

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"/>
--	--

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.

Digitally Sign and Lock Form

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

Add Remove View

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 *

Add Remove View

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 *

Add Remove View

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

Add Remove View

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

Add Remove View

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

Add Remove View

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

Add Remove View

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

1. Text of the Proposed Rule Change

(a) Nasdaq ISE, LLC (“ISE” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend the Exchange’s Schedule of Fees, as described further below.

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:

Sun Kim
Assistant General Counsel
Nasdaq, Inc.
212-231-5106

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 Exchange's Schedule of Fees to modify certain complex order fees and rebates in Section II, and to make a number of non-substantive changes to update certain section headings. Each change is described below.³

Priority Customer Complex Order Rebate for Select Symbols

Currently as set forth in Section II of the Schedule of Fees, the Exchange provides rebates to Priority Customer⁴ complex orders that trade with Non-Priority Customer⁵ complex orders in the complex order book or trade with quotes and orders on the regular order book. Rebates are tiered based on a member's average daily volume ("ADV") executed during a given month as follows: 0 to 14,999 contracts ("Tier 1"), 15,000 to 44,999 contracts ("Tier 2"), 45,000 to 59,999 contracts ("Tier 3"), 60,000 to 74,999 contracts ("Tier 4"), 75,000 to 99,999 contracts ("Tier 5"), 100,000 to 124,999 contracts ("Tier 6"), 125,000 to 224,999 contracts ("Tier 7"), and 225,000 or more contracts ("Tier

³ The Exchange initially filed the proposed pricing changes on January 2, 2018 (SR-ISE-2018-02). On January 11, 2018, the Exchange withdrew that filing and submitted SR-ISE-2018-05. On January 22, 2018, the Exchange withdrew SR-ISE-2018-05 and submitted SR-ISE-2018-08. On January 30, 2018, the Exchange withdrew SR-ISE-2018-08 and submitted this filing.

⁴ 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 ISE Rule 100(a)(37A).

⁵ Non-Priority Customer includes Market Maker, Non-Nasdaq GEMX Market Maker, Firm Proprietary, Broker-Dealer, and Professional Customer.

8”). In Select Symbols,⁶ the rebate is \$0.26 per contract for Tier 1, \$0.30 per contract for Tier 2, \$0.36 per contract for Tier 3, \$0.41 per contract for Tier 4, \$0.42 per contract for Tier 5, \$0.44 per contract for Tier 6, \$0.46 per contract for Tier 7, and \$0.49 per contract for Tier 8. The Exchange now proposes to increase the rebate amounts to \$0.45 in Tier 6 and \$0.50 in Tier 8.

Non-Priority Customer Complex Order Taker Fee for Select Symbols

Currently, the Exchange charges a complex order taker fee for Select Symbols that is \$0.47 per contract for Market Maker⁷ orders (or \$0.44 per contract for Market Makers with total affiliated Priority Customer Complex ADV of 150,000 or more contracts),⁸ and \$0.48 per contract for Non-Nasdaq ISE Market Maker,⁹ Firm Proprietary¹⁰ / Broker-Dealer,¹¹ and Professional Customer¹² orders. Priority Customer

⁶ “Select Symbols” are options overlying all symbols listed on ISE that are in the Penny Pilot Program.

⁷ The term “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively.

⁸ Nasdaq ISE Market Makers making or taking liquidity receive a discount of \$0.02 when trading against Priority Customer orders preferred to them in the Complex Order Book in equity options that are able to be listed and traded on more than one options exchange. This discount does not apply to FX Options Symbols or to option classes designated by the Exchange to receive a guaranteed allocation pursuant to Nasdaq ISE Rule 722(b)(3)(i)(B).

⁹ 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.

¹⁰ A "Firm Proprietary" order is an order submitted by a member for its own proprietary account.

