thereby stimulate greater competition among existing DMM units and potential new entrants, to the benefit the investing public, issuers, and the marketplace. In addition, to the extent that the proposal would lead to additional member organizations becoming fully-operational DMM units, the Exchange believes the proposal would expand and diversify the pool of Exchange DMMs. The Exchange also believes that the proposed changes would continue to foster competition and optimal performance among DMM units, thereby enhancing the quality of the services DMMs provide to issuers and promoting intermarket competition, particularly for issuers in connection with their determination of which exchange to select as a primary listing exchange. The Exchange does not believe that the proposed rule change would impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal is designed to address the DMM unit's operations on the Trading Floor, access to non-public information, and unique role in facilitating trading on the Exchange without diminishing the balance of benefits and obligations, or altering or diminishing the numerous obligations currently imposed by Exchange rules, on DMM units.

Finally, the Exchange believes that member organizations eligible for the Program may be able to deploy their existing market-making strategies on the Exchange and qualify for credits offered by the Exchange based on increased quoting and liquidity-providing activity. The Exchange therefore believes that the proposed rule change would promote competition by encouraging additional displayed liquidity, facilitating price discovery, and increasing the range and diversity of market making activity on the Exchange. Further, the Exchange does not believe that the proposed rule would impose any burden on intra-market competition because adding a new, temporary market participant would allow eligible member organizations an opportunity to access the benefits available to fully-operational DMM units when trading ETPs electronically for a brief ramp up period, subject to the same registration and regulatory obligations as those DMM units.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSE–2023–36 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–NYSE–2023–36. This file number should be included on the subject line if email 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 website (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2023–36 and should be submitted on or before December 4, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[68]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–24868 Filed 11–9–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98865; File No. SR–ISE–2023–23]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Pricing Schedule at Options 7 To Specify Pricing Related to Unrelated Market or Marketable Interest

November 6, 2023.

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 October 23, 2023, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II 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 its Pricing Schedule at Options 7 to specify pricing related to unrelated market or marketable interest.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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[68] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

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

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

1. Purpose

The Exchange proposes to amend the Exchange's Pricing Schedule at Options 7 to specify pricing related to unrelated market or marketable interest. Specifically, the Exchange proposes to specify the current manner in which the Exchange assesses fees and rebates with respect to unrelated market or marketable interest received prior to the commencement of an auction in the Facilitation Mechanism (''FAC''),[3] Solicited Order Mechanism (''SOL''),[4] and Price Improvement Mechanism (''PIM''),[5] and during such auctions. In addition, the Exchange also proposes a few non-substantive amendments to Options 7 that will bring more clarity to the Exchange's Pricing Schedule. Each change is discussed below.

Unrelated Interest

As a general rule, today, if an order executed in FAC (''FAC Order''), SOL (''SOL Order''), or PIM (''PIM Order'') executes against unrelated market or marketable interest received during an auction, the Exchange would assess the applicable Crossing Order[6] pricing in its Pricing Schedule. If the FAC, SOL, or PIM Order executes against unrelated market or marketable interest received prior to an auction, the Exchange would assess applicable order book pricing in its Pricing Schedule. As discussed below, the Exchange applies these concepts to unrelated market or marketable interest in line with Member expectations and to treat similarly situated Members in a uniform manner. The Exchange notes that it currently denotes in the Pricing Schedule that it would apply separate Crossing Order pricing for any contra-side interest submitted after the commencement of an auction in FAC, SOL, or PIM (which includes unrelated market and marketable interest received during the auction) by grouping such interest as Responses to Crossing Orders.[7] The Exchange further notes that today, it specifies throughout Options 7 how it will price Responses to Crossing Orders.[8] While the Exchange has delineated the treatment of unrelated market and marketable interest received by the Exchange during a FAC, SOL, and PIM auction in its Pricing Schedule, the Exchange believes that further clarity would be beneficial to Members as to how the Exchange currently assesses pricing for such interest received prior to the commencement of the auction. As such, the Exchange proposes to memorialize these concepts in its Pricing Schedule by adding new paragraph (d) to Options 7, Section 1, titled ''Unrelated Market or Marketable Interest Pricing.'' Proposed paragraph (d) would state that the following concepts would apply to FAC, SOL, and PIM Orders in Select Symbols and Non-Select Symbols (excluding Index Options).[9] The Exchange also proposes to note that all transactions in Index Options are subject to separate pricing in Options 7, Section 5. Today, the Exchange charges separate transaction fees for all executions (including executions in FAC, SOL, and PIM) in Index Options.[10] As such, the Exchange believes it is appropriate to clarify that these Index Options fees are excluded from the unrelated interest concepts in new paragraph (d).

