

market and at a price better than or equal to the starting price, then the original COA will end.<sup>11</sup> Proposed subparagraph (c)(8)(E) will provide that if the leg markets were not marketable against a COA-eligible order when the order entered the System (and thus prior to the initiation of a COA) but became marketable with the COA-eligible order prior to the expiration of the Response Time Interval, it will cause the COA to end.<sup>12</sup> The Exchange believes that these provisions prevent an order that was entered after the initiation of a COA from trading ahead of an order with the same price that may have executed or entered the COB if it did not COA.<sup>13</sup> Similarly, the Exchange believes it is fair for a COA-eligible order that was entered at a better price than an order that was resting in the COB prior to initiation of the COA to execute against leg markets that become marketable against the COA-eligible order and resting order during the COA, because the Participant who entered the COA-eligible order was willing to pay a better price than that of the resting order.<sup>14</sup>

Third, the Exchange proposes to amend subparagraph (c)(3)(A) of C2 Rule 6.13 to delete the provision that states that RFR responses are limited to the size of the COA-eligible order for allocation purposes.<sup>15</sup> The Exchange explains that it is proposing this change because if the allocation algorithm for complex orders in a class is pro-rata, the System is unable to block RFR responses that are larger than the size of the COA-eligible order.<sup>16</sup> The Exchange notes the pursuant to C2 Rule 6.13(c)(7), RFR responses are firm with respect to the COA-eligible order for which the responses are submitted, provided that responses that exceed the size of a COA-eligible order are also eligible to trade with other incoming COA-eligible orders that are received during the Response Time Interval.<sup>17</sup>

Finally, the Exchange proposes to make technical and other nonsubstantive changes, which are described in the Notice.<sup>18</sup>

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is

consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>19</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>20</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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, and, in general, to protect investors and the public interest.

The Commission believes that it is reasonable for C2 to require that incoming two-legged COA-eligible orders be COA'd by default unless a Participant requests, on an order-by-order basis, that such orders not COA. The Commission notes that, should a Participant not wish its orders to be COA'd, the proposed rule will allow the Participant to request that its orders not be COA'd on an order-by-order basis. In addition, the Commission notes that the rules of another options exchange provide that certain complex orders be routed to a complex order auction unless a member designates that such orders not initiate a complex order auction on that exchange.<sup>21</sup>

The Commission also believes that it is reasonable for the Exchange to add new provisions regarding how incoming orders with "do-not-COA" requests or that are not COA-eligible, as well as how changes in the leg markets, may impact ongoing COAs. Such additions enhance the description of current COA functionality and the circumstances that may cause a COA to end early to help ensure investors understand how "do-not-COA" orders may impact a COA. As noted above, these rules provide that if entry of a "do-not-COA" order causes a COA to end, any executions that occur following the COA will occur in accordance with allocation principles in place, subject to an exception that the original COA-eligible order will receive time priority.

Finally, the Commission believes it is reasonable for C2 to delete the provision in its Rules limiting the size of RFR responses to the size of the COA-eligible order. The Commission notes that other

options exchanges do not limit the size of responses to the auctioned order sized.<sup>22</sup>

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>23</sup> that the proposed rule change (SR-C2-2015-025), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2015-31681 Filed 12-16-15; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76626; File No. SR-CBOE-2015-100]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Options That Overlie a Reduced Value of the FTSE 100 Index

December 11, 2015.

#### I. Introduction

On October 30, 2015, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade options that overlie a reduced value of the FTSE 100 Index. The proposed rule change was published for comment in the **Federal Register** on November 10, 2015.<sup>3</sup> On December 10, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>4</sup> This order grants approval of

<sup>22</sup> See *id.* and NYSE MKT Rule 6.80NY(e).

<sup>23</sup> 15 U.S.C. 78s(b)(2).

<sup>24</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 76353 (November 4, 2015), 80 FR 69751 ("Notice").

