

Required fields are shown with yellow backgrounds and asterisks.

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

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

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

Description

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

A proposal to amend the Schedule of Fees related to Complex Orders traded on the Exchange.

Contact Information

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

First Name * Adrian	Last Name * Griffiths
Title * Senior Associate General Counsel	
E-mail * adrian.griffiths@nasdaq.com	
Telephone * (212) 231-5176	Fax

Signature

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

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

(Title *)

Date 05/10/2018	Executive Vice President and General Counsel
By Edward S. Knight	
(Name *)	

edward.knight@nasdaq.com

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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

Exhibit 1 - Notice of Proposed Rule Change *

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

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

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

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

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Exhibit Sent As Paper Document

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

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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

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

1. Text of the Proposed Rule Change

(a) Nasdaq ISE, LLC (“ISE” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend the Schedule of Fees related to Complex Orders traded on the Exchange.

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 5.³

(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 The baseline language included in the Exhibit 5 reflects proposed changes made by SR-ISE-2018-42, which is effective on filing.

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 related to Complex Orders traded on the Exchange, including: (1) Priority Customer⁴ Complex Order rebates, (2) Market Maker⁵ fees, (3) the non-Priority Customer Complex Order taker surcharge, and (4) formatting and other non-substantive changes to the tables. Each of the proposed changes is described in more detail below.

I. Priority Customer Complex Order Rebates

Currently, the Exchange has a fee structure in place for Complex Orders that provides rebates to Priority Customer Complex Orders in order to encourage Members to bring that order flow to the Exchange. Specifically, Priority Customer Complex Orders are provided rebates in Select Symbols⁶ and Non-Select Symbols⁷ (other than NDX and MNX) based on Priority Customer average daily volume ("ADV") in eight tiers as shown in the table below:⁸

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 Nasdaq ISE Rule 100(a)(37A)

⁵ "Market Maker" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See ISE Rule 100(a)(28).

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

⁷ "Non-Select Symbols" are options overlying all symbols excluding Select Symbols.

⁸ The Priority Customer Complex Order rebates are 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.

	Rebate for Select Symbols	Rebate for Non-Select Symbols
Priority Customer Complex ADV 0-14,999	(\$0.26)	(\$0.40)
Priority Customer Complex ADV 15,000-44,999	(\$0.30)	(\$0.60)
Priority Customer Complex ADV 45,000-59,999	(\$0.36)	(\$0.70)
Priority Customer Complex ADV 60,000-74,999	(\$0.41)	(\$0.75)
Priority Customer Complex ADV 75,000-99,999	(\$0.42)	(\$0.75)
Priority Customer Complex ADV 100,000-124,999	(\$0.45)	(\$0.80)
Priority Customer Complex ADV 125,000-224,999	(\$0.46)	(\$0.81)
Priority Customer Complex ADV 225,000+	(\$0.50)	(\$0.85)

The Exchange now proposes to modify this rebate structure such that Priority Customer Complex Order rebates will be paid a rebate based on a percentage of industry volume rather than straight volume thresholds. In addition, the Exchange proposes to move away from a tier calculation based solely on Priority Customer Complex ADV to one that includes Complex Orders entered for other market participant types, and orders entered by affiliates of the Member. Specifically, the Exchange proposes to adopt Priority Customer Complex Tiers that are based on Total Affiliated Member Complex Order Volume (Excluding Crossing Orders and Responses to Crossing Orders) Calculated as a Percentage of Customer Total Consolidated Volume. All Complex Order volume executed on the Exchange, including volume executed by Affiliated Members,

The rebate for the highest tier volume achieved is applied retroactively to all eligible Priority Customer Complex volume once the threshold has been reached.

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.

will be included in the volume calculation, except for volume executed as Crossing Orders and Responses to Crossing Orders. An “Affiliated Member” is a Member that shares at least 75% common ownership with a particular Member as reflected on the Member’s Form BD, Schedule A. Furthermore, “Customer Total Consolidated Volume” means the total national volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month.

As proposed, there will be nine Priority Customer Complex Order Tiers based on the percentage of industry volume calculation: 0.000% - 0.200% (Tier 1); above 0.200% - 0.400% (Tier 2); above 0.400% - 0.600% (Tier 3), above 0.600% - 0.800% (Tier 4), above 0.800% - 1.000% (Tier 5), above 1.000% - 1.600% (Tier 6), above 1.600% - 2.000% (Tier 7), above 2.000% - 3.500% (Tier 8), above 3.500% (Tier 9). Furthermore, the associated rebates will be modified such that in Select Symbols the proposed rebate will be \$0.25 per contract for Tier 1, \$0.30 per contract for Tier 2, \$0.35 per contract for Tier 3, \$0.40 per contract for Tier 4, \$0.45 per contract for Tier 5, \$0.46 per contract for Tier 6, \$0.48 per contract for Tier 7, and \$0.50 per contract for Tiers 8 and 9. Furthermore, in Non-Select Symbols the proposed rebate will be \$0.40 per contract for Tier 1, \$0.55 per contract for Tier 2, \$0.70 per contract for Tier 3, \$0.75 per contract for Tier 4, \$0.80 per contract for Tiers 5-7, and \$0.85 per contract for Tiers 8 and 9.

II. Market Maker Fees

Market Maker Complex Orders in Select Symbols are charged a maker fee of \$0.47 per contract when trading against Priority Customer Complex Orders, and a \$0.50 per contract taker fee regardless of the counterparty. Currently, each of these fees is reduced to \$0.44 per contract for Market Makers with total affiliated Priority Customer

Complex ADV of 150,000 or more contracts.⁹ The Exchange proposes to base this fee discount on the proposed Priority Customer Complex Tiers, and introduce a second tier of reduced fee for Market Makers that achieve a higher Priority Customer Complex Tier. Specifically, the Exchange proposes to keep the current \$0.44 per contract fee for Market Makers Market Makers that achieve Priority Customer Complex Tier 9, and charge a fee of \$0.47 per contract for Market Makers that achieve Priority Customer Complex Tier 8.