¹¹ A "Broker-Dealer" order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

orders are not charged a complex order taker fee for Select Symbols. The Exchange now proposes to increase the complex order taker fee to \$0.50 per contract for Non-Priority Customer orders in Select Symbols. As proposed, Market Makers with total affiliated Priority Customer Complex ADV of 150,000 or more contracts will continue to receive the discounted fee of \$0.44. Additionally, preferenced Market Makers will continue to receive the applicable discount of \$0.02 per contract when trading against Priority Customer order preferenced to them in the complex order book.¹³

Non-Priority Customer Complex Surcharge for Non-Select Symbols

The Exchange proposes to amend Section II of the Schedule of Fees to adopt a surcharge of \$0.03 per contract on Non-Priority Customer complex orders in Non-Select Symbols¹⁴ that take liquidity from the complex order book. For clarification, the proposed Non-Priority Customer complex surcharge will not apply to orders executed or submitted in the Exchange's various auction mechanisms.¹⁵

Update Fee Schedule Headings

Currently, the Exchange's Schedule of Fees contains a number of section headings that are not currently reflected in the Table of Contents. The Exchange added or eliminated these headings as parts of previous rule changes, and inadvertently did not

¹² A "Professional Customer" is a person or entity that is not a broker/dealer and is not a Priority Customer.

¹³ See note 8 above.

¹⁴ "Non-Select Symbols" are options overlying all symbols excluding Select Symbols.

¹⁵ Today, the complex order auctions consist of the Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism and "exposure" auctions pursuant to ISE Rule 722(b)(3)(iii).

make the corresponding updates to the Table of Contents.¹⁶ Accordingly, the Exchange proposes to update the Table of Contents to make its Schedule of Fees easier to read. The Exchange also proposes to renumber Section VIII.J to Section VIII.K in connection with these clean-up changes.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁸ 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.

Priority Customer Complex Order Rebate for Select Symbols

The Exchange believes that it is reasonable to increase the rebates provided to Priority Customer complex orders in the manner discussed above, as these proposed rebates are designed to attract additional Priority Customer complex order volume to the Exchange. The Exchange already provides volume-based tiered rebates for Priority Customer complex orders, and believes that increasing the rebates will incentivize

¹⁶ In particular, the Exchange deleted Sections V.C, VI.B, and VII.D, and added Sections V.D, VI.C, VI.E – VI.I, and VIII.J as parts of previous rule changes to amend ISE’s Schedule of Fees. See Securities Exchange Release No. 68324 (November 30, 2012), 77 FR 72901 (December 6, 2012) (SR-ISE-2012-89); Securities Exchange Release No. 81095 (July 7, 2017), 82 FR 32409 (July 13, 2017) (SR-ISE-2017-62); Securities Exchange Release No. 81903 (October 19, 2017), 82 FR 49450 (October 25, 2017) (SR-ISE-2017-91); and Securities Exchange Release No. 82446 (January 5, 2018), 83 FR 1446 (January 11, 2018) (SR-ISE-2017-112).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(4) and (5).

members to send additional order flow to ISE in order to achieve these rebates for their Priority Customer complex order volume, creating additional liquidity to the benefit of all members that trade complex orders on the Exchange.

The Exchange notes that Priority Customer orders will continue to receive complex order rebates,¹⁹ while other market participants will continue to pay a fee. The Exchange does not believe that this is unfairly discriminatory as 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 whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers.

Non-Priority Customer Complex Order Taker Fee for Select Symbols

The Exchange believes that it is reasonable to increase the complex order taker fee to \$0.50 per contract for Non-Priority Customer orders in Select Symbols because the increased taker fees are designed to offset the enhanced Priority Customer rebates discussed above. Furthermore, the proposed taker fees are set at levels that the Exchange believes will continue to be attractive to market participants that trade on ISE. As noted above, Market Makers with total affiliated Priority Customer Complex ADV of 150,000 or more contracts will continue to receive the discounted fee of \$0.44 under this proposal. Additionally, preferenced Market Makers will continue to receive the applicable discount

