SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68612; File No. SR-NSX-2012-27)

January 9, 2013

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on December 27, 2012, National Stock Exchange, Inc. ("NSX®" 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 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 amend to amend its Fee and Rebate Schedule (the "Fee Schedule") issued pursuant to Exchange Rule 16.1(a) to modify the Order Delivery Notification Fee charged for each Order Delivery Notification[3] transmitted by the Exchange to an Equity Trading Permit ("ETP")[4] Holder using the Exchange's Order Delivery mode ("Order Delivery Mode").

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

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

2 17 CFR 240.19b-4.

3 An "Order Delivery Notification" refers to a message sent by the Exchange to the Order Delivery participant communicating the details of the full or partial quantity of an inbound contra-side order that potentially may be matched within the System for execution against an Order Delivery Order.

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

www.nsx.com, at the Exchange's principal office, 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 amend its Fee Schedule issued pursuant to Exchange Rule 16.1(a) to increase the Order Delivery Notification Fee charged for each Order Delivery Notification transmitted by the Exchange to an ETP Holder using the Exchange's Order Delivery Mode from $0.29 to $0.35.

The Exchange's Order Delivery Mode provides Electronic Communication Networks ("ECNs") with an electronic trading platform to interact with the National Market System. Order Delivery Mode provides ECNs with the ability to (i) publish quotations into the consolidated quotation system, (ii) receive "protected quotation" status under Rule 611 of Regulation NMS,[5] (iii) receive an Order Delivery Notification when there is a potential match against a published quotation, and (iv) distribute attributed quotations through the Exchange's

[5] 17 CFR 611.

Depth-of-Book market data product.[6]

On December 3, 2012, the Exchange amended Section IV of its Fee Schedule to adopt an Order Delivery Notification Fee for Order Delivery participants.[7] The Exchange adopted the Order Delivery Notification Fee as a means of recouping the development and ongoing operational costs, excluding the costs of regulation, of Order Delivery Mode. The Order Delivery Notification Fee is currently $0.29 for each Order Delivery Notification sent by the Exchange to an Order Delivery participant, which is capped at 1.5 million Order Delivery Notifications per month.

The Exchange now proposes to increase the Order Delivery Notification Fee from $0.29 to $0.35. The Order Delivery Notification Fee cap will remain unchanged. The Exchange believes the modified fee is better designed to recover the development and ongoing operational costs, excluding the costs of regulation, of Order Delivery Mode.

The Exchange believes that this approach equitably allocates fees among its ETP Holders and is not unfairly discriminatory because Order Delivery Mode provides ECNs with advertising through attributed quotations which facilitates an increasing rate of executions away from the Exchange. This disproportionate trade-to-quote ratio in Order Delivery Mode is a result of ECNs successfully leveraging the Exchange's infrastructure to develop their businesses away from the Exchange, even as the majority of the Exchange's operational costs are fixed. Consequently, the Exchange strongly believes that relying on transaction-based revenues to support Order Delivery Mode is not feasible. The Exchange believes that it is equitable and not

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6 ECNs can also use Order Delivery Mode to fulfill certain regulatory obligations such as qualifying as an ECN Display Alternative (17 CFR 242.602(b)(5)(i)) or publishing quotations in the consolidated quotation system when the five (5) percent order display requirement is triggered (17 CFR 242.301(b)(3)(B)).

7 See Securities Exchange Act Release No. 68391 (December 10, 2012), 77 FR 74536 (December 14, 2012) (SR-NSX-2012-25).

unfairly discriminatory to charge for the services provided to Order Delivery Participants as a means to recover the development and ongoing operational costs, excluding the costs of regulation, of Order Delivery Mode.

Operative Date and Notice

The Exchange will make the proposed modifications, which are effective on filing of this proposed rule, operative as of commencement of trading on January 2, 2013.[8] 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 of the changes to the Fee Schedule and will post a copy of the rule filing on the Exchange's website (www.nsx.com).

2. Statutory Basis

The Exchange believes that the amended Order Delivery Notification Fee for Order Delivery participants is consistent with the provisions of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[9] in general, and furthers the objectives of Section 6(b)(4) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its ETP Holders and other persons using the facilities of the Exchange.

The Exchange believes the amended Order Delivery Notification Fee is reasonable because Order Delivery Mode imposes on the Exchange greater operational costs than should the

8 While the Exchange proposes to amend the date of its Fee Schedule to January 1, 2013, it will not implement the proposed fee changes until Wednesday, January 2, 2013, the first day of trading. The Exchange proposes to amend the Fee Schedule's date to January 1, 2013 as it contains non-transaction based fees that are charged on a monthly basis.

9 15 U.S.C. 78f(b).

10 15 U.S.C. 78f(b)(4).

Exchange offer only automatic execution mode of interaction ("Auto-Ex Mode"),[11] because Order Delivery Mode is a model that utilizes a substantial portion of the Exchange's infrastructure, operational and processing resources. Order Delivery Participants are eligible to submit (or not submit) liquidity adding quotes, and may do so at their discretion in the daily volumes they choose during any given trading day. As stated earlier, due to the low level of executions resulting from the quotation activity, the Exchange does not believe that a transaction-based fee is a reasonable means for the Exchange to recover the development and the ongoing operational costs of the Order Delivery program. Therefore, the Exchange believes that it is reasonable to charge an Order Delivery Participant the amended fee which covers the proportionate cost of their participation in, and services provided by, the Exchange's Order Delivery Mode.

Furthermore, the Exchange believes that the amended Order Delivery Fee is consistent with the provisions of Section 6(b)(5) of the Act,[12] because it is equitable and not unfairly discriminatory. As stated above, Order Delivery participants utilize a substantial portion of the Exchange's infrastructure, operational and processing resources. The Order Delivery Notification Fee is a mechanism under which the Exchange can recoup the costs associated with Order Delivery Mode. The Exchange believes that it is equitable and not unfairly discriminatory to charge an Order Delivery Participant a fee which covers the proportionate cost of a unique technology that offers Order Delivery Mode.

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11 Under Auto-Ex Mode, the Exchange matches and executes like-priced orders (including against Order Delivery orders resting on the NSX book). Auto-Ex orders resting in the NSX book execute immediately when matched against a marketable incoming contra-side Auto-Ex order.

12 15 U.S.C. 78f(b)(5).

The Exchange will evaluate the Order Delivery Notification Fee on an ongoing basis to ensure that it remains reasonable, equitable and not unfairly discriminatory among all ETP Holders.

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 Act. The Order Delivery Notification Fee is a mechanism under which the Exchange can recoup the costs associated with Order Delivery Mode. Order Delivery Participants are eligible to submit (or not submit) liquidity adding quotes, and may do so at their discretion in the daily volumes they choose during any given trading day. The Order Delivery Notification Fee is designed solely to allow the Exchange to recover the costs associated with operating Order Delivery Mode and applies to all Order Delivery participants. Therefore, the Exchange does not believe the modified Order Delivery Notification Fee imposes any burden on completion that is not necessary or appropriate in furtherance of the Act.

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 Exchange Act[13] and subparagraph (f)(2) of Rule 19b-4.[14] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend

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

[14] 17 CFR 240.19b-4.

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-2012-27 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-NSX-2012-27. 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 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 offices 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-2012-27, 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.[15]

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15 17 CFR 200.30-3(a)(12).