<sup>4</sup> Amendment No. 1 makes certain technical modifications to Exhibit 5 to reflect the current CBOE rulebook and to remove a reference to "(1/10th)" that was inadvertently included. It also revises rule text to make additional technical edits. As the changes made by Amendment No. 1 are technical in nature and do not materially alter the substance of the proposed rule change or raise any novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 67447-8.

<sup>13</sup> *Id.* at 67449.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 67448.

<sup>16</sup> *Id.* The Exchange represents that this proposed rule change will result in the rule regarding RFR responses more accurately reflecting current System functionality. *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>21</sup> See NASDAQ OMX PHLX LLC ("PHLX") Rule 1080, Commentary .07(a)(viii) and (e) (describing the complex order live auction ("COLA") process and "do not auction" orders).

the proposed rule change, as modified by Amendment No. 1.

## II. Description of the Proposed Rule Change

The Exchange proposes to list and trade A.M. cash-settled, European-style options on the FTSE 100 Index.<sup>5</sup> According to the Exchange, the FTSE 100 Index is a free float-adjusted market capitalization index that is designed to measure the performance of the 100 largest companies traded on the London Stock Exchange and valued in the British pound (“GBP”).<sup>6</sup> The Exchange states that the index is monitored and maintained by FTSE International Limited (“FTSE”).<sup>7</sup> Adjustments to the index could be made on a daily basis with respect to corporate events and dividends, and FTSE reviews the index quarterly.

According to the Exchange, the FTSE 100 Index is calculated and published in GBP on a real-time basis during United Kingdom and United States trading hours.<sup>8</sup> The methodology used to calculate the FTSE 100 Index is similar to the methodology used to calculate the value of other benchmark market-capitalization weighted indexes.<sup>9</sup> Real-time data is distributed at least every 15 seconds while the index is being calculated using FTSE’s real-time calculation engine to Bloomberg L.P. (“Bloomberg”), Thomson Reuters (“Reuters”) and other major vendors. End of day data is distributed daily to

clients through FTSE as well as through major quotation vendors, including Bloomberg and Reuters.

The Exchange proposes that trading hours for FTSE 100 Index options would be from 8:30 a.m. (Chicago time) to 3:15 p.m. (Chicago time).

The Exchange proposes that FTSE 100 Index options would expire on the third Friday of the expiration month.<sup>10</sup> The exercise settlement value would be one-tenth (1/10th) of the value of the FTSE 100 Index calculated via an intra-day auction on the London Stock Exchange that is held on the morning of the expiration date (generally a Friday). The exercise settlement amount would be equal to the difference between the exercise-settlement value and the exercise price of the option, multiplied by the contract multiplier (\$100).<sup>11</sup> Exercise would result in delivery of cash on the business day following expiration.

The Exchange proposes to create specific initial and maintenance listing criteria for options on the FTSE 100 Index. Specifically, the Exchange proposes to add new Interpretation and Policy .02(a) to Rule 24.2 to provide that the Exchange may trade FTSE 100 Index options if each of the following conditions is satisfied: (1) The index is broad-based, as defined in Rule 24.1(i)(1); (2) options on the index are designated as A.M.-settled index options; (3) the index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted; (4) the index consists of 90 or more component securities; (5) each of the component securities of the index will have a market capitalization of greater than \$100 million; (6) no single component security accounts for more than fifteen percent (15%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than fifty percent (50%) of the weight of the index; (7) non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than twenty percent (20%) of the weight of the FTSE 100 Index; (8) during the time options on the index are traded on the

Exchange, the current index value is widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors; however, the Exchange may continue to trade FTSE 100 options after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors, provided that FTSE 100 futures contracts are trading and prices for those contracts may be used as a proxy for the current index value; (9) the Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange’s current Independent System Capacity Advisor allocation and the number of new messages per second expected to be generated by options on such index; and (10) the Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

Additionally, the Exchange proposes to add new Interpretation and Policy .02(b) to Rule 24.2 to set forth the following maintenance listing standards for options on the FTSE 100 Index: (1) The conditions set forth in subparagraphs .02(a) (1), (2), (3), (4), (7), (8), (9) and (10) must continue to be satisfied, the conditions set forth in subparagraphs .02(a)(5) and (6) must be satisfied only as of the first day of January and July in each year; and (2) the total number of component securities in the index may not increase or decrease by more than ten percent (10%) from the number of component securities in the index at the time of its initial listing. In the event a class of index options listed on the Exchange pursuant to Interpretation and Policy .02(b) fails to satisfy these maintenance listing standards, the Exchange shall not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act.