Specifically, under new paragraph (d)(1), when the FAC Order or SOL Order executes against unrelated market or marketable interest received during an auction, the FAC Order or SOL Order will be assessed the applicable Fees for Crossing Orders (except PIM Orders)[11] or Facilitation and Solicitation Break-up Rebates[12] in Options 7, Section 3 (for regular FAC Orders and SOL Orders) and Section 4 (for complex FAC Orders and SOL Orders). Qualifying FAC Orders and SOL Orders may also be assessed the applicable Solicitation Rebate in Options 7, Section 6.A[13] or PIM and Facilitation Rebate in Section

[3] The Facilitation Mechanism is a process by which an Electronic Access Member can execute a transaction wherein the Electronic Access Member seeks to facilitate a block-size order it represents as agent, and/or a transaction wherein the Electronic Access Member solicited interest to execute against a block-size order it represents as agent. Electronic Access Members must be willing to execute the entire size of orders entered into the Facilitation Mechanism. *See* Options 3, Section 11(b). Additionally, Electronic Access Members may use the Facilitation Mechanism to execute block-size Complex Orders at a net price. *See* Options 3, Section 11(c) for the rules governing complex Facilitation Mechanism.

[4] The Solicited Order Mechanism is a process by which an Electronic Access Member can attempt to execute orders of 500 or more contracts it represents as agent (the ''Agency Order'') against contra orders that it solicited. Each order entered into the Solicited Order Mechanism shall be designated as all-or-none. *See* Options 3, Section 11(d). Additionally, Electronic Access Members may use the Solicited Order Mechanism to execute Complex Orders at a net price. *See* Options 3, Section 11(e) for the rules governing complex Solicited Order Mechanism.

[5] The Price Improvement Mechanism is a process by which an Electronic Access Member can provide price improvement opportunities for a transaction wherein the Electronic Access Member seeks to facilitate an order it represents as agent, and/or a transaction wherein the Electronic Access Member solicited interest to execute against an order it represents as agent. *See* Options 3, Section 13. Additionally, Electronic Access Members may use the Price Improvement Mechanism to execute Complex Orders at a net price. *See* Options 3, Section 13(e) for the rules governing complex Price Improvement Mechanism.

[6] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (''PIM'') or submitted as a Qualified Contingent Cross order. For purposes of this Pricing Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

[7] ''Responses to Crossing Order'' is any contra-side interest (*i.e.,* orders & quotes) submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or Price Improvement Mechanism. Contra-side interest in this context therefore includes both contra-side interest submitted specifically in response to an auction notification, and unrelated market and marketable contra-side interest submitted to the order book during the auction.

[8] *See* Section 3 (regular order fees for Responses to Crossing Orders); and Section 4 (complex order fees for Responses to Crossing Orders).

[9] ''Select Symbols'' are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Interval Program. ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols.

[10] Currently, the transaction fees are $0.75 per contract for all non-Priority Customer NDX orders and $0.00 for all Priority Customer NDX orders. In addition, the transaction fees are $0.25 per contract for all non-Priority Customer NQX orders and $0.00 for all Priority Customer NQX orders.

