

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"/>
Pilot <input type="checkbox"/>			Rule		
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 *).

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 Executive Vice President and General Counsel
 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 proposed rule change to amend the Schedule of Fees for regular orders in Select Symbols to: (1) adjust rebates and tier thresholds for the Market Maker Plus program, and (2) increase taker fees for certain Firm-Proprietary, Broker-Dealer, and Priority Customer orders.

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 purpose of the proposed rule change is to amend the Schedule of Fees for regular orders in Select Symbols to: (1) adjust rebates and tier thresholds for the Market Maker Plus program, and (2) increase taker fees for certain Firm-Proprietary,³ Broker-Dealer,⁴ and Priority Customer⁵ orders.

The Exchange initially filed the proposed pricing changes on November 1, 2017 (SR-ISE-2017-97). On November 13, 2017, the Exchange withdrew that filing and submitted this filing.

Market Maker Plus

The Exchange proposes to increase Market Maker Plus rebates in SPY and QQQ, and modify the associated tier thresholds to make it easier for Market Makers⁶ to qualify for higher Market Maker Plus tiers in these symbols. The Market Maker Plus program is designed to attract additional liquidity from Market Makers and encourage Market

³ A "Firm Proprietary" order is an order submitted by a member for its own proprietary account.

⁴ A "Broker-Dealer" order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

⁵ A "Priority Customer" is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Rule 100(a)(37A).

⁶ The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See Rule 100(a)(25).

Makers to maintain tight markets on ISE. The Exchange believes that the proposed fee changes will further these objectives.

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. Currently, the specified percentage for time at the NBBO for all symbols is at least 80% but lower than 85% of the time for Tier 1, at least 85% but lower than 95% of the time for Tier 2 and at least 95% of the time for Tier 3.⁷ The Exchange proposes to modify the tier thresholds for SPY and QQQ only by adding a new Tier 1 and adjusting the other Market Maker Plus tiers such that: (1) Tier 1 rebates are provided to Market Makers that are on the NBBO at least 70% but lower than 80% of the time; (2) Tier 2 rebates are provided to market Makers that are on the NBBO at least 80% but lower than 85% of the time; (3) Tier 3 rebates are provided to Market Makers that are on the NBBO at least 85% but lower than 90% of the time; and (4) Tier 4 rebates are provided to Market Makers that are on the NBBO at least 90% of the time.

⁷ 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.

The Exchange is not proposing any changes to the tier thresholds for Select Symbols other than SPY and QQQ. However, in connection with the changes described above for SPY and QQQ, the Exchange proposes to reformat the Schedule of Fees so that all Market Maker Plus tier thresholds and rebate amounts, including those for SPY and QQQ, and those for other Select Symbols, are clearly described in footnote 5 under Regular Order Fees and Rebates. With the proposed changes, this footnote will state that Market Makers that qualify for Market Maker Plus will receive rebates based on a table contained therein that separately identifies tier thresholds and rebate amounts for SPY and QQQ, and for Select Symbols other than SPY and QQQ. While tier thresholds and rebate amounts for Select Symbols other than SPY and QQQ are being moved to this section of the Schedule of Fees, the Exchange is not proposing any changes to those values. Therefore, the Market Maker Plus program will continue to operate in the same way that it does today for all symbols other than SPY and QQQ.

Currently, Market Makers that qualify for Market Maker Plus are provided a rebate for regular orders in Select Symbols of \$0.15 per contract for Tier 1, \$0.18 per contract for Tier 2, and \$0.22 per contract for Tier 3.⁸ For SPY and QQQ only, this rebate is \$0.16 per contract for Tier 2 and \$0.20 per contract for Tier 3.⁹ A Market Maker that achieves a higher tier of Market Maker Plus in either SPY or QQQ receives the higher rebate in both SPY and QQQ. Market Makers that do not qualify for Market Maker Plus

⁸ For all tiers, a \$0.10 per contract fee applies 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.

