

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="26"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2020"/> - * <input type="text" value="10"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by Nasdaq ISE, LLC  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

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

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

A proposed rule to amend Options 3, Section 7, Types of Orders, and Options 3, Section 14, Complex Orders to permit the Exchange to determine the availability of order types and time-in-force provisions and to add other existing order types to the list of single-leg and Complex Order types.

**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 * <input type="text" value="Angela"/>	Last Name * <input type="text" value="Dunn"/>
Title * <input type="text" value="Principal Associate General Counsel"/>	
E-mail * <input type="text" value="Angela.Dunn@Nasdaq.com"/>	
Telephone * <input type="text" value="(215) 496-5692"/>	Fax <input type="text"/>

**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 <input type="text" value="03/09/2020"/>	<input type="text" value="EVP and Chief Legal Counsel"/>
By <input type="text" value="John A. Zecca"/>	<input type="text"/>
(Name *)	

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS 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 \***

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 \***

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

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

1. Text of the Proposed Rule Change

(a) Nasdaq ISE, LLC (“ISE” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule to amend Options 3, Section 7, “Types of Orders,” and Options 3, Section 14, “Complex Orders” to permit the Exchange to determine the availability of order types and time-in-force provisions and to add other existing order types to the list of single-leg and Complex Order types.

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).<sup>3</sup>

A notice of the proposed rule change for publication in the Federal Register is attached hereto 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 25, 2019. 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.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6)(iii).

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

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

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

a. Purpose

The Exchange proposes to amend Options 3, Section 7, “Types of Orders,” and Options 3, Section 14, “Complex Orders” to: (1) provide that the Exchange may determine which order types and times-in-force provisions are available on a class or system basis; and (2) to add other existing order types to the list of single-leg and Complex Order types.

The Exchange proposes to add a sentence to Options 3, Section 14, Complex Orders, which states, “The Exchange may determine to make certain order types and/or times-in-force available on a class or System basis.” This sentence exists today within Nasdaq ISE, LLC (“ISE”) Options 3, Section 7, “Types of Orders.”<sup>4</sup> This proposed change is based on the rules of ISE Options 3, Section 7 and the rules of Cboe BZX Exchange, Inc. (“BZX Options”),<sup>5</sup> Rule 21.1, Cboe EDGX Exchange, Inc. (“EDGX

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<sup>4</sup> See Securities Exchange Act Release No. 88294 (February 26, 2020), 85 FR 12629 (March 3, 2020) (SR-ISE-2020-07).

<sup>5</sup> BZX Options Rule 21.1(d), Definitions, provides “The term ‘Order Type’ shall mean the unique processing prescribed for designated orders, subject to the restrictions set forth in paragraph (l) below with respect to orders and bulk messages submitted through bulk ports, that are eligible for entry into the System. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Order Types are available on a class or system basis.” BZX Options Rule 21.1(f), Definitions, provides “The term ‘Time in Force’ shall mean the period of time that the System will hold an order, subject to the restrictions set forth in paragraph (l) below with respect to bulk

Options”) Rule 21.1(d)<sup>6</sup>, Cboe Exchange, Inc. (“Cboe”) Rule 5.6(a)<sup>7</sup> and Cboe C2 Exchange, Inc. (“C2”) Rule 6.10(a).<sup>8</sup>

The purpose of this rule change is to provide the Exchange with appropriate flexibility to address different trading characteristics, market models, and the investor base of each class, as well as to handle any System issues that may arise and require the Exchange to temporarily not accept certain order types. This rule is consistent with BZX Options Rule 21.1(d) and (f), EDGX Options Rules 21.1(d) and (f), Cboe Rule 5.6(a) and

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messages submitted through bulk ports, for potential execution. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Times-in-Force are available on a class or system basis.”