In addition, Market Makers that qualify for the Market Maker Plus program are currently charged a fee \$0.10 per contract instead of the applicable Market Maker Plus rebate when trading against Priority Customer Complex Orders that leg into the regular order book. Regardless of the counterparty, a \$0.10 per contract maker fee also applies to Market Makers that do not qualify for Market Maker Plus and Non-Nasdaq ISE Market Makers. With the proposed Priority Customer Complex Order Tiers described above, which in some cases may result in higher rebates being provided to Priority Customer Complex Orders, including Complex Orders that leg into the regular order book, the Exchange proposes to increase the fee for trading against Priority Customer Complex Orders that leg into the regular order book. Specifically, the Exchange proposes to increase this fee to \$0.15 per contract and apply it to all Market Maker Orders and Non-Nasdaq ISE Market Maker Orders. Furthermore, there is currently no fee charged or rebate provided to Market Maker Orders submitted by Market Makers that qualify for Market Maker Plus when trading against non-Priority Customer Complex Orders that leg into the regular order book. As proposed, this treatment will be afforded to all Market

⁹ All eligible volume from affiliated Members is 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.

Maker Orders when trading against non-Priority Customer Complex Orders that leg into the regular order book. The fees for Non-Nasdaq ISE Market Makers for trading against non-Priority Customer Complex Orders that leg into the regular order book will remain unchanged.

III. Non-Priority Customer Complex Order Taker Surcharge

Currently, the Exchange assesses a \$0.03 per contract surcharge to non-Priority Customer Complex Orders in Non-Select Symbols that take liquidity from the Complex Order Book, excluding Complex Orders executed in the Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (“PIM”) and “exposure” auctions pursuant to Rule 722(b)(3)(iii). The Exchange proposes to increase this taker surcharge to \$0.05 per contract.

IV. Formatting and Other Non-Substantive Changes to the Tables

With the changes described above, which add additional content to the Schedule of Fees, the Exchange proposes to make certain non-substantive formatting changes that are designed to make the flow of the Schedule of Fees easier for Members to understand. None of these changes affect the fees charged or rebates provided to members. With the proposed changes, the Exchange will have three tables located under Section II of the Schedule of Fees (Complex Order Fees and Rebates): (1) “Priority Customer Rebates,” (2) “Maker and Taker Fees,” and (3) “Crossing Order Fees and Rebates.”

The first table, i.e., Priority Customer Rebates, will contain the Priority Customer Complex Tiers described above rather than all rebates as is currently the case. As such, the Exchange proposes to move the column on Facilitation and Solicitation Break-up Rebate for Select Symbols to the third table on Crossing Order Fees and Rebates. These rebates will continue to be applied in exactly the same manner as today. Furthermore, the

Exchange proposes to delete references in this table to other market participant types, which are not eligible for rebates in Complex Orders other than the Facilitation and Solicitation Break-up Rebate in Select Symbols described above. The second table, i.e., Maker and Taker Fees, will include both the maker fees described there today as well as the taker fees that are currently included in the following table. As such, the Exchange proposes to move the columns that describe the taker fee for Select Symbols and the taker fee for Non-Select Symbols to this table. No changes to these taker fees are proposed. Finally, the third table, i.e., Crossing Order Fees and Rebates, will include only fees and rebates that relate to the Exchange's various crossing mechanisms. The fees and rebates moved to and from this table are described above.

Finally, the footnote referenced in the column on Facilitation and Solicitation Break-up Rebates for Select Symbols contains an outdated reference to the PIM. Specifically, the footnote provides that rebates are provided per contract per leg for contracts that are submitted to PIM, Facilitation and Solicitation Mechanisms..." As indicated in the header to the column, these break-up rebates apply to the Facilitation and Solicitation Mechanisms only. The language related to the PIM was included in the Schedule of Fees when the Exchange offered a break-up rebate for the PIM. When the Exchange eliminated PIM break-up rebates, the Exchange deleted the column that included those rebates but did not remove the related reference in this footnote.¹⁰ The Exchange therefore proposes to update this footnote now by deleting the PIM reference, which is no longer applicable.

¹⁰ See Securities Exchange Act Release No. 80684 (May 16, 2017), 82 FR 23435 (May 22, 2017) (SR-ISE-2017-39).

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹² 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.

I. Priority Customer Complex Order Rebates

The Exchange believes that the proposed changes to the Priority Customer Complex Order Tiers are reasonable and equitable as these changes are designed to incentivize Members to trade Complex Orders, and, in particular Priority Customer Complex Orders, on the Exchange. The Exchange is proposing to base Priority Customer Complex Order Tiers on a percentage of industry volume in recognition of the fact that the volume executed by a Member may rise or fall with industry volume. A percentage of industry volume calculation allows the Exchange's tiers to be calibrated to current market volumes rather than requiring the same amount of volume regardless of market conditions. While the amount of volume required by the proposed tiers may change in any given month due to increases or decreases in industry volume, the Exchange believes that the proposed tier requirements are set at a level that roughly corresponds to the current ADV requirements for Priority Customer Complex Tiers. The Exchange is also proposing to include additional types of Complex Order volume in the tier calculation. Although the current tier structure counts solely Priority Customer Complex ADV, the

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4) and (5).

proposed structure would allow Members to qualify for higher tier based on all Complex Order volume except for Crossing Orders and Responses to Crossing Orders. The Exchange believes that increasing the volume counted for purposes of calculating tiers will encourage Members to bring different types of Complex Order volume to the Exchange (i.e., to qualify for a higher tier), while continuing to incentivize Members to bring Priority Customer Complex Orders specifically to earn the associated rebates. Crossing Orders and Responses to Crossing Orders will be excluded from the proposed tier calculation as this type of order flow is subject to separate pricing, with various incentives for Members that trade in the Exchange's crossing mechanisms.

In addition, the Exchange believes that the proposed changes are equitable and not unfairly discriminatory as these changes are designed to bring more order flow, and in particular, Priority Customer Complex Orders, to the Exchange. The Exchange does not believe that it is unfairly discriminatory provide rebates only to Priority Customer Complex Orders as this is the order flow that the Exchange is seeking to incentivize. 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 than Priority Customers. The Exchange currently has Priority Customer Complex Order Tiers in place to incentivize that order flow, and is simply modifying those tiers in a way that the Exchange believes will increase participation in Complex Orders. The Exchange believes that the proposed

changes to the Priority Customer Complex Tiers will benefit all market participants that trade on the Exchange by increasing their opportunities to trade.