[11] Today, for both regular and complex orders, this fee is $0.20 per contract for all non-Priority Customer orders executed in FAC and SOL, except Professional Customer orders executed in SOL are assessed a $0.10 per contract fee instead. *See* Options 7, Section 3, note 16 and Section 4, note 14. Regular and complex Priority Customer orders executed in FAC and SOL currently receive free executions.

[12] Today, for both regular and complex orders, this rebate is $0.15 per contract for all market participants except Market Makers who are not eligible for the rebate. The rebate is provided to the originating FAC or SOL Order that executes with any response other than the contra-side of the FAC or SOL Order.

[13] Today, solicited FAC and SOL Orders are eligible to receive rebates ranging from $0.00 to $0.11 per contract according to the volume threshold table in Section 6.A. Rebates are applied to the originating side. All solicited market participant orders executed in FAC and SOL are eligible for the rebate, except solicited SOL or FAC Orders between two Priority Customers will not receive the rebate.

6.C.[14] Lastly, the unrelated market or marketable interest received during an auction will be assessed the applicable fees for Responses to Crossing Orders (except PIM Orders) in Options 7, Section 3 (for regular interest) and Section 4 (for complex interest).[15]

Under new paragraph (d)(2), when the order executed in PIM (''PIM Order'') executes against unrelated market or marketable interest received during an auction, the PIM Order will be assessed the applicable (1) Fees for PIM Orders [16] or PIM Break-up Rebates [17] in Section 3 below (for regular PIM Orders) and (2) Fees for PIM Orders in Section 4 below (for complex PIM Orders).[18] Qualifying PIM Orders may also be assessed the applicable PIM and Facilitation Rebate in Options 7, Section 6.C.[19] Lastly, the unrelated market or marketable interest received during an auction will be assessed the applicable Fees for Responses to PIM Orders in Section 3 (for regular interest) and Section 4 (for complex interest).[20]

Under new paragraph (d)(3), when the FAC Order, SOL Order, or PIM Order executes against unrelated market or marketable interest received *prior* to the commencement of an auction, the FAC Order, SOL Order, or PIM Order would be subject to the applicable taker pricing in Section 3 (for regular FAC Orders, SOL Orders, and PIM Orders) [21] and Section 4 (for complex FAC Orders, SOL Orders, and PIM Orders).[22] The unrelated market or marketable interest received prior to the commencement of an auction will be assessed the applicable maker pricing in Section 3 (for regular interest),[23] and Section 4 below (for complex interest).[24]

Unrelated market or marketable interest resting on the Exchange's order book, whether received prior to the commencement of a FAC, SOL, or PIM auction or during such auction, would be allocated in accordance with Options 3, Section 11(b)(4) and (c)(7) (for regular and complex FAC), Section 11(d)(3) and (e)(4) (for regular and complex SOL), and Section 13(d) and (e)(5) (for regular and complex PIM).

The Exchange applies order book pricing in accordance with Options 7, Sections 3 and 4 to interest received *prior* to a FAC, SOL, and PIM auction that subsequently trades with a FAC, SOL, or PIM Order (which is considered unrelated market or marketable interest for purposes of the auction) because the Exchange seeks to treat the Member who submitted such interest in a similar manner as any other Member who submits interest to the order book. The Member that submitted such interest would not have been aware at the time that a FAC, SOL, or PIM auction was in progress, and therefore would not have expected to be assessed separate Crossing Order pricing.[25] In such instances, the unrelated market or marketable interest that posted to the order book prior to the commencement of the auction would be treated as posting liquidity to the order book (makers of liquidity) and assessed maker pricing in accordance with Options 7, Section 3 and Section 4. The FAC, SOL, and PIM Order that trades against the unrelated interest would be considered as removing liquidity from the order book (takers of liquidity) and assessed taker pricing in accordance with Options 7, Section 3 and Section 4. This is consistent with taker pricing assessed to any Member that removes liquidity from the order book.

