This document is scheduled to be published in the
Federal Register on 12/29/2015 and available online at
http://federalregister.gov/a/2015-32650, and on FDsys.gov

8011-01p

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76736; File No. SR-NSX-2015-07)

December 22, 2015

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a Fee and Rebate Schedule Pursuant to Exchange Rule 16.1

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 December 21, 2015, National Stock Exchange, Inc. ("NSX" or the "Exchange") 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 Exchange. The Commission is publishing this notice to solicit comment 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 is proposing to adopt a new Fee and Rebate Schedule (the "Fee Schedule") pursuant to Exchange Rule 16.1 that the Exchange will use upon the resumption of trading on the Exchange.[3]

The text of the proposed rule change is available on the Exchange's website at

---

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

2 17 CFR 240.19b-4.

3 On November 9, 2015, the Exchange filed with the Commission a proposed rule change amending NSX Rule 11.1, Hours of Trading, to Rescind Interpretations and Policies .01, Cessation of Trading Operations on NSX in order resume trading operations on the Exchange, and make other amendments to the Exchange's rules in connection with the proposed resumption of trading on NSX. See Exchange Act Release No. 76390 (November 9, 2015), 80 FR 70261 (November 13, 2015) (SR-NSX-2015-05). On December 14, 2015, the Commission issued an Order approving the proposed rule change. See Exchange Act Release No. 76640 (December 14, 2015), 80 FR 79122 (December 18, 2015).

http://www.nsx.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 parts 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 implement a new Fee Schedule pursuant to NSX Rule 16.1, with the goal of maximizing the effectiveness of its business model and providing Equity Trading Permit ("ETP") Holders[4] a cost-effective execution venue. Accordingly, as set forth in greater detail below, the Exchange is proposing to adopt a fixed fee schedule that provides for discrete pricing for shares executed in securities priced at $1.00 and above, and those priced at less than $1.00. Within these pricing structures, the fees will vary based on whether an ETP Holder's order takes liquidity or adds liquidity or if the order is routed. To determine an ETP Holder's monthly cost for shares traded, the Exchange will make order matching computations on a monthly basis for each ETP Holder. The Exchange will also assess regulatory, connectivity, and market data fees. The Exchange proposes to eliminate certain fees and rebates from its

---

4 Exchange Rule 1.5 defines "ETP" as the Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange's trading facilities.

former Fee Schedule to conform the schedule to the Exchange's current business model.[5] The Exchange's proposed Fee Schedule is described below.

Securities Priced at $1.00 and Above (All Tapes)[6]

For all securities priced $1.00 and above, the Exchange is proposing competitively priced fees that apply to all ETP Holders uniformly. For all orders that remove liquidity from the NSX Book[7] (referred to as "taker" orders), the Exchange proposes to assess a fee of $0.0003 per executed share. If the ETP Holder's order is routed elsewhere, the Exchange will, instead, assess a fee of $0.0030 per executed share. However, a liquidity removing order that is a directed order will cost $0.0035 per executed share.[8]

The Exchange notes that the fee that the Exchange will charge for taking liquidity from the Exchange in securities priced $1.00 or above, while $0.0002 higher than the fee that the Exchange used prior to ceasing trading operations of the close of business on May 30, 2014, is the lowest standard liquidity removing fee of any stock exchange in the National Market System that does not use the inverse pricing model. In light of these minimal taker fees, the fee structure

---

[5] Pursuant to a rule filing with the Commission, the Exchange ceased trading operations as of the close of business on May 30, 2014. See Securities Exchange Act Release No. 72107 (May 6, 2014), 79 FR 27017 (May 12, 2014) (SR-NSX-2014-14).

[6] The term "Tapes" refers to the designation assigned in the Consolidated Tape Association ("CTA") Plan for reporting trades with respect to securities in Networks A, B and C. Tape A securities are those listed on the New York Stock Exchange, Inc.; Tape B securities are listed on NYSE MKT, formerly NYSE Amex, and regional exchanges. Tape C securities are those listed on the NASDAQ Stock Market LLC.