The contract multiplier for the FTSE 100 Index options would be \$100. The FTSE 100 Index options would be quoted in index points and one point would equal \$100. The Exchange proposes that the minimum tick size for series trading below \$3 would be 0.05 (\$5.00), and at or above \$3 would be 0.10 (\$10.00). The Exchange also proposes that the strike price interval for FTSE 100 Index options would be no less than \$5, except that the strike price interval would be no less than \$2.50 if the strike price is less than \$200.

<sup>5</sup> The Exchange proposes to list up to twelve near-term expiration months at any one time for the FTSE 100 Index options. The Exchange also proposes to list up to ten expirations in Long-Term Index Option Series (LEAPS) on the reduced value of the FTSE 100 Index Options. The Exchange proposes that options on the FTSE 100 Index would be eligible for all other expirations permitted for other broad-based indexes (e.g., End of Week/End of Month Expirations, Short Term Option Series, and Quarterly Options Series). In addition, the Exchange proposes to designate the FTSE 100 Index as eligible for trading as FLEX options.

<sup>6</sup> The Exchange states that the FTSE 100 Index meets the definition of a broad-based index as set forth in Exchange Rule 24.1(i)(1).

<sup>7</sup> The Exchange proposes to designate FTSE as the reporting authority for the FTSE 100 Index.

<sup>8</sup> The Exchange states that from 2:00–10:30 a.m. (Chicago time) the real-time index is calculated using real time prices of the securities. At 10:30 a.m. (Chicago time) the real time index closes using the closing prices from the London Stock Exchange. Thus, between 10:30 a.m. and 3:15 p.m. (Chicago time) the FTSE 100 Index level is a static value that market participants can access via data vendors.

<sup>9</sup> Specifically, the FTSE 100 Index is governed by the Ground Rules for the FTSE UK Index Series. The level of the FTSE 100 Index reflects the free float-adjusted market value of the component stocks relative to a particular base date and is computed by dividing the total market value of the companies in the FTSE 100 Index by the index divisor. Further detail regarding this methodology can be found in the Notice, *supra* note 3, at n.5 and accompanying text.

<sup>10</sup> According to the Exchange, when the last trading day/expiration date is moved because of an Exchange holiday or closure, the last trading day/expiration date for expiring options would be the immediately preceding business day.

<sup>11</sup> According to the Exchange, if the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value would be determined in accordance with the rules and bylaws of The Options Clearing Corporation.

The Exchange proposes to apply the default position limits for broad-based index options of 25,000 contracts on the same side of the market (and 15,000 contracts near-term limit) to FTSE 100 Index options. All position limit hedge exemptions would apply. The exercise limits for FTSE 100 Index options would be equivalent to the position limits for those options. In addition, the Exchange proposes that the position limits for FLEX options on the FTSE 100 Index would be equal to the position limits for non-FLEX options on the FTSE 100 Index. The exercise limits for FLEX options on the FTSE 100 Index would be equivalent to the position limits for those options.

The Exchange states that, except as modified by the proposal, Exchange Rules in Chapters I through XIX, XXIV, XXIVA, and XXIVB would equally apply to FTSE 100 Index options. The Exchange also states that FTSE 100 Index options would be subject to the same rules that currently govern other CBOE index options, including sales practice rules, margin requirements,<sup>12</sup> and trading rules.<sup>13</sup>

The Exchange represents that it has an adequate surveillance program in place for FTSE 100 Index options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in the proposed options. The Exchange also states that it is a member of the Intermarket Surveillance Group, is an affiliate member of the International Organization of Securities Commissions, and has entered into various comprehensive surveillance agreements and/or Memoranda of Understanding with various stock exchanges, including the London Stock Exchange. Finally, the Exchange represents that it believes it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of FTSE 100 Index options.<sup>14</sup>

### III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by

<sup>12</sup> The Exchange states that FTSE 100 Index options would be margined as broad-based index options.

