

Required fields are shown with yellow backgrounds and asterisks.

Filing by Nasdaq ISE, LLC
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to amend Rule 701 to specify the obligations of a Primary Market Maker when entering Valid Width Quotes during the Opening Process.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Last Name *
 Title *
 E-mail *
 Telephone * Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date
 By

(Name *)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Nasdaq ISE, LLC (“ISE” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend Rule 701, entitled “Openings,” to specify the obligations of a Primary Market Maker (“PMM”) when entering Valid Width Quotes³ during the Opening Process.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”) on September 19, 2017. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Angela Saccomandi Dunn
Principal Associate General Counsel
Nasdaq, Inc.
215-496-5692

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A “Valid Width Quote” is a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4). See Rule 701(a)(8).

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The Exchange is proposing to amend Rule 701, Openings, to amend the obligations of a PMM when entering Valid Width Quotes during the Opening Process. In addition, the Exchange proposes to make clear the obligations of a PMM and a Competitive Market Maker ("CMM") once an options series has opened.

Currently, Rule 701(c)(1) provides, the Opening Process for an option series will be conducted pursuant to paragraphs (f) – (j) of ISE Rule 701 on or after 9:30 AM Eastern Time if: the ABBO, if any, is not crossed; and the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site), or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site) any of the following: (i) the PMM's Valid Width Quote; (ii) the Valid Width Quotes of at least two CMM or (iii) if neither the PMM's Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote.

Thereafter, Rule 701(c)(3) specifies that the PMM assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later

than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening.

The Exchange proposes to make clear that a PMM has the obligations specified in ISE Rule 701(c)(3) to promptly enter a Valid Width Quote in the remainder of their assigned series in cases where the PMM's assigned series was not already opened by a CMM as permitted by Rule 701(c)(1)(ii) and (iii) as noted herein. The PMM would continue to have the ultimate obligation to open each assigned series, however this rule change would not require the PMM to enter a Valid Width Quote for the 10% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index during the Opening Process if an options series has opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3). Also, the PMM assigned in a particular U.S. dollar-settled foreign currency option would not be required to enter a Valid Width Quote for 10% of their assigned series, not later than

one minute after the announced market opening during the Opening Process if an options series opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3).

Today ISE Rule 701 requires a PMM to open the market and provides an alternative mechanism to permit an alternative opening by a CMM.⁴ The proposal seeks to make clear the obligations of the PMM with respect to options series that were open by a CMM as well as the quoting obligations of a CMM that opened the options series. The Exchange proposes to amend ISE Rule 701(c)(3) to state that once an option series has opened pursuant to Rule 701(c)(1)(i) – (iii), a PMM must submit continuous, two-sided quotes in such option series pursuant to Supplementary .01 to ISE Rule 804. The Exchange also proposes to amend Rule 701(c)(4) to state that a CMM that submits a quote during the opening in any option series pursuant to Rule 701(c)(1)(ii) or (iii) must submit continuous, two-sided quotes in such options series pursuant to ISE Rule 804(e)(2)(iii) once an option series has opened. Specifically, the Exchange proposes to add rule text to Rule 701(c)(3) to provide that “once an options series has opened pursuant to Rule 701(c)(1)(i)- (iii), a PMM must submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804.” Further, the Exchange proposes to add rule text to Rule 701(c)(4) to states that “A CMM that submits a quote pursuant to Rule 701 in any option series when the PMM’s quote has not been submitted shall be required, once an options series has opened, to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii).”

⁴ See ISE Rule 701(c)(1)(i) – (iii).

The Exchange proposes to make clear that a PMM has an obligation to enter Valid Width Quotes during the Opening Process within the timeframes specified in Rule 701(c)(3). In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), a PMM would be required to submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, in this instance, a CMM would be required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii). The Exchange notes that a CMM would not have an obligation to quote in such option series pursuant to Rule 804(e)(2)(iii), unless the CMM submitted a quote pursuant to Rule 701 or otherwise submitted a quote intra-day.⁵ The purpose of this new rule text is to make clear the quoting obligations for both PMMs and CMMs during the opening and the manner in which Rule 701, relating to the Opening Process, and Rule 804, relating to Market Maker quoting obligations, interact with each other.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that it is 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, and, in general to protect investors and the public interest by amending

⁵ See ISE Rule 804(e)(2)(i) which states, “On any given day, a Competitive Market Maker is not required to enter quotations in the options classes to which it is appointed.”