⁹ As with other rebates provided under the Market Maker Plus program, this rebate does not apply when trading against complex orders that leg into the regular book.

are not eligible for rebates and are instead charged a fee of \$0.10 per contract. With the introduction of a new Tier 1 and adjustment of other tier thresholds for SPY and QQQ, the Exchange proposes to provide an increased Market Maker Plus rebate in SPY and QQQ that is: (1) \$0.00 per contract (i.e., no fee or rebate) for new Tier 1; (2) \$0.18 per contract for new Tier 2, (3) \$0.22 per contract for new Tier 3, and (3) \$0.26 per contract for new Tier 4. Each of these regular maker rebates is increased from current Market Maker Plus rebates provided to Market Makers that are at the NBBO for the same percentage of time today – or in the case of Tier 1, represents the elimination of a fee that would have been charged to Market Makers that are on the NBBO for the same percentage of the time. In addition, the Exchange proposes to adopt a “linked maker rebate” for proposed Tiers 2 – 4 that 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., proposed Tiers 2 – 4) in the other symbol. Once the applicable tier – any of proposed Tiers 2, 3 or 4 – is achieved for one symbol, the Market Maker will be eligible for the linked maker rebate in the other symbol, regardless of time at the NBBO in that symbol (i.e., there is no minimum tier threshold to be met in that symbol for the proposed linked maker rebate). This linked maker rebate would be \$0.16 per contract for Tier 2, \$0.20 per contract for Tier 3, and \$0.24 per contract for Tier 4. The regular maker rebate will be provided in the symbol that qualifies the Market Maker for the tier based on percentage of time at the NBBO. Thus, for example, if a Market Maker achieves Tier 3 in SPY and Tier 1 in QQQ, the Market Maker would receive the Tier 3 regular maker rebate in SPY (i.e., \$0.22 per contract) and the Tier 3 linked maker rebate in QQQ (i.e., \$0.20 per contract). This linked maker rebate is similar to how Market Maker Plus rebates are

currently provided in SPY and QQQ – i.e., a Market Maker that qualifies for a tier in one qualifies for both – but is more beneficial to the Market Maker because the Market Maker may earn the higher regular maker rebate in the symbol for which they qualify for that tier normally.

Taker Fees

Currently, the Exchange charges a taker fee for regular orders in Select Symbols that is \$0.44 per contract for Market Maker and Priority Customer orders (other than Priority Customer orders in SPY, QQQ, IWM, and VXX) and \$0.45 per contract for Non-Nasdaq ISE Market Maker,¹⁰ Firm Proprietary, Broker-Dealer, and Professional Customer¹¹ orders. The taker fee for Priority Customer orders is \$0.34 per contract in SPY, and \$0.35 per contract in QQQ, IWM, and VXX. The Exchange proposes to: (1) increase the taker fee for Firm Proprietary and Broker-Dealer orders in Select Symbols to \$0.46 per contract; and (2) increase the taker fee for Priority Customer orders in SPY, QQQ, IWM, and VXX to \$0.37 per contract.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹³

¹⁰ A “Non-Nasdaq ISE Market Maker” is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

¹¹ A “Professional Customer” is a person or entity that is not a broker/dealer and is not a Priority Customer.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

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.

Market Maker Plus

The Exchange believes that the proposed changes to the Market Maker Plus program in SPY and QQQ are reasonable and equitable as these changes would increase rebates for Market Makers that qualify for Market Maker Plus in these symbols, including linked maker rebates that will now be provided in a manner more beneficial to members – i.e., by providing the higher maker rebate in the symbol where a member qualifies normally. Furthermore, the proposed rule change would also introduce a new tier that eliminates maker fees for Market Makers that do not meet the current requirements for time at the NBBO in SPY and QQQ, and ease the requirements needed to qualify for higher tiers of Market Maker Plus in these symbols. The Market Maker Plus program is designed to attract liquidity from Market Makers on ISE and provide incentives for those Market Makers to maintain tight markets, measured by time spent quoting at the NBBO. The Exchange believes the proposed rule change will further encourage Market Makers to maintain quality markets in SPY and QQQ, which are two of the most actively traded symbols on ISE, to the benefit of all market participants that trade on the Exchange.¹⁴