¹⁹ With the exception of responses to complex crossing orders, including complex PIM orders, where Priority Customers are charged a fee like other market participants.

of \$0.02 per contract when trading against Priority Customer order preferenced to them in the complex order book.²⁰

The Exchange's proposal to increase the Non-Priority Customer complex order taker fee is equitable and not unfairly discriminatory because the increased fee will apply to all similarly-situated market participants. As noted above, Priority Customers will continue to receive complex order rebates, while other market participants will continue to pay a fee. The Exchange does not believe that this is unfairly discriminatory for the reasons discussed above. The Exchange also notes that Market Maker orders will continue to be eligible for lower fees than other non-Priority Customer orders. The Exchange does not believe that it is unfairly discriminatory provide lower fees to Market Maker orders as Market Makers are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

Non-Priority Customer Complex Surcharge for Non-Select Symbols

The Exchange believes that its proposal to adopt a surcharge of \$0.03 per contract on Non-Priority Customer complex orders in Non-Select Symbols that take liquidity from the complex order book is reasonable, equitable and not unfairly discriminatory. Assessing this surcharge to only those orders that take liquidity from the market is reasonable because the Exchange wants to continue to encourage market participation for those participants that seek to add liquidity on ISE. In addition, the Exchange believes that excluding complex orders executed in the Exchange's various auction mechanisms from the proposed Non-Priority Customer complex surcharge is reasonable for the reasons that follow. The proposed complex surcharge will not apply to complex orders

²⁰ See note 8 above.

executed in the Facilitation Mechanism, Solicited Order Mechanism and Price Improvement Mechanism as such orders have separate pricing in Section II of the Schedule of Fees, and the Exchange wants to continue to encourage participation within these auction mechanisms. The Exchange also believes that the exclusion of “exposure” auctions pursuant to ISE Rule 722(b)(3)(iii) from the Non-Priority Customer complex surcharge is reasonable because the Exchange wants to encourage participation in this auction and have it continue to be attractive to market participants who will be assessed the lower fee. The Exchange believes that the complex fee structure as proposed will remain attractive to market participants, who will continue to be charged lower fees for adding liquidity to the complex order book than for removing liquidity. ISE notes that other options exchanges assess similar surcharges on complex orders that remove liquidity from the complex order book.²¹

The Exchange’s proposal to adopt the \$0.03 per contract Non-Priority Customer complex order surcharge in the manner discussed above is equitable and not unfairly discriminatory because the surcharge will apply to all similarly-situated market participants.

Update Fee Schedule Headings

The Exchange believes that the clean-up changes to update the section headings in its Schedule of Fees is reasonable, equitable and not unfairly discriminatory because

²¹ Nasdaq PHLX (“Phlx”), CBOE Options (“CBOE”), and MIAX Options (“MIAX”) assess similar surcharges for complex order executions that remove liquidity from the complex order book for non-penny classes. See Phlx Pricing Schedule, Section II, note 7; CBOE Fees Schedule, Complex Surcharge, and note 35; and MIAX Fee Schedule, Sections 1)a)i) and ii).

these are non-substantive changes intended to make the Schedule of Fees more transparent to members and investors.

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 fees and rebates are designed to attract additional order flow to ISE, and the Exchange believes that its complex order pricing remains attractive to market participants. 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 with other exchanges. 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,²² 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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

5. Text of the proposed rule change.

²² 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-ISE-2018-10)

January __, 2018

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's Schedule of Fees

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 January 30, 2018, 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 Exchange's Schedule of Fees.