- <sup>6</sup> EDGX Options Rule 21.1(d), Definitions, provides, “The term ‘Order Type’ shall mean the unique processing prescribed for designated orders, subject to the restrictions set forth in paragraph (j) below with respect to orders and bulk messages submitted through bulk ports, that are eligible for entry into the System. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Order Types are available on a class, system, or trading session basis. Rule 21.20 sets forth the Order Types the Exchange may make available for complex orders.” EDGX Options Rule 21.1(f), Definitions, provides, “The term ‘Time in Force’ means the period of time that the System will hold an order, subject to the restrictions set forth in paragraph (j) below with respect to bulk messages submitted through bulk ports, for potential execution. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Times-in-Force are available on a class, system, or trading session basis. Rule 21.20 sets forth the Times-in-Force the Exchange may make available for complex orders.”
- <sup>7</sup> Cboe Rule 5.6, Order Types, Order Instructions, and Times-in-Force at subsection (a), Availability, provides, “Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following order types, Order Instructions, and Times-in-Force are available on a class, system, or trading session basis.”
- <sup>8</sup> C2 Rule 6.10, Availability of Orders, at subsection (a) provides, “*Availability*. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following order types, Order Instructions, and Times-in-Force are available on a class, system, or trading session basis. Rule 6.13 sets forth the order types, Order Instructions, and Times-in-Force the Exchange may make available for complex orders.”

C2 Rule 6.10(a), each of which provides these exchanges with substantially the same flexibility. This rule text is also consistent with ISE Rules at Options 3, Section 7.

This rule change will not permit the Exchange to discriminate among market participants when determining which order types and times-in-force provisions are available on a class or system basis. The Exchange's proposal allows the Exchange to make certain order types and time-in-force, respectively, available on a class or System basis uniformly for all market participants. For example, if the Exchange determined to make a certain order type or time-in-force unavailable, that order type or time-in-force would not be available for any market participant.

The Exchange would issue an Options Trader Alert to provide notification to Participants that a change is being made to the availability or unavailability of a certain order type or time-in-force. The Exchange notes that in the event of System disruption, the Exchange would notify Participants of the unavailability of any order type and would also provide notification when that order type was available once the disruption was resolved.

The Exchange also proposes to add to Options 3, Section 7 at proposed (v)-(y) and Options 3, Section 14(b) at proposed (16), (17) and (18), references to various existing order types that may be entered into various auction mechanisms on ISE. Specifically, the Exchange proposes to add a reference to both single-leg and Complex Orders entered into the Price Improvement Mechanism, Facilitation Mechanism and Solicited Order Mechanism. These order types exist today within the ISE Rules, however, unlike other order types, they are not mentioned within Options 3, Sections 7 or 14, which list the single-leg and Complex Orders, respectively, available for trading on

ISE. Further, the Exchange also proposes to add the Block Order type to Options 3, Section 7 to complete the list of available order types that may be entered into an auction mechanism. The Exchange proposes to add the following rule text into Options 3, Section 7:

(v) Block Order. A Block Order is an order entered into the Block Order Mechanism as described in Options 3, Section 11(a).

(w) Facilitation Order. A Facilitation Order is an order entered into the Facilitation Mechanism as described in Options 3, Section 11(b).

(x) SOM Order. A SOM Order is an order entered into the Solicited Order Mechanism as described in Options 3, Section 11(d).

(y) A PIM Order. A PIM Order is an order entered into the Price Improvement Mechanism as described in Options 3, Section 13(a).

The Exchange proposes to add the following rule text into Options 3, Section 14:

(16) Complex Facilitation Order. A Complex Facilitation Order is an order entered into the Complex Facilitation Mechanism as described in Options 3, Section 11(c).

(17) Complex SOM Order. A Complex SOM Order is an order entered into the Complex Solicited Order Mechanism as described in Options 3, Section 11(e).

(18) Complex PIM Order. A Complex PIM Order is an order entered into the Complex Price Improvement Mechanism as described in Options 3, Section 13(e).

The Exchange believes the addition of this rule text will make clear that these order types are available.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> in

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposed rule change would provide the Exchange with the flexibility to determine the availability of order types and times-in-force on a class and System basis. This flexibility would remove impediments to and perfect the mechanism of a free and open market and a national market system by allowing the Exchange to address the specific characteristics of different classes and different market conditions. The Exchange believes that this proposal serves to protect investors by ensuring that the appropriate order types and times-in-force are tailored to the different class characteristics and by mitigating risks associated with changing market conditions.<sup>11</sup>

The Exchange would issue a notification to Participants to provide them notice that a change is being made to the availability or unavailability of a certain order type or time-in-force before implementing the change. In the event of a System issue, the Exchange believes that it is consistent with the Act to temporarily not offer a certain order type to ensure the proper executions of transactions within the System thereby protecting investors and the public interest. The Exchange anticipates that exercising its ability to temporarily not offer order types would be infrequent.

This provision was added to all 6 Nasdaq affiliated markets for the simple markets<sup>12</sup> and therefore will ensure consistency between the Exchange rules and that of

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<sup>11</sup> The Exchange may also determine to temporarily not offer an order type or a time-in-force based on a System issue.