The Exchange also believes that these changes are not unfairly discriminatory as all Market Makers can qualify for Market Maker Plus in these symbols by meeting

¹⁴ The proposed rule change also reformats the way that Market Maker Plus rebates and tier thresholds are displayed, which will make the program easier to understand.

program requirements that are designed to incentivize Market Makers to maintain quality markets. As noted above, SPY and QQQ have been targeted by the Exchange as these are highly active symbols on the Exchange. The proposed rule change will allow Market Makers that would not qualify for Market Maker Plus in SPY or QQQ today to qualify for free maker executions based on a time at the NBBO of at least 70% of the time pursuant to proposed Tier 1. And, as is the case today, Market Makers that show commitment to market quality by maintaining quotes that qualify them for a higher tier in these symbols will earn higher rebates, including more favorably applied linked rebates. Furthermore, the Exchange continues to believe that it is not unfairly discriminatory to offer these rebates only to Market Makers as Market Makers, and, in particular, those Market Makers that achieve Market Maker Plus status, are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

Taker Fees

The Exchange believes that the proposed changes to taker fees are reasonable and equitable as the proposed increases are modest and reflect reasonable charges to access liquidity on the Exchange. The Exchange believes that the increased taker fee for Firm Proprietary and Broker-Dealer orders in Select Symbols and the taker fee for Priority Customer orders in SPY, QQQ, IWM, and VXX will continue to be attractive to market participants. Furthermore, Priority Customers will continue to receive reduced taker fees in SPY, QQQ, IWM, and VXX, which represent some of the most heavily traded symbols on the Exchange. In particular, the proposed taker fees are lower than taker fees charged to Priority Customer orders in other Select Symbols as well as taker fees charged

to other market participants. As such, the Exchange believes that the proposed taker fees will continue to attract order flow to the benefit of all market participants that trade on the Exchange. In addition, the Exchange believes that it is equitable and not unfairly discriminatory to increase the taker fees described above, as well as to only offer reduced taker fees in SPY, QQQ, IWM, and VXX to Priority Customer orders. The proposed taker fee increases apply equally to members based on a market participants' type. Furthermore, a Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants on the Exchange whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders than Priority Customers.

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 changes to the Market Maker Plus program in SPY and QQQ are designed to increase competition by encouraging Market Makers to provide liquidity and maintain tight markets in these symbols. Furthermore, the proposed increases to taker fees are modest and the Exchange does not expect that such minor increases will have any significant 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,¹⁵ 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.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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. 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-2017-98)

November __, 2017

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Schedule of Fees for Regular Orders in Select Symbols

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 13, 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 for regular orders in Select Symbols to: (1) adjust rebates and tier thresholds for the Market Maker Plus program, and (2) increase taker fees for certain Firm-Proprietary, Broker-Dealer, and Priority Customer orders.

The text of the proposed rule change is available on the Exchange’s Website at www.ise.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.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees for regular orders in Select Symbols to: (1) adjust rebates and tier thresholds for the Market Maker Plus program, and (2) increase taker fees for certain Firm-Proprietary,³ Broker-Dealer,⁴ and Priority Customer⁵ orders.

The Exchange initially filed the proposed pricing changes on November 1, 2017 (SR-ISE-2017-97). On November 13, 2017, the Exchange withdrew that filing and submitted this filing.

³ A "Firm Proprietary" order is an order submitted by a member for its own proprietary account.

⁴ A "Broker-Dealer" order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

⁵ A "Priority Customer" is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Rule 100(a)(37A).

Market Maker Plus

The Exchange proposes to increase Market Maker Plus rebates in SPY and QQQ, and modify the associated tier thresholds to make it easier for Market Makers⁶ to qualify for higher Market Maker Plus tiers in these symbols. The Market Maker Plus program is designed to attract additional liquidity from Market Makers and encourage Market Makers to maintain tight markets on ISE. The Exchange believes that the proposed fee changes will further these objectives.

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. Currently, the specified percentage for time at the NBBO for all symbols is at least 80% but lower than 85% of the time for Tier 1, at least 85% but lower than 95% of the time for Tier 2 and at least 95% of the time for Tier 3.⁷ The Exchange proposes to modify the tier thresholds for SPY and QQQ only by adding a new Tier 1 and adjusting the other Market Maker Plus tiers such that: (1)

⁶ The term “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively. See Rule 100(a)(25).

