

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70525; File No. SR-NSX-2013-18)

September 26, 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”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 23, 2013, 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 its Fee and Rebate Schedule (the “Fee Schedule”) issued pursuant to Exchange Rule 16.1(a) in order to change two of the stocks on the list of five select securities (the “Select Securities”) for which the Exchange pays a rebate of \$0.0045 per executed share to Equity Trading Permit (“ETP”)³ Holders that direct Double Play Orders⁴ in those securities to the CBOE Stock Exchange, Inc.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ NSX 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.

⁴ NSX Rule 11.11(c)(10) defines a “Double Play Order” as market or limit orders for which an ETP Holder instructs the System to route to designated away Trading Centers which are approved by the Exchange from time to time without

("CBSX"). The Exchange is proposing no other changes to the Fee Schedule except to amend the list of Select Securities. Specifically, the Exchange proposes to remove Advanced Micro Devices, Inc., ("AMD") and Micron Technology, Inc. ("MU") from the list of Select Securities, and replace them with Apple Inc. ("AAPL") and Google Inc. ("GOOG")⁵ AMD and MU will revert to the fee and rebate programs applicable for all other securities that trade on the Exchange, which provide for a rebate of \$0.0015 for Double Play Orders, other than those in the Select Securities, routed to and executed on CBSX.

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

first exposing the order to the NSX Book. A Double Play Order that is not executed in full after routing away receives a new time stamp upon return to the Exchange and is ranked and maintained in the NSX Book in accordance with Rule 11.14(a).

⁵ The Exchange previously filed for immediate effectiveness amendments to its Fee Schedule, effective July 1, 2013, that: (i) established the \$0.0045 per share rebate for executions of Double Play Orders in the Select Securities on CBSX; (ii) clarified that the unexecuted portion of a Double Play Order that is returned to NSX after its initial route to CBSX and subsequently executed on the NSX or routed away in accordance with NSX Rule 11.15(a)(ii) is subject to the standard Fee Schedule; and (iii) clarified that the \$0.0030 per share routing fee applies only to orders routed by the Exchange in accordance with NSX Rule 11.15(a)(ii). In addition to AMD and MU, the Select Securities identified were Bank of America Corp. ("BAC"), Nokia Corporation ("NOK"), and Sirius XM Radio Inc. ("SIRI"). See Exchange Act Release No. 34-69941; 78 FR 41966; SR-NSX-2013-14 [sic].

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 Section IIIA of its Fee Schedule to change two of the five stocks on the list of Select Securities that will receive a rebate of \$0.0045 per executed share to ETP Holders that direct Double Play Orders to CBSX. A Double Play Order is a market or limit order for which the ETP Holder instructs the NSX System⁶ to bypass the NSX Book⁷ and route the order to a designated away Trading Center(s)⁸ that has been approved by the Exchange.⁹ The NSX System will provide any unexecuted portion of a Double Play Order with a new timestamp upon return to the Exchange, and the order will be processed in the manner described in NSX Rule 11.14 (Priority of Orders).

Under the revised Fee Schedule, symbols AAPL and GOOG will replace symbols AMD and MU. CBSX has determined to change these two Select Securities in its fee

⁶ Under NSX Rule 1.5, the term "System" is defined as "the electronic securities communications and trading facility. . . through which orders of Users are consolidated for ranking and execution."

⁷ Under NSX Rule 1.5, the term "NSX Book" is defined as "the System's electronic file of orders."

⁸ NSX Rule 2.11(a) defines a Trading Center as other securities exchanges, facilities of securities exchanges, automated trading systems, electronic communications networks or other brokers or dealers.

⁹ See NSX Rule 11.11(c)(10).

schedule.¹⁰ The Exchange intends to pass through the rebates to ETP Holders that direct Double Play Orders in the Select Symbols to the CBSX and, accordingly, is making this conforming change to the Fee Schedule in order to pass through the rebates received from CBSX to ETP Holders that direct Double Play Orders in the Select Securities to CBSX. The Exchange notes that its proposed amendment to the Fee Schedule to substitute two symbols on the list of Select Securities does not affect the amount of the rebate applicable to Double Play orders in such securities routed to CBSX, for the select securities and for all other securities.

The removal of AMD and MU from the list of Select Securities and the addition of AAPL and GOOG is proposed as a means to increase the liquidity in AAPL and GOOG. AMD and MU had been included in the Select Symbols in an attempt to attract greater liquidity in both symbols, but increased liquidity has not occurred. By returning those symbols to the fee and rebate structure applicable to all other securities, and substituting AAPL and GOOG, the Exchange hopes to attract greater liquidity provision in AAPL and GOOG. AAPL and GOOG are higher-priced stocks that typically have larger spreads than other products, and it is anticipated that the enhanced rebate structure may result in more liquidity in these symbols.