<sup>12</sup> See Nasdaq Phlx LLC, The Nasdaq Options Market, LLC, Nasdaq BX, Inc., ISE, Nasdaq GEMX, LLC and Nasdaq MRX, LLC Rules at Options 3, Section 7.



its affiliates and would remove impediments to and perfect the mechanism of a free and open market and promote just and equitable principles of trade, as well as foster cooperation and coordination with persons engaged in facilitating transactions in securities. The proposed rule change provides the Exchange with substantially the same flexibility currently permitted on BZX Options, EDGX Options, Cboe and C2 as well as ISE.<sup>13</sup> The Exchange believes that this consistency promotes market participants' understanding of the rules across the multiple Nasdaq affiliated exchanges and promotes a fair and orderly national options market system. This proposal does not present any novel or unique issues because other exchanges have substantially similar rules.<sup>14</sup>

The Exchange's proposal is not unfairly discriminatory because the Exchange will not discriminate among market participants when determining which order types and times-in-force provisions are available on a class or system basis. The Exchange's proposal allows the Exchange to make certain order types and time-in-force, respectively, available on a class or System basis uniformly for all market participants. For example, if the Exchange determined to make a certain order type or time-in-force unavailable, that order type or time-in-force would not be available for any market participant.

The proposal to add a references to all existing order types that may be entered into auctions into Options 3, Sections 7 and 14 is consistent with the Act. The Exchange believes the addition of the Block Order type, Facilitation Order type, SOM Order type and PIM Order types into Options 3, Section 7 and the addition of the Complex Facilitation Order type, Complex SOM Order type and Complex PIM Order type into

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<sup>13</sup> See notes 4-8 above.

<sup>14</sup> Id.

Options 3, Section 14 will make clear to market participants the various types of single-leg order and Complex Orders that may be transacted on ISE. The descriptions of these order types merely point at the existing mechanisms.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intra-market competition, as the proposed rule change will apply in the same manner to all order types and/or times-in-force, as the Exchange determines, for all Participants. The Exchange does not believe the proposed rule change will impose any burden on inter-market competition because the proposed change provides the Exchange with substantially the same flexibility as the rules of other exchanges.<sup>15</sup> Therefore, the Exchange believes that the proposed rule change will allow it to make determinations regarding the availability of orders that will enable it to remain competitive as markets and market conditions evolve.

The Exchange's proposal does not impose an undue burden on competition because the Exchange's proposal will uniformly make certain order types and time-in-force, respectively, available on a class or System basis for market participants.

The proposal to add the Block Order type, Facilitation Order type, SOM Order type and PIM Order types into Options 3, Section 7 and the Complex Facilitation type, Complex SOM Order type and Complex PIM Order type into Options 3, Section 14b does not impose an undue burden on competition. The addition of these order types

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<sup>15</sup> Id.

would complete the list of single-leg and Complex Order types, which are available to all market participants, and are merely being referenced within the order type rules for greater transparency.

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

The Exchange does not consent to an extension of the time period for Commission action.

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

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

The proposed rule change does not significantly affect the protection of investors because the rule change would provide the Exchange with the flexibility to determine the availability of order types and times-in-force on a class and System basis. This flexibility would allow the Exchange to address the specific characteristics of different classes and different market conditions. Additionally, the proposal would protect investors by ensuring that the appropriate order types and times-in-force are tailored to the different class characteristics and by mitigating risks associated with changing market

conditions.<sup>16</sup> The proposal does not impose any significant burden on intra-market or inter-market competition. The proposal will apply in the same manner to all order types and/or times-in-force, as the Exchange determines, for all Participants. The proposed change provides the Exchange with substantially the same flexibility as the rules of other exchanges.<sup>17</sup> This proposal will permit the Exchange to make determinations regarding the availability of orders that will enable it to remain competitive as markets and market conditions evolve. Referencing all single-leg and Complex Order types makes clear which order types are available to all market participants.

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

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

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection

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<sup>16</sup> The Exchange may also determine to temporarily not offer an order type or a time-in-force based on a System issue.

<sup>17</sup> See notes 4-8 above.

of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that the Exchange may obtain substantially the same flexibility currently permitted on ISE, BZX Options, EDGX Options, Cboe and C2. The waiver of the operative delay will permit the Exchange to utilize this ability to make certain order types available and unavailable immediately, which would serve to protect investors and the public interest by mitigating risks associated with changing market conditions. This proposal will enable the Exchange to remain competitive as markets and market conditions evolve.