In contrast, the Exchange applies Crossing Order pricing in Options 7, Sections 3 and 4 to the unrelated market or marketable interest when the interest arrived *during* a FAC, SOL, and PIM auction. Members submitting interest to the order book during one of these auctions are aware that they may be allocated in the auction.[26] The Exchange assesses the applicable response fee in Options 7, Section 3 and Section 4 to Members submitting such interest in the same manner that responders to the FAC, SOL, and PIM auction are assessed fees for their auction responses. In other words, the unrelated market or marketable interest that received an allocation within the FAC, SOL, or PIM auction would be uniformly subject to the same fees as those Members that submitted auction responses and were allocated.

The Exchange's pricing models for the regular/complex order book and FAC/SOL/PIM auctions each seek to attract liquidity to the Exchange and reward Members differently for the different types of order flow. To this end, the Exchange's pricing considers the manner in which orders interact with the FAC/SOL/PIM auction based on the timing of when the order entered which order book. The Exchange's pricing is consistent with its current practice of assigning the applicable pricing for auctions versus order book pricing depending on how and when the order was submitted to the Exchange.

Technical Amendments

The Exchange proposes a few technical, non-substantive amendments throughout Options 7. Specifically, the Exchange proposes to title paragraph (b) in Options 7, Section 1 as ''Fee Disputes'' and paragraph (c) as ''Definitions'' to more clearly identify

[14] Today, unsolicited FAC Orders are eligible to receive rebates ranging from $0.02 to $0.03 per contract based on the volume threshold table in Section 6.C. Rebates are applied to the originating side. Only Firm Proprietary or Broker-Dealer orders executed in FAC and PIM are eligible for this rebate.

[15] Today, for both regular and complex orders, this fee is $0.50 per contract for all market participants in Select Symbols and $1.10 per contract for all market participant in Non-Select Symbols.

[16] Today, this fee is $0.10 per contract for all non-Priority Customer PIM Orders. Priority Customer PIM Orders currently receive free executions.

[17] Today, this rebate is $0.00 for regular Priority Customer PIM Orders that execute with any response other than the contra-side of the PIM Order. In addition, this rebate can increase to $0.26 per contract (Select Symbols) and $0.60 per contract (Non-Select Symbols) if the volume and size requirements in note 19 of Options 7, Section 3 are met.

[18] Today, this fee is $0.10 per contract for all non-Priority Customer PIM Orders. Priority Customer PIM Orders currently receive free executions.

[19] Once the requisite volume and size qualifications in Section 6.C are met, an $0.11 per contract rebate is currently provided to eligible regular Priority Customer PIM Orders. Rebates are applied to originating (*i.e.,* ''Agency'') side. This rebate is not provided to regular PIM Orders between two Priority Customers. In addition, today, unsolicited PIM Orders are eligible to receive the same rebates as described above for unsolicited FAC Orders. *See supra* note 14.

[20] Today, for both regular and complex orders, this fee is $0.50 per contract for all market participants in Select Symbols and $1.10 per contract for all market participant in Non-Select Symbols.

[21] Today, the regular Select Symbol taker fees range from $0.37 to $0.46 per contract based on market participant category. In addition, the regular Non-Select Symbol taker fees range from $0.00 to $0.90 based on market participant category.

[22] Today, the complex taker fees are $0.50 per contract (Select Symbols) and $0.98 per contract (Non-Select Symbols) for all non-Priority Customers. Priority Customers receive free complex executions in all symbols.

[23] Today, the regular Select Symbol maker fees are $0.18 per contract (Select Symbols) and $0.70 per contract (Non-Select) for all non-Priority Customers. Market Makers are also eligible to receive maker rebates instead paying the maker fee if they qualify for Market Maker Plus. Lastly, Priority Customers currently receive free regular executions in Select Symbols and a maker rebate of $0.86 per contract in Non-Select Symbols.

