other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

As noted above, the Commission received two comment letters on the proposed rule change.[8] Both comment letters express support for Commission approval of the proposed rule change.

The Commission notes that the proposal would amend the Exchange's rules to conform to the amendment that the Commission has proposed to Rule 15c6–1(a) under the Act [9] and support a move to a T+2 standard settlement cycle. In the T+2 Proposing Release the Commission stated its preliminary belief that shortening the standard settlement cycle from T+3 to T+2 will result in a reduction of credit, market, and liquidity risk,[10] and as a result a reduction in systemic risk for U.S. market participants.[11] The Commission also notes that it has not yet adopted the proposed amendment to Rule 15c6–1(a) under the Act and that the Exchange has, accordingly, not proposed to make its amended rules operative at present. Instead, the Exchange has proposed to announce the operative date of the Exchange's proposal via Information Memo and by filing a separate proposed rule change. The Commission expects that the operative date of the proposed rule change would correspond with the compliance date of any amendment to Rule 15c6–1(a) that is adopted by the Commission. The Commission notes that, in October 2014, Depository Trust and Clearing Corporation, in collaboration with the Investment Company Institute, SIFMA, and other market participants, formed an Industry Steering Group (''ISC'') and an industry working group to facilitate the transition to a T+2 settlement cycle for U.S. trades in equities, corporate and municipal bonds, and unit investment trusts.[12] The ISC has identified September 5, 2017, as the target date for the transition to a T+2 settlement cycle to occur.[13]

For the reasons noted above, the Commission finds that the proposal is consistent with the requirements of the Act and would foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NYSE–2016–87), be and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03110 Filed 2–15–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80008; File No. SR–Phlx–2017–09]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections I and II of the Pricing Schedule

February 10, 2017.

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 February 1, 2017, NASDAQ PHLX LLC (''Phlx'' 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 Pricing Schedule at Section I, entitled ''Rebates and Fees for Adding and Removing Liquidity in SPY,'' and Section II, entitled ''Multiply Listed Options Fees'' [3] to amend various transaction fees and rebates.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Pricing Schedule at Section I, entitled ''Rebates and Fees for Adding and Removing Liquidity in SPY,'' to (i) amend the Simple Order Rebate for Adding Liquidity which is paid to Specialists [4] and Market Makers; [5]

[8] *See supra* note 5.

[9] *See supra* note 3.

[10] Credit risk refers to the risk that the credit quality of one party to a transaction will deteriorate to the extent that it is unable to fulfill its obligations to its counterparty on settlement date. Market risk refers to the risk that the value of securities bought and sold will change between trade execution and settlement such that the completion of the trade would result in a financial loss. Liquidity risk describes the risk that an entity will be unable to meet financial obligations on time due to an inability to deliver funds or securities in the form required though it may possess sufficient financial resources in other forms. *See* T+2 Proposing Release, *supra* note 3, 81 FR at 69241 n. 3.

[11] *See* T+2 Proposing Release, *supra* note 3, 81 FR at 69241.

[12] *See* Press Release, DTCC, Industry Steering Committee and Working Group Formed to Drive Implementation of T+2 in the U.S. (Oct. 2014), *http://www.dtcc.com/news/2014/october/16/ust2.aspx.*

[13] *See* Press Release, ISC, US T+2 ISC Recommends Move to Shorter Settlement Cycle On September 5, 2017 (Mar. 7, 2016), *http://www.ust2.com/pdfs/T2-ISC-recommends-shorter-settlement-030716.pdf.*

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Multiply Listed Options includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

[4] The term ''Specialist'' applies to transactions for the account of a Specialist (as defined in Exchange Rule 1020(a)).

[5] The term ''Market Maker'' describes fees and rebates applicable to Registered Options Traders (''ROT''), Streaming Quote Traders (''SQT'') and Remote Streaming Quote Traders (''RSQT''). A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. A ROT includes SQTs and RSQTs as well as on and off-floor ROTS. An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and

Continued

(ii) increase the Specialist, Market Maker, Firm,[6] Broker-Dealer [7] and Professional [8] Simple Order Fees for Removing Liquidity; and (iii) increase the Specialist and Market Maker Complex Order [9] Fees for Removing Liquidity. The amendments will be described in greater detail below.