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

This proposal is consistent with ISE Options 3, Section 7 and the rules of Cboe BZX Exchange, Inc. (“BZX Options”), Rule 21.1, Cboe EDGX Exchange, Inc. (“EDGX Options”) Rule 21.1(d), Cboe Exchange, Inc. (“Cboe”) Rule 5.6(a) and Cboe C2 Exchange, Inc. (“C2”) Rule 6.10(a).<sup>18</sup> These exchanges have substantially the same flexibility to determine the availability of order types and times-in-force on a class and System basis.

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.

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<sup>18</sup> Id.

5. Text of the proposed rule change.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-ISE-2020-10)

March \_\_, 2020

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 9, 2020, 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 Options 3, Section 7, “Types of Orders,” and Options 3, Section 14, “Complex Orders” to permit the Exchange to determine the availability of order types and time-in-force provisions and to add other existing order types to the list of single-leg and Complex Order types.

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.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

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

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

1. Purpose

The Exchange proposes to amend Options 3, Section 7, “Types of Orders,” and Options 3, Section 14, “Complex Orders” to: (1) provide that the Exchange may determine which order types and times-in-force provisions are available on a class or system basis; and (2) to add other existing order types to the list of single-leg and Complex Order types.

The Exchange proposes to add a sentence to Options 3, Section 14, Complex Orders, which states, “The Exchange may determine to make certain order types and/or times-in-force available on a class or System basis.” This sentence exists today within Nasdaq ISE, LLC (“ISE”) Options 3, Section 7, “Types of Orders.”<sup>3</sup> This proposed change is based on the rules of ISE Options 3, Section 7 and the rules of Cboe BZX Exchange, Inc. (“BZX Options”),<sup>4</sup> Rule 21.1, Cboe EDGX Exchange, Inc. (“EDGX

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<sup>3</sup> See Securities Exchange Act Release No. 88294 (February 26, 2020), 85 FR 12629 (March 3, 2020) (SR-ISE-2020-07).

<sup>4</sup> BZX Options Rule 21.1(d), Definitions, provides “The term ‘Order Type’ shall mean the unique processing prescribed for designated orders, subject to the restrictions set forth in paragraph (l) below with respect to orders and bulk



Options”) Rule 21.1(d)<sup>5</sup>, Cboe Exchange, Inc. (“Cboe”) Rule 5.6(a)<sup>6</sup> and Cboe C2 Exchange, Inc. (“C2”) Rule 6.10(a).<sup>7</sup>

The purpose of this rule change is to provide the Exchange with appropriate flexibility to address different trading characteristics, market models, and the investor

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messages submitted through bulk ports, that are eligible for entry into the System. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Order Types are available on a class or system basis.” BZX Options Rule 21.1(f), Definitions, provides “The term ‘Time in Force’ shall mean the period of time that the System will hold an order, subject to the restrictions set forth in paragraph (l) below with respect to bulk messages submitted through bulk ports, for potential execution. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Times-in-Force are available on a class or system basis.”

<sup>5</sup> EDGX Options Rule 21.1(d), Definitions, provides, “The term ‘Order Type’ shall mean the unique processing prescribed for designated orders, subject to the restrictions set forth in paragraph (j) below with respect to orders and bulk messages submitted through bulk ports, that are eligible for entry into the System. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Order Types are available on a class, system, or trading session basis. Rule 21.20 sets forth the Order Types the Exchange may make available for complex orders.” EDGX Options Rule 21.1(f), Definitions, provides, “The term ‘Time in Force’ means the period of time that the System will hold an order, subject to the restrictions set forth in paragraph (j) below with respect to bulk messages submitted through bulk ports, for potential execution. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Times-in-Force are available on a class, system, or trading session basis. Rule 21.20 sets forth the Times-in-Force the Exchange may make available for complex orders.”

<sup>6</sup> Cboe Rule 5.6, Order Types, Order Instructions, and Times-in-Force at subsection (a), Availability, provides, “Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following order types, Order Instructions, and Times-in-Force are available on a class, system, or trading session basis.”