⁷ 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.

Tier 1 rebates are provided to Market Makers that are on the NBBO at least 70% but lower than 80% of the time; (2) Tier 2 rebates are provided to market Makers that are on the NBBO at least 80% but lower than 85% of the time; (3) Tier 3 rebates are provided to Market Makers that are on the NBBO at least 85% but lower than 90% of the time; and (4) Tier 4 and rebates are provided to Market Makers that are on the NBBO at least 90% of the time.

The Exchange is not proposing any changes to the tier thresholds for Select Symbols other than SPY and QQQ. However, in connection with the changes described above for SPY and QQQ, the Exchange proposes to reformat the Schedule of Fees so that all Market Maker Plus tier thresholds and rebate amounts, including those for SPY and QQQ, and those for other Select Symbols, are clearly described in footnote 5 under Regular Order Fees and Rebates. With the proposed changes, this footnote will state that Market Makers that qualify for Market Maker Plus will receive rebates based on a table contained therein that separately identifies tier thresholds and rebate amounts for SPY and QQQ, and for Select Symbols other than SPY and QQQ. While tier thresholds and rebate amounts for Select Symbols other than SPY and QQQ are being moved to this section of the Schedule of Fees, the Exchange is not proposing any changes to those values. Therefore, the Market Maker Plus program will continue to operate in the same way that it does today for all symbols other than SPY and QQQ.

Currently, Market Makers that qualify for Market Maker Plus are provided a rebate for regular orders in Select Symbols of \$0.15 per contract for Tier 1, \$0.18 per

contract for Tier 2, and \$0.22 per contract for Tier 3.⁸ For SPY and QQQ only, this rebate is \$0.16 per contract for Tier 2 and \$0.20 per contract for Tier 3.⁹ A Market Maker that achieves a higher tier of Market Maker Plus in either SPY or QQQ receives the higher rebate in both SPY and QQQ. Market Makers that do not qualify for Market Maker Plus are not eligible for rebates and are instead charged a fee of \$0.10 per contract. With the introduction of a new Tier 1 and adjustment of other tier thresholds for SPY and QQQ, the Exchange proposes to provide an increased Market Maker Plus rebate in SPY and QQQ that is: (1) \$0.00 per contract (i.e., no fee or rebate) for new Tier 1; (2) \$0.18 per contract for new Tier 2, (3) \$0.22 per contract for new Tier 3, and (3) \$0.26 per contract for new Tier 4. Each of these regular maker rebates is increased from current Market Maker Plus rebates provided to Market Makers that are at the NBBO for the same percentage of time today – or in the case of Tier 1, represents the elimination of a fee that would have been charged to Market Makers that are on the NBBO for the same percentage of the time. In addition, the Exchange proposes to adopt a “linked maker rebate” for proposed Tiers 2 – 4 that 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., proposed Tiers 2 – 4) in the other symbol. Once the applicable tier – any of proposed Tiers 2, 3 or 4 – is achieved for one symbol, the Market Maker will be eligible for the linked maker rebate in the other symbol, regardless of time at the NBBO in that symbol

⁸ For all tiers, a \$0.10 per contract fee applies 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.

⁹ As with other rebates provided under the Market Maker Plus program, this rebate does not apply when trading against complex orders that leg into the regular book.

(i.e., there is no minimum tier threshold to be met in that symbol for the proposed linked maker rebate). This linked maker rebate would be \$0.16 per contract for Tier 2, \$0.20 per contract for Tier 3, and \$0.24 per contract for Tier 4. The regular maker rebate will be provided in the symbol that qualifies the Market Maker for the tier based on percentage of time at the NBBO. Thus, for example, if a Market Maker achieves Tier 3 in SPY and Tier 1 in QQQ, the Market Maker would receive the Tier 3 regular maker rebate in SPY (i.e., \$0.22 per contract) and the Tier 3 linked maker rebate in QQQ (i.e., \$0.20 per contract). This linked maker rebate is similar to how Market Maker Plus rebates are currently provided in SPY and QQQ – i.e., a Market Maker that qualifies for a tier in one symbol qualifies for both – but is more beneficial to the Market Maker because the Market Maker may earn the higher regular maker rebate in the symbol for which they qualify for that tier normally.