Furthermore, the Exchange believes that its proposed definitions of “Affiliated Member” and “Customer Total Consolidated Volume” are reasonable, equitable, and not unfairly discriminatory as these definitions clarify terms that the Exchange is using to describe its Priority Customer Complex Tiers. The proposed definitions are consistent with definitions adopted for these concepts on the Exchange’s affiliated exchanges, Nasdaq MRX, LLC (“MRX”) and Nasdaq GEMX, LLC (“GEMX”) respectively.¹³ Furthermore, with respect to the definition of “Affiliated Member” in particular the Exchange is adopting a definition that is consistent with the Exchange’s current practice of aggregating volume from Members that share at least 75% common ownership.

II. Market Maker Fees

The Exchange believes the proposed changes to the Market Maker Complex Order fees in Select Symbols are reasonable and equitable as the proposed fees replace a fee that was previously tied to the Priority Customer Complex ADV with a new fees based on the proposed Priority Customer Complex Tiers. Furthermore, the Exchange believes that it is reasonable and equitable to provide a differentiated fee based on whether the Market Maker achieves Priority Customer Complex Tier 8 or 9. With the proposed changes, Market Makers that achieve Priority Customer Complex Tier 9 will pay the same fee as would be applicable today based on achieving the required total affiliated Priority Customer ADV, while Market Makers that achieve Priority Customer Complex Tier 8 will pay a slightly higher fee that is nonetheless discounted compared to

¹³ See MRX Schedule of Fees, Preface; GEMX Schedule of Fees, I. Regular Order Fees and Rebates, Qualifying Tier Thresholds.

the fees applicable to Market Makers that do not achieve these tiers. The Exchange believes that this two tiered structure will encourage firms to reach for the highest tier of the under Priority Customer Complex Order rebate program, while nonetheless incentivizing firms that do not have sufficient volume to reach that tier to work towards the second highest tier introduced under that program.

Furthermore, the Exchange believes that the proposed changes to Market Maker Complex Order fees are equitable and not unfairly discriminatory the changes apply equally to all Market Maker Complex Orders based on achieving the required Priority Customer Complex Tier. As is the case today, the Exchange will continue to charge lower fees to Market Makers that execute, through their affiliates, a significant volume of Priority Customer Complex Orders, as this will incentivize members to bring order flow to the Exchange, creating additional liquidity in Complex Orders to the benefit of all Members. The Exchange does not believe that it is unfairly discriminatory only to provide these 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.

The Exchange also believes that that it is reasonable and equitable to increase the maker fee charged to Market Makers and Non-Nasdaq ISE Market Makers that provide liquidity to Priority Customer Complex Orders that leg into the regular order book. Today, Market Makers that do not qualify for Market Maker Plus and Non-Nasdaq ISE Market Makers pay a small fee for providing liquidity in Select Symbols. In addition, Market Makers that qualify for Market Maker Plus and would typically be eligible for a maker rebate are instead charged a maker fee when trading against Priority Customer

Complex Orders that leg into the regular order book. At the same time, the Exchange pays high rebates to Priority Customer Complex Orders, including when those Complex Orders leg into the regular order book. In some cases these rebates may be increased with the proposed changes described above to the Priority Customer Complex Order Tiers. The Exchange believes that it is reasonable and equitable to increase the fees charged for all Market Maker and Non-Nasdaq ISE Market Maker Orders that provide liquidity to Priority Customer Complex Orders that leg into the regular market as this will help offset potentially significant rebates paid on the other side of these trades. In this regard, the proposed fee increase would decrease but not completely eliminate the negative economics associated with these trades as the Exchange pays out significantly more in rebate opportunity for Priority Customer Complex Orders than it receives from other side of the trade when those orders leg into the regular order book. Furthermore, the Exchange believes that it is reasonable and equitable to reduce fees for all Market Maker Orders trading against non-Priority Customer Complex Orders that leg into the regular order book. Currently, this benefit is provided only to Market Makers that achieve Market Maker Plus status. The Exchange believes, however, that it is appropriate to extend this benefit to all Market Maker Orders as an additional incentive for Market Makers that have an obligation to maintain quotes and provide liquidity in the regular market rather than only those Market Makers that meet the heightened requirements of Market Maker Plus. Non-Nasdaq ISE Market Makers who have no obligations to provide liquidity will not be eligible for this incentive.

Furthermore, the Exchange believes that the proposed changes to these fees for Market Maker and Non-Nasdaq ISE Market Maker Orders are equitable and not unfairly

discriminatory as they are designed to reduce the negative economics associated with Priority Customer Complex Orders that leg into the regular order book. The proposed fees will apply equally to all Market Makers and Non-Nasdaq ISE Market Makers. The Exchange pays significant rebates to that Priority Customer Complex Orders, including when those orders leg into the regular order book where they may trade with Market Makers and Non-Nasdaq ISE Market Makers providing liquidity in the regular market. The Exchange does not believe it is unfairly discriminatory to charge increased maker fees only to Market Maker and Non-Nasdaq ISE Market Maker Orders as these market participants are typically the ones providing liquidity and trading with Priority Customer Complex Orders that leg into the regular order book.

III. Non-Priority Customer Complex Order Taker Surcharge

The Exchange believes that the proposed increase the taker surcharge for non-Priority Customer Complex Orders in Non-Select Symbols that take liquidity from the complex order book is reasonable and equitable. The proposed fees are modestly increased and the Exchange believes that such fees 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, and who may be granted additional opportunities to trade by virtue of the incentives being granted to attract Priority Customer Complex Orders to the Exchange. Furthermore, the Exchange believes that the proposed change is equitable and not unfairly discriminatory as it applies to all non-Priority Customer Complex Orders that take liquidity in Non-Select Symbols.