<sup>7</sup> C2 Rule 6.10, Availability of Orders, at subsection (a) provides, “*Availability*. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following order types, Order Instructions, and Times-in-Force are available on a class, system, or trading session basis. Rule 6.13 sets forth the order types, Order Instructions, and Times-in-Force the Exchange may make available for complex orders.”

base of each class, as well as to handle any System issues that may arise and require the Exchange to temporarily not accept certain order types. This rule is consistent with BZX Options Rule 21.1(d) and (f), EDGX Options Rules 21.1(d) and (f), Cboe Rule 5.6(a) and C2 Rule 6.10(a), each of which provides these exchanges with substantially the same flexibility. This rule text is also consistent with ISE Rules at Options 3, Section 7.

This rule change will not permit the Exchange to discriminate among market participants when determining which order types and times-in-force provisions are available on a class or system basis. The Exchange's proposal allows the Exchange to make certain order types and time-in-force, respectively, available on a class or System basis uniformly for all market participants. For example, if the Exchange determined to make a certain order type or time-in-force unavailable, that order type or time-in-force would not be available for any market participant.

The Exchange would issue an Options Trader Alert to provide notification to Participants that a change is being made to the availability or unavailability of a certain order type or time-in-force. The Exchange notes that in the event of System disruption, the Exchange would notify Participants of the unavailability of any order type and would also provide notification when that order type was available once the disruption was resolved.

The Exchange also proposes to add to Options 3, Section 7 at proposed (v)-(y) and Options 3, Section 14(b) at proposed (16), (17) and (18), references to various existing order types that may be entered into various auction mechanisms on ISE. Specifically, the Exchange proposes to add a reference to both single-leg and Complex Orders entered into the Price Improvement Mechanism, Facilitation Mechanism and

Solicited Order Mechanism. These order types exist today within the ISE Rules, however, unlike other order types, they are not mentioned within Options 3, Sections 7 or 14, which list the single-leg and Complex Orders, respectively, available for trading on ISE. Further, the Exchange also proposes to add the Block Order type to Options 3, Section 7 to complete the list of available order types that may be entered into an auction mechanism. The Exchange proposes to add the following rule text into Options 3, Section 7:

(v) Block Order. A Block Order is an order entered into the Block Order Mechanism as described in Options 3, Section 11(a).

(w) Facilitation Order. A Facilitation Order is an order entered into the Facilitation Mechanism as described in Options 3, Section 11(b).

(x) SOM Order. A SOM Order is an order entered into the Solicited Order Mechanism as described in Options 3, Section 11(d).

(y) A PIM Order. A PIM Order is an order entered into the Price Improvement Mechanism as described in Options 3, Section 13(a).

The Exchange proposes to add the following rule text into Options 3, Section 14:

(16) Complex Facilitation Order. A Complex Facilitation Order is an order entered into the Complex Facilitation Mechanism as described in Options 3, Section 11(c).

(17) Complex SOM Order. A Complex SOM Order is an order entered into the Complex Solicited Order Mechanism as described in Options 3, Section 11(e).

(18) Complex PIM Order. A Complex PIM Order is an order entered into the Complex Price Improvement Mechanism as described in Options 3, Section 13(e).

The Exchange believes the addition of this rule text will make clear that these order types are available.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposed rule change would provide the Exchange with the flexibility to determine the availability of order types and times-in-force on a class and System basis. This flexibility would remove impediments to and perfect the mechanism of a free and open market and a national market system by allowing the Exchange to address the specific characteristics of different classes and different market conditions. The Exchange believes that this proposal serves to protect investors by ensuring that the appropriate order types and times-in-force are tailored to the different class characteristics and by mitigating risks associated with changing market conditions.<sup>10</sup>

The Exchange would issue a notification to Participants to provide them notice that a change is being made to the availability or unavailability of a certain order type or time-in-force before implementing the change. In the event of a System issue, the Exchange believes that it is consistent with the Act to temporarily not offer a certain order type to ensure the proper executions of transactions within the System thereby

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<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> The Exchange may also determine to temporarily not offer an order type or a time-in-force based on a System issue.

protecting investors and the public interest. The Exchange anticipates that exercising its ability to temporarily not offer order types would be infrequent.