[7] The NSX Book is defined in Rule 1.5N.(1) as the Exchange's electronic file of orders.

[8] The term "directed order" refers to an order entered by an ETP Holder into the NSX trading system with instructions to route the order to a specified away trading center. The Exchange proposes to assess a higher fee for directed orders, because these orders will be costlier to route and execute than other routed orders. NSX uses third party broker-dealers to send the ETP Holder's directed order to another trading center. The Exchange must pay this third party broker on a per share executed basis, making the routing of these directed orders costlier to execute.

does not provide for rebates to ETP Holders posting liquidity. While ETP Holders will not receive rebates for posting liquidity, ETP Holders will, nonetheless, not have to pay a fee for posting liquidity on the NSX Book (referred to as "maker" orders) for all order types. This pricing structure for securities priced $1.00 or more will make for a cost-effective execution venue for ETP Holders and their customers. Furthermore, the fees will not provide an advantage to any ETP Holder or investor over another. Lastly, in order to further incentivize posting and removing liquidity, the Exchange will no longer charge an increased fee for either adding liquidity using a Zero Display Reserve Order (i.e., a "dark" order) or removing liquidity by removing a Zero Display Reserve Order from the NSX Book.[9]

Securities Priced Under $1.00 (All Tapes)

For executions in all securities priced under $1.00, the Exchange is proposing to implement a Fee Schedule that is nearly identical to the maker-taker model that the Exchange used prior to the cessation of the Exchange's trading operations. For orders that remove liquidity or are routed, the Exchange proposes to assess a fee of 0.30% of the executed trade value.[10] For directed orders, the Exchange proposes to assess a higher fee of 0.35% of the executed trade value for reasons described above.[11] ETP Holders that add liquidity will receive a rebate of

---

9 By comparison, prior to ceasing trading operations, the Exchange assessed a fee of $0.0001 per executed share for posting liquidity in securities priced at $1.00 and above, with the exception of posting liquidity using a Zero Display Reserve Order, for which the Exchange assessed a fee of $0.0002 per executed share. ETP Holders removing liquidity in securities priced at $1.00 and above were assessed a fee of $0.0001 and, for removing any Zero Display Reserve Order, a fee of $0.0002.

10 "Trade value" means a dollar amount equal to the price per share multiplied by the number of shares executed.

11 See fn. 8, supra.

0.25% of the trade value or 25% of the quote spread,[12] whichever is smaller. The proposed fee and rebate structure will not favor any investor or ETP holder over another as all ETP holders are subject to the same fee and rebate program. The Exchange believes that the proposed fee and rebate structure will provide for a fair and competitive execution venue in securities priced below $1.00.

Regulatory, Market Data, and Connectivity Fees

The Exchange also proposes to assess ETP Holders with regulatory, market data, and connectivity fees. The Exchange proposes to assess a regulatory fee of $500 per calendar month for each ETP Holder. This amount is the same amount that the Exchange charged prior to ceasing trading operations. The regulatory fee is designed to assure that ETP Holders share in the cost of adequately funding the regulatory function for the NSX marketplace.[13]

The Exchange will offer its proprietary market data to ETP Holders and other authorized recipients through the NSX Depth of Book Feed[14] at a price of $500 per calendar month, $100 more per month than the Exchange charged ETP Holders and other authorized recipients prior to the time that the Exchange ceased its trading operations.[15] Additionally, ETP Holders will be

---

12 "Quote spread" means a dollar amount equal to the number of shares executed multiplied by the difference at the time of execution between (x) the price per share of the national best bid, and (y) the price per share of the national best offer, in each case as such quotes are disseminated pursuant to an effective National Market System plan and as the terms "national best bid" and "national best offer" are defined in Rule 600 of Regulation NMS.

13 The $500 per month regulatory fee was first adopted by the Exchange in 2011. See Securities Exchange Act Release No. 64208 (April 6, 2011), 76 FR 20412 (April 12, 2011) (SR-NSX-2011-02).

14 The NSX Depth of Book Feed is the Exchange's proprietary market data feed. It is available on a uniform basis to all ETP Holders authorized to receive the feed, as well as to any other authorized recipients.

