

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 * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input 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) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
Section 3C(b)(2) * <input type="checkbox"/>	

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

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

A proposed rule change to amend the Schedule of Fees to clarify the Market Maker Plus program

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 * Adrian Last Name * Griffiths
 Title * Senior Associate General Counsel
 E-mail * adrian.griffiths@nasdaq.com
 Telephone * (212) 231-5176 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 12/12/2017 Executive Vice President and General Counsel
 By Edward S. Knight edward.knight@nasdaq.com
 (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

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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 proposed rule change to amend the Schedule of Fees to clarify the Market Maker Plus program.

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:

Adrian Griffiths
Senior Associate General Counsel
Nasdaq, Inc.
212-231-5176

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The Exchange operates a Market Maker Plus program for regular orders in Select Symbols³ whereby Market Makers that contribute to market quality by maintaining tight markets are eligible for enhanced rebates. The purpose of the proposed rule change is to amend the Schedule of Fees to clarify how the Exchange provides Market Maker Plus rebates under the Schedule of Fees.

A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer ("NBBO") a specified percentage of the time for series trading between \$0.03 and \$3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to \$100) and between \$0.10 and \$3.00 (for options whose underlying stock's previous trading day's last sale price was greater than \$100) in premium in each of the front two expiration months.⁴ Currently, the specified percentage for time at the NBBO for Select Symbols other than SPY and QQQ is 80% to less than 85% for Tier 1, 85% to less than 95% for Tier 2, and 95% or greater for Tier 3. For SPY and QQQ only, the specified percentage for time at the NBBO is 70% to less than 80%

³ "Select Symbols" are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

⁴ A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate. Other than days where the Exchange closes early for holiday observance, any day that the market is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from the Market Maker Plus tier calculation; provided that the Exchange will only remove the day for members that would have a lower time at the NBBO for the specified series with the day included.

for Tier 1, 80% to less than 85% for Tier 2, 85% to less than 90% for Tier 3, and 90% or greater for Tier 4.

Due to how quoting infrastructure is designed on INET, when determining if the Market Maker meets the above specified percentages, Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations.⁵ If any badge/suffix combination meets the specified percentage for a tier, the rebates for that tier are applied to executions for all badge/suffix combinations used by the member to trade the product – i.e., a member's highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol. The same logic applies for linked rebates in SPY/QQQ, meaning that if a member achieves a higher tier of Market Maker Plus for any badge/suffix combination in one product (e.g., SPY) but not for badge/suffix combinations in the other linked product (e.g., QQQ), the member would receive the linked rebate in the other product for all badge/suffix combinations.

For example, assume Market Maker ABC is configured to trade SPY in the following badge/suffix combinations: 123A, 123B, and 321A, and is on the NBBO 97% of the time in 123A, 86% of the time in 123B, and 92% of the time in 321A. Based on these facts, Market Maker ABC would qualify for Tier 3 rebates in SPY for 123A based on a time at the NBBO of 95% or greater. In addition Market Maker ABC would qualify for the same Tier 3 rebates in SPY for 123B and 321A as the highest tier achieved is

⁵ Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers – i.e., badge/suffix combinations.

applied to all badge/suffix combinations. If Market Maker ABC also quotes QQQ in 321A, and is on the NBBO 80% of the time for that badge/suffix, it would similarly receive the Tier 3 Linked Rebate for QQQ in 321A based on quoting activity for SPY in 123A.

Based on the above, the Exchange proposes to amend footnote 5 under Section I. Regular Order Fees and Rebates to provide that: “Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers – i.e., badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker’s badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol.” In addition, the Exchange proposes to amend the second sentence of footnote 9 under Section I. Regular Order Fees and Rebates to provide that: “Linked maker rebate applies to executions in SPY or QQQ if the Market Maker does not achieve the applicable tier in that symbol but achieves the tier (i.e., any of Market Maker Plus Tiers 2-4) *for any badge/suffix combination* in the other symbol, in which case the higher tier achieved applies to both symbols.”