<sup>13</sup> See, e.g., Exchange Rule Chapters IX (Doing Business with the Public), XII (Margins), IV (Business Conduct), VI (Doing Business on the Exchange Floor), VIII (Market-Makers, Trading Crows and Modified Trading Systems), and XXIV (Index Options).

<sup>14</sup> For a complete description of the Exchange's proposal, please see the Notice, *supra* note 3.

Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>15</sup> Specifically, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,<sup>16</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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 and, in general, to protect investors and the public interest.

The Commission believes that the listing and trading of FTSE 100 Index options will broaden trading and hedging opportunities for investors by providing an options instrument based on an index designed to measure the performance of the 100 largest companies traded on the London Stock Exchange.

Because the FTSE 100 Index is a broad-based index composed of actively-traded, well-capitalized stocks, the trading of options on the index does not raise unique regulatory concerns. The Commission believes that the listing standards, which are created specifically and exclusively for the index, are consistent with the Act, for the reasons discussed below.<sup>17</sup>

The Commission notes that proposed Interpretation and Policy .02 to Exchange Rule 24.2 would require that the FTSE 100 Index consist of 90 or more component securities. Further, for options on the FTSE 100 Index to trade, each of the minimum of 90 component securities would need to have a market capitalization of greater than \$100 million.

The Commission notes that the proposed listing standards for options on the FTSE 100 Index would not permit any single component security to account for more than 15% of the

<sup>15</sup> In approving this proposed rule change, as modified by Amendment No. 1, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> The Commission notes that it previously approved the listing and trading reduced value index options on the FTSE 100 Index on the Exchange, International Securities Exchange, Inc. and NYSE Arca, Inc. See Securities Exchange Act Release Nos. 29722 (September 23, 1991), 56 FR 49807 (October 1, 1991) (order approving SR-CBOE-91-07); 53484 (March 14, 2006) 71 FR 14268 (March 21, 2006) (order approving SR-ISE-2005-25); and 58008 (June 24, 2008) 73 FR 36945 (June 30, 2008) (order approving SR-NYSEArca-2008-61).

weight of the index, and would not permit the five highest weighted component securities to account for more than 50% of the weight of the index in the aggregate. The Commission believes that, in view of the requirement on the number of securities in the index and on each security's market capitalization, this concentration standard is consistent with the Act. As noted above, the Exchange represents that it has an adequate surveillance program in place for FTSE 100 Index options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in the proposed options.

The Commission notes that, consistent with the Exchange's generic listing standards for broad-based index options, non-U.S. component securities of the FTSE 100 Index that are not subject to comprehensive surveillance agreements will not, in the aggregate, represent more than 20% of the weight of the index.

The proposed listing standards require that, during the time options on the FTSE 100 Index are traded on the Exchange, the current index value is widely disseminated at least once every 15 seconds by one or more major market data vendors. However, the Exchange may continue to trade FTSE 100 Index options after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every 15 seconds by one or more major market data vendors, provided that FTSE 100 futures contracts are trading and prices for those contracts may be used as a proxy for the current index value.<sup>18</sup>

In addition, the proposed listing standards require the Exchange to reasonably believe that it has adequate system capacity to support the trading of options on the FTSE 100 Index. As noted above, the Exchange represents that it believes it and the OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result

<sup>18</sup> The Exchange notes that, because trading in the components of the FTSE 100 Index starts at approximately 2:00 a.m. (Chicago time) and ends at approximately 10:30 a.m. (Chicago time), there will not be a current FTSE 100 Index level calculated and disseminated during a portion of the time when the FTSE 100 Index options would be traded (from approximately 10:30 a.m. (Chicago time) to 3:15 p.m. (Chicago time)). However, the Exchange states that the FTSE 100 Index futures contracts will be trading during this time period and that the futures prices would be a proxy for the current FTSE 100 Index level during this time period. The Exchange states that FTSE 100 Index futures contracts are listed for trading on the Chicago Mercantile Exchange Inc.

from the introduction of FTSE 100 Index options.

