

and by removing the CPDA option, the proposed rule change, as modified by Amendment No. 1, will establish a process that will streamline Cover of Protect transactions, allocations, and recordkeeping for Participants. Further, as DTC explains in the Notice, the proposed rule change, as modified by Amendment No. 1, will reduce for DTC the risks, burdens, and costs associated with its current processing of such transactions. Therefore, adding the CPAP option and removing the CPDA option will promote the prompt and accurate clearance and settlement of securities, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F), cited above.

As the proposed rule change pertains to technical changes to the Procedures, the Commission finds the technical changes also consistent with Section 17A(b)(3)(F) of the Act¹⁷ because technical updates to the Procedures to make them more clear, consistent, and current for Participants that rely on the Procedures support the prompt and accurate clearance and settlement of securities transactions.

III. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to File Number SR-DTC-2016-005, including whether Amendment No. 1 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 email to rule-comments@sec.gov. Please include File Number SR-DTC-2016-005 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-DTC-2016-005. 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 Web site (<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 Web site 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 DTC and on DTCC's Web site (<http://dtcc.com/legal/sec-rule-filings.aspx>). 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-DTC-2016-005 and should be submitted on or before October 21, 2016.

IV. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission, pursuant to Section 19(b)(2) of the Act,¹⁸ finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of Amendment No. 1 in the **Federal Register**. In Amendment No. 1, DTC clarifies that when a Participant submits a Protect directly to the Offer Agent, such Participant could still request that DTC process the Cover. As such, Amendment No. 1 proposes to set forth in the Guide that, once a Participant has accepted an Offer through the Offer Agent via a hard copy Notice of Guaranteed Delivery submitted directly to the Offer Agent, a Participant would need to either (a) submit the Cover directly to the Offer Agent, or (b) request that DTC manually process the Cover, but not through PTOP/PSOP.

As discussed more fully above, the Commission finds that the proposed rule change, as modified by Amendment No. 1, will streamline DTC's processing of Cover of Protect transactions and reduce for DTC the risks, burdens, and costs associated with its current processing of such transactions, thereby promoting the prompt and accurate clearance and settlement of securities, consistent with Section 17A(b)(3)(F), cited above. Accordingly, the Commission finds good cause for

approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.¹⁹

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposal, as modified by Amendment No. 1, is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act²⁰ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR-DTC-2016-005, as modified by Amendment No. 1, be, and hereby is, APPROVED on an accelerated basis.²¹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78930; File No. SR-CBOE-2016-070]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Fees Schedule

September 26, 2016.

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 22, 2016, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "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.

¹⁹ *Id.*

²⁰ 15 U.S.C. 78q-1.

²¹ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁷ *Id.*

¹⁸ 15 U.S.C. 78s(b)(2).

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

The Exchange seeks to amend its fees schedule. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, 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 Exchange proposes to amend its Fees Schedule, effective September 26, 2016. Specifically, the Exchange plans to list new options on two FTSE Russell indexes on September 26, 2016. More

specifically, the Exchange proposes to establish fees for options that overlie the FTSE Emerging Markets Index ("FTEM"), which are schedule to be listed on September 26, 2016, and options that overlie the FTSE Developed Europe Index ("AWDE"), which are scheduled to be listed in the near future.

By way of background, a specific set of proprietary products are commonly included or excluded from a variety of programs, qualification calculations and transaction fees. In lieu of listing out these products in various sections of the Fees Schedule, the Exchange uses the term "Underlying Symbol List A" to represent these products. Currently, Underlying Symbol List A is defined in Footnote 34 and represents the following proprietary products: OEX, XEO, RUT, RLG, RLV, RUI, FXTM, UKXM, SPX (including SPXw), SPXpm, SRO, VIX, VOLATILITY INDEXES and binary options. The Exchange notes that the reason the products in Underlying Symbol List A are often collectively included or excluded from certain programs, qualification calculations and transactions fees is because the Exchange has expended considerable resources developing and maintaining its proprietary, exclusively-listed products. Similar to the products currently represented by "Underlying Symbol List A," AWDE and FTEM are not listed on any other exchange. As such, the Exchange proposes to exclude or include AWDE and FTEM in the same programs as the other products in Underlying Symbol List A, as well as add AWDE and FTEM to the definition

of Underlying Symbol List A in Footnote 34. Specifically, like the other products in Underlying Symbol List A, the Exchange proposes to except AWDE and FTEM from the Liquidity Provider Sliding Scale, the Volume Incentive Program (VIP), the Marketing Fee, the Clearing Trading Permit Holder Fee Cap ("Fee Cap") and exemption from fees for facilitation orders, and the Order Router Subsidy (ORS) and Complex Order Router Subsidy (CORS) Programs. Like all other products in Underlying Symbol List A (with the exception of SROs), the Exchange proposes to apply to AWDE and FTEM the CBOE Proprietary Products Sliding Scale. The Exchange does intend to keep AWDE and FTEM volume in the calculation of qualifying volume for the rebate of Floor Broker Trading Permit fees. The Exchange notes that although AWDE and FTEM are being added to "Underlying Symbol List A", it wishes to include AWDE and FTEM in the calculation of the qualifying volume for the rebate of Floor Broker Trading Permit fees. The Exchange wishes to continue to encourage Floor Brokers to execute open-outcry trades in these classes and believes that including them in the qualifying volume will provide such incentive.