Furthermore, the Schedule of Fees provides that if a Market Maker achieves Market Maker Plus status, a \$0.10 per contract fee applies when trading against Priority Customer complex orders that leg into the regular order book, and there will be no fee charged or rebate provided when trading against non-Priority Customer complex orders that leg into the regular order book. The \$0.10 per contract fee described above has always been applied instead of the tiered rebate that normally applies to Market Maker

Plus executions.⁶ To increase transparency to members, the Exchange proposes to explicitly state in the Schedule of Fees that no Market Maker Plus rebate is provided when a fee is charged. As proposed, the first line of footnote 10 under Section I. Regular Order Fees and Rebates will be amended to provide that: “A \$0.10 per contract fee applies *instead of the applicable Market Maker Plus rebate* when trading against Priority Customer complex orders that leg into the regular order book.” Although this change is consistent with current practice, the Exchange believes that it will eliminate any potential confusion around whether a rebate is provided in addition to the fee charged when trading against Priority Customer complex orders that leg into the regular order book.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁸ 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change is reasonable and equitable as it identifies how Market Maker Plus rebates are provided on INET, which performs the Market Maker Plus calculation at the badge/suffix level and applies Market Maker Plus rebates to executions across all badge/suffix combinations that the member uses to trade

⁶ See Securities Exchange Act Release No. 72817 (August 12, 2014), 79 FR 48801 (August 18, 2014) (SR-ISE-2014-39).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

in that symbol, or to trade in a linked symbol in the case of linked maker rebates for SPY/QQQ. The Exchange believes that it is appropriate to amend the Schedule of Fees so that members are appropriately apprised of how the Market Maker Plus program is implemented on INET. By including this detail in the Schedule of Fees, the proposed rule change will increase transparency around the Exchange's billing to the benefit of its members, and in particular, Market Makers that participate in the Market Maker Plus Program.

The INET implementation being codified in this proposed rule change is different in one respect from the prior implementation on the legacy T7 trading system. Specifically, although the T7 billing system similarly applied the rebates to all of a Market Maker's executions in a symbol where the member met the Market Maker Plus requirements, the calculation for time at the NBBO was based on all quotes submitted by the member. On the legacy system, Market Makers were assigned Business Unit designations for their quoting, with the majority of Market Makers being configured with only one Business Unit for all of the firm's quoting activity across the suite of products listed by the Exchange.⁹ On INET, by contrast, Market Makers are assigned one or more accounts and can associate different badge/suffix combinations with each of those accounts – for example, to manage quotes in a particular product. As currently implemented on INET, Market Makers that quote a product across multiple badge/suffix combinations have to qualify for a tier for one or more badge/suffix combinations in order to qualify for that tier of Market Maker Plus. Because of the different system architecture, which allows flexibility in setting up badge/suffix combinations associated

⁹ A number of users could be permissioned for each Business Unit.

with a Market Maker account(s), the INET billing system does not aggregate quoting activity across these separate badge/suffix combinations to determine eligibility.

However, once a member qualifies for one badge/suffix combination, rebates are paid across all of the Market Maker's badge/suffix combinations that trade the product, thereby ensuring that Market Makers receive this benefit across the entire firm when enhancing market quality.

The vast majority of Market Makers that choose to enter quotes for a product using a single badge/suffix combination on INET are unaffected by this change, which only impacts firms that decide to quote a product across multiple badge/suffix combinations. In conducting an analysis of Market Makers potentially impacted by this change because the member quotes a single symbol using more than one badge/suffix combination on INET, the Exchange found only one member that did so and only during one month in a total of three symbols. The Exchange therefore believes that members are unlikely to be negatively impacted in their ability to earn rebates for their market quality contribution under the INET implementation. Furthermore, for Market Makers that do choose to enter quotes for a single product using multiple badge/suffix combinations, the Exchange believes that this implementation is appropriate as these members may be conducting separate business across these badge/suffix combinations and should therefore have their contribution to market quality measured at that level. Nevertheless, as mentioned above, the program benefits continue to accrue to all badge/suffix combinations once one badge/suffix combination qualifies for that tier of Market Maker Plus. Paying rebates across the entire firm based on the highest tier of Market Maker Plus achieved in a symbol adds an extra incentive for members to qualify for Market Maker

Plus in one or more badge/suffix combinations by maintaining quality markets based on time at the NBBO.