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

ISE Rule 701(c)(3) to further specify a PMM's obligations during the Opening Process and once an options series as opened as well as the obligations of a CMM to the extent that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The Exchange believes that this proposal is consistent with the Act because a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), the CMM must submit continuous, two-sided quotes in such option series, once the options series has opened, pursuant to Rule 804(e)(2)(iii). The Exchange believes that this proposed rule change will make clear the obligations of the PMM with respect to submitting Valid Width Quotes and thereafter, once an options series has opened, submitting continuous two-sided quotes, when a CMM may have already entered a quote to open an options series. The Exchange's proposal to add rule text to clearly specify the quoting obligations of a PMM and CMM during the Opening Process and once an option series has opened will provide greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Once an options series has opened, a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, if an options series opened pursuant to ISE Rule 701(c)(1)(ii) or (iii), a CMM shall

be required to submit continuous, two-sided quotes in such option series, once an option series has opened. pursuant to Rule 804(e)(2)(iii). This proposed rule text makes clear that CMMs are required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii), in the event an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The proposal provides greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not Applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)⁸ of the Act and Rule 19b-4(f)(6) thereunder⁹ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange believes that this proposal does not significantly affect the protection of investors or the public interest because a PMM continues to be responsible

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6).

to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804, once the options series has opened. Also, if an options series opened pursuant to ISE Rule 701(c)(1)(ii) or (iii), a CMM shall be required to submit continuous, two-sided quotes in such option series, once an option series has opened, pursuant to Rule 804(e)(2)(iii). The proposed rule change does not impose any significant burden on competition because a CMM shall be required to submit continuous, two-sided quotes in such option series, once an option series has opened, pursuant to Rule 804(e)(2)(iii), even if a PMM has not submitted a Valid Width Quote during the Opening Process. Also, the rule text proposes to make clear that a PMM continues to be obligated to submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804, once the option series has opened.

Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become

operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that the Exchange may clarify Rule 701 to make clear the quoting obligations of a PMM during the opening process and once the options series has opened. Also, the Exchange proposes to make clear the obligations of a CMM that chooses to quote during the Opening Process and the continuing obligations of that CMM, in such options series, during the remainder of that trading day. The Exchange believes that these obligations should be immediately clarified to prevent confusion and uncertainty for Market Makers quoting on ISE.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-ISE-2017-104)

November __, 2017

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Primary Market Maker Obligations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 29, 2017, Nasdaq ISE, LLC (“ISE” 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 Rule 701, entitled “Openings,” to specify the obligations of a Primary Market Maker (“PMM”) when entering Valid Width Quotes³ during the Opening Process.

The text of the proposed rule change is available on the Exchange’s Website at <http://ise.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A “Valid Width Quote” is a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4). See Rule 701(a)(8).

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 is proposing to amend Rule 701, Openings, to amend the obligations of a PMM when entering Valid Width Quotes during the Opening Process. In addition, the Exchange proposes to make clear the obligations of a PMM and a Competitive Market Maker ("CMM") once an options series has opened.

Currently, Rule 701(c)(1) provides, the Opening Process for an option series will be conducted pursuant to paragraphs (f) – (j) of ISE Rule 701 on or after 9:30 AM Eastern Time if: the ABBO, if any, is not crossed; and the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site), or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web

site) any of the following: (i) the PMM's Valid Width Quote; (ii) the Valid Width Quotes of at least two CMM or (iii) if neither the PMM's Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote.

Thereafter, Rule 701(c)(3) specifies that the PMM assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening.

The Exchange proposes to make clear that a PMM has the obligations specified in ISE Rule 701(c)(3) to promptly enter a Valid Width Quote in the remainder of their assigned series in cases where the PMM's assigned series was not already opened by a CMM as permitted by Rule 701(c)(1)(ii) and (iii) as noted herein. The PMM would continue to have the ultimate obligation to open each assigned series, however this rule change would not require the PMM to enter a Valid Width Quote for the 10% of their assigned series, not later than one minute following the dissemination of a quote or trade

by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index during the Opening Process if an options series has opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3). Also, the PMM assigned in a particular U.S. dollar-settled foreign currency option would not be required to enter a Valid Width Quote for 10% of their assigned series, not later than one minute after the announced market opening during the Opening Process if an options series opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3).