IV. Formatting and Other Non-Substantive Changes to the Tables

The Exchange believes that the proposed formatting changes to the tables are reasonable, equitable, and not unfairly discriminatory. As explained in the purpose

section of this filing, these changes are entirely cosmetic and merely move around columns in various tables so that these are grouped in a manner that the Exchange believes will be easier for Members to follow. The Exchange hopes that these changes will increase the readability of the Schedule of Fees by grouping fees and rebates for Complex Orders under three headings – i.e., Priority Customer Rebates, Maker and Taker Fees, and Crossing Order Fees and Rebates. None of the proposed formatting changes impact the fees charged or rebates provided to Members. Furthermore, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to remove the outdated reference to the PIM in the Facilitation and Solicitation break-up rebate footnote. As explained in the purpose section of this proposed rule change, the Exchange does not have break-up rebates for the PIM. Although the column correctly refers to Facilitation and Solicitation break-up rebates, the PIM reference was inadvertently left in the footnote at the time the Exchange filed to remove those rebates. The proposed change corrects this reference.

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 Exchange believes that the proposed changes will enhance both intermarket and intramarket competition by amending various fees and rebates related to the trading of Complex Orders on the Exchange. The Exchange believes that the proposed fees and rebates remain competitive with those on other options markets, and will continue to attract order flow to the Exchange, thereby encouraging additional volume and liquidity to the benefit of all market participants. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing

venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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,¹⁴ 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.

¹⁴ 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-2018-46)

May __, 2018

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Schedule of Fees Related to Complex Orders

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 May 10, 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 Schedule of Fees related to Complex Orders traded on the Exchange.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees related to Complex Orders traded on the Exchange, including: (1) Priority Customer³ Complex Order rebates, (2) Market Maker⁴ fees, (3) the non-Priority Customer Complex Order taker surcharge, and (4) formatting and other non-substantive changes to the tables. Each of the proposed changes is described in more detail below.

I. Priority Customer Complex Order Rebates

Currently, the Exchange has a fee structure in place for Complex Orders that provides rebates to Priority Customer Complex Orders in order to encourage Members to bring that order flow to the Exchange. Specifically, Priority Customer Complex Orders are provided rebates in Select Symbols⁵ and Non-Select Symbols⁶ (other than NDX and

³ 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)

⁴ "Market Maker" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See ISE Rule 100(a)(28).

⁵ "Select Symbols" are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

⁶ "Non-Select Symbols" are options overlying all symbols excluding Select Symbols.

MNX) based on Priority Customer average daily volume (“ADV”) in eight tiers as shown in the table below:⁷

	Rebate for Select Symbols	Rebate for Non-Select Symbols
Priority Customer Complex ADV 0-14,999	(\$0.26)	(\$0.40)
Priority Customer Complex ADV 15,000-44,999	(\$0.30)	(\$0.60)
Priority Customer Complex ADV 45,000-59,999	(\$0.36)	(\$0.70)
Priority Customer Complex ADV 60,000-74,999	(\$0.41)	(\$0.75)
Priority Customer Complex ADV 75,000-99,999	(\$0.42)	(\$0.75)
Priority Customer Complex ADV 100,000-124,999	(\$0.45)	(\$0.80)
Priority Customer Complex ADV 125,000-224,999	(\$0.46)	(\$0.81)
Priority Customer Complex ADV 225,000+	(\$0.50)	(\$0.85)

The Exchange now proposes to modify this rebate structure such that Priority Customer Complex Order rebates will be paid a rebate based on a percentage of industry volume rather than straight volume thresholds. In addition, the Exchange proposes to move away from a tier calculation based solely on Priority Customer Complex ADV to one that includes Complex Orders entered for other market participant types, and orders entered by affiliates of the Member. Specifically, the Exchange proposes to adopt

⁷ The Priority Customer Complex Order rebates are 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.

The rebate for the highest tier volume achieved is applied retroactively to all eligible Priority Customer Complex volume once the threshold has been reached.

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.

Priority Customer Complex Tiers that are based on Total Affiliated Member Complex Order Volume (Excluding Crossing Orders and Responses to Crossing Orders) Calculated as a Percentage of Customer Total Consolidated Volume. All Complex Order volume executed on the Exchange, including volume executed by Affiliated Members, will be included in the volume calculation, except for volume executed as Crossing Orders and Responses to Crossing Orders. An “Affiliated Member” is a Member that shares at least 75% common ownership with a particular Member as reflected on the Member's Form BD, Schedule A. Furthermore, “Customer Total Consolidated Volume” means the total national volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month.

As proposed, there will be nine Priority Customer Complex Order Tiers based on the percentage of industry volume calculation: 0.000% - 0.200% (Tier 1); above 0.200% - 0.400% (Tier 2); above 0.400% - 0.600% (Tier 3), above 0.600% - 0.800% (Tier 4), above 0.800% - 1.000% (Tier 5), above 1.000% - 1.600% (Tier 6), above 1.600% - 2.000% (Tier 7), above 2.000% - 3.500% (Tier 8), above 3.500% (Tier 9). Furthermore, the associated rebates will be modified such that in Select Symbols the proposed rebate will be \$0.25 per contract for Tier 1, \$0.30 per contract for Tier 2, \$0.35 per contract for Tier 3, \$0.40 per contract for Tier 4, \$0.45 per contract for Tier 5, \$0.46 per contract for Tier 6, \$0.48 per contract for Tier 7, and \$0.50 per contract for Tiers 8 and 9. Furthermore, in Non-Select Symbols the proposed rebate will be \$0.40 per contract for Tier 1, \$0.55 per contract for Tier 2, \$0.70 per contract for Tier 3, \$0.75 per contract for Tier 4, \$0.80 per contract for Tiers 5-7, and \$0.85 per contract for Tiers 8 and 9.

II. Market Maker Fees

Market Maker Complex Orders in Select Symbols are charged a maker fee of \$0.47 per contract when trading against Priority Customer Complex Orders, and a \$0.50 per contract taker fee regardless of the counterparty. Currently, each of these fees is reduced to \$0.44 per contract for Market Makers with total affiliated Priority Customer Complex ADV of 150,000 or more contracts.⁸ The Exchange proposes to base this fee discount on the proposed Priority Customer Complex Tiers, and introduce a second tier of reduced fee for Market Makers that achieve a higher Priority Customer Complex Tier. Specifically, the Exchange proposes to keep the current \$0.44 per contract fee for Market Makers Market Makers that achieve Priority Customer Complex Tier 9, and charge a fee of \$0.47 per contract for Market Makers that achieve Priority Customer Complex Tier 8.

