

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 change to delay the implementation of an amendment to Options 3, Section 16, Complex Order Risk Protections, related to a Complex Order that includes at least one P.M.-settled leg and at least one A.M.-settled leg.<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”). 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:

---

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

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

<sup>3</sup> See Securities Exchange Act Release No. 100743 (August 16, 2024), 89 FR 68014 (August 22, 2024) (SR-ISE-2024-39) (Notice of Filing of Proposed Rule Change To Amend Complex Order Risk Protections) (“SR-ISE-2024-39”). This rule change is effective but not yet operative.

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 delay the implementation of an amendment to Options 3, Section 16, Complex Order Risk Protections, related to a Complex Order that includes at least one P.M.-settled leg and at least one A.M.-settled leg.<sup>4</sup> SR-ISE-2024-39 amended the strategy protections in Options 3, Section 16(b) so that the strategy protection would not apply to a Complex Order that includes at least one P.M.-settled leg and at least one A.M.-settled leg.<sup>5</sup>

Background

ISE filed a rule proposal to amend Options 3, Section 16(b), Strategy Protections, to provide that the protections in Options 3, Section 16(b) would not apply to a Complex Order that includes at least one P.M.-settled leg and at least one A.M.-settled leg.<sup>6</sup> This rule change was filed in connection with the approval that ISE received to permit the listing and trading of p.m.-settled Nasdaq-100 Index® options<sup>7</sup> with a third-Friday-of-the-month expiration.<sup>8</sup> SR-ISE-2023-20 amended Options 4A, Section 12 to permit the

---

<sup>4</sup> Id.

<sup>5</sup> The a.m. expiration and p.m. expiration would have different settlement days.

<sup>6</sup> See SR-ISE-2024-39.

<sup>7</sup> Nasdaq-100 Index options trade under the symbol (“NDX”).

<sup>8</sup> See Securities Exchange Act Release No. 98935 (November 14, 2023), 88 FR 80792 (November 20, 2023) (SR-ISE-2023-20) (Order Approving a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Nasdaq–100 Index® Options With a Third-Friday-of-the-Month Expiration) (“SR-ISE-2023-20”). The Exchange has not yet listed a Third-Friday-of-the Month P.M. expiration.

listing of p.m.-settled third-Friday-of-the-month Expiration Dates under the trading symbol “NDXP.” Therefore, pursuant to SR-ISE-2023-20, ISE may list third-Friday-of-the-month expirations on Nasdaq-100 Index options that are both a.m.-settled and p.m.-settled on the same day.<sup>9</sup>

Pursuant to Options 3, Section 14(a)(1), a Complex Options Strategy is the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. Only those Complex Options Strategies with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis, are eligible for processing.<sup>10</sup> Pursuant to Options 3, Section 16(b), Vertical Spread Protections,<sup>11</sup> Calendar Spread Protections,<sup>12</sup> Butterfly Spread Protections<sup>13</sup> and BOX Spread Protections<sup>14</sup> apply throughout the trading day to Complex Orders, including pre-

---

<sup>9</sup> The conditions for listing p.m.-settled third-Friday-of-the-month expirations on Nasdaq-100 Index options will be similar to those for a.m.-settled third-Friday-of-the-month expirations on Nasdaq-100 Index options.

<sup>10</sup> The term “complex strategy” includes Complex Options Strategies, Stock-Option Strategies, and Stock-Complex Strategies. See Options 3, Section 14(a)(4).

<sup>11</sup> A vertical spread is an order to buy a call (put) option and to sell another call (put) option in the same security with the same expiration but at a higher (lower) strike price. See Options 3, Section 16(b)(1).

<sup>12</sup> A calendar spread is an order to buy a call (put) option with a longer expiration and to sell another call (put) option with a shorter expiration in the same security at the same strike price. See Options 3, Section 16(b)(2).

<sup>13</sup> A butterfly spread is a three legged Complex Order with the following: (1) two legs to buy (sell) the same number of calls (puts); (2) one leg to sell (buy) twice the number of calls (puts) with a strike price at mid-point of the two legs to buy (sell); (3) all legs have the same expiration; and (4) each leg strike price is equidistant from the next sequential strike price. See Options 3, Section 16(b)(3).

<sup>14</sup> A box spread is a four legged Complex Order with the following: (1) one pair of legs with the same strike price with one leg to buy a call (put) and one leg to sell a put (call); (2) a second pair of legs with a different strike price from the pair described in (1) with one leg to sell a call (put)

market, during the Opening Process and during a trading halt.<sup>15</sup> With the approval of SR-ISE-2023-20, a Complex Options Strategy may consist of legs with different expirations based on settlement (a.m. or p.m.-settled). As noted above, SR-ISE-2024-39 provided at Options 3, Section 16(b) that the complex risk protections would not apply to a Complex Order that includes at least one P.M.-settled leg and at least one A.M.-settled leg.

The Exchange intended to begin implementation of SR-ISE-2024-39 by Q1 2025 by announcing the date to Members in an Options Trader Alert. With this proposal the Exchange proposes to delay the implementation date for SR-ISE-2024-39 to on or before the end of Q2 2025. The Exchange notes that the substance of the impacted rule is not changing, only the implementation timeline is changing with this proposal.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>16</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>17</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. By delaying the implementation of SR-ISE-2024-39 to a date on or before May 12, 2024, the Exchange would have additional time to code and test this functionality. The Exchange

---

and one leg to buy a put (call); (3) all legs have the same expiration; and (4) all legs have equal volume. See Options 3, Section 16(b)(4).

<sup>15</sup> The protections do not apply to Complex Orders being auctioned and auction responses in the Facilitation Mechanism, Solicited Order Mechanism within Options 3, Section 11, and Price Improvement Mechanism within Options 3, Section 13 and do not apply to Customer Cross Orders pursuant to Options 3, Section 12. See Options 3, Section 16(b).

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

believes that this delay is consistent with the Act because the additional time will allow the Exchange to ensure that the proposed change is successfully applied while protecting investors and the public interest by allowing the Exchange more time to prepare and test. The Exchange notes that the substance of the impacted rule is not changing, only the implementation timeline is changing with this proposal.

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's proposal to delay the implementation of SR-ISE-2024-39 does not impose an undue burden on competition because it will allow the Exchange additional time to prepare and test the functionality. The Exchange notes that the substance of the impacted rule is not changing, only the implementation timeline is changing with this proposal.

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)<sup>18</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>19</sup> 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 Exchange's proposal to delay the implementation of SR-ISE-2024-39 does not significantly affect the protection of investors or the public interest, nor does it impose any significant burden on competition, rather, the proposed delay will allow the Exchange additional time to prepare and test the functionality. The Exchange notes that the substance of the impacted rule is not changing, only the implementation timeline is changing with this proposal.

Furthermore, Rule 19b-4(f)(6)(iii)<sup>20</sup> 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

---

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> 17 CFR 240.19b-4(f)(6)(iii).

Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

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