The Exchange also proposes to amend the Exchange's Pricing Schedule at Section II, entitled ''Multiply Listed Options Fees,'' to: (i) Remove the applicability of note 2 in the Pricing Schedule and thereby increase the Professional, Broker-Dealer and Firm electronic Complex Orders in non-Penny Pilot Options; (ii) amend the lower transaction fee for Professional, Broker-Dealer and Firm electronic Complex Orders in Penny Pilot Options; and (iii) amend the transaction fee assessed to Professional, Broker-Dealer and Firm electronic Complex Orders in non-Penny Pilot Options if they are under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule.[10] The amendments will be described in greater detail below.

Proposed Amendments to Section I: Rebates and Fees for Adding and Removing Liquidity in SPY

Section I of the Pricing Schedule contains fees and rebates applicable to options overlying Standard and Poor's Depositary Receipts/SPDRs (''SPY'').[11] The Exchange specifies which fees and rebates apply to Simple Orders and Complex Orders within this section.

Simple Order

Today, Simple Order Rebates for Adding Liquidity are paid as noted below to Specialists and Market Makers adding the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY:

Tiers	Monthly volume	Rebate for adding liquidity
1	1 to 2,499	$0.15
2	2,500 to 4,999	0.20
3	5,000 to 19,999	0.25
4	20,000 to 34,999	0.30
5	35,000 to 49,999	0.32
6	greater than 49,999.	0.35

All other market participants do not receive a SPY Simple Order Rebate for Adding Liquidity. The Exchange proposes to amend the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers by reducing the number of tiers from 6 tiers to 5 tiers. The Exchange proposes to amend Tier 2 to reduce the Rebate for Adding Liquidity from $0.20 to $0.18 per contract. The Exchange proposes to amend Tier 3 to reduce the Rebate for Adding Liquidity from $0.25 to $0.21 per contract. The monthly volume per day for Tiers 2 and 3 are not being amended. With respect to Tier 4, the Exchange proposes to amend the monthly volume per day from 20,000 to 34,999 contracts to 20,000 to 49,999 contracts. The Exchange proposes to increase the Tier 4 rebate from $0.30 to $0.31 per contract. The Exchange proposes to eliminate current Tier 5. The Exchange proposes to rename Tier 6 to be new Tier 5. No other amendments are proposed to new renamed Tier 5.[12]

The Exchange also proposes to rename the column entitled ''Monthly Volume'' as ''Average Daily Volume (''ADV'').'' The Exchange believes that this title more accurately describes the manner in which the rebate is calculated, which is adding the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY, as noted in Part A of Section I of the Pricing Schedule. This proposed change does not impact the manner in which the Exchange calculates these rebates today.

The Exchange's proposal for the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers would be as follows:

Tiers	Average daily volume (''ADV'')	Rebate for adding liquidity
1	1 to 2,499	$0.15
2	2,500 to 4,999	0.18
3	5,000 to 19,999	0.21
4	20,000 to 49,999	0.31
5	greater than 49,999.	0.35

The Exchange believes that the proposed five tier rebate structure will incentivize market participants to add a greater amount of Specialist and Market Maker liquidity in SPY on the Exchange to obtain higher rebates.

The Exchange also proposes to amend the Simple Order Fees for Removing Liquidity in SPY for Specialists, Market Makers, Firms, Broker Dealers and Professionals by increasing the fees from $0.47 to $0.48 per contract. The Customer [13] Simple Order Fee for Removing Liquidity is not being amended and will remain at $0.45 per contract. Despite the increased fee, the Exchange believes that its fees for Simple Orders in SPY remain competitive.

Complex Order

The Exchange proposes to amend its Complex Order Fees for Removing Liquidity in SPY for Specialists and Market Makers by increasing the fees from $0.40 to $0.43 per contract. The Exchange would not increase the fees for Firms, Broker-Dealers or Professionals; those fees will remain at $0.50 per contract. Today, Customers are not assessed a Complex Order Fee for Removing Liquidity. Despite the increased fee, the Exchange believes that its fees for Complex Orders in SPY remain competitive.

submit option quotations electronically in options to which such SQT is assigned. An RSQT is defined in Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member affiliated with an RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A Remote Streaming Quote Trader Organization or ''RSQTO,'' which may also be referred to as a Remote Market Making Organization (''RMO''), is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a).