15 The Exchange proposes to remove from the Depth of Book Feed Section of the Fee Schedule prior text regarding application for and approval of the Depth of Book Feed

assessed the same connectivity or logical port fee of $100 per session per calendar month as ETP Holders were assessed prior to the time that the Exchange ceased its trading operations in May 2014.

Other Fee Adjustments

To provide a more accessible and competitive marketplace, the Exchange is proposing to remove several fees that the Exchange assessed prior to ceasing its trading operations. The proposed Fee Schedule does not provide for the one-time onboarding fee of $5,000 that the Exchange previously assessed applicant ETP Holders applying to become order delivery users. Prior to December 14, 2015, the Exchange offered order delivery as a mode of order interaction with the Exchange's trading system, as provided in Rule 11.13(b) and Interpretations and Policies .01 thereunder. The Exchange has amended its rules and no longer offers order delivery as a mode of interaction and therefore the $5,000 onboarding fee is no longer applicable.[16]

The Exchange is also proposing to remove language regarding the assessing of "Pass Through Fees." These fees, which are incurred from the ETP Holder's use of directed orders, will be factored into the cost of sending a directed order, as described above. Also, as described above, the Exchange will no longer assess a greater fee for adding liquidity using a Zero Display Reserve Order or removing a Zero Display Reserve Order from the NSX Book. The Exchange also proposes to remove from the Fee Schedule reference to fees assessed for using a "Double Play Order," because the Exchange no longer offers the Double Play Order functionality.[17]

---

service. The Exchange believes this text to be extraneous, in light of the purpose of and content of the Fee Schedule.

16 See fn. 3, supra.

17 See fn. 3, supra.

Pursuant to Exchange Rule 16.1(c), the Exchange will "provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange" through the issuance of an Information Circular and will post the Fee Schedule and the instant rule filing on the Exchange's web site, www.nsx.com.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[18] in general and, in particular, Section 6(b)(4) of the Act,[19] which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The proposed rule change is also consistent with Section 6(b)(5) of the Act,[20] which requires, among other things, that the rules of a national securities exchange not permit unfair discrimination between customers, issuers, brokers, or dealers, and be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange submits that the proposed Fee Schedule equitably allocates fees and that the fees contained therein are reasonable, as required by Section 6(b)(4) of the Act. The Exchange is proposing to adopt a model whereby an ETP Holder adding liquidity to the Exchange in securities priced at $1.00 or greater will pay no fee, and ETP Holders removing liquidity from the Exchange in securities priced at $1.00 or greater will pay a fee of $0.0003 on a per share executed basis, which is lower than the standard liquidity removing fee of any other stock exchange in the National Market System that does not utilize an inverse pricing structure.

---

18 15 U.S.C. 78f(b).

19 15 U.S.C. 78f(b)(4).

20 15 U.S.C. 78f(b)(5).

The Exchange's fees for routed orders are also reasonable as they are comparable to fees charged by other exchanges for routed orders.[21]

Further, for securities priced below $1.00, the Exchange is proposing to maintain a maker-taker fee structure, as it did as of May 30, 2014, with the exception of charging a higher fee for directed orders that is based on the higher cost associated with routing such orders.

In addition to being reasonable, all of the proposed execution fees are equitably allocated in that they will apply uniformly to all ETP Holders accessing the System. Each ETP Holder will have the ability to determine the extent to which the Exchange's proposed structure will provide it with an economic incentive to use the System, and model its business accordingly. Thus, the Fee Schedule provides for a low-cost, simple, and streamlined approach which will benefit both ETP Holders and the Exchange in determining revenues and expenses, as well as maximizing the Exchange's competitive position.

The Exchange also submits that its proposed regulatory, market data, and connectivity fees are consistent with Section 6(b)(4) of the Act. The fees are competitively and reasonably priced[22] and are equitably allocated in that the regulatory, market data, and connectivity fees are applied uniformly to ETP Holders, with the connectivity fee assessed on a usage basis.

