to only Market Makers does not impose an undue burden on competition in light of their obligations. Finally, encouraging Market Makers to add greater liquidity on both NOM and The Nasdaq Stock Market benefits all market participants, both on NOM and The Nasdaq Stock Market, in the quality of order interaction.

The Exchange believes that paying a rebate to add liquidity in SPY, QQQ, and IWM, as compared to other options, does not impose an undue burden on competition because pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in the most actively traded options classes, in this case actively traded Penny Symbols. SPY, QQQ, and IWM are among the most actively traded options in the U.S. The Exchange believes that this pricing will incentivize members to transact options in SPY, QQQ, and IWM on NOM in order to obtain higher NOM Market Maker rebates in Penny Symbols.

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.[23]

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–NASDAQ–2023–037 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–2023–037. 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 (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2023–037 and should be submitted on or before October 18, 2023.

[20] *See* Options 2, Sections 4 and 5.

[21] *See supra* note 14.

[22] *See* Options 2, Sections 4 and 5.

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

[24] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–20962 Filed 9–26–23; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 12195]

30-Day Notice of Proposed Information Collection: Welcome Corps Application

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to October 27, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents to Cassie Le, who may be reached on 202–805–9291 or at *LeCR@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Welcome Corps Application.
- *OMB Control Number:* 1405–0256.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* PRM/A.
- *Form Number:* No form.
- *Respondents:* Respondents: Private Sponsor Groups (PSGs), groups of at least five or more individual American citizens or permanent residents who will be able to apply to sponsor the resettlement of refugees, and Private Sponsor Organizations (PSOs), established and/or incorporated organizations who will be able to apply to mobilize, organize, oversee, and/or offer support to Private Sponsor Groups.
- *Estimated Number of Respondents:* 2,020.
- *Estimated Number of Responses:* 2,020.
- *Average Time per Response:* 5.5 hours.
- *Total Estimated Burden Time:* 8,908 hours total.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are a public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

In Executive Order 14013 on ''Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration'' issued in February 2021, President Biden directed the Department of State and Department of Health and Human Services to ''capitalize on . . . private sponsorship of refugees'' as part of efforts to ''meet the challenges of restoring and expanding the [U.S. Refugee Admissions Program].'' To fulfill this directive, the Department of State is rolling out a program for private sponsorship of refugees approved for admission to the United States through the U.S. Refugee Admissions Program (USRAP), named ''the Welcome Corps.''

Through the Welcome Corps application process, private sponsors accept primary responsibility to welcome arriving refugees and to provide core services/assistance to support their initial resettlement equivalent to what is provided by nonprofit resettlement agency partners through the U.S. Government-funded Reception and Placement (R&P) program. When private sponsors apply through the program, sponsors have the option to be matched with a refugee case already being processed through the USRAP or to refer specific individuals to access the USRAP through the P–4 Privately Sponsored Refugees category. The P–4 category, along with the other categories of cases that have access to the USRAP, is outlined in the annual Proposed Refugee Admissions—Report to Congress, which is submitted on behalf of the President in fulfillment of the requirements of section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157) and authorized by the annual Presidential Determination for Refugee Admissions.

Private sponsor entities include Private Sponsor Groups (groups of at least five or more individual American citizens or permanent residents who can apply to sponsor the resettlement of refugees) and Private Sponsor Organizations (established and/or incorporated organizations who can apply to mobilize, organize, oversee, and/or offer support to Private Sponsor Groups).

As part of the Welcome Corps application process for private sponsors, biographic information is collected from Private Sponsor Groups (PSGs) and Private Sponsor Organizations (PSOs) to facilitate the placement of approved refugee applicants with private sponsors and to plan for refugee applicants to travel to the appropriate location of private sponsors within the United States. In instances where private sponsors are seeking to refer specific individuals to access the USRAP through the P–4 category, additional information is collected on refugee applicants, including biographic information, to assess whether refugee applicants meet the eligibility criteria to access the USRAP through the P–4 category. The information collected on refugee applicants will also assist Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS) officials in conducting adjudications of applicants' refugee status.

Methodology

The Department of State's Bureau of Population, Refugees, and Migration (PRM) has entered into a cooperative agreement with the Community Sponsorship Hub (CSH), which is managing a consortium of non-governmental organizations (NGOs) to establish and oversee an online application process to intake applications from PSGs and PSOs and screen their applications for approval for participation in the Welcome Corps.