The Exchange also believes that the proposed changes are not unfairly discriminatory as all Market Makers are free to configure their quoting activity across one or more badge/suffix combinations based on their business or other needs, and will be treated uniformly based on their quoting activity (i.e., time at the NBBO) and configuration (i.e., badge/suffix setup) in the manner described in this proposed rule change. As described above, this change is unlikely to have any significant effect on any Market Maker's ability to earn rebates under the Market Maker Plus program because it is rare for Market Makers to quote a single product across multiple badge/suffix combinations, and any impact can be mitigated by the Market Maker determining to quote a product using only one badge/suffix combination. Moreover, to the extent that any Market Maker chooses to use multiple badge/suffix combinations to quote a particular symbol, the Exchange believes that such member may be conducting separate business across these badge/suffix combinations and it is therefore not unfairly discriminatory to have the firm's contribution to market quality measured at that level. Furthermore, the proposed rule change will increase transparency around how Market Maker Plus rebates are applied, which is beneficial for all members.

Finally, the Exchange believes that the proposed clarification to the fee charged for trading against Priority Customer complex orders that leg into the regular order book is reasonable, equitable, and not unfairly discriminatory as it avoids potential member confusion about whether a rebate is provided when the fee is charged. Although prior filings were more clear that a rebate is not provided when a fee is charged, the Exchange

wishes to be explicit about this in the text of the Schedule of Fees. The Exchange believes that the proposed change will increase transparency around the Exchange's billing to the benefit of its members.

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. The proposed rule change describes the INET implementation of the Market Maker Plus program. While certain elements of the program are changed from the prior T7 practice, for the reasons described in this proposed rule change the Exchange does not believe that any members will be significantly impacted by the changes. The Exchange therefore believes that the Market Maker Plus program will continue to encourage competition by incentivizing Market Makers to provide liquidity and maintain tight markets in Select Symbols. Furthermore, the proposed rule change explains that rebates are not provided when a fee is charged for trading against Priority Customer complex orders that leg into the regular order book. This language merely describes the Exchange's billing, which remains unchanged, and will increase transparency to members without any impact on competition. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

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)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁰ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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.

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

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

Not applicable.

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2017-108)

December __, 2017

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend the Schedule of Fees to Clarify the Market Maker Plus program

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 December 12, 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 the Schedule of Fees to clarify the Market Maker Plus program.

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.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 operates a Market Maker Plus program for regular orders in Select Symbols³ whereby Market Makers that contribute to market quality by maintaining tight markets are eligible for enhanced rebates. The purpose of the proposed rule change is to amend the Schedule of Fees to clarify how the Exchange provides Market Maker Plus rebates under the Schedule of Fees.

A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer ("NBBO") a specified percentage of the time for series trading between \$0.03 and \$3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to \$100) and between \$0.10 and \$3.00 (for options whose underlying stock's previous trading day's last sale price was greater than \$100) in premium in each of the front two expiration months.⁴ Currently, the specified percentage

³ "Select Symbols" are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

⁴ A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate. Other than days where the Exchange closes early for holiday observance, any day that the market is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from the Market Maker Plus tier calculation; provided that the Exchange will only remove the day for members that would have a lower time at the NBBO for the specified series with the day included.

for time at the NBBO for Select Symbols other than SPY and QQQ is 80% to less than 85% for Tier 1, 85% to less than 95% for Tier 2, and 95% or greater for Tier 3. For SPY and QQQ only, the specified percentage for time at the NBBO is 70% to less than 80% for Tier 1, 80% to less than 85% for Tier 2, 85% to less than 90% for Tier 3, and 90% or greater for Tier 4.