The Exchange next proposes to establish transaction fees for AWDE and FTEM. Particularly, the Exchange proposes to assess the same fees for AWDE and FTEM as apply to UKXM and FXTM options. Transaction fees for AWDE and FTEM options will be as follows (all listed rates are per contract):

Customer	\$0.18
Clearing Trading Permit Holder Proprietary	0.25
CBOE Market-Maker/DPM	0.20
Joint Back-Office, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional (non-AIM Electronic)	0.65
Joint Back-Office, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional (Manual and AIM)	0.25

The Exchange also proposes to apply to AWDE and FTEM, like RUI, RLV, and RLG, and RUT, the Floor Brokerage Fee of \$0.04 per contract (\$0.02 per contract for crossed orders). The Exchange also proposes to apply to AWDE and FTEM the CFLEX Surcharge Fee of \$0.10 per contract for all AWDE and FTEM orders executed electronically on CFLEX, capped at \$250 per trade (*i.e.*, first 2,500 contracts per trade). The CFLEX Surcharge Fee assists the Exchange in recouping the cost of developing and maintaining the CFLEX system. The Exchange notes that the CFLEX Surcharge Fee (and \$250 cap) also applies to other proprietary index

options, including products in Underlying Symbol List A.

The Exchange currently assesses an Index License Surcharge for RUT of \$0.45 per contract for all non-customer orders. Because the fees associated with the license for AWDE and FTEM are lower than the license fees for RUT, the Exchange proposes to assess a Surcharge of \$0.10 per contract in order to recoup the costs associated with the AWDE and FTEM license.

In order to promote and encourage trading of AWDE and FTEM, the Exchange proposes to waive all transaction fees (including the Floor Brokerage Fee, Index License Surcharge

and CFLEX Surcharge Fee) for AWDE and FTEM transactions through December 31, 2016. In order to promote and encourage trading of UKXM, FXTM, RUI, RLV and RLG, the Exchange also proposes to extend the waiver of transaction fees (including the Floor Brokerage Fee, Index License Surcharge and CFLEX Surcharge Fee) for UKXM, FXTM, RUI, RLV and RLG. The Exchange proposes to amend Footnote 40 to the Fees Schedule to make clear that transaction fees for AWDE, FTEM, RUI, RLV, RLG, UKXM and FXTM will be waived through December 31, 2016.

The Exchange is also offering a compensation plan to the Designated

Primary Market-Maker(s) ("DPM(s)") appointed in AWDE and FTEM to offset the initial DPM costs. The Exchange proposes to add AWDE and FTEM to Footnote 43 to the Fees Schedule, which currently provides that DPM(s) appointed for an entire month in either FXTM or UKXM will receive a payment of \$7,500 per class per month through December 31, 2016. Because AWDE and FTEM are scheduled to be listed on September 26, 2016, the appointed DPM(s) will not have an appointment in AWDE and FTEM for the entire month of September; thus, the DPM(s) will not receive compensation for September 2016. The DPM(s) appointed for the entire month of October, November, etc. will receive compensation of \$7,500 for each entire month the DPM is appointed in AWDE and FTEM through December 31, 2016.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁴ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁵ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

Particularly, the Exchange believes it is reasonable to charge different fee amounts to different user types in the manner proposed because the proposed fees are consistent with the price differentiation that exists today for other index products, including RUT, RUI, RLV, and RLG. The Exchange also believes that the proposed fee amounts for AWDE and FTEM orders are

reasonable because the proposed fee amounts are the same already assessed for similar products (e.g., RUT, RUI, RLV, and RLG), as well as are within the range of amounts assessed for the Exchange's other proprietary products.⁶

The Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Customers as compared to other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The fees offered to customers are intended to attract more customer trading volume to the Exchange. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fees Schedule currently does so in many places, as do the fees structures of many other exchanges. Finally, all fee amounts listed as applying to Customers will be applied equally to all Customers (meaning that all Customers will be assessed the same amount).

