SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80637; File No. SR-ISE-2017-35)

May 10, 2017

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

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 April 25, 2017, 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 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 the Exchange's Schedule of Fees to amend pricing related to options overlying NDX[3] and MNX,[4] as described further below. While changes to the Schedule of Fees pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 1, 2017.

The text of the proposed rule change is available on the Exchange's Website at www.ise.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

2 17 CFR 240.19b-4.

3 NDX represents options on the Nasdaq 100 Index traded under the symbol NDX ("NDX").

4 MNX represents options on one-tenth the value of the Nasdaq 100 Index traded under the symbol MNX ("MNX").

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 purpose of the proposed rule change is to amend the Exchange's Schedule of Fees to make changes to pricing related to NDX and MNX. The proposed changes are discussed in the following sections.

Fees and Rebates for Regular Orders in NDX

The Exchange proposes to amend its Schedule of Fees to make pricing changes related to NDX. The Exchange notes that NDX is transitioning to be exclusively listed on the Exchange and its affiliated markets in 2017.[5] In light of this transition, the Exchange seeks to amend its NDX pricing structure.

Today, as set forth in Section I of the Schedule of Fees, the Exchange charges the following transaction fees for regular orders in Non-Select Symbols[6] ("Existing Transaction

5 The Exchange and its affiliates will exclusively list NDX in the near future upon expiration of open expiries in this product on other markets.

6 "Non-Select Symbols" are options overlying all symbols that are not in the Penny Pilot Program. NDX is a Non-Select Symbol.

Fees"): (i) $0.25 per contract for Market Maker[7] orders not sent by an Electronic Access Member ("EAM");[8] (ii) $0.20 per contract for Market Maker orders sent by an EAM; (iii) $0.72 per contract for Non-Nasdaq ISE Market Maker[9] orders; (iv) $0.72 per contract for Firm Proprietary[10] / Broker-Dealer[11] orders; and (v) $0.72 per contract for Professional Customer[12] orders. Priority Customers[13] are not assessed a transaction fee for regular orders in Non-Select Symbols (including NDX). In addition, as set forth in Section IV.B of the Schedule of Fees, the Exchange charges a $0.25 per contract license surcharge for all Non-Priority Customer[14] orders in NDX ("NDX Surcharge").

The Exchange also currently assesses different fees for regular Non-Select Symbol orders executed in the Exchange's crossing mechanisms, as set forth in Section I of the Schedule of Fees (such orders, "Auction Orders"). In particular, the Exchange charges fees for Crossing

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7 The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See Rule 100(a)(25).

8 In addition, these Market Maker fees are subject to tier discounts. Specifically, Market Makers that execute a monthly volume of 250,000 contracts or more are entitled to a discounted rate of $0.20 per contract. See Schedule of Fees, Section IV.C.

9 A "Non-Nasdaq ISE Market Maker" is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

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

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

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

13 A "Priority Customer" is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in ISE Rule 100(a)(37A).

14 Non-Priority Customer includes Market Maker, Non-Nasdaq ISE Market Maker, Firm Proprietary / Broker-Dealer, and Professional Customer.

Orders,[15] including separate fees for PIM orders of 100 or fewer contracts, which fees apply to all regular Non-Priority Customer orders in Non-Select Symbols (including NDX) on both the originating and contra side of a Crossing Order.[16] For regular Market Maker orders not sent by an EAM, the fee for Crossing Orders is currently $0.25 per contract, subject to applicable tier discounts.[17] For all other regular Non-Priority Customer orders (i.e. Market Maker orders sent by an EAM, Non-Nasdaq ISE Market Maker orders, Firm Proprietary / Broker-Dealer orders, and Professional Customers orders), the fee for Crossing Orders is currently $0.20 per contract.[18] For regular Priority Customer orders in Non-Select Symbols, the Exchange does not assess a fee for Crossing Orders.

In addition, the Exchange charges a separate fee for regular Non-Priority Customer PIM orders of 100 or fewer contracts in Non-Select Symbols. This fee is currently $0.05 per contract for all regular Non-Priority Customer orders for 100 or fewer contracts executed in the PIM. For exchange members that execute an average daily volume ("ADV") in regular Priority Customer PIM orders of 20,000 or more contracts in a given month, the fee for Non-Priority Customer orders is further reduced to $0.03 per contract, which will be applied retroactively to all eligible

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15 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 Fee Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

16 Firm Proprietary and Non-Nasdaq ISE Market Maker Crossing Orders (including PIM orders of 100 or fewer contracts) are also subject to the Crossing Fee Cap provided in Section IV.H of the Schedule of Fees.