In addition, Market Makers that qualify for the Market Maker Plus program are currently charged a fee \$0.10 per contract instead of the applicable Market Maker Plus rebate when trading against Priority Customer Complex Orders that leg into the regular order book. Regardless of the counterparty, a \$0.10 per contract maker fee also applies to Market Makers that do not qualify for Market Maker Plus and Non-Nasdaq ISE Market Makers. With the proposed Priority Customer Complex Order Tiers described above, which in some cases may result in higher rebates being provided to Priority Customer Complex Orders, including Complex Orders that leg into the regular order book, the Exchange proposes to increase the fee for trading against Priority Customer Complex Orders that leg into the regular order book. Specifically, the Exchange proposes to

⁸ All eligible volume from affiliated Members is 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.

increase this fee to \$0.15 per contract and apply it to all Market Maker Orders and Non-Nasdaq ISE Market Maker Orders. Furthermore, there is currently no fee charged or rebate provided to Market Maker Orders submitted by Market Makers that qualify for Market Maker Plus when trading against non-Priority Customer Complex Orders that leg into the regular order book. As proposed, this treatment will be afforded to all Market Maker Orders when trading against non-Priority Customer Complex Orders that leg into the regular order book. The fees for Non-Nasdaq ISE Market Makers for trading against non-Priority Customer Complex Orders that leg into the regular order book will remain unchanged.

III. Non-Priority Customer Complex Order Taker Surcharge

Currently, the Exchange assesses a \$0.03 per contract surcharge to non-Priority Customer Complex Orders in Non-Select Symbols that take liquidity from the Complex Order Book, excluding Complex Orders executed in the Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (“PIM”) and “exposure” auctions pursuant to Rule 722(b)(3)(iii). The Exchange proposes to increase this taker surcharge to \$0.05 per contract.

IV. Formatting and Other Non-Substantive Changes to the Tables

With the changes described above, which add additional content to the Schedule of Fees, the Exchange proposes to make certain non-substantive formatting changes that are designed to make the flow of the Schedule of Fees easier for Members to understand. None of these changes affect the fees charged or rebates provided to members. With the proposed changes, the Exchange will have three tables located under Section II of the Schedule of Fees (Complex Order Fees and Rebates): (1) “Priority Customer Rebates,” (2) “Maker and Taker Fees,” and (3) “Crossing Order Fees and Rebates.”

The first table, i.e., Priority Customer Rebates, will contain the Priority Customer Complex Tiers described above rather than all rebates as is currently the case. As such, the Exchange proposes to move the column on Facilitation and Solicitation Break-up Rebate for Select Symbols to the third table on Crossing Order Fees and Rebates. These rebates will continue to be applied in exactly the same manner as today. Furthermore, the Exchange proposes to delete references in this table to other market participant types, which are not eligible for rebates in Complex Orders other than the Facilitation and Solicitation Break-up Rebate in Select Symbols described above. The second table, i.e., Maker and Taker Fees, will include both the maker fees described there today as well as the taker fees that are currently included in the following table. As such, the Exchange proposes to move the columns that describe the taker fee for Select Symbols and the taker fee for Non-Select Symbols to this table. No changes to these taker fees are proposed. Finally, the third table, i.e., Crossing Order Fees and Rebates, will include only fees and rebates that relate to the Exchange's various crossing mechanisms. The fees and rebates moved to and from this table are described above.

Finally, the footnote referenced in the column on Facilitation and Solicitation Break-up Rebates for Select Symbols contains an outdated reference to the PIM. Specifically, the footnote provides that rebates are provided per contract per leg for contracts that are submitted to PIM, Facilitation and Solicitation Mechanisms..." As indicated in the header to the column, these break-up rebates apply to the Facilitation and Solicitation Mechanisms only. The language related to the PIM was included in the Schedule of Fees when the Exchange offered a break-up rebate for the PIM. When the Exchange eliminated PIM break-up rebates, the Exchange deleted the column that

included those rebates but did not remove the related reference in this footnote.⁹ The Exchange therefore proposes to update this footnote now by deleting the PIM reference, which is no longer applicable.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹¹ 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.

I. Priority Customer Complex Order Rebates

The Exchange believes that the proposed changes to the Priority Customer Complex Order Tiers are reasonable and equitable as these changes are designed to incentivize Members to trade Complex Orders, and, in particular Priority Customer Complex Orders, on the Exchange. The Exchange is proposing to base Priority Customer Complex Order Tiers on a percentage of industry volume in recognition of the fact that the volume executed by a Member may rise or fall with industry volume. A percentage of industry volume calculation allows the Exchange's tiers to be calibrated to current market volumes rather than requiring the same amount of volume regardless of market conditions. While the amount of volume required by the proposed tiers may change in any given month due to increases or decreases in industry volume, the Exchange believes

⁹ See Securities Exchange Act Release No. 80684 (May 16, 2017), 82 FR 23435 (May 22, 2017) (SR-ISE-2017-39).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4) and (5).

that the proposed tier requirements are set at a level that roughly corresponds to the current ADV requirements for Priority Customer Complex Tiers. The Exchange is also proposing to include additional types of Complex Order volume in the tier calculation. Although the current tier structure counts solely Priority Customer Complex ADV, the proposed structure would allow Members to qualify for higher tier based on all Complex Order volume except for Crossing Orders and Responses to Crossing Orders. The Exchange believes that increasing the volume counted for purposes of calculating tiers will encourage Members to bring different types of Complex Order volume to the Exchange (i.e., to qualify for a higher tier), while continuing to incentivize Members to bring Priority Customer Complex Orders specifically to earn the associated rebates. Crossing Orders and Responses to Crossing Orders will be excluded from the proposed tier calculation as this type of order flow is subject to separate pricing, with various incentives for Members that trade in the Exchange's crossing mechanisms.