Due to how quoting infrastructure is designed on INET, when determining if the Market Maker meets the above specified percentages, Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations.⁵ If any badge/suffix combination meets the specified percentage for a tier, the rebates for that tier are applied to executions for all badge/suffix combinations used by the member to trade the product – i.e., a member's highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol. The same logic applies for linked rebates in SPY/QQQ, meaning that if a member achieves a higher tier of Market Maker Plus for any badge/suffix combination in one product (e.g., SPY) but not for badge/suffix combinations in the other linked product (e.g., QQQ), the member would receive the linked rebate in the other product for all badge/suffix combinations.

For example, assume Market Maker ABC is configured to trade SPY in the following badge/suffix combinations: 123A, 123B, and 321A, and is on the NBBO 97% of the time in 123A, 86% of the time in 123B, and 92% of the time in 321A. Based on these facts, Market Maker ABC would qualify for Tier 3 rebates in SPY for 123A based

⁵ Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers – i.e., badge/suffix combinations.

on a time at the NBBO of 95% or greater. In addition Market Maker ABC would qualify for the same Tier 3 rebates in SPY for 123B and 321A as the highest tier achieved is applied to all badge/suffix combinations. If Market Maker ABC also quotes QQQ in 321A, and is on the NBBO 80% of the time for that badge/suffix, it would similarly receive the Tier 3 Linked Rebate for QQQ in 321A based on quoting activity for SPY in 123A.

Based on the above, the Exchange proposes to amend footnote 5 under Section I. Regular Order Fees and Rebates to provide that: “Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers – i.e., badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker’s badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol.” In addition, the Exchange proposes to amend the second sentence of footnote 9 under Section I. Regular Order Fees and Rebates to provide that: “Linked maker rebate applies to executions in SPY or QQQ if the Market Maker does not achieve the applicable tier in that symbol but achieves the tier (i.e., any of Market Maker Plus Tiers 2-4) for any badge/suffix combination in the other symbol, in which case the higher tier achieved applies to both symbols.”

Furthermore, the Schedule of Fees provides that if a Market Maker achieves Market Maker Plus status, a \$0.10 per contract fee applies when trading against Priority Customer complex orders that leg into the regular order book, and there will be no fee charged or rebate provided when trading against non-Priority Customer complex orders

that leg into the regular order book. The \$0.10 per contract fee described above has always been applied instead of the tiered rebate that normally applies to Market Maker Plus executions.⁶ To increase transparency to members, the Exchange proposes to explicitly state in the Schedule of Fees that no Market Maker Plus rebate is provided when a fee is charged. As proposed, the first line of footnote 10 under Section I. Regular Order Fees and Rebates will be amended to provide that: “A \$0.10 per contract fee applies *instead of the applicable Market Maker Plus rebate* when trading against Priority Customer complex orders that leg into the regular order book.” Although this change is consistent with current practice, the Exchange believes that it will eliminate any potential confusion around whether a rebate is provided in addition to the fee charged when trading against Priority Customer complex orders that leg into the regular order book.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁸ 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change is reasonable and equitable as it identifies how Market Maker Plus rebates are provided on INET, which performs the Market Maker Plus calculation at the badge/suffix level and applies Market Maker Plus

⁶ See Securities Exchange Act Release No. 72817 (August 12, 2014), 79 FR 48801 (August 18, 2014) (SR-ISE-2014-39).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

rebates to executions across all badge/suffix combinations that the member uses to trade in that symbol, or to trade in a linked symbol in the case of linked maker rebates for SPY/QQQ. The Exchange believes that it is appropriate to amend the Schedule of Fees so that members are appropriately apprised of how the Market Maker Plus program is implemented on INET. By including this detail in the Schedule of Fees, the proposed rule change will increase transparency around the Exchange's billing to the benefit of its members, and in particular, Market Makers that participate in the Market Maker Plus Program.