The Exchange believes that it is equitable and not unfairly discriminatory to, assess lower fees to Market-Makers as compared to other market participants other than Customers because Market-Makers, unlike other market participants, take on a number of obligations, including quoting obligations, that other market participants do not have. Further, these lower fees offered to Market-Makers are intended to incent Market-Makers to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants. Additionally, the proposed fee for Market-Makers will be applied equally to all Market-Makers (meaning that all Market-Makers will be assessed the same amount). This concept also applies to orders from all other origins. It should also be noted that all fee amounts described herein are intended to attract greater order flow to the Exchange in AWDE and FTEM which should therefore serve to benefit all Exchange market participants. Similarly, it is equitable and not unfairly discriminatory to assess lower fees to Clearing Trading Permit Holder

Proprietary orders than those of other market participants (except Customers and Market-Makers) because Clearing Trading Permit Holders also have a number of obligations (such as membership with the Options Clearing Corporation), significant regulatory burdens, and financial obligations, that other market participants do not need to take on. The Exchange also notes that the AWDE and FTEM fee amounts for each separate type of market participant will be assessed equally to all such market participants (*i.e.* all Broker-Dealer orders will be assessed the same amount, all Joint Back-Office orders will be assessed the same amount, etc.).

The Exchange believes the proposed AIM transaction fees for Brokers Dealers, Non-Trading Permit Holder Market-Makers, Professionals/Voluntary Professionals, JBOs and Customers are reasonable because the amounts are still lower than assessed for AIM transactions in other proprietary products.⁷ The Exchange believes it's equitable and not unfairly discriminatory to assess lower fees for AIM executions as compared to electronic executions because AIM is a price-improvement mechanism, which the Exchange wishes to encourage and support.

Assessing the Floor Brokerage Fee of \$0.04 per contract for non-crossed orders and \$0.02 per contract for crossed orders to Floor Brokers (and not other market participants) trading AWDE and FTEM orders is equitable and not unfairly discriminatory because only Floor Brokers are statutorily capable of representing orders in the trading crowd, for which they charge a commission. Moreover, this fee is already assessed, in the same amounts, to the other products in Underlying Symbol List A, including UKXM, FXTM, RUT, RUI, RLV, and RLG.

The Exchange believes that assessing an Index License Surcharge Fee of \$0.10 per contract to AWDE and FTEM transactions is reasonable because the Surcharge helps recoup some of the costs associated with the license for AWDE and FTEM options. Additionally, the Exchange notes that the Surcharge amount is the same as, and in some cases lower than, the amount assessed as an Index License Surcharge to other index products. The proposed Surcharge is also equitable and not unfairly discriminatory because the amount will be assessed to all market participants to whom the Surcharge applies. Not applying the AWDE and FTEM Index License Surcharge Fee to Customer orders is equitable and not

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

⁵ 15 U.S.C. 78f(b)(4).

⁶ See CBOE Fees Schedule, Specified Proprietary Index Options Rate Table.

⁷ *Id.*

unfairly discriminatory because this is designed to attract Customer AWDE and FTEM orders, which increases liquidity and provides greater trading opportunities to all market participants. Additionally, it is equitable and not unfairly discriminatory to assess a lower License Index Surcharge amount to AWDE and FTEM transactions as compared to RUT transactions because the costs of the license associated with RUT is greater.

Similarly, the Exchange believes assessing a CFLEX Surcharge Fee of \$0.10 per contract for all AWDE and FTEM orders executed electronically on CFLEX and capping it at \$250 (*i.e.*, first 2,500 contracts per trade) is reasonable because it is the same amount currently charged to other proprietary index products for the same transactions.⁸ The proposed Surcharge is also equitable and not unfairly discriminatory because the amount will be assessed to all market participants to whom the CFLEX Surcharge applies.

Excepting AWDE and FTEM from the Liquidity Provider Sliding Scale, VIP, the Marketing Fee, the Fee Cap, and the exemption from fees for facilitation orders and the ORS and CORS Programs is reasonable because other Underlying Symbol List A products (*i.e.*, other products that are exclusively-listed) are excepted from those same items. This is equitable and not unfairly discriminatory for the same reason; it seems equitable to except AWDE and FTEM from items on the Fees Schedule from which other proprietary products are also excepted.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to waive all transaction fees, including the Floor Brokerage fee, the License Index Surcharge and CFLEX Surcharge Fee because it promotes and encourages trading of these new products and applies to all Trading Permit Holders ("TPHs").

Applying to AWDE and FTEM to the CBOE Proprietary Products Sliding Scale is reasonable because it also applies to other Underlying Symbol List A products. This is equitable and not unfairly discriminatory for the same reason; it seems equitable to apply to AWDE and FTEM the same items on the Fees Schedule that apply to Underlying Symbol List A options classes (*i.e.*, proprietary options classes that are not listed on other exchanges).