In addition, the Exchange believes that the proposed changes are equitable and not unfairly discriminatory as these changes are designed to bring more order flow, and in particular, Priority Customer Complex Orders, to the Exchange. The Exchange does not believe that it is unfairly discriminatory provide rebates only to Priority Customer Complex Orders as this is the order flow that the Exchange is seeking to incentivize. 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 than Priority Customers. The

Exchange currently has Priority Customer Complex Order Tiers in place to incentivize that order flow, and is simply modifying those tiers in a way that the Exchange believes will increase participation in Complex Orders. The Exchange believes that the proposed changes to the Priority Customer Complex Tiers will benefit all market participants that trade on the Exchange by increasing their opportunities to trade.

Furthermore, the Exchange believes that its proposed definitions of “Affiliated Member” and “Customer Total Consolidated Volume” are reasonable, equitable, and not unfairly discriminatory as these definitions clarify terms that the Exchange is using to describe its Priority Customer Complex Tiers. The proposed definitions are consistent with definitions adopted for these concepts on the Exchange’s affiliated exchanges, Nasdaq MRX, LLC (“MRX”) and Nasdaq GEMX, LLC (“GEMX”) respectively.¹² Furthermore, with respect to the definition of “Affiliated Member” in particular the Exchange is adopting a definition that is consistent with the Exchange’s current practice of aggregating volume from Members that share at least 75% common ownership.

II. Market Maker Fees

The Exchange believes the proposed changes to the Market Maker Complex Order fees in Select Symbols are reasonable and equitable as the proposed fees replace a fee that was previously tied to the Priority Customer Complex ADV with a new fees based on the proposed Priority Customer Complex Tiers. Furthermore, the Exchange believes that it is reasonable and equitable to provide a differentiated fee based on whether the Market Maker achieves Priority Customer Complex Tier 8 or 9. With the proposed changes, Market Makers that achieve Priority Customer Complex Tier 9 will

¹² See MRX Schedule of Fees, Preface; GEMX Schedule of Fees, I. Regular Order Fees and Rebates, Qualifying Tier Thresholds.

pay the same fee as would be applicable today based on achieving the required total affiliated Priority Customer ADV, while Market Makers that achieve Priority Customer Complex Tier 8 will pay a slightly higher fee that is nonetheless discounted compared to the fees applicable to Market Makers that do not achieve these tiers. The Exchange believes that this two tiered structure will encourage firms to reach for the highest tier of the under Priority Customer Complex Order rebate program, while nonetheless incentivizing firms that do not have sufficient volume to reach that tier to work towards the second highest tier introduced under that program.

Furthermore, the Exchange believes that the proposed changes to Market Maker Complex Order fees are equitable and not unfairly discriminatory the changes apply equally to all Market Maker Complex Orders based on achieving the required Priority Customer Complex Tier. As is the case today, the Exchange will continue to charge lower fees to Market Makers that execute, through their affiliates, a significant volume of Priority Customer Complex Orders, as this will incentivize members to bring order flow to the Exchange, creating additional liquidity in Complex Orders to the benefit of all Members. The Exchange does not believe that it is unfairly discriminatory only to provide these 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.

The Exchange also believes that that it is reasonable and equitable to increase the maker fee charged to Market Makers and Non-Nasdaq ISE Market Makers that provide liquidity to Priority Customer Complex Orders that leg into the regular order book. Today, Market Makers that do not qualify for Market Maker Plus and Non-Nasdaq ISE

Market Makers pay a small fee for providing liquidity in Select Symbols. In addition, Market Makers that qualify for Market Maker Plus and would typically be eligible for a maker rebate are instead charged a maker fee when trading against Priority Customer Complex Orders that leg into the regular order book. At the same time, the Exchange pays high rebates to Priority Customer Complex Orders, including when those Complex Orders leg into the regular order book. In some cases these rebates may be increased with the proposed changes described above to the Priority Customer Complex Order Tiers. The Exchange believes that it is reasonable and equitable to increase the fees charged for all Market Maker and Non-Nasdaq ISE Market Maker Orders that provide liquidity to Priority Customer Complex Orders that leg into the regular market as this will help offset potentially significant rebates paid on the other side of these trades. In this regard, the proposed fee increase would decrease but not completely eliminate the negative economics associated with these trades as the Exchange pays out significantly more in rebate opportunity for Priority Customer Complex Orders than it receives from other side of the trade when those orders leg into the regular order book. Furthermore, the Exchange believes that it is reasonable and equitable to reduce fees for all Market Maker Orders trading against non-Priority Customer Complex Orders that leg into the regular order book. Currently, this benefit is provided only to Market Makers that achieve Market Maker Plus status. The Exchange believes, however, that it is appropriate to extend this benefit to all Market Maker Orders as an additional incentive for Market Makers that have an obligation to maintain quotes and provide liquidity in the regular market rather than only those Market Makers that meet the heightened requirements of Market Maker

Plus. Non-Nasdaq ISE Market Makers who have no obligations to provide liquidity will not be eligible for this incentive.

Furthermore, the Exchange believes that the proposed changes to these fees for Market Maker and Non-Nasdaq ISE Market Maker Orders are equitable and not unfairly discriminatory as they are designed to reduce the negative economics associated with Priority Customer Complex Orders that leg into the regular order book. The proposed fees will apply equally to all Market Makers and Non-Nasdaq ISE Market Makers. The Exchange pays significant rebates to that Priority Customer Complex Orders, including when those orders leg into the regular order book where they may trade with Market Makers and Non-Nasdaq ISE Market Makers providing liquidity in the regular market. The Exchange does not believe it is unfairly discriminatory to charge increased maker fees only to Market Maker and Non-Nasdaq ISE Market Maker Orders as these market participants are typically the ones providing liquidity and trading with Priority Customer Complex Orders that leg into the regular order book.

III. Non-Priority Customer Complex Order Taker Surcharge

The Exchange believes that the proposed increase the taker surcharge for non-Priority Customer Complex Orders in Non-Select Symbols that take liquidity from the complex order book is reasonable and equitable. The proposed fees are modestly increased and the Exchange believes that such fees 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, and who may be granted additional opportunities to trade by virtue of the incentives being granted to attract Priority Customer Complex Orders to the Exchange. Furthermore, the Exchange believes that the

proposed change is equitable and not unfairly discriminatory as it applies to all non-Priority Customer Complex Orders that take liquidity in Non-Select Symbols.