[24] Today, the complex maker fees in Select Symbols range from $0.00 to $0.20 per contract based on market participant category, except when trading against Priority Customers, these fees range from $0.00 to $0.50 per contract based on market participant category. In addition, the complex maker fees in Non-Select Symbols range from $0.00 to $0.20 based on market participant category, except when trading against a Priority Customer, these fees range from $0.00 to $0.88 per contract based on market participant category.

[25] Members become aware of ongoing FAC, SOL, and PIM auctions as the Exchange disseminates an auction notification in the form of a ''broadcast message'' when the Exchange receives a FAC, SOL, and PIM Order for auction processing. The broadcast message is sent by the Exchange to all Members and includes the series, price, side, and size of the Agency Order. *See* Options 3, Sections 11(b)(2), 11(d)(2), and 13(c).

[26] *See supra* note 25.

the applicable rules within the Pricing Schedule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[27] in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act,[28] 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. Further the proposal 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.

Unrelated Interest

The Exchange believes that its proposal to specify how the Exchange currently prices unrelated market or marketable interest received is consistent with the Act because memorializing these concepts in new paragraph (d) of Options 7, Section 1 will promote greater clarity and transparency in the rules and make the Pricing Schedule easier to navigate for market participants. As discussed above, the Exchange already denotes how unrelated market or marketable interest received *during* a FAC, SOL, and PIM auction is priced by grouping such interest as Responses to Crossing Orders and Responses to PIM Orders today. How the Exchange prices unrelated market or marketable interest received *prior* to a FAC, SOL, and PIM auction, however, is not currently detailed in the Exchange's Pricing Schedule. As such, the Exchange believes that by consolidating and describing these concepts in one place in the Pricing Schedule, Members can more easily locate the related rules and avoid any potential investor confusion.

As discussed above, the Exchange will memorialize that it will assess book pricing for unrelated market or marketable interest received *prior* to the commencement of a FAC, SOL, or PIM auction by stating that such interest would be assessed the applicable maker pricing. The FAC, SOL and PIM Order that such interest executes against would be assessed applicable taker pricing. The Exchange applies order book pricing in this scenario because at the time the unrelated market or marketable interest was submitted and posted to the order book, Members would not have been aware of an ongoing FAC/SOL/PIM auction and therefore would not expect to be subject to the applicable Fees for Responses to Crossing Orders (including PIM Orders) set forth in Sections 3 and 4.[29] In contrast, the Exchange applies the applicable Fees for Responses to Crossing Orders (including PIM Orders) in Sections 3 and 4 to the unrelated market or marketable interest when it arrives *during* the FAC/SOL/PIM auction because Members submitting interest to the order book at that time would be aware that they may be allocated in the FAC/SOL/PIM auction.[30] Additionally, the Exchange's pricing models for the regular/complex order book and FAC/SOL/PIM auctions each seek to attract liquidity to the Exchange and reward Members differently for different types of order flow. To this end, the Exchange's pricing considers the manner in which interest interacts with the FAC/SOL/PIM auction based on the timing of when such interest entered which order book. The Exchange's pricing is consistent with its current practice of assigning the applicable pricing for auctions versus order book pricing depending on how and when the order was submitted to the Exchange.

Further, the Exchange's proposal to memorialize current practice that unrelated market or marketable interest received *prior* to the commencement of a FAC/SOL/PIM auction would be assessed the applicable maker pricing is reasonable, equitable, and not unfairly discriminatory because all Members who submitted such interest that posted to the order book *prior* to the commencement of the auction (and executes against the FAC/SOL/PIM Order) would be uniformly assessed the same pricing as any other Member who posted liquidity on the order book. Further, all Members who submitted a FAC/SOL/PIM Order that executed against such interest would be uniformly assessed the same pricing as any other Member who removed liquidity from the order book.