The INET implementation being codified in this proposed rule change is different in one respect from the prior implementation on the legacy T7 trading system. Specifically, although the T7 billing system similarly applied the rebates to all of a Market Maker's executions in a symbol where the member met the Market Maker Plus requirements, the calculation for time at the NBBO was based on all quotes submitted by the member. On the legacy system, Market Makers were assigned Business Unit designations for their quoting, with the majority of Market Makers being configured with only one Business Unit for all of the firm's quoting activity across the suite of products listed by the Exchange.⁹ On INET, by contrast, Market Makers are assigned one or more accounts and can associate different badge/suffix combinations with each of those accounts – for example, to manage quotes in a particular product. As currently implemented on INET, Market Makers that quote a product across multiple badge/suffix combinations have to qualify for a tier for one or more badge/suffix combinations in order to qualify for that tier of Market Maker Plus. Because of the different system

⁹ A number of users could be permissioned for each Business Unit.

architecture, which allows flexibility in setting up badge/suffix combinations associated with a Market Maker account(s), the INET billing system does not aggregate quoting activity across these separate badge/suffix combinations to determine eligibility.

However, once a member qualifies for one badge/suffix combination, rebates are paid across all of the Market Maker's badge/suffix combinations that trade the product, thereby ensuring that Market Makers receive this benefit across the entire firm when enhancing market quality.

The vast majority of Market Makers that choose to enter quotes for a product using a single badge/suffix combination on INET are unaffected by this change, which only impacts firms that decide to quote a product across multiple badge/suffix combinations. In conducting an analysis of Market Makers potentially impacted by this change because the member quotes a single symbol using more than one badge/suffix combination on INET, the Exchange found only one member that did so and only during one month in a total of three symbols. The Exchange therefore believes that members are unlikely to be negatively impacted in their ability to earn rebates for their market quality contribution under the INET implementation. Furthermore, for Market Makers that do choose to enter quotes for a single product using multiple badge/suffix combinations, the Exchange believes that this implementation is appropriate as these members may be conducting separate business across these badge/suffix combinations and should therefore have their contribution to market quality measured at that level. Nevertheless, as mentioned above, the program benefits continue to accrue to all badge/suffix combinations once one badge/suffix combination qualifies for that tier of Market Maker Plus. Paying rebates across the entire firm based on the highest tier of Market Maker Plus

achieved in a symbol adds an extra incentive for members to qualify for Market Maker Plus in one or more badge/suffix combinations by maintaining quality markets based on time at the NBBO.

The Exchange also believes that the proposed changes are not unfairly discriminatory as all Market Makers are free to configure their quoting activity across one or more badge/suffix combinations based on their business or other needs, and will be treated uniformly based on their quoting activity (i.e., time at the NBBO) and configuration (i.e., badge/suffix setup) in the manner described in this proposed rule change. As described above, this change is unlikely to have any significant effect on any Market Maker's ability to earn rebates under the Market Maker Plus program because it is rare for Market Makers to quote a single product across multiple badge/suffix combinations, and any impact can be mitigated by the Market Maker determining to quote a product using only one badge/suffix combination. Moreover, to the extent that any Market Maker chooses to use multiple badge/suffix combinations to quote a particular symbol, the Exchange believes that such member may be conducting separate business across these badge/suffix combinations and it is therefore not unfairly discriminatory to have the firm's contribution to market quality measured at that level. Furthermore, the proposed rule change will increase transparency around how Market Maker Plus rebates are applied, which is beneficial for all members.

Finally, the Exchange believes that the proposed clarification to the fee charged for trading against Priority Customer complex orders that leg into the regular order book is reasonable, equitable, and not unfairly discriminatory as it avoids potential member confusion about whether a rebate is provided when the fee is charged. Although prior

filings were more clear that a rebate is not provided when a fee is charged, the Exchange wishes to be explicit about this in the text of the Schedule of Fees. The Exchange believes that the proposed change will increase transparency around the Exchange's billing to the benefit of its members.

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. The proposed rule change describes the INET implementation of the Market Maker Plus program. While certain elements of the program are changed from the prior T7 practice, for the reasons described in this proposed rule change the Exchange does not believe that any members will be significantly impacted by the changes. The Exchange therefore believes that the Market Maker Plus program will continue to encourage competition by incentivizing Market Makers to provide liquidity and maintain tight markets in Select Symbols. Furthermore, the proposed rule change explains that rebates are not provided when a fee is charged for trading against Priority Customer complex orders that leg into the regular order book. This language merely describes the Exchange's billing, which remains unchanged, and will increase transparency to members without any impact on competition. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, and because market participants may readily adjust

their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

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 Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹

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.