[6] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation.

[7] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[8] The term ''Professional'' applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(14).

[9] A Complex Order is an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy.

[10] Section B of the Pricing Schedule contains Customer Rebate Tiers which are calculated by totaling Customer volume in Multiply Listed Options (including SPY) that are electronically-delivered and executed, except volume associated with electronic QCC Orders, as defined in Exchange Rule 1080(o). Rebates are paid on Customer Rebate Tiers according to certain categories. Members and member organizations under Common Ownership may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. Affiliated Entities may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. *See* Section B of the Pricing Schedule.

[11] Options overlying Standard and Poor's Depositary Receipts/SPDRs (''SPY'') are based on the SPDR exchange-traded fund (''ETF''), which is designed to track the performance of the S&P 500 Index.

[12] Tier 1 is not being amended.

[13] The term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Rule 1000(b)(14)).

Proposed Amendments to Section II: Multiple Listed Options Fees

Penny Pilot Options

The Exchange proposes to amend its Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders. Today, the Exchange assesses Professionals, Broker-Dealers and Firms an electronic Penny Pilot Options Transaction Charges for Complex Orders of $0.35 per contract. The Exchange proposes to increase the Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders to $0.40 per contract. Despite the increase to this fee, the Exchange believes the Penny Pilot Options Transaction Charges for electronic Complex Order transactions remain competitive. Professionals, Broker-Dealers and Firms will continue to be offered a discounted rate as compared to Simple Orders.[14]

Non-Penny Pilot Options

The Exchange proposes to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders. Today, the Exchange assesses Professionals, Broker-Dealers and Firms an electronic non-Penny Pilot Options Transaction Charges for Complex Orders of $0.35 per contract. The Exchange is proposing to remove the applicability of note 2 in the Pricing Schedule from the non-Penny Pilot Options Transaction Charges for Professionals, Broker-Dealers and Firms. With this proposal, Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders would be increased to $0.75 per contract because the reduced rate would no longer apply. Members may still lower this rate if they qualified for the reduced rebate offered in note 3 in the Pricing Schedule, which note is also being amended with this proposal as noted below. As proposed, the Options Transaction Charge for Simple and Complex Order electronic non-Penny Pilot Options Transaction Charges would be the same fee of $0.75 per contract fee.

The Exchange also proposes to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges by amending note 3 in the Pricing Schedule. Today, note 3 provides that any member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule [15] will be assessed a Professional, Broker-Dealer or Firm electronic non-Penny Pilot Options Transaction Charge of $0.60 per contract. The Exchange proposes to amend the fee to assess $0.65 per contract. The qualifications for the reduced rate remain the same. Professionals, Broker-Dealers and Firms that do not qualify for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule would continue to pay an electronic non-Penny Pilot Options Transaction Charge of $0.75 per contract. While the Exchange is amending the fee so that the reduction is not as great as today, the Exchange will continue to offer a reduced rate to Professionals, Broker-Dealers and Firms that qualify by sending the requisite order flow to the Exchange.

Finally, the Exchange is adding a period at end of the sentence in footnote 3 to correct a typographical error.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[17] 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 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.'' [18]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [19] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[20] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [21]

Further, ''[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' . . . .'' [22] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

Proposed Amendments to Section I: Rebates and Fees for Adding and Removing Liquidity in SPY

Simple Order

The Exchange's proposal to amend the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers by reducing the number of tiers from 6 tiers to 5 tiers and reducing the Tier 2 rebate to $0.18 per contract, reducing the Tier 3 rebate to $0.21 per contract, amending the Tier 4 monthly volume to 20,000 to 49,999 contracts per day and the rebate to $0.31 per contract, eliminating Tier 5 and renaming Tier 6 to new Tier 5 is reasonable because the Exchange believes that the proposed five tier rebate structure will incentivize market participants to add a greater amount of Specialist and Market Maker liquidity in SPY on the Exchange to obtain higher rebates. A Specialist or Market Maker would continue to receive a rebate with this proposal provided they execute one electronic Simple Order SPY contract.