IV. Formatting and Other Non-Substantive Changes to the Tables

The Exchange believes that the proposed formatting changes to the tables are reasonable, equitable, and not unfairly discriminatory. As explained in the purpose section of this filing, these changes are entirely cosmetic and merely move around columns in various tables so that these are grouped in a manner that the Exchange believes will be easier for Members to follow. The Exchange hopes that these changes will increase the readability of the Schedule of Fees by grouping fees and rebates for Complex Orders under three headings – i.e., Priority Customer Rebates, Maker and Taker Fees, and Crossing Order Fees and Rebates. None of the proposed formatting changes impact the fees charged or rebates provided to Members. Furthermore, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to remove the outdated reference to the PIM in the Facilitation and Solicitation break-up rebate footnote. As explained in the purpose section of this proposed rule change, the Exchange does not have break-up rebates for the PIM. Although the column correctly refers to Facilitation and Solicitation break-up rebates, the PIM reference was inadvertently left in the footnote at the time the Exchange filed to remove those rebates. The proposed change corrects this reference.

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 Exchange believes that the proposed changes will enhance both intermarket and intramarket competition by amending various fees and rebates related to the trading of

Complex Orders on the Exchange. The Exchange believes that the proposed fees and rebates remain competitive with those on other options markets, and will continue to attract order flow to the Exchange, thereby encouraging additional volume and liquidity to the benefit of all market participants. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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.¹³ 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.

¹³ 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-2018-46 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-2018-46. 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-2018-46 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.¹⁴

Eduardo A. Aleman
Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

Nasdaq ISE Rules

* * * * *

PREFACE

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For purposes of assessing fees, the following references should serve as guidance. Fees and rebates are listed per contract per leg unless otherwise noted.

An "**Affiliated Member**" is a Member that shares at least 75% common ownership with a particular Member as reflected on the Member's Form BD, Schedule A.

"**Customer Total Consolidated Volume**" means the total national volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month.

* * * * *

I. Regular Order Fees and Rebates

* * * * *

Select Symbols

Market Participant	Maker Rebate / Fee	Taker Fee	Fee for Crossing Orders Except PIM Orders⁽¹⁾⁽²⁾	Fee for PIM Orders^{(1)(2) (13)}	Fee for Responses to Crossing Orders Except PIM Orders	Fee for Responses to PIM Orders	Facilitation and Solicitation Break-up Rebate⁽⁴⁾
Market Maker ⁽⁸⁾	\$0.10 ⁽⁵⁾⁽¹⁰⁾⁽¹¹⁾	\$0.45	\$0.20	\$0.10	\$0.50	\$0.25	N/A
Non-Nasdaq ISE Market Maker (FarMM)	\$0.10 ⁽¹¹⁾	\$0.46	\$0.20	\$0.10	\$0.50	\$0.25	(\$0.15)
Firm Proprietary / Broker-Dealer	\$0.10	\$0.46	\$0.20	\$0.10	\$0.50	\$0.25	(\$0.15)
Professional Customer	\$0.10	\$0.46	\$0.20 ⁽¹⁶⁾	\$0.10	\$0.50	\$0.25	(\$0.15)
Priority Customer	\$0.00	\$0.44 ⁽³⁾	\$0.00	\$0.00	\$0.50	\$0.25	(\$0.15)

* * * * *

5. Market Makers that qualify for Market Maker Plus will not pay this fee if they meet the applicable tier thresholds set forth in the table below, and will instead receive the below rebates based on the applicable tier for which they qualify.

Market Makers are evaluated each trading day for the percentage of time spent on the National Best Bid or National Best Offer ("NBBO") for qualifying series that expire in two successive thirty calendar day periods beginning on that trading day. A Market Maker Plus is a Market Maker who is on the NBBO a specified percentage of the time on average for the month based on daily performance in the qualifying series for each of the two successive periods described above. Qualifying series are 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. If a Market Maker would qualify for a different Market Maker Plus tier in each of the two successive periods described above, then the lower of the two Market Maker Plus tier rebates shall apply to all contracts.

Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers - i.e., badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol.

A Market Maker's worst quoting day each month for each of the two successive periods described above, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this 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, QQQ, and IWM ^[(10)]

Market Maker Plus Tier (Specified Percentage)	Maker Rebate
Tier 1 (80% to less than 85%)	(\$0.15)
Tier 2 (85% to less than 95%)	(\$0.18)
Tier 3 (95% or greater)	(\$0.22)

SPY, QQQ, and IWM ^[(10)]

Market Maker Plus Tier (Specified Percentage)	Regular Maker Rebate	Linked Maker Rebate ⁽⁹⁾
Tier 1 (70% to less than 80%)	(\$0.00)	N/A
Tier 2 (80% to less than 85%)	(\$0.18)	(\$0.15)
Tier 3 (85% to less than 90%)	(\$0.22)	(\$0.19)
Tier 4 (90% or greater)	(\$0.26)	(\$0.23)

* * * * *

10. [A \$0.10 per contract fee applies instead of the applicable Market Maker Plus rebate when trading against Priority Customer complex orders that leg into the regular order book.]There will be no fee charged or rebate provided when trading against non-Priority Customer complex orders that leg into the regular order book.

11. [Reserved.]A \$0.15 per contract fee applies instead of the applicable fee or rebate when trading against Priority Customer complex orders that leg into the regular order book.