As a national securities exchange, the Exchange is required, under Section 6(b)(1) of the Act,<sup>19</sup> to enforce compliance by its members, and persons associated with its members, with the provisions of the Act, Commission rules and regulations thereunder, and its own rules. As noted above, the Exchange states that, except as modified by the proposal, Exchange Rules in Chapters I through XIX, XXIV, XXIVA, and XXIVB would equally apply to FTSE 100 Index options. The Exchange also states that FTSE 100 Index options would be subject to the same rules that currently govern other CBOE index options, including sales practice rules, margin requirements, and trading rules.

The Commission further believes that the Exchange's proposed position and exercise limits, trading hours, margin, strike price intervals, minimum tick size, series openings, and other aspects of the proposed rule change, as modified by Amendment No. 1, are appropriate and consistent with the Act.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>20</sup> that the proposed rule change (SR-CBOE-2015-100), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2015-31685 Filed 12-16-15; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76631; File No. SR-Phlx-2015-98]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exchange's Pricing Schedule Under Section VIII With Respect to Execution and Routing of Orders in Securities Priced at \$1 or More Per Share

December 11, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November

30, 2015, NASDAQ OMX PHLX LLC ("Phlx" 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 Exchange's Pricing Schedule under Section VIII, entitled "NASDAQ OMX PSX FEES," with respect to execution and routing of orders in securities priced at \$1 or more per share.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on December 1, 2015.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.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 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 certain charges and fees for order execution and routing applicable to the use of the order execution and routing services of the NASDAQ OMX PSX System ("PSX") by member organizations for all securities traded at \$1 or more per share.

Specifically, under subparagraph (a)(1) of the rule the Exchange is proposing to increase the charges assessed member organizations that enter orders that execute in PSX. First, the Exchange is proposing to increase the charge for executions in Nasdaq-

listed securities from \$0.0028 to \$0.0029 per share executed. Second, the Exchange is proposing to increase the charge for executions in NYSE-listed securities from \$0.0027 to \$0.0028 per share executed. Lastly, the Exchange is proposing to increase the charge for executions in securities listed on exchanges other than Nasdaq and NYSE from \$0.0026 to \$0.0028 per share executed.

The Exchange is also proposing to increase credits provided to member organizations that provide displayed liquidity through PSX under subparagraph (a)(1) of the rule. First, the Exchange is proposing to increase the credit provided for Quotes/Orders entered by a member organization that provides and accesses 0.35% or more of Consolidated Volume during the month from \$0.0028 to \$0.0031 per share executed. Second, the Exchange is proposing to increase the credit provided for Quotes/Orders entered by a member organization that provides and accesses 0.25% or more of Consolidated Volume during the month from \$0.0027 to \$0.0029 per share executed. Lastly, the Exchange is eliminating the \$0.0023 per share executed credit provided for Quotes/Orders entered by a member organization that provides and accesses daily volume of 100,000 or more shares during the month, and is increasing the "default" credit (*i.e.*, the credit received for providing displayed liquidity that does not otherwise qualify for a higher credit) provided for all other Quotes/Orders from \$0.0020 to \$0.0023 per share executed.

Finally, the Exchange is proposing to eliminate text from subparagraph (a) of the rule that defines the term "regular market hours," which was erroneously left in the rule text when the tier it provided reference to was deleted. Currently, no fee or credit references the definition. Thus, the Exchange is proposing to delete the reference.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>3</sup> in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,<sup>4</sup> 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 designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

<sup>19</sup> 15 U.S.C. 78f(b)(1).

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>21</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78f.

<sup>4</sup> 15 U.S.C. 78f(b)(4) and (5).