In some cases, the rebate will be lower. When 2,500 to 4,999 electronic Simple Order SPY contracts per day are added, the SPY Simple Order Rebate for Adding Liquidity for Specialists and Market Makers will be $0.18 per contract as compared to $0.20 per

[14] The Exchange would continue to assess an electronic Penny Pilot Options Transaction Charges to Professionals, Broker-Dealers and Firms of $0.48 per contract for Simple Orders.

[15] *See* note 10 above.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) and (5).

[18] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

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

[20] *See NetCoalition,* at 534—535.

[21] *Id.* at 537.

[22] *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)).

contract (today's rebate). With this proposal, the rebate would be lower for members currently submitting 5,000 to 19,999 SPY contracts per day, the rebate would be $0.21 per contract as compared to $.25 per contract. Members currently submitting between 20,000 and 34,999 SPY contracts would receive a $0.31 per contract as compared to $0.30 per contract rebate with this proposal, an increased rebate of $0.01 per contract. Finally, with this proposal, market participants currently submitting between 35,000 and 49,999 SPY contracts per day would receive a lower rebate of $0.31 per contract as compared to $0.32 per contract. Despite this decrease, the Exchange believes that participants will continue to be incentivized to add SPY order flow to the Exchange to receive the rebate.

The Exchange's proposal to amend the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers by reducing the number of tiers from 6 tiers to 5 tiers and reducing the Tier 2 rebate to $0.18 per contract, reducing the Tier 3 rebate to $0.21 per contract, amending the Tier 4 monthly volume to 20,000 to 49,999 contracts per day and the rebate to $0.31 per contract, eliminating Tier 5 and renaming Tier 6 to new Tier 5 is equitable and not unfairly discriminatory because Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[23] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to rename the column entitled ''Monthly Volume'' as ''Average Daily Volume (''ADV'')'' is reasonable, equitable and not unfairly discriminatory because the title more accurately describes the manner in which the rebate is calculated, which is adding the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY, as noted in Part A of Section I of the Pricing Schedule. This proposed change does not impact the manner in which the Exchange calculates these rebates today.

The Exchange's proposal to amend the Simple Order Fees for Removing Liquidity for Specialists, Market Makers, Firms, Broker Dealers and Professionals by increasing the fees from $0.47 to $0.48 per contract is reasonable because despite the increased fee, the Exchange believes that its fees for Simple Orders in SPY remain competitive. The Customer Simple Order Fee for Removing Liquidity is not being amended and will remain at $0.45 per contract. Also, the increase in the Simple Order Fees for Removing Liquidity will continue to support the rebate structure proposed herein, which as stated above, attracts Specialists and Market Makers. An increase in the activity of Specialists and Market Makers in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to amend the Simple Order Fees for Removing Liquidity for Specialists, Market Makers, Firms, Broker Dealers and Professionals by increasing the fees from $0.47 to $0.48 per contract is equitable and not unfairly discriminatory because all participants would continue to be assessed a similar fee, except for Customers. The Exchange believes that assessing Customers a lower fee is equitable and not unfairly discriminatory because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Complex Order

The Exchange's proposal to amend its Complex Order Fees for Removing Liquidity for Specialists and Market Makers by increasing the fees from $0.40 to $0.43 per contract is reasonable because despite the increased fee, the Exchange believes that its fees for Complex Orders in SPY remain competitive. Also, Specialists and Market Makers continue to be assessed a lower fee as compared to Firms, Broker-Dealers or Professionals; who are assessed $0.50 per contract.

The Exchange's proposal to amend its Complex Order Fees for Removing Liquidity for Specialists and Market Makers by increasing the fees from $0.40 to $0.43 per contract is equitable and not unfairly discriminatory. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[24] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no Complex Order Fee for Removing Liquidity because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Proposed Amendments to Section II: Multiple Listed Options Fees

Penny Pilot Options

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders from $0.35 per contract to $0.40 per contract is reasonable because despite the increase to this fee, the Exchange believes the Penny Pilot Options Transaction Charges for electronic Complex Order transactions remain competitive. Professionals, Broker-Dealers and Firms and will continue to be offered a discounted rate as compared to Simple Orders which will continue to be assessed $0.48 per contract.

[23] *See* Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders.''

