underlying securities. The January 1, 2013 and February 1, 2013 effective dates are no longer relevant, and the Exchange currently lists and trades options overlying more than 100 underlying securities, thus obviating the need for this provision.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(4) and 6(b)(5) of the Act [12] in particular, in that it is an equitable allocation of reasonable fees and other charges.

An AIS may access the same administrative information as any other participant that connects with the MIAX System. Currently, MIAX assesses monthly MEI Port Fees on Market Makers as set forth in the Fee Schedule. An MEI Port provides a Marker Maker with necessary connectivity to submit quotes. The Exchange believes that the proposed testing, connectivity and AIS Port fees to AIS' is reasonable and not unfairly discriminatory because an AIS will still require connectivity in order to receive the administrative information, necessitating Exchange expense for servers, configuration, testing, power, maintenance, and quality control, among other things, that is incurred for anyone connecting to the MIAX System.

The Exchange further believes that the proposed lower monthly AIS Port Fees are equitable and not unfairly discriminatory because of the reduced Exchange expense for servers, configuration, testing, power, maintenance, and quality control that is required for an AIS connecting to an AIS Port vis-à-vis Market Makers connecting with the MIAX System through the MEI Port.

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. On the contrary, because an AIS will only receive administrative information via the AIS Port, and will not submit competing quotes with MIAX Market Makers or other market participants, the Exchange believes that the proposed rule change will have no effect on competition in the markets.

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.[13] 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2013–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2013–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2013–13 and should be submitted on or before May 2, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08487 Filed 4–10–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69308; File No. SR–NASDAQ–2013–057]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7018 To Establish Fees and Rebates in Connection With NASDAQ's Retail Price Improvement ("RPI") Program

April 4, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 27, 2013, The NASDAQ Stock Market LLC ("Exchange" or "NASDAQ") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 200.30–3(a)(12).

[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

NASDAQ is proposing changes to amend NASDAQ Rule 7018 to establish fees and rebates in connection with NASDAQ's Retail Price Improvement (''RPI'') Program. NASDAQ proposes to implement the proposed rule change on March 28, 2013, contemporaneously with the launch of the RPI Program.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. 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 this proposal is to amend NASDAQ Rule 7018 to establish fees and rebates for execution of orders under NASDAQ's recently approved RPI Program.[3] Under the RPI Program, a member (or a division thereof) approved by the Exchange to participate in the program (a ''Retail Member Organization'' or ''RMO'') may submit designated ''Retail Orders'' [4] for the purpose of seeking price improvement. All NASDAQ members may enter retail price improvement orders (''RPI Orders''),[5] a form of non-displayed orders that are priced more aggressively than the Protected National Best Bid or Offer (''NBBO'') by at least $0.001 per share, for the purpose of offering such price improvement. RMOs may use two types of Retail Order. A Type 1 Retail Order is eligible to execute only against RPI Orders and other orders (such as midpoint pegged orders) that will provide price improvement. Type 2 Retail Orders interact first with available RPI Orders and other price improving orders, and then are eligible to access non-price improving liquidity on the NASDAQ book and to route to other trading venues if so designated.

NASDAQ proposes to offer a rebate of $0.0025 per share executed to RMOs with respect to Retail Orders that execute against RPI Orders or other orders providing price improvement with respect to the NBBO. For Type 2 Retail Orders that execute against non-price improving orders on the NASDAQ book, NASDAQ will charge the fee otherwise applicable to execution of orders that access liquidity (generally, $0.0030 per share executed). Similarly, when Type 2 Retail Orders are routed and execute at another trading venue, NASDAQ will charge the fee otherwise applicable to execution of routed orders. For RPI orders that provide liquidity, NASDAQ will charge a fee of $0.0020 per share executed. Other orders that provide liquidity to Retail Orders will receive the credit or pay the fee otherwise applicable to orders that provide liquidity.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed fees with respect to the RPI program are reflective of NASDAQ's ongoing efforts to use pricing incentive programs to attract orders of retail customers to NASDAQ and improve market quality. The goal of this program and similar pricing incentives is to provide meaningful incentives for members that represent the orders of retail customers to increase their participation on NASDAQ. The proposed credit of $0.0025 per share executed with respect to Retail Orders that access liquidity offering price improvement is reasonable because it will result in a significant reduction of fees with respect to such orders, thereby reducing the costs of members that represent retail customers and that take advantage of the program, and potentially also reducing costs to the customers themselves. The change is consistent with an equitable allocation of fees because NASDAQ believes that it is reasonable to use fee reductions as a means to encourage greater retail participation in NASDAQ. Because retail orders are likely to reflect long-term investment intentions, they promote price discovery and dampen volatility. Accordingly, their presence in the NASDAQ market has the potential to benefit all market participants. For this reason, NASDAQ believes that it is equitable to provide significant financial incentives to encourage greater retail participation in the market. NASDAQ further believes that the proposed program is not unreasonably discriminatory because it is offered to firms representing retail customers without regard to the firm's trading volumes, and is therefore complementary to existing programs, such as the Routable Order Program (the ''ROP'') that already aim to encourage greater retail participation but that have minimum volume requirements associated with them. The proposed fees and credits with respect to Type 2 Retail Orders that execute outside of the RPI program by accessing non-price improving liquidity or by routing to other trading venues are reasonable, equitably allocated, and not unreasonably discriminatory because they do not reflect a change from the fees and credits currently in effect with respect to orders that access liquidity on NASDAQ or route.