The Exchange believes it's reasonable, equitable and not unfairly

discriminatory to continue to include AWDE and FTEM in the calculation of the qualifying volume for the Floor Broker Trading Permit Fees rebate because the Exchange wishes to support and encourage open-outcry trading of AWDE and FTEM, which allows for price improvement and has a number of positive impacts on the market system.

Finally, the Exchange believes that it is equitable and not unfairly discriminatory to compensate DPM(s) that are appointed for an entire month in either AWDE and FTEM. DPM(s) incur costs when receiving an appointment, and in the case of AWDE and FTEM, the Exchange believes it is appropriate to provide compensation to the DPM(s) to offset those costs.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different fees are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, Market-Makers have quoting obligations that other market participants do not have. The Exchange does not believe that the proposed rule change to waive all transaction fees through December 31, 2016 will impose any burden on intramarket competition because it applies to all TPHs and encourages trading in these new products.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because AWDE and FTEM will be exclusively listed on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

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

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

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) of the Act⁹ and paragraph (f) of Rule 19b-4¹⁰ thereunder. 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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2016-070 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-CBOE-2016-070. 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 Web site (<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 Web site viewing and printing in the Commission's Public

⁸ See CBOE Fees Schedule, Index Options Rate Table—All Index Products Excluding Underlying Symbol List A, CFLEX Surcharge Fee and Specified Proprietary Index Options Rate Table—Underlying Symbol List A, CFLEX Surcharge Fee.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f).

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 such 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-CBOE-2016-070, and should be submitted on or before October 21, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Brent J. Fields,
Secretary.

[FR Doc. 2016-23609 Filed 9-29-16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78931; File No. SR-NSX-2016-11]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee and Rebate Schedule To Create a Liquidity-Adding Volume Threshold To Benefit From the Current Liquidity Taking Fee in Securities Priced \$1.00 or Greater

September 26, 2016.

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 20, 2016, 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 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 is proposing to amend its Fee and Rebate Schedule (the “Fee Schedule”), issued pursuant to Exchange Rule 16.1, to: (1) Create a monthly, liquidity-adding volume

threshold that Equity Trading Permit (“ETP”) Holders³ will be required to meet to continue to pay for [sic] the current liquidity-taking fee in securities priced \$1.00 or greater and establish a different, higher liquidity-taking fee for ETP Holders that do not meet the new volume threshold; and (2) make ministerial changes to the Fee Schedule.

The text of the proposed rule change is available on the Exchange’s Web site at <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 amend its Fee Schedule, issued pursuant to Rule 16.1, with the goal of maximizing the effectiveness of its business model and continuing to provide ETP Holders a cost-effective execution venue. To further incentivize ETP Holders to post liquidity on the NSX Book,⁴ the Exchange is proposing to create a monthly, liquidity-adding volume threshold that an ETP Holder must reach to continue to pay the current liquidity-taking fee for securities priced \$1.00 or greater. The Exchange proposes to adopt a different, higher liquidity-taking fee for ETP Holders that do not meet the new liquidity-adding volume threshold.

Currently, the Exchange charges ETP Holders \$0.0003 per share executed for liquidity-taking orders in symbols priced at \$1.00 or greater. The Exchange proposes to amend its fee schedule to add language in the Transaction Fees and Rebates section of the Fee Schedule

and an Explanatory Note 1 which will create two different price structures depending on the amount of liquidity that an ETP Holder adds on the Exchange. Specifically, the Exchange will charge the current “taker” fee of \$0.0003 per executed share for any marketable liquidity-removing order in securities priced at \$1.00 or greater to any ETP Holder that executes at least 50,000 shares of liquidity-adding volume during a calendar month. An ETP Holder that does not execute at least 50,000 shares of liquidity-adding volume during a calendar month will be charged \$0.0030 per executed share for any liquidity-removing order in securities priced at \$1.00 or greater. After each calendar month, the Exchange will calculate the number of shares of liquidity-adding volume that each ETP Holder executed and apply the appropriate fee for the ETP Holder’s liquidity-taking executions that calendar month.

The Exchange also proposes to make the ministerial change of adjusting the numbering for Explanatory Notes in light of the addition of proposed Explanatory Note 1.

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,⁵ in general and, in particular, Section 6(b)(4) of the Act,⁶ 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,⁷ 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 liquidity-adding volume

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Exchange Rule 1.5E(1) defines “ETP” as the Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange’s trading facilities.

⁴ Exchange Rule 1.5N(1) defines “NSX Book” as the trading systems’ electronic file of orders.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78f(b)(5).