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 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.

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-2017-108 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-ISE-2017-108. 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-2017-108 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.¹²

Eduardo A. Aleman
Assistant Secretary

¹² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

**Nasdaq ISE, LLC
RULES**

* * * * *

I. Regular Order Fees and Rebates

Select Symbols

Market Participant	Maker Rebate / Fee	Taker Fee	Fee for Crossing Orders Except PIM Orders (1)(2)	Fee for PIM Orders (1)(2)(13)	Fee for Responses to Crossing Orders Except PIM Orders	Fee for Responses to PIM Orders	Facilitation and Solicitation Break-up Rebate⁽⁴⁾
Market Maker ⁽⁸⁾	\$0.10 ⁽⁵⁾	\$0.44	\$0.20	\$0.10	\$0.50	\$0.20	N/A
Non-Nasdaq ISE Market Maker (FarMM)	\$0.10	\$0.45	\$0.20	\$0.10	\$0.50	\$0.20	(\$0.15)
Firm Proprietary / Broker-Dealer	\$0.10	\$0.46	\$0.20	\$0.10	\$0.50	\$0.20	(\$0.15)
Professional Customer	\$0.10	\$0.45	\$0.20 ⁽¹⁶⁾	\$0.10	\$0.50	\$0.20	(\$0.15)
Priority Customer	\$0.00	\$0.44 ⁽³⁾	\$0.00	\$0.00	\$0.50	\$0.20	(\$0.15)

* * * * *

5. Market Makers that qualify for Market Maker Plus will not pay this fee if they meet the applicable tier thresholds set forth in the table below, and will instead receive the below rebates based on the applicable tier for which they qualify. A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer a specified percentage of the time for series trading between \$0.03 and \$3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to \$100) and between \$0.10 and \$3.00 (for options whose underlying stock's previous trading day's last sale price was greater than \$100) in premium in each of the front two expiration months. Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers – i.e., badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of

the Market Maker's badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol. A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate. Other than days where the Exchange closes early for holiday observance, any day that the market is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from the Market Maker Plus tier calculation; provided that the Exchange will only remove the day for members that would have a lower time at the NBBO for the specified series with the day included.

Select Symbols other than SPY and QQQ ⁽¹⁰⁾		
Market Maker Plus Tier (Specified Percentage)	Maker Rebate	
Tier 1 (80% to less than 85%)	(\$0.15)	
Tier 2 (85% to less than 95%)	(\$0.18)	
Tier 3 (95% or greater)	(\$0.22)	
SPY and QQQ ⁽¹⁰⁾		
Market Maker Plus Tier (Specified Percentage)	Regular Maker Rebate	Linked Maker Rebate⁽⁹⁾
Tier 1 (70% to less than 80%)	(\$0.00)	N/A
Tier 2 (80% to less than 85%)	(\$0.18)	(\$0.16)
Tier 3 (85% to less than 90%)	(\$0.22)	(\$0.20)
Tier 4 (90% or greater)	(\$0.26)	(\$0.24)

* * * * *

9. Market Makers that qualify for Market Maker Plus Tiers 2-4 in note 5 above for executions in SPY or QQQ may be eligible for a linked maker rebate in addition to the regular maker rebate for the applicable tier. Linked maker rebate applies to executions in SPY or QQQ if the Market Maker does not achieve the applicable tier in that symbol but achieves the tier (i.e., any of Market Maker Plus Tiers 2-4) for any badge/suffix combination in the other symbol, in which case the higher tier achieved applies to both symbols. The regular maker rebate will be provided in the symbol that qualifies the Market Maker for the higher tier based on percentage of time at the NBBO.
10. A \$0.10 per contract fee applies instead of the applicable Market Maker Plus rebate when trading against Priority Customer complex orders that leg into the regular order book. There will be no fee charged or rebate provided when trading against non-Priority Customer complex orders that leg into the regular order book.

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