This provision was added to all 6 Nasdaq affiliated markets for the simple markets<sup>11</sup> and therefore will ensure consistency between the Exchange rules and that of its affiliates and would remove impediments to and perfect the mechanism of a free and open market and promote just and equitable principles of trade, as well as foster cooperation and coordination with persons engaged in facilitating transactions in securities. The proposed rule change provides the Exchange with substantially the same flexibility currently permitted on BZX Options, EDGX Options, Cboe and C2 as well as ISE.<sup>12</sup> The Exchange believes that this consistency promotes market participants' understanding of the rules across the multiple Nasdaq affiliated exchanges and promotes a fair and orderly national options market system. This proposal does not present any novel or unique issues because other exchanges have substantially similar rules.<sup>13</sup>

The Exchange's proposal is not unfairly discriminatory because the Exchange will not discriminate among market participants when determining which order types and times-in-force provisions are available on a class or system basis. The Exchange's proposal allows the Exchange to make certain order types and time-in-force, respectively, available on a class or System basis uniformly for all market participants. For example, if the Exchange determined to make a certain order type or time-in-force unavailable, that order type or time-in-force would not be available for any market participant.

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<sup>11</sup> See Nasdaq Phlx LLC, The Nasdaq Options Market, LLC, Nasdaq BX, Inc., ISE, Nasdaq GEMX, LLC and Nasdaq MRX, LLC Rules at Options 3, Section 7.

<sup>12</sup> See notes 3-7 above.

<sup>13</sup> Id.

The proposal to add a references to all existing order types that may be entered into auctions into Options 3, Sections 7 and 14 is consistent with the Act. The Exchange believes the addition of the Block Order type, Facilitation Order type, SOM Order type and PIM Order types into Options 3, Section 7 and the addition of the Complex Facilitation Order type, Complex SOM Order type and Complex PIM Order type into Options 3, Section 14 will make clear to market participants the various types of single-leg order and Complex Orders that may be transacted on ISE. The descriptions of these order types merely point at the existing mechanisms.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intra-market competition, as the proposed rule change will apply in the same manner to all order types and/or times-in-force, as the Exchange determines, for all Participants. The Exchange does not believe the proposed rule change will impose any burden on inter-market competition because the proposed change provides the Exchange with substantially the same flexibility as the rules of other exchanges.<sup>14</sup> Therefore, the Exchange believes that the proposed rule change will allow it to make determinations regarding the availability of orders that will enable it to remain competitive as markets and market conditions evolve.

The Exchange's proposal does not impose an undue burden on competition because the Exchange's proposal will uniformly make certain order types and time-in-

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<sup>14</sup> Id.

force, respectively, available on a class or System basis for market participants.

The proposal to add the Block Order type, Facilitation Order type, SOM Order type and PIM Order types into Options 3, Section 7 and the Complex Facilitation type, Complex SOM Order type and Complex PIM Order type into Options 3, Section 14b does not impose an undue burden on competition. The addition of these order types would complete the list of single-leg and Complex Order types, which are available to all market participants, and are merely being referenced within the order type rules for greater transparency.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>16</sup>

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<sup>15</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 necessary or appropriate in the public interest, for the protection of investors, or 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](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2020-10 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-2020-10. 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-2020-10 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.<sup>17</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>17</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

**Nasdaq ISE, LLC Rules**

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**Options 3 Options Trading Rules**

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**Section 7. Types of Orders**

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(v) Block Order. A Block Order is an order entered into the Block Order Mechanism as described in Options 3, Section 11(a).

(w) Facilitation Order. A Facilitation Order is an order entered into the Facilitation Mechanism as described in Options 3, Section 11(b).

(x) SOM Order. A SOM Order is an order entered into the Solicited Order Mechanism as described in Options 3, Section 11(d).

(y) A PIM Order. A PIM Order is an order entered into the Price Improvement Mechanism as described in Options 3, Section 13(a).

\* \* \* \* \*

**Section 14. Complex Orders**

\* \* \* \* \*

*(b) Types of Complex Orders.* Unless otherwise specified, the definitions used below have the same meaning contained in Options 3, Section 7. The Exchange may determine to make certain order types and/or times-in-force available on a class or System basis. Complex Orders may be entered using the following orders or designations:

\* \* \* \* \*

(15) Complex QCC with Stock Orders. A Complex QCC with Stock Order is a Qualified Contingent Cross Complex Order, as defined in subparagraph (b)(6), entered with a stock component to be communicated to a designated broker-dealer for execution pursuant to Options 3, Section 12(e).

(16) Complex Facilitation Order. A Complex Facilitation Order is an order entered into the Complex Facilitation Mechanism as described in Options 3, Section 11(c).

(17) Complex SOM Order. A Complex SOM Order is an order entered into the Complex Solicited Order Mechanism as described in Options 3, Section 11(e).

(18) Complex PIM Order. A Complex PIM Order is an order entered into the Complex Price Improvement Mechanism as described in Options 3, Section 13(e).

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