Similarly, the Exchange believes that its proposal to specify current practice that unrelated market or marketable interest received *during* a FAC/SOL/PIM auction would be assessed the applicable Responses to Crossing Order (including PIM Order) pricing as described above is reasonable, equitable, and not unfairly discriminatory because all Members who submitted such interest would be uniformly assessed the same pricing as any other Member who submitted responses into the FAC/SOL/PIM auction.

Lastly, the Exchange believes that its proposal to specify that Index Options fees are excluded from the unrelated interest concepts in new paragraph (d) is reasonable, equitable, and not unfairly discriminatory because all transactions in Index Options (including transactions in FAC, SOL, and PIM) are presently subject to separate pricing in Options 7, Section 3.[31] By clarifying this exclusion, the Exchange believes it will avoid potential confusion as to the applicability of its Pricing Schedule to the benefit of all market participants.

Technical Amendments

The Exchange believes that adding titles to paragraphs (b) and (c) of Options 7, Section 1 is consistent with the Act because they will promote clarity so that market participants can more easily locate the relevant rules in the Pricing Schedule.

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 does not believe that its proposal would impose an undue burden on intra-market competition. The pricing of unrelated interest in the manner described above uniformly treats similarly situated market participants. Specifically, all Members who submitted unrelated market or marketable interest that posted to the order book *prior* to the commencement of the auction (and executes against the FAC/SOL/PIM Order) would be uniformly assessed the same pricing as any other Member who posted liquidity on the order book. All Members who submitted a FAC/SOL/PIM Order that executed against such interest would be uniformly assessed the same pricing as any other Member who removed liquidity from the order book. Additionally, all Members who submitted unrelated market or marketable interest to the order book *during* the FAC/SOL/PIM auction (which ends up participating and executing against the auction order) would be uniformly assessed the same pricing as any other Member who submitted responses into the FAC/SOL/PIM auction.

In terms of inter-market competition, the Exchange continues to believe that

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(4) and (5).

[29] *See supra* note 25.

[30] *See supra* note 25.

[31] *See supra* note 10.

the way that it prices unrelated market or marketable interest remains competitive with other options markets given that the Exchange's current pricing models for the regular and complex order books and for FAC/SOL/PIM auctions are all designed to attract order flow to the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [32] and Rule 19b–4(f)(2) [33] thereunder. 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.

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:

[32] 15 U.S.C. 78s(b)(3)(A)(ii).

[33] 17 CFR 240.19b–4(f)(2).

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–ISE–2023–23 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–2023–23. This file number should be included on the subject line if email 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 website (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–ISE–2023–23 and should be submitted on or before December 4, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–24866 Filed 11–9–23; 8:45 am]

BILLING CODE 8011–01–P

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–173, OMB Control No. 3235–0178]

Submission for OMB Review; Comment Request; Extension: Rule 31a–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 31a–1 (17 CFR 270.31a–1) under the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a) is entitled ''Records to be maintained by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies.'' Rule 31a–1 requires registered investment companies (''funds''), and every underwriter, broker, dealer, or investment adviser that is a majority-owned subsidiary of a fund, to maintain and keep current accounts, books, and other documents which constitute the record forming the basis for financial statements required to be filed pursuant to section 31 of the Act (15 U.S.C. 80a–30) and of the auditor's certificates relating thereto. The rule lists specific records to be maintained by funds. The rule also requires certain underwriters, brokers, dealers, depositors, and investment advisers to maintain the records that they are required to maintain under federal securities laws. The Commission periodically inspects the operations of funds to insure their compliance with the provisions of the Act and the rules thereunder. The books and records required to be maintained by rule 31a–1 constitute a major focus of the Commission's inspection program.

There are approximately 2,766 investment companies registered with the Commission, all of which are required to comply with rule 31a–1. For purposes of determining the burden imposed by rule 31a–1, the Commission staff estimates that each fund is divided into approximately four series, on average, and that each series is required to comply with the recordkeeping requirements of rule 31a–1. Based on