* * * * *

II. Complex Order Fees and Rebates^{(12) (15)}

Priority Customer Rebates

<u>[Market Participant] Priority Customer Complex Tier</u> ⁽⁷⁾⁽¹³⁾⁽¹⁶⁾	<u>Total Affiliated Member Complex Order Volume (Excluding Crossing Orders and Responses to Crossing Orders) Calculated as a Percentage of Customer Total Consolidated Volume</u>	<u>Rebate for Select Symbols⁽¹⁾</u>	<u>Rebate for Non-Select Symbols⁽¹⁾⁽⁴⁾</u>	<u>[Facilitation and Solicitation Break-up Rebate for Select Symbols⁽²⁾]</u>
[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)]
<u>Tier 1</u> [Priority Customer Complex ADV 0-14,999 ⁽⁷⁾⁽¹³⁾]	<u>0.000% - 0.200%</u>	<u>[\$(0.26)](\$0.25)</u>	<u>(\$0.40)</u>	<u>[\$(0.15)]</u>
<u>Tier 2</u> [Priority Customer Complex ADV 15,000-44,999 ⁽⁷⁾⁽¹³⁾]	<u>Above 0.200% - 0.400%</u>	<u>(\$0.30)</u>	<u>[\$(0.60)](\$0.55)</u>	<u>[\$(0.15)]</u>
<u>Tier 3</u> [Priority Customer Complex ADV 45,000-59,999 ⁽⁷⁾⁽¹³⁾]	<u>Above 0.400% - 0.600%</u>	<u>[\$(0.36)](\$0.35)</u>	<u>(\$0.70)</u>	<u>[\$(0.15)]</u>
<u>Tier 4</u> [Priority Customer Complex ADV 60,000-74,999 ⁽⁷⁾⁽¹³⁾]	<u>Above 0.600% - 0.800%</u>	<u>[\$(0.41)](\$0.40)</u>	<u>(\$0.75)</u>	<u>[\$(0.15)]</u>
<u>Tier 5</u> [Priority Customer Complex ADV 75,000-99,999 ⁽⁷⁾⁽¹³⁾]	<u>Above 0.800% - 1.000%</u>	<u>[\$(0.42)](\$0.45)</u>	<u>[\$(0.75)](\$0.80)</u>	<u>[\$(0.15)]</u>
<u>Tier 6</u> [Priority Customer Complex ADV 100,000-124,999 ⁽⁷⁾⁽¹³⁾]	<u>Above 1.000% - 1.600%</u>	<u>[\$(0.45)](\$0.46)</u>	<u>(\$0.80)</u>	<u>[\$(0.15)]</u>
<u>Tier 7</u> [Priority Customer Complex ADV 125,000-224,999 ⁽⁷⁾⁽¹³⁾]	<u>Above 1.600% - 2.000%</u>	<u>[\$(0.46)](\$0.48)</u>	<u>[\$(0.81)](\$0.80)</u>	<u>[\$(0.15)]</u>
<u>Tier 8</u> [Priority Customer Complex ADV 225,000+ ⁽⁷⁾⁽¹³⁾]	<u>Above 2.000% - 3.500%</u>	<u>(\$0.50)</u>	<u>(\$0.85)</u>	<u>[\$(0.15)]</u>
<u>Tier 9</u>	<u>Above 3.500%</u>	<u>(\$0.50)</u>	<u>(\$0.85)</u>	

Maker and Taker Fees

Market Participant	Maker Fee for Select Symbols	Maker Fee for Non-Select Symbols	Maker Fee for Select Symbols when trading against Priority Customer⁽⁵⁾	Maker Fee for non-Select Symbols when trading against Priority Customer⁽⁵⁾	<u>Taker Fee for Select Symbols⁽⁵⁾</u>	<u>Taker Fee for Non-Select Symbols⁽⁵⁾</u>
Market Maker	\$0.10	\$0.20	\$0.47 ⁽³⁾	\$0.86	<u>\$0.50⁽³⁾</u>	<u>\$0.86⁽⁸⁾</u>
Non-Nasdaq ISE Market Maker (FarMM)	\$0.20	\$0.20	\$0.48	\$0.88	<u>\$0.50</u>	<u>\$0.88⁽⁸⁾</u>
Firm Proprietary / Broker-Dealer	\$0.10	\$0.20	\$0.48	\$0.88	<u>\$0.50</u>	<u>\$0.88⁽⁸⁾</u>
Professional Customer	\$0.10	\$0.20	\$0.48	\$0.88	<u>\$0.50</u>	<u>\$0.88⁽⁸⁾</u>
Priority Customer	\$0.00	\$0.00	\$0.00	\$0.00	<u>\$0.00</u>	<u>\$0.00</u>

[Taker and other Fees]Crossing Order Fees and Rebates

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 Orders for Select Symbols	Fee for Responses to Crossing Orders Except PIM Orders for non-Select Symbols	Fee for Responses to PIM Orders	<u>Facilitation and Solicitation Break-up Rebate for Select Symbols⁽²⁾</u>
Market Maker	[\$0.50 ⁽³⁾]	[\$0.86 ⁽⁸⁾]	\$0.20	\$0.10	\$0.50	\$0.91	\$0.25	<u>N/A</u>
Non-Nasdaq ISE Market Maker (FarMM)	[\$0.50]	[\$0.88 ⁽⁸⁾]	\$0.20	\$0.10	\$0.50	\$0.96	\$0.25	<u>(\$0.15)</u>
Firm Proprietary / Broker-Dealer	[\$0.50]	[\$0.88 ⁽⁸⁾]	\$0.20	\$0.10	\$0.50	\$0.96	\$0.25	<u>(\$0.15)</u>
Professional Customer	[\$0.50]	[\$0.88 ⁽⁸⁾]	\$0.20 ⁽¹⁴⁾	\$0.10	\$0.50	\$0.96	\$0.25	<u>(\$0.15)</u>
Priority Customer	[\$0.00]	[\$0.00]	\$0.00	\$0.00	\$0.50	\$0.96	\$0.25	<u>(\$0.15)</u>

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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 \$0.47 per contract for Market Makers that achieve Priority Customer Complex Tier 8 and \$0.44 per contract for Market Makers that achieve Priority Customer Complex Tier 9[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].

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8. A [~~\$0.03~~]\$0.05 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).

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16. Priority Customer Complex Tiers are based on Total Affiliated Member Complex Order Volume (Excluding Crossing Orders and Responses to Crossing Orders) Calculated as a Percentage of Customer Total Consolidated Volume. All Complex Order volume executed on the Exchange, including volume executed by Affiliated Members, is included in the volume calculation, except for volume executed as Crossing Orders and Responses to Crossing Orders.

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