2. Statutory Basis

The Exchange believes that the proposed change to the list of Select Symbols to which the increased rebate for Double Play Orders routed away and executed on the CBSX will apply is consistent with the provisions of Section 6(b) of the Act in general,

¹⁰ Exchange Act Release No. 34-70382; 78 FR 57247; SR-CBOE-2013-86 [sic].

and Sections 6(b)(4)¹¹ and 6(b)(5)¹² of the Act in particular. The Exchange submits that increased rebate is consistent with Section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues and fees among ETP Holders, issuers and persons using the Exchange's facilities. All ETP Holders are eligible to submit (or not submit) Double Play Orders in the Select Securities at their discretion. Providing ETP Holders with the enhanced rebate for directing Double Play Orders in the Select Securities to the CBSX is a reasonable method to increase order flow handled by the Exchange, and the periodic substitution of securities on the list of Select Securities is responsive to whether the enhanced rebate structure is attaining the anticipated results in these symbols, and whether changes to the list of Select Securities should be made to provide new opportunities for ETP Holders and their customers to benefit from increased liquidity in these symbols that the enhanced rebates were designed to encourage.

The Exchange notes that its proposed amendment to the Fee Schedule to substitute two symbols on the list of Select Securities does not affect the amount of the rebate applicable to Double Play orders in such securities routed to CBSX. The Exchange's proposal mirrors that of the CBSX, which is proposing to amend its fee schedule to effect the same change to the list of Select Securities, to be effective as of September 3, 2013. The Exchange intends to merely pass through rebates to ETP Holders that direct Double Play Orders in the Select Symbols to the CBSX and, accordingly, is making this conforming change to the Fee Schedule in order to pass through the rebates

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(5).

received from CBSX to ETP Holders that direct Double Play Orders in the Select Securities to CBSX.

As noted by the Exchange in its initial filing to implement the enhanced rebate schedule in the Select Securities,¹³ the liquidity profiles of the Select Securities are different from those for other symbols and the rebate structure for the Select Securities is intended to incentivize the trading in the Select Securities and thus provide a greater pool of liquidity. The substitution of two symbols meeting this profile for two other symbols that did not attain the increased liquidity levels is a reasonable means of attracting greater liquidity in these symbols to the Exchange. The rebates for the Select Securities apply equally to all market participants. The Exchange submits that the rebate structure for the Select Securities constitutes an equitable allocation of reasonable fees and other charges among ETP Holders, issuers and other persons using the facilities of the Exchange, and the substitution of two symbols on the current list of five is consistent with the [sic] of Section 6(b)(4) of the Act.

The Exchange believes that the fee and rebate structure for the Select Securities is consistent with Section 6(b)(5) of the Act in that it does not permit unfair discrimination between ETP Holders, issuers and customers, and substituting two symbols on the list of Select Securities does not affect the non-discriminatory nature of the enhanced rebate program. ETP Holders and their customers will continue to choose to send Double Play Orders in the Select Securities to NSX to be eligible for the enhanced rebate schedule and they will also continue to have a choice of other execution venues with different pricing mechanisms as well. By offering the enhanced rebate structure in the Select Securities,

¹³ Id. at footnote 5.

the Exchange is providing alternatives to ETP Holders and their customers, while also striving to increase the liquidity in the Select Securities on the Exchange.

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 Exchange submits that the enhanced rebate in the Select Securities promotes competition by potentially attracting additional liquidity to the Exchange and providing access to liquidity on the CBSX. The increased rebate is designed to encourage ETP Holders to use Double Play Orders and increase the number of shares handled by the Exchange and CBSX. To this extent, the Exchange submits that the proposed substitution of AAPL and GOOG for AMD and MU on the list of Select Securities is responsive to the competitive forces that impact liquidity and order flow and are intended to enhance competition for order flow in these securities.

Moreover, as the Exchange has previously noted, it does not believe that passing through the rebate received from the CBSX to ETP Holders imposes a burden on competition for any other Exchange-approved Trading Center to which ETP Holders may direct orders since other Trading Centers may offer other competitive functions or features such as low cost executions, increased levels of liquidity or faster executions. The ETP Holder may choose which offering is most attractive and the increased rebate is one factor which an ETP Holder may consider.

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 Act¹⁴ and subparagraph (f)(2) of Rule 19b-4.¹⁵ 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-2013-18 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-2013-18. This file number should be included on the subject line if e-mail is used. To help the Commission process and

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁵ 17 CFR 240.19b-4.

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-2013-18 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.¹⁶

Kevin M. O'Neill
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).