[24] *Id.*

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders from $0.35 per contract to $0.40 per contract is equitable and not unfairly discriminatory because Professionals, Broker-Dealers and Firms would be uniformly assessed $0.40 per contract. Specialists and Market Makers would continue to be assessed a lower electronic Penny Pilot Options Transaction Charge of $0.22 per contract. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[25] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no Penny Pilot Options Transaction Charge because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to continue to offer Professionals, Broker-Dealers and Firms the opportunity to reduce electronic Complex Orders in Penny Pilot Options as compared to non-Penny Pilot Options because the Exchange seeks to incentivize Professionals, Broker-Dealers and Firms to execute Complex Penny Pilot Options orders. Also, lowering the electronic Options Transaction Charges for Complex Orders, as compared to Simple Orders is reasonable, equitable and not unfairly discriminatory because the Exchange desires to continue to incentivize these market participants to transact Complex Orders on the Exchange. The fees will be applied uniformly to all market participants.

Non-Penny Pilot

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders by removing the applicability of note 2 in the Pricing Schedule and increasing the fee to $0.75 per contract is reasonable because Professionals, Broker-Dealers and Firms transacting electronic non-Penny Pilot Options Transaction Charges would be uniformly assessed a fee of $0.75 per contract for Simple and Complex Orders. Members may still lower this rate if they qualified for the reduced rebate offered in note 3 in the Pricing Schedule, which note is also being amended with this proposal. Despite the inapplicability of note 2, the Exchange believes the non-Penny Pilot Options Transaction Charges for electronic Complex Order transactions remain competitive.

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders by removing the applicability of note 2 in the Pricing Schedule and increasing the fee to $0.75 per contract is equitable and not unfairly discriminatory because Professionals, Broker-Dealers and Firms transacting electronic non-Penny Pilot Options Transaction Charges would be uniformly assessed a fee of $0.75 per contract for Simple and Complex Orders. Specialists and Market Makers would continue to be assessed a lower electronic non-Penny Pilot Options Transaction Charge of $0.25 per contract. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[26] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no non-Penny Pilot Options Transaction Charge because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to amend note 3 in the Pricing Schedule to increase the amount a member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule will be assessed and increase the Professional, Broker-Dealer or Firm electronic non-Penny Pilot Options Transaction Charge of from $0.60 to $0.65 per contract is reasonable because Professionals, Broker-Dealers and Firms may continue to qualify for a lower rate. Professionals, Broker-Dealers and Firms that do not qualify for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule would continue to pay an electronic non-Penny Pilot Options Transaction Charge of $0.75 per contract. While amendment reduces the savings, the Exchange will continue to offer Professionals, Broker-Dealers and Firms that qualify by sending the requisite order flow to the Exchange a lower transaction fee. In addition, attracting Customer order flow benefits all market participants with increased order flow with which to interact.

The Exchange's proposal to amend note 3 in the Pricing Schedule to increase the amount a member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule will be assessed and increase the Professional, Broker-Dealer or Firm electronic non-Penny Pilot Options Transaction Charge of [sic] from $0.60 to $0.65 per contract is equitable and not unfairly discriminatory because these market participants are subject to the highest transaction fees of $0.75 per contract.

The Exchange's proposal to correct the typographical error in footnote 3 is

[25] *Id.*

[26] *Id.*

reasonable, equitable and not unfairly discriminatory because it correct [sic] a grammatical error.

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. In terms of inter-market competition, 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 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 changes in this market may impose any burden on competition is extremely limited. 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.

In terms of intra-market competition, the Exchange believes that its proposed rebates and fees continue to remain competitive in SPY and Multiply Listed Options. 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.

Proposed Amendments to Section I: Rebates and Fees for Adding and Removing Liquidity in SPY

Simple Order

The Exchange's proposal to amend the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers by reducing the number of tiers from 6 tiers to 5 tiers and reducing the Tier 2 rebate to $0.18 per contract, reducing the Tier 3 rebate to $0.21 per contract, amending the Tier 4 monthly volume to 20,000 to 49,999 contracts per day and the rebate to $0.31 per contract, eliminating Tier 5 and renaming Tier 6 to new Tier 5 does not impose an undue burden on intra-market competition because Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[27] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to rename the column entitled ''Monthly Volume'' as ''Average Daily Volume (''ADV'')'' does not impose an undue burden on intra-market competition because the title more accurately describes the manner in which the rebate is calculated, which is adding the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY, as noted in Part A of Section I of the Pricing Schedule. This proposed change does not impact the manner in which the Exchange calculates these rebates today.