The proposed fee with respect to a Retail Price Improvement Order that provides liquidity is reasonable because, as previously recognized by the Commission, it reflects the fact that markets often seek to distinguish between orders of individual retail investors and orders of professional traders.[8] In this instance, the RPI seeks to balance the consideration that ''retail investors may on average be less informed about short-term price movements * * * [than] professional

[3] Securities Exchange Act Release No. 68937 (February 15, 2013), 78 FR 12397 (February 22, 2013) (SR–NASDAQ–2012–129) (approving RPI program and granting exemption from SEC Rule 612 under Regulation NMS, 17 CFR 242.612, in connection therewith).

[4] A Retail Order is defined in NASDAQ Rule 4780(a)(2), in part, as ''an agency or riskless principal order that originates from a natural person and is submitted to Nasdaq by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price (except in the case that a market order is changed to a marketable limit order) or side of market and the order does not originate from a trading algorithm or any other computerized methodology.''

[5] A Retail Price Improvement Order is defined in NASDAQ Rule 4780(a)(3), in part, as consisting of ''non-displayed liquidity on NASDAQ that is priced better than the Protected NBBO by at least $0.001 and that is identified as such.''

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40763, 40769–40680 (July 10, 2012) (SR–NYSE–2011–55; SR–NYSEAmex–2011–84).

traders'' [9] with a fee charged to liquidity providers and a program designed to provide retail investors with price improvement and favorable execution prices. NASDAQ further believes that the fee charged with respect to Retail Price Improvement Orders is equitable and not unreasonably discriminatory for this same reason, and also because the use of such orders by liquidity providers is voluntary. Firms that believe that potential advantages of interacting with Retail Orders outweigh the costs of price improvement and the fee charged by NASDAQ will employ this new order type. Those that do not are free to forego involvement in the program and receive a rebate under NASDAQ's standard price schedule when providing liquidity.

Finally, NASDAQ 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. In such an environment, NASDAQ 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. NASDAQ believes that the proposed rule change reflects this competitive environment because it is designed to allow NASDAQ to compete with other exchanges and that offer similar price improvement programs for retail orders.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. In this instance, the introduction of the RPI program is designed to allow NASDAQ to compete more effectively with the New York Stock Exchange (''NYSE'') and the BATS–Y Exchange, both of which offer similar programs designed to attract retail order flow. NASDAQ has structured its fees in a manner similar to these exchanges, but as a new ''entrant'' in the field of those exchanges offering such programs, NASDAQ has set the levels of its credits and fees somewhat differently in an effort to distinguish itself from its competitors. Specifically, NASDAQ will offer a higher credit to Retail Orders than NYSE, and will offer the credit with respect to all securities priced above $1 that it trades. In contrast, the BATS–Y Exchange offers a higher credit with respect to only certain securities. NASDAQ will, however, offset these higher credits for retail orders by charging a higher fee to liquidity providers than is the case with its competitors (with the exception of 10 designated securities with respect to which the BATS–Y Exchange currently charges a higher fee). NASDAQ believes that the proposed higher credits with respect to Retail Orders will enhance competition by drawing additional retail order flow to NASDAQ and possibly encouraging other trading venues to make competitive pricing changes. On the other hand, with respect to the proposed fees for Retail Price Improvement Orders, because the market for order execution is extremely competitive, members that provide liquidity may readily opt to forego participation in the NASDAQ program if they believe that alternatives offer them better value. For these reasons and the reasons discussed in connection with the statutory basis for the proposed rule change, NASDAQ 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.

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) of the Act [10] and paragraph (f) of Rule 19b–4 thereunder.[11] 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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 publicly available. All submissions should refer to File Number SR–NASDAQ–2013–057 and should be submitted on or before May 2, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

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[9] *Id.*

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).