---

21 For example, EDGX Exchange, Inc. ("EDGX") charges a standard rate of $0.0029 per share executed for routing and removing liquidity in securities priced at or above $1.00, as compared to the Exchange's proposed fee of $0.0030 per executed share. For routed orders in securities below $1.00, EDGX charges a standard rate of 0.30% of the dollar value of the trade, as compared to the Exchange charging 0.30% of the dollar value of the trade. For directed orders, EDGX charges $0.0032 per executed share, as compared to the Exchange charging $0.0035 per executed share.

22 For these fees, the Exchange is charging prices less than or equal to those prices that several of the Exchange's competitors charge their members. For example, EDGX charges $500 per port per month fee and a $500 per month depth of book fee. Further, the Chicago Stock Exchange charges $600 per month for its "SRO fee," which is comparable to the Exchange's regulatory fee.

The Exchange further submits that the proposed execution fees satisfy the requirements of Section 6(b)(5) of the Act in that they do not permit unfair discrimination between customers, issuers, brokers, or dealers, and are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system. Under the proposed changes to the Fee Schedule, all ETP Holders executing orders on the Exchange will be subject to one fee and/or rebate structure, and such changes are thereby designed to meet the requirements of the Section 6(b)(5) that the rules of the Exchange not permit unfair discrimination among ETP Holders and their customers. The Exchange submits that the proposal will promote just and equitable principles of trade by providing a streamlined Fee Schedule that will reduce the administrative burdens and expenses incurred by ETP Holders in determining the revenues and costs associated with its activity on the Exchange. Moreover, the Exchange believes that offering low execution fees will incentivize market participants to post and to access the liquidity on the NSX Book, which would inure to the benefit of all market participants seeking greater and better execution opportunities. In this regard, the proposed Fee Schedule will promote just and equitable principles of trade and operate to remove impediments to and perfect the mechanism of a free and open market and a national market system under Section 6(b)(5).

The Exchange's market data, regulatory, and connectivity fees are also consistent with Section 6(b)(5) of the Act. These fees will be uniformly applied to all ETP Holders, with the sole variable being the connectivity fee that is derived from the number of connections that the ETP Holder maintains with NSX (i.e., the greater the number of connections, the higher the monthly fee). For these reasons, the proposed fees do not permit unfair discrimination among ETP Holders, as the fees are uniformly applied to each ETP Holder. Further, assessing these fees will operate to remove impediments to and perfect the mechanism of a free and open market and a national market system, because the Fees allow the Exchange to provide the requisite services to function competitively within the National Market System, and also ensure that the Exchange can maintain a consistent source of funding to support its regulatory compliance obligations.

Further, eliminating the Exchange's former fee for adding liquidity by using a Zero Display Reserve Order or removing liquidity provided by a Zero Display Reserve Order from the NSX Book and incorporating pass-through fees into the cost of executing a directed order is consistent with Section 6(b)(5) of the Act. The elimination of these fees will be uniformly applied to current and prospective ETP Holders. Thus, the proposed reduction or removal of the fees do not permit unfair discrimination among ETP Holders. Additionally, reducing or removing the fees will serve to decrease cost and increase liquidity, further removing impediments to and perfecting the mechanism of a free and open market and a national market system.

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 that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change seeks to adopt a Fee Schedule that will apply uniformly to all ETP Holders accessing the Exchange. The Exchange further submits that its proposed execution, regulatory, market data, and connectivity fees have been reasonably calibrated such that they should impose no burden on competition. Moreover, the proposed fees and rebates will enhance rather than burden competition by operating to increase liquidity and improve execution quality on the Exchange through reasonable and equitably allocated economic incentives.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[23] and subparagraph (f)(2) of Rule 19b-4.[24]

At any time within 60 days of the filing of such 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 e-mail to rule-comments@sec.gov. Please include File Number SR-NSX-2015-07 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.

---

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

24 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-NSX-2015-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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-NSX-2015-07 and should be submitted on or before [INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Brent J. Fields,
Secretary.

---

[25] 17 CFR 200.30-3(a)(12).

[FR Doc. 2015-32650 Filed: 12/28/2015 8:45 am; Publication Date:  12/29/2015]