The Exchange's proposal to amend the Simple Order Fees for Removing Liquidity for Specialists, Market Makers, Firms, Broker Dealers and Professionals by increasing the fees from $0.47 to $0.48 per contract does not impose an undue burden on intra-market competition because all participants would continue to be assessed a similar fee, except for Customers. The Exchange believes that assessing Customers a lower fee does not impose a burden on intra-market competition because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Complex Order

The Exchange's proposal to amend its Complex Order Fees for Removing Liquidity for Specialists and Market Makers by increasing the fees from $0.40 to $0.43 per contract does not impose an undue burden on intra-market competition. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[28] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no Complex Order Fee for Removing Liquidity because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Proposed Amendments to Section II: Multiple Listed Options Fees

Penny Pilot Options

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders from $0.35 per contract to $0.40 per contract does not impose an undue burden on intra-market competition because Professionals, Broker-Dealers and Firms would be uniformly assessed

[27] *Id.*

[28] *Id.*

$0.40 per contract. Specialists and Market Makers would continue to be assessed a lower electronic Penny Pilot Options Transaction Charge of $0.22 per contract. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[29] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no Penny Pilot Options Transaction Charge because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Non-Penny Pilot Options

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders by removing the applicability of note 2 in the Pricing Schedule and increasing the fee to $0.75 per contract does not impose an undue burden on intra-market competition because Professionals, Broker-Dealers and Firms transacting electronic non-Penny Pilot Options Transaction Charges would be uniformly assessed a fee of $0.75 per contract. Specialists and Market Makers would continue to be assessed a lower electronic non-Penny Pilot Options Transaction Charge of $0.25 per contract. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[30] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no non-Penny Pilot Options Transaction Charge because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange believes that it does not impose an undue burden on intra-market competition to continue to offer Professionals, Broker-Dealers and Firms the opportunity to reduce electronic Complex Orders in non-Penny Pilot Options as compared to Penny Pilot Options because the Options Transaction Charges for non-Penny Pilot Options are higher. Also, only lowering the electronic Options Transaction Charges for Complex Orders, as compared to Simple Orders does not impose an undue burden on intra-market competition because the Exchange desires to continue to incentivize these market participants to transact Complex Orders on the Exchange.

The Exchange's proposal to amend note 3 in the Pricing Schedule to increase the amount a member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule will be assessed and increase the Professional, Broker-Dealer or Firm electronic non-Penny Pilot Options Transaction Charge of from $0.60 to $0.65 per contract does not impose an undue burden on intra-market competition because these market participants are subject to the highest transaction fees of $0.75 per contract.

The Exchange's proposal to correct the typographical error in footnote 3 does not impose an undue burden on intra-market competition because it correct [sic] a grammatical error.

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.[31]

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–Phlx–2017–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2017–09. 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/*

[29] *Id.*

[30] *Id.*

[31] 15 U.S.C. 78s(b)(3)(A)(ii).

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2017–09, and should be submitted on or before March 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

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[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80020; File No. SR–NYSEMKT–2016–119]

Self-Regulatory Organizations; NYSE MKT LLC; Order Granting Approval of a Proposed Rule Change To Conform to Proposed Amendment to Rule 15c6–1(a) Under the Securities Exchange Act of 1934 To Shorten the Standard Settlement Cycle for Most Broker-Dealer Transactions From Three Business Days After the Trade Date ("T+3") to Two Business Days After the Trade Date ("T+2")

February 10, 2017.