Taker Fees

Currently, the Exchange charges a taker fee for regular orders in Select Symbols that is \$0.44 per contract for Market Maker and Priority Customer orders (other than Priority Customer orders in SPY, QQQ, IWM, and VXX) and \$0.45 per contract for Non-Nasdaq ISE Market Maker,¹⁰ Firm Proprietary, Broker-Dealer, and Professional Customer¹¹ orders. The taker fee for Priority Customer orders is \$0.34 per contract in SPY, and \$0.35 per contract in QQQ, IWM, and VXX. The Exchange proposes to: (1) increase the taker fee for Firm Proprietary and Broker-Dealer orders in Select Symbols to

¹⁰ A “Non-Nasdaq ISE Market Maker” is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

¹¹ A “Professional Customer” is a person or entity that is not a broker/dealer and is not a Priority Customer.

\$0.46 per contract; and (2) increase the taker fee for Priority Customer orders in SPY, QQQ, IWM, and VXX to \$0.37 per contract.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹³ 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.

Market Maker Plus

The Exchange believes that the proposed changes to the Market Maker Plus program in SPY and QQQ are reasonable and equitable as these changes would increase rebates for Market Makers that qualify for Market Maker Plus in these symbols, including linked maker rebates that will now be provided in a manner more beneficial to members – i.e., by providing the higher maker rebate in the symbol where a member qualifies normally. Furthermore, the proposed rule change would also introduce a new tier that eliminates maker fees for Market Makers that do not meet the current requirements for time at the NBBO in SPY and QQQ, and ease the requirements needed to qualify for higher tiers of Market Maker Plus in these symbols. The Market Maker Plus program is designed to attract liquidity from Market Makers on ISE and provide incentives for those Market Makers to maintain tight markets, measured by time spent quoting at the NBBO. The Exchange believes the proposed rule change will further

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

encourage Market Makers to maintain quality markets in SPY and QQQ, which are two of the most actively traded symbols on ISE, to the benefit of all market participants that trade on the Exchange.¹⁴

The Exchange also believes that these changes are not unfairly discriminatory as all Market Makers can qualify for Market Maker Plus in these symbols by meeting program requirements that are designed to incentivize Market Markets to maintain quality markets. As noted above, SPY and QQQ have been targeted by the Exchange as these are highly active symbols on the Exchange. The proposed rule change will allow Market Makers that would not qualify for Market Maker Plus in SPY or QQQ today to qualify for free maker executions based on a time at the NBBO of at least 70% of the time pursuant to proposed Tier 1. And, as is the case today, Market Makers that show commitment to market quality by maintaining quotes that qualify them for a higher tier in these symbols will earn higher rebates, including more favorably applied linked rebates. Furthermore, the Exchange continues to believe that it is not unfairly discriminatory to offer these rebates only to Market Makers as Market Makers, and, in particular, those Market Makers that achieve Market Maker Plus status, are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

Taker Fees

The Exchange believes that the proposed changes to taker fees are reasonable and equitable as the proposed increases are modest and reflect reasonable charges to access

¹⁴ The proposed rule change also reformats the way that Market Maker Plus rebates and tier thresholds are displayed, which will make the program easier to understand.

liquidity on the Exchange. The Exchange believes that the increased taker fee for Firm Proprietary and Broker-Dealer orders in Select Symbols and the taker fee for Priority Customer orders in SPY, QQQ, IWM, and VXX will continue to be attractive to market participants. Furthermore, Priority Customers will continue to receive reduced taker fees in SPY, QQQ, IWM, and VXX, which represent some of the most heavily traded symbols on the Exchange. In particular, the proposed taker fees are lower than taker fees charged to Priority Customer orders in other Select Symbols as well as taker fees charged to other market participants. As such, the Exchange believes that the proposed taker fees will continue to attract order flow to the benefit of all market participants that trade on the Exchange. In addition, the Exchange believes that it is equitable and not unfairly discriminatory to increase the taker fees described above, as well as to only offer reduced taker fees in SPY, QQQ, IWM, and VXX to Priority Customer orders. The proposed taker fee increases apply equally to members based on a market participants' type. Furthermore, a Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants on the Exchange whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders than Priority Customers.

