

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104181; File No. SR-NASDAQ-2025-088]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Additional Incentive Provided to Qualified Market Makers in Equity 7, Section 114(e) and to Introduce a New Credit for Non-Displayed Midpoint Quotes/Orders under Equity 7, Section 118(a)(1)

November 14, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on September 30, 2025, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the additional incentive provided to Qualified Market Makers in Equity 7, Section 114(e) (Market Quality Incentive Programs) and to introduce a new credit for non-displayed midpoint quotes/orders under Equity 7, Section 118(a)(1) (Fees for Execution and Routing of Orders).

These amendments are effective upon filing. However, the Exchange has designated the amendments to become operative on October 1, 2025.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

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 schedule of rebates, at Equity 7, Section 114(e) (Qualified Market Maker Program) to adjust the additional incentive provided to Qualified Market Makers ("QMMs") and to amend Equity 7, Section 118(a)(1) (Fees for Execution and Routing of Orders) to introduce a new credit for non-displayed midpoint quotes/orders.

Currently, the Exchange provides a member designated as a QMM with an additional rebate of \$0.000075 per share executed in Tapes A and C and \$0.00005 per share executed in Tape B for a QMM's market participant identification ("MPID") if the MPID (i) executes shares of liquidity provided that represents above 1.25% of Consolidated Volume³ during the month;

³ "Consolidated Volume" shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot.

(ii) quotes at the NBBO at least 50% of the time during the month during regular market hours in an average of at least 2,700 symbols per day; (iii) quotes at the national best bid or national best offer (“NBBO”) at least 50% of the time during the month during regular market hours in an average of at least 1,200 symbols in securities in Tape A per day; and (iv) executes shares of liquidity provided that represents an increase of at least 0.50% of Consolidated Volume relative to May 2020. For purposes of this rebate, an MPID is considered to be quoting at the NBBO if the MPID has a displayed order (other than a Designated Retail Order) at either the national best bid or the national best offer or both the national best bid and offer. On a daily basis, Nasdaq determines the number of securities that satisfy the 50% NBBO requirements for the MPID.

The Exchange proposes to modify this additional rebate in various ways. First, the revised rebate would only be available to QMMs that qualify for the QMM Tier 2 rebate. Second, the amount of the rebate would increase to \$0.0001 per share executed, and this rebate would be the same amount regardless of whether the execution is in Tape A, B, or C. Third, the Exchange also proposes to modify the criteria to qualify for this new rebate. The new criteria are that the MPID adds liquidity that represents above 0.325% of Consolidated Volume during the month and that the MPID achieves at least a 95% ratio of its liquidity adding activity to its total activity on the Exchange during the month. The Exchange hopes that this new additional rebate will incentivize QMMs to qualify for the Tier 2 rebate and to add more displayed liquidity to the Exchange, which will improve overall market quality.

Additionally, the Exchange currently provides credits to members for non-displayed orders (other than Supplemental Orders) that provide liquidity. The Exchange is proposing to add a credit of \$0.0027 per share executed to Tapes A, B and C in midpoint orders (excluding buy (sell) orders with Midpoint pegging that receive an execution price that is lower (higher) than the

midpoint of the NBBO). The credit will be available to a member who adds during the month an average daily volume (“ADV”) of 20 million or more shares of midpoint liquidity. The Exchange hopes that by proposing the new credit it will incentivize members to increase their liquidity providing activity at the midpoint on the Exchange, which will improve overall market quality.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁵ 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 Exchange’s proposed change to its schedule of credits is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4) and (5).

possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”⁶

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.”⁷

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

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

⁶ NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782-83 (Dec. 9, 2008) (SR-NYSEArca-2006-21)).

⁷ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to modify the additional rebate for QMMs in Section 114(e) to only make it available to QMMs that qualify for the Tier 2 rebate; to increase the amount of this additional rebate to \$0.0001 per share executed, and make this amount the same regardless of whether the execution is in Tape A, B, or C; and to modify the criteria to qualify for this new rebate so that an MPID has to add liquidity that represents above 0.325% of Consolidated Volume during the month and has to achieve at least a 95% ratio of its liquidity adding activity to its total activity on the Exchange during the month. The Exchange believes that the modified QMM additional rebate will encourage QMMs to provide increased displayed liquidity on the Exchange, which will improve the market quality overall, to the benefit of all market participants.

Likewise, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to establish a new credit under Section 118(a)(1) for non-displayed orders (other than Supplemental Orders) by offering members a credit in the amount of \$0.0027 per share executed, regardless of Tape, for midpoint orders (excluding buy (sell) orders with Midpoint pegging that receive an execution price that is lower (higher) than the midpoint of the NBBO) if the member provides an ADV of 20 million or more shares of mid-point liquidity on the Exchange during the month. The Exchange believes that this new credit will encourage members to provide even more midpoint liquidity on the Exchange.

To the extent that these proposed changes succeed in increasing the levels of liquidity and activity on the Exchange, then the Exchange will experience improvements in its market quality, which stands to benefit all market participants. The Exchange notes that the proposed rebate and credit are voluntary. The Exchange further believes that the rebate and credit are not unfairly

discriminatory because they will be applied uniformly to all members that meet the specified criteria.

The Exchange notes that if there are market participants who are dissatisfied with these proposals, they are free to shift their order flow to competing venues that may offer more generous pricing or less stringent qualifying criteria.

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

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

Intramarket Competition

The Exchange does not believe that its proposals will place any category of Exchange participant at a competitive disadvantage. The Exchange intends for its proposals to incentivize liquidity adding activity. The Exchange notes that its members are free to trade on other venues to the extent they believe that the proposals are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Inter-market Competition

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 rebates and credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that

the degree to which adding a supplemental rebate or a credit in this market may impose any burden on competition is extremely limited.

In this instance, the modification of the additional QMM rebate under Section 114(e) and the introduction of a new credit under Section 118(a)(1) are intended to incentivize liquidity adding activity on the Exchange and do not impose a burden on competition. By offering a modified rebate and a new credit to market participants that meet certain criteria the Exchange is enhancing its appeal as a trading venue and encouraging increased participation in its order execution and routing processes while maintaining a competitive pricing structure. As discussed above, the proposed modified rebate and new credit do not disadvantage any specific group or market participants. Instead, they provide equitable incentives that are available to all members that meet the applicable criteria.

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.

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.⁸

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2025-088 on the subject line.

Paper Comments:

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

All submissions should refer to file number SR-NASDAQ-2025-088. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>).

Copies of the filing will be available for inspection and copying at the principal office of the

Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-088 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Sherry R. Haywood,

Assistant Secretary.

⁹ 17 CFR 200.30-3(a)(12).