I. Introduction

On December 15, 2016, NYSE MKT LLC (''NYSE MKT'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to conform its rules to an amendment proposed by the Commission to Rule 15c6–1(a) under the Act to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date (''T+3'') to two business days after the trade date (''T+2'').[3] The proposed rule change was published for comment in the **Federal Register** on December 29, 2016.[4] The Commission received two comments on the proposal, each of which supports the proposed rule change.[5] This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to adopt Equities Rules 14T—Equities (Non-Regular Way Settlement Instructions for Orders); 64T—Equities (Bonds, Rights and 100-Share-Unit Stocks); 235T—Equities (Ex-Dividend, Ex-Rights); 236T—Equities (Ex-Warrants); 257T—Equities (Deliveries After ''Ex'' Date); 282.65T—Equities (Failure to Deliver and Liability Notice Procedures); and Sections 510T (Three Day Delivery Plan) and 512T (Ex-Dividend Procedure) of the NYSE MKT Company Guide, in order to conform the Exchange's rulebook to the Commission's proposed amendment to Rule 15c6–1(a) under the Act, which would shorten the standard settlement cycle from T+3 to T+2 for most broker-dealer transactions.

Exchange Rule 14—Equities defines ''non-regular way'' settlement instructions as instructions that allow for settlement other than ''regular way'' (*i.e.,* other than settlement on the third business day following trade date for securities other than U.S. Government Securities). Proposed Exchange Rule 14T—Equities would amend this definition to replace ''third business day'' with ''second business day.''

Similarly, Exchange Rule 64(a)—Equities defines ''regular way'' as ''for delivery on the third business day following the day of the contract.'' Proposed Exchange Rule 64T(a)—Equities would replace ''third business day'' with ''second business day.'' [6]

Exchange Rule 64(a)(ii)—Equities currently provides that on the second and third business days preceding the final day for subscription, bids and offers in rights to subscribe shall be made only ''next day.'' To conform with the move to a T+2 settlement cycle, proposed Exchange Rule 64T(a)(ii)—Equities would delete the reference to the third business day preceding the final day for subscription because in a T+2 settlement cycle, bids and offers in rights to subscribe on that day would simply be subject to ''regular way'' settlement. Under Current Exchange Rule 64(c)—Equities, all ''seller's option'' trades, for delivery between 2 and 60 business days, should be reported to the tape only in calendar days. The Exchange proposes to amend Exchange Rule 64T(c)—Equities to replace the reference to ''two'' with a reference to ''three.''

Exchange Rule 235—Equities provides that transactions in stocks, except those made for ''cash'' as prescribed in Exchange Rule 14—Equities, shall be ex-dividend or ex-rights on the second business day preceding the record date fixed by the corporation or the date of the closing of transfer books. The Exchange proposes in Exchange Rule 235T—Equities to change ''second business day preceding'' to ''business day preceding.'' The current Exchange Rule 235—Equities further provides that, if the record date or closing of transfer books occurs upon a day other than a business day, Exchange Rule 235 shall apply for the third preceding business day. The Exchange proposes to change ''third preceding business day'' to ''second preceding business day'' in proposed Exchange Rule 235T—Equities.[7]

Exchange Rule 236—Equities pertaining to ex-warrants similarly provides that transactions in securities that have subscription warrants attached, except those made for cash, shall be ex-warrants on the second business day preceding the date of expiration of the warrants, except that when the date of expiration occurs on a day other than a business day, the

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78962 (Sept. 28, 2016), 81 FR 69240 (Oct. 5, 2016) (File No. S7–22–16) (''T+2 Proposing Release'').

[4] *See* Securities Exchange Act Release No. 79659 (Dec. 22, 2016), 81 FR 84635 (Dec. 29, 2016).

[5] *See* Letters from Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters, dated January 19, 2017; and Thomas F. Price, Managing Director, Operations, Technology & BCP, Securities Industry and Financial Markets Association (''SIFMA''), dated January 19, 2017.

[6] The Exchange also proposes to make several non-substantive changes. As reflected in proposed Exchange Rule 64T(a)(i)—Equities, italics would be removed from the single quote before the words ''issued'' and ''regular'' and a missing parenthesis added before the word ''See'' in the second sentence of the second paragraph. Italics would also be removed from the single quote before the word ''seller's'' in five places in proposed Exchange Rule 64T(c)—Equities as well as before the word ''regular'' in the last sentence. Finally, as reflected in proposed Exchange Rule 64T(a)(1), (a)(ii) and (b)—Equities, bold would be removed from ''(a)(i),'' ''(ii)'' and ''(b).''

[7] The Exchange also proposes to make non-substantive changes to correct punctuation in proposed Exchange Rule 235T—Equities by removing italics from the single quote before the word ''cash'' in two places.