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 received on the proposed rule change. The text of these statements may be examined at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Exchange’s Schedule of Fees to modify certain complex order fees and rebates in Section II, and to make a number of non-substantive changes to update certain section headings. Each change is described below.³

Priority Customer Complex Order Rebate for Select Symbols

Currently as set forth in Section II of the Schedule of Fees, the Exchange provides rebates to Priority Customer⁴ complex orders that trade with Non-Priority Customer⁵ complex orders in the complex order book or trade with quotes and orders on the regular order book. Rebates are tiered based on a member’s average daily volume (“ADV”) executed during a given month as follows: 0 to 14,999 contracts (“Tier 1”), 15,000 to 44,999 contracts (“Tier 2”), 45,000 to 59,999 contracts (“Tier 3”), 60,000 to 74,999 contracts (“Tier 4”), 75,000 to 99,999 contracts (“Tier 5”), 100,000 to 124,999 contracts

³ The Exchange initially filed the proposed pricing changes on January 2, 2018 (SR-ISE-2018-02). On January 11, 2018, the Exchange withdrew that filing and submitted SR-ISE-2018-05. On January 22, 2018, the Exchange withdrew SR-ISE-2018-05 and submitted SR-ISE-2018-08. On January 30, 2018, the Exchange withdrew SR-ISE-2018-08 and submitted this filing.

⁴ 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 ISE Rule 100(a)(37A).

⁵ Non-Priority Customer includes Market Maker, Non-Nasdaq GEMX Market Maker, Firm Proprietary, Broker-Dealer, and Professional Customer.

(“Tier 6”), 125,000 to 224,999 contracts (“Tier 7”), and 225,000 or more contracts (“Tier 8”). In Select Symbols,⁶ the rebate is \$0.26 per contract for Tier 1, \$0.30 per contract for Tier 2, \$0.36 per contract for Tier 3, \$0.41 per contract for Tier 4, \$0.42 per contract for Tier 5, \$0.44 per contract for Tier 6, \$0.46 per contract for Tier 7, and \$0.49 per contract for Tier 8. The Exchange now proposes to increase the rebate amounts to \$0.45 in Tier 6 and \$0.50 in Tier 8.

Non-Priority Customer Complex Order Taker Fee for Select Symbols

Currently, the Exchange charges a complex order taker fee for Select Symbols that is \$0.47 per contract for Market Maker⁷ orders (or \$0.44 per contract for Market Makers with total affiliated Priority Customer Complex ADV of 150,000 or more contracts),⁸ and \$0.48 per contract for Non-Nasdaq ISE Market Maker,⁹ Firm Proprietary¹⁰ / Broker-Dealer,¹¹ and Professional Customer¹² orders. Priority Customer

⁶ “Select Symbols” are options overlying all symbols listed on ISE that are in the Penny Pilot Program.

⁷ The term “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively.

⁸ Nasdaq ISE Market Makers making or taking liquidity receive a discount of \$0.02 when trading against Priority Customer orders preferenced to them in the Complex Order Book in equity options that are able to be listed and traded on more than one options exchange. This discount does not apply to FX Options Symbols or to option classes designated by the Exchange to receive a guaranteed allocation pursuant to Nasdaq ISE Rule 722(b)(3)(i)(B).

⁹ 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.

¹⁰ A "Firm Proprietary" order is an order submitted by a member for its own proprietary account.

¹¹ A "Broker-Dealer" order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

orders are not charged a complex order taker fee for Select Symbols. The Exchange now proposes to increase the complex order taker fee to \$0.50 per contract for Non-Priority Customer orders in Select Symbols. As proposed, Market Makers with total affiliated Priority Customer Complex ADV of 150,000 or more contracts will continue to receive the discounted fee of \$0.44. Additionally, preferred Market Makers will continue to receive the applicable discount of \$0.02 per contract when trading against Priority Customer order preferred to them in the complex order book.¹³

Non-Priority Customer Complex Surcharge for Non-Select Symbols

The Exchange proposes to amend Section II of the Schedule of Fees to adopt a surcharge of \$0.03 per contract on Non-Priority Customer complex orders in Non-Select Symbols¹⁴ that take liquidity from the complex order book. For clarification, the proposed Non-Priority Customer complex surcharge will not apply to orders executed or submitted in the Exchange's various auction mechanisms.¹⁵

Update Fee Schedule Headings

Currently, the Exchange's Schedule of Fees contains a number of section headings that are not currently reflected in the Table of Contents. The Exchange added or eliminated these headings as parts of previous rule changes, and inadvertently did not

¹² A "Professional Customer" is a person or entity that is not a broker/dealer and is not a Priority Customer.