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 changes to the Market Maker Plus program in SPY and QQQ are designed to increase competition by encouraging Market Makers to provide liquidity and

maintain tight markets in these symbols. Furthermore, the proposed increases to taker fees are modest and the Exchange does not expect that such minor increases will have any significant 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹⁵ 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.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2017-98 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-2017-98. 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-2017-98 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Eduardo A. Aleman
Assistant Secretary

¹⁶ 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	Facilitati on and Solicitati on Break- up Rebate ⁽⁴⁾
[Tier 1 Market Maker Plus ⁽⁵⁾]	[(<u>\$0.15</u>) ⁽¹⁰⁾]	[\$0.44]	[\$0.20]	[\$0.10]	[\$0.50]	[\$0.20]	[N/A]
[Tier 2 Market Maker Plus ⁽⁵⁾]	[(<u>\$0.18</u>) ⁽¹⁰⁾⁽¹⁴⁾]	[\$0.44]	[\$0.20]	[\$0.10]	[\$0.50]	[\$0.20]	[N/A]
[Tier 3 Market Maker Plus ⁽⁵⁾]	[(<u>\$0.22</u>) ⁽¹⁰⁾⁽¹⁵⁾]	[\$0.44]	[\$0.20]	[\$0.10]	[\$0.50]	[\$0.20]	[N/A]
Market Maker ⁽⁸⁾	<u>\$0.10</u> ⁽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	[\$0.45] <u>\$0.46</u>	\$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)

* * * * *

3. This fee is [\$0.34] \$0.37 per contract in SPY, [and \$0.35 per contract in] QQQ, IWM and VXX.

* * * * *

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. [The specified percentage is at least 80% but lower than 85% of the time for Tier 1, at least 85% but lower than 95% of the time for Tier 2, and at least 95% of the time for Tier 3.] 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⁾		
<u>Market Maker Plus Tier (Specified Percentage)</u>	<u>Maker Rebate</u>	
<u>Tier 1 (80% to less than 85%)</u>	<u>(\$0.15)</u>	
<u>Tier 2 (85% to less than 95%)</u>	<u>(\$0.18)</u>	
<u>Tier 3 (95% or greater)</u>	<u>(\$0.22)</u>	
<u>SPY and QQQ⁽¹⁰⁾</u>		
<u>Market Maker Plus Tier (Specified Percentage)</u>	<u>Regular Maker Rebate</u>	<u>Linked Maker Rebate⁽⁹⁾</u>
<u>Tier 1 (70% to less than 80%)</u>	<u>(\$0.00)</u>	<u>N/A</u>
<u>Tier 2 (80% to less than 85%)</u>	<u>(\$0.18)</u>	<u>(\$0.16)</u>
<u>Tier 3 (85% to less than 90%)</u>	<u>(\$0.22)</u>	<u>(\$0.20)</u>
<u>Tier 4 (90% or greater)</u>	<u>(\$0.26)</u>	<u>(\$0.24)</u>

* * * * *

8. This fee applies to Market Maker orders sent to the Exchange by Electronic Access Members.
9. [Reserved.]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) 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 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.

* * * * *

14. Reserved. [This rebate is \$0.16 per contract in SPY and QQQ, except when trading against complex orders that leg into the regular book under footnote 10 above. A Market Maker that achieves Tier 2 Market Maker Plus in either SPY or QQQ will receive this rebate in both SPY and QQQ.]
15. Reserved. [This rebate is \$0.20 per contract in SPY and QQQ, except when trading against complex orders that leg into the regular book under footnote 10 above. A Market Maker that achieves Tier 3 Market Maker Plus in either SPY or QQQ will receive this rebate in both SPY and QQQ.]

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