Today ISE Rule 701 requires a PMM to open the market and provides an alternative mechanism to permit an alternative opening by a CMM.⁴ The proposal seeks to make clear the obligations of the PMM with respect to options series that were open by a CMM as well as the quoting obligations of a CMM that opened the options series. The Exchange proposes to amend ISE Rule 701(c)(3) to state that once an option series has opened pursuant to Rule 701(c)(1)(i) – (iii), a PMM must submit continuous, two-sided quotes in such option series pursuant to Supplementary .01 to ISE Rule 804. The Exchange also proposes to amend Rule 701(c)(4) to state that a CMM that submits a quote during the opening in any option series pursuant to Rule 701(c)(1)(ii) or (iii) must submit continuous, two-sided quotes in such options series pursuant to ISE Rule 804(e)(2)(iii) once an option series has opened. Specifically, the Exchange proposes to add rule text to Rule 701(c)(3) to provide that “once an options series has opened pursuant to Rule 701(c)(1)(i)- (iii), a PMM must submit continuous, two-sided quotes in

⁴ See ISE Rule 701(c)(1)(i) – (iii).

such options series pursuant to Supplementary Material .01 to Rule 804.” Further, the Exchange proposes to add rule text to Rule 701(c)(4) to states that “A CMM that submits a quote pursuant to Rule 701 in any option series when the PMM’s quote has not been submitted shall be required, once an options series has opened, to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii).”

The Exchange proposes to make clear that a PMM has an obligation to enter Valid Width Quotes during the Opening Process within the timeframes specified in Rule 701(c)(3). In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), a PMM would be required to submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, in this instance, a CMM would be required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii). The Exchange notes that a CMM would not have an obligation to quote in such option series pursuant to Rule 804(e)(2)(iii), unless the CMM submitted a quote pursuant to Rule 701 or otherwise submitted a quote intra-day.⁵ The purpose of this new rule text is to make clear the quoting obligations for both PMMs and CMMs during the opening and the manner in which Rule 701, relating to the Opening Process, and Rule 804, relating to Market Maker quoting obligations, interact with each other.

⁵ See ISE Rule 804(e)(2)(i) which states, “On any given day, a Competitive Market Maker is not required to enter quotations in the options classes to which it is appointed.”

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that it is 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, and, in general to protect investors and the public interest by amending ISE Rule 701(c)(3) to further specify a PMM's obligations during the Opening Process and once an options series as opened as well as the obligations of a CMM to the extent that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The Exchange believes that this proposal is consistent with the Act because a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), the CMM must submit continuous, two-sided quotes in such option series, once the options series has opened, pursuant to Rule 804(e)(2)(iii). The Exchange believes that this proposed rule change will make clear the obligations of the PMM with respect to submitting Valid Width Quotes and thereafter, once an options series has opened, submitting continuous two-sided quotes, when a CMM may have already entered a quote to open an options series. The Exchange's proposal to add rule text to clearly specify the quoting obligations of a PMM and CMM during the Opening Process and once an option series has opened will provide greater clarity to the Opening Process and

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Once an options series has opened, a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, if an options series opened pursuant to ISE Rule 701(c)(1)(ii) or (iii), a CMM shall be required to submit continuous, two-sided quotes in such option series, once an option series has opened. pursuant to Rule 804(e)(2)(iii). This proposed rule text makes clear that CMMs are required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii), in the event an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The proposal provides greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed,

or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2017-104 on the subject line.

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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-ISE-2017-104. 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 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 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-ISE-2017-104 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.¹⁰

Eduardo A. Aleman
Assistant Secretary

¹⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is bracketed.

**Nasdaq ISE, LLC
RULES**

* * * * *

Rule 701. Opening

(a) and (b) No change.

(c) Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM Eastern Time are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.

(1) and (2) No change.

(3) The PMM assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. Provided an options series has not opened pursuant to Rule 701(c)(1)(ii) or (iii), PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening. Once an options series has opened pursuant to Rule 701(c)(1)(i) - (iii), a PMM must submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804.

(4) A CMM that submits a quote pursuant to this Rule 701 in any option series when the PMM's quote has not been submitted shall be required, once an options series has opened, to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii)[until such time as the PMM submits his/her quote, after which the Market Maker that submitted such quote shall be obligated to submit quotations pursuant to Rule 804(e)].

(5) No change.

(d) – (l) No change.

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