¹³ See note 8 above.

¹⁴ "Non-Select Symbols" are options overlying all symbols excluding Select Symbols.

¹⁵ Today, the complex order auctions consist of the Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism and "exposure" auctions pursuant to ISE Rule 722(b)(3)(iii).

make the corresponding updates to the Table of Contents.¹⁶ Accordingly, the Exchange proposes to update the Table of Contents to make its Schedule of Fees easier to read. The Exchange also proposes to renumber Section VIII.J to Section VIII.K in connection with these clean-up changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁸ 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.

Priority Customer Complex Order Rebate for Select Symbols

The Exchange believes that it is reasonable to increase the rebates provided to Priority Customer complex orders in the manner discussed above, as these proposed rebates are designed to attract additional Priority Customer complex order volume to the Exchange. The Exchange already provides volume-based tiered rebates for Priority Customer complex orders, and believes that increasing the rebates will incentivize

¹⁶ In particular, the Exchange deleted Sections V.C, VI.B, and VII.D, and added Sections V.D, VI.C, VI.E – VI.I, and VIII.J as parts of previous rule changes to amend ISE’s Schedule of Fees. See Securities Exchange Release No. 68324 (November 30, 2012), 77 FR 72901 (December 6, 2012) (SR-ISE-2012-89); Securities Exchange Release No. 81095 (July 7, 2017), 82 FR 32409 (July 13, 2017) (SR-ISE-2017-62); Securities Exchange Release No. 81903 (October 19, 2017), 82 FR 49450 (October 25, 2017) (SR-ISE-2017-91); and Securities Exchange Release No. 82446 (January 5, 2018), 83 FR 1446 (January 11, 2018) (SR-ISE-2017-112).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(4) and (5).

members to send additional order flow to ISE in order to achieve these rebates for their Priority Customer complex order volume, creating additional liquidity to the benefit of all members that trade complex orders on the Exchange.

The Exchange notes that Priority Customer orders will continue to receive complex order rebates,¹⁹ while other market participants will continue to pay a fee. The Exchange does not believe that this is unfairly discriminatory as 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 whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers.

Non-Priority Customer Complex Order Taker Fee for Select Symbols

The Exchange believes that it is reasonable to increase the complex order taker fee to \$0.50 per contract for Non-Priority Customer orders in Select Symbols because the increased taker fees are designed to offset the enhanced Priority Customer rebates discussed above. Furthermore, the proposed taker fees are set at levels that the Exchange believes will continue to be attractive to market participants that trade on ISE. As noted above, Market Makers with total affiliated Priority Customer Complex ADV of 150,000 or more contracts will continue to receive the discounted fee of \$0.44 under this proposal. Additionally, preferenced Market Makers will continue to receive the applicable discount

¹⁹ With the exception of responses to complex crossing orders, including complex PIM orders, where Priority Customers are charged a fee like other market participants.

of \$0.02 per contract when trading against Priority Customer order preferenced to them in the complex order book.²⁰

The Exchange's proposal to increase the Non-Priority Customer complex order taker fee is equitable and not unfairly discriminatory because the increased fee will apply to all similarly-situated market participants. As noted above, Priority Customers will continue to receive complex order rebates, while other market participants will continue to pay a fee. The Exchange does not believe that this is unfairly discriminatory for the reasons discussed above. The Exchange also notes that Market Maker orders will continue to be eligible for lower fees than other non-Priority Customer orders. The Exchange does not believe that it is unfairly discriminatory provide lower fees to Market Maker orders as Market Makers are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

Non-Priority Customer Complex Surcharge for Non-Select Symbols

The Exchange believes that its proposal to adopt a surcharge of \$0.03 per contract on Non-Priority Customer complex orders in Non-Select Symbols that take liquidity from the complex order book is reasonable, equitable and not unfairly discriminatory. Assessing this surcharge to only those orders that take liquidity from the market is reasonable because the Exchange wants to continue to encourage market participation for those participants that seek to add liquidity on ISE. In addition, the Exchange believes that excluding complex orders executed in the Exchange's various auction mechanisms from the proposed Non-Priority Customer complex surcharge is reasonable for the reasons that follow. The proposed complex surcharge will not apply to complex orders

²⁰ See note 8 above.

executed in the Facilitation Mechanism, Solicited Order Mechanism and Price Improvement Mechanism as such orders have separate pricing in Section II of the Schedule of Fees, and the Exchange wants to continue to encourage participation within these auction mechanisms. The Exchange also believes that the exclusion of “exposure” auctions pursuant to ISE Rule 722(b)(3)(iii) from the Non-Priority Customer complex surcharge is reasonable because the Exchange wants to encourage participation in this auction and have it continue to be attractive to market participants who will be assessed the lower fee. The Exchange believes that the complex fee structure as proposed will remain attractive to market participants, who will continue to be charged lower fees for adding liquidity to the complex order book than for removing liquidity. ISE notes that other options exchanges assess similar surcharges on complex orders that remove liquidity from the complex order book.²¹

The Exchange’s proposal to adopt the \$0.03 per contract Non-Priority Customer complex order surcharge in the manner discussed above is equitable and not unfairly discriminatory because the surcharge will apply to all similarly-situated market participants.

Update Fee Schedule Headings

The Exchange believes that the clean-up changes to update the section headings in its Schedule of Fees is reasonable, equitable and not unfairly discriminatory because

²¹ Nasdaq PHLX (“Phlx”), CBOE Options (“CBOE”), and MIAX Options (“MIAX”) assess similar surcharges for complex order executions that remove liquidity from the complex order book for non-penny classes. See Phlx Pricing Schedule, Section II, note 7; CBOE Fees Schedule, Complex Surcharge, and note 35; and MIAX Fee Schedule, Sections 1)a)i) and ii).

these are non-substantive changes intended to make the Schedule of Fees more transparent to members and investors.

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 fees and rebates are designed to attract additional order flow to ISE, and the Exchange believes that its complex order pricing remains attractive to market participants. 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 with other exchanges. 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.²² 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

²² 15 U.S.C. 78s(b)(3)(A)(ii).

appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2018-10 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-2018-10. 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-2018-10 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.²³

Eduardo A. Aleman
Assistant Secretary

²³ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

**Nasdaq ISE
Schedule of Fees**

TABLE OF CONTENTS

Preface

- I. Regular Order Fees and Rebates**
- II. Complex Order Fees and Rebates**
- III. FX Options Fees and Rebates for Regular and Complex Orders**
- IV. Other Options Fees and Rebates**
 - A. OCC and Solicitation Rebate**
 - B. Index License Surcharge**
 - C. Market Maker Tiers**
 - D. Marketing Fee**
 - E. Member Order Routing Program**
 - F. Route-Out Fees**
 - G. Credit for Responses to Flash Orders**
 - H. Crossing Fee Cap**
 - I. Inactive PMM Fee**
 - J. Cancellation Fee**
 - K. Back-up Trading Arrangements**
 - L. Fee Cap for Strategy Orders**
- V. Trading Application Software**
 - A. Installation-Non-Standard Services**
 - B. Software License & Maintenance**
 - C. [FIX Session/API Session Fees]Reserved.**
 - D. INET Port Fees**

- VI. Access Services
 - A. Access Fees
 - B. [Network Fees]Reserved.
 - C. Gateway Fees
 - [C]D. Telco Line Charges
 - E. Co-Location Services
 - F. Direct Circuit Connection to Nasdaq ISE
 - G. Direct Circuit Connection to Third Party Services
 - H. Point of Presence (POP) Connectivity
 - I. Exchange Testing Facilities
- VII. Legal & Regulatory
 - A. Application Fee
 - B. Administrative Fee
 - C. Options Regulatory Fee
 - D. [Regulatory Fee]Reserved.
 - E. FINRA Web CRD Fees
- VIII. Market Data
 - A. Nasdaq ISE Open/Close Trade Profile End of Day
 - B. Nasdaq ISE Open/Close Trade Profile Intraday
Nasdaq ISE Open/Close Trade Profile End of Day and Nasdaq ISE Open/Close
 - C. Trade Profile Intraday
 - D. Enhanced Sentiment Market Data
 - E. Reserved
 - F. Real-time Depth of Market Raw Data Feed
 - G. Nasdaq ISE Order Feed
 - H. Nasdaq ISE Top Quote Feed
 - I. Nasdaq ISE Spread Feed
 - J. Nasdaq ISE Trades Feed
 - [J]K. Nasdaq ISE Implied Volatility and Greeks Feed

- IX. **Other Services**
 - A. **Training**
 - B. **Testing**
 - C. **Third Party Developers**
 - D. **Disaster Recovery Testing & Relocation Services**
- X. **Consolidated Audit Trail Funding Fees**
 - A. **Definitions**
 - B. **Fee Schedule**
 - C. **Timing and Manner of Payments**

* * * * *

II. Complex Order Fees and Rebates¹²

Rebates

Market Participant	Rebate for Select Symbols⁽¹⁾	Rebate for Non-Select Symbols⁽¹⁾⁽⁴⁾	Facilitation and Solicitation Break-up Rebate for Select Symbols⁽²⁾
Market Maker	N/A	N/A	N/A
Non-Nasdaq ISE Market Maker (FarMM)	N/A	N/A	(\$0.15)
Firm Proprietary / Broker-Dealer	N/A	N/A	(\$0.15)
Professional Customer	N/A	N/A	(\$0.15)
Priority Customer Complex ADV 0-14,999 ⁽⁷⁾⁽¹³⁾	(\$0.26)	(\$0.40)	(\$0.15)
Priority Customer Complex ADV 15,000-44,999 ⁽⁷⁾⁽¹³⁾	(\$0.30)	(\$0.60)	(\$0.15)
Priority Customer Complex ADV 45,000-59,999 ⁽⁷⁾⁽¹³⁾	(\$0.36)	(\$0.70)	(\$0.15)
Priority Customer Complex ADV 60,000-74,999 ⁽⁷⁾⁽¹³⁾	(\$0.41)	(\$0.75)	(\$0.15)
Priority Customer Complex ADV 75,000-99,999 ⁽⁷⁾⁽¹³⁾	(\$0.42)	(\$0.75)	(\$0.15)
Priority Customer Complex ADV 100,000-	(\$0.44) <u>(\$0.45)</u>	(\$0.80)	(\$0.15)

124,999⁽⁷⁾⁽¹³⁾

Priority Customer Complex ADV 125,000-224,999⁽⁷⁾⁽¹³⁾ (\$0.46) (\$0.81) (\$0.15)

Priority Customer Complex ADV 225,000+⁽⁷⁾⁽¹³⁾ [(\$0.49)](\$0.50) (\$0.85) (\$0.15)

* * * * *

Taker and other Fees

Market Participant	Taker Fee for Select Symbols⁽⁵⁾	Taker Fee for Non-Select Symbols⁽⁵⁾	Fee for Crossing Orders Except PIM⁽⁶⁾⁽¹⁰⁾⁽¹¹⁾	Fee for PIM Orders⁽⁶⁾⁽⁹⁾⁽¹¹⁾	Fee for Responses to Crossing Orders Except PIM	Fee for Responses to Crossing Orders Except PIM	Fee for Responses to PIM Orders
Market Maker	[\$0.47] <u>0.50</u> ⁽³⁾	\$0.86 ⁽⁸⁾	\$0.20	\$0.10	\$0.48	\$0.91	\$0.20
Non-Nasdaq ISE Market Maker (FarMM)	[\$0.48] <u>0.50</u>	\$0.88 ⁽⁸⁾	\$0.20	\$0.10	\$0.48	\$0.96	\$0.20
Firm Proprietary / Broker-Dealer	[\$0.48] <u>0.50</u>	\$0.88 ⁽⁸⁾	\$0.20	\$0.10	\$0.48	\$0.96	\$0.20
Professional Customer	[\$0.48] <u>0.50</u>	\$0.88 ⁽⁸⁾	\$0.20 ⁽¹⁴⁾	\$0.10	\$0.48	\$0.96	\$0.20
Priority Customer	\$0.00	\$0.00	\$0.00	\$0.00	\$0.48	\$0.96	\$0.20

1. Rebate provided per contract per leg if the order trades with non-Priority Customer orders in the Complex Order Book or trades with quotes and orders on the regular order book.

2. Rebate provided per contract per leg for contracts that are submitted to PIM, Facilitation and Solicitation Mechanisms that do not trade with their contra order except when those contracts trade against pre-existing orders and quotes on the Exchange's orderbooks. The applicable fee is applied to any contracts for which a rebate is provided.
3. This fee is \$0.44 per contract for Market Makers with total affiliated Priority Customer Complex ADV of 150,000 or more contracts. All eligible volume from affiliated Members will be aggregated in determining total affiliated Priority Customer Complex ADV, provided there is at least 75% common ownership between the Members as reflected on each Member's Form BD, Schedule A.
4. No Priority Customer complex order rebates will be paid for orders in NDX or MNX.
5. Nasdaq ISE Market Makers making or taking liquidity receive a discount of \$0.02 when trading against Priority Customer orders preferenced to them in the Complex Order Book in equity options that are able to be listed and traded on more than one options exchange. This discount does not apply to FX Options Symbols or to option classes designated by the Exchange to receive a guaranteed allocation pursuant to Nasdaq ISE Rule 722(b)(3)(i)(B).
6. Firm Proprietary and Non-Nasdaq ISE Market Maker contracts traded are subject to the Crossing Fee Cap, as provided in Section IV.H.
7. The rebate for the highest tier volume achieved is applied retroactively to all eligible Priority Customer Complex volume once the threshold has been reached.
8. [Reserved]A \$0.03 per contract surcharge will be assessed to non-Priority Customer Complex Orders that take liquidity from the Complex Order Book, excluding Complex Orders executed in the Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism and "exposure" auctions pursuant to Rule 722(b)(3)(iii).
9. Other than for Priority Customer orders, this fee is \$0.05 per contract for orders executed by Members that execute an ADV of 7,500 or more contracts in the PIM in a given month. Members that execute an ADV of 12,500 or more contracts in the PIM will not be charged a fee. The discounted fees are applied retroactively to all eligible PIM volume in that month once the threshold has been reached.
10. Fee charged for all legs.
11. Fees apply to the originating and contra order.
12. The Exchange will charge a stock handling fee of \$0.0010 per share (capped at \$50 per trade) for the stock leg of stock-option orders executed against other stock-option orders in the complex order book.

13. Members will not receive rebates for net zero complex orders. For purposes of determining which complex orders qualify as "net zero" the Exchange will count all complex orders that leg in to the regular order book and are executed at a net price per contract that is within a range of \$0.01 credit and \$0.01 debit.

14. Transaction fees applicable to Professional Customers for an order submitted as a Qualified Contingent Cross order and orders executed in the Exchange's Solicited Order Mechanism will be \$0.10 per contract.

* * * * *

VIII. Market Data

* * * * *

[J]K. Nasdaq ISE Implied Volatility and Greeks Feed

* * * * *