17 See Schedule of Fees, Section IV.C.

18 This fee is reduced to $0.10 per contract for Professional Customer orders either submitted as a Qualified Contingent Cross order or executed in the Exchange's Solicited Order Mechanism.

PIM volume in that month once the threshold has been reached.[19] PIM orders of greater than 100 contracts, as well as orders executed in the Exchange's other crossing mechanisms, pay the fee for Crossing Orders as described above. The Exchange does not charge a fee for regular Priority Customer PIM orders of 100 or fewer in Non-Select Symbols. Lastly, the Exchange charges a fee for Responses to Crossing Orders[20] in Non-Select Symbols that is $0.50 per contract for all regular market participant (including Priority Customer) orders.

The Exchange also provides a break-up rebate for certain PIM orders in Non-Select Symbols that do not trade with their contra order. Specifically, the Exchange assesses a break-up rebate of $0.15 per contract for regular Non-Nasdaq ISE Market Maker, Firm Proprietary / Broker-Dealer, Professional Customer, and Priority Customer orders in Non-Select Symbols.[21] Market Makers are not permitted to enter orders into the PIM and are therefore not eligible for this rebate.

In light of NDX's transition to becoming exclusively listed, the Exchange seeks to amend its NDX pricing structure. Specifically, the Exchange seeks to eliminate the current fee structure for NDX by excluding this index option from all the fees currently applicable to regular Non-Select Symbol orders, and instead adopt standard transaction fees as set forth in a new table in Section I of the Schedule of Fees.[22] The Exchange also seeks to eliminate the PIM break-up

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19 Market Maker PIM orders of 100 or fewer contracts in Non-Select Symbols (for orders not sent by an EAM) are not eligible for the current tier discounts provided under Section IV.C of the Schedule of Fees.

20 "Responses to Crossing Order" is any contra-side interest submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or PIM.

21 The applicable fee is applied to any contracts for which a rebate is provided.

22 The Exchange will therefore add note 7 in Section I of the Schedule of Fees to provide that the fees set forth in the new pricing table for index options will apply only to NDX.

rebates it currently provides for Non-Nasdaq ISE Market Maker, Firm Proprietary / Broker-Dealer, Professional Customer, and Priority Customer orders in NDX. As such, all regular Non-Priority Customer orders in NDX (including Non-Priority Customer Auction Orders) will be assessed a uniform transaction fee of $0.75.[23] Additionally, Firm Proprietary and Non-Nasdaq ISE Market Maker orders in NDX, for both Crossing Orders and PIM orders of 100 or fewer contracts, will no longer be subject to the Crossing Fee Cap provided in Section IV.H of the Schedule of Fees. The Exchange will therefore provide in Section IV.H that those orders will not be included in the calculation of the monthly fee cap. All regular Priority Customer orders in NDX (including Priority Customer Auction Orders) will not be assessed any fees. The Exchange will continue to charge the $0.25 NDX Surcharge for all Non-Priority Customer orders in NDX. There will be no proposed changes to the complex order fees and rebates in Section II of the Schedule of Fees.

<u>Non-Priority Customer License Surcharge for MNX</u>

As set forth in Section IV.B of the Schedule of Fees, the Exchange currently charges a $0.25 per contract license surcharge for all Non-Priority Customer orders in MNX ("MNX Surcharge"). The Exchange now seeks to eliminate the MNX Surcharge, and proposes to remove any references to MNX currently in Section IV.B of the Schedule of Fees.

Furthermore, note 7 will state that these fees are assessed to all executions in NDX to clarify that the proposed pricing also applies to regular Auction Orders in NDX.

23 Therefore, the current tier discounts set forth in Section IV.C of the Schedule of Fees will no longer apply to Market Maker orders in NDX (for orders not sent by an EAM) as specified above. Such orders in NDX, however, will still count toward the volume requirement to qualify for a tier discount. For example, a Market Maker that executes a monthly volume of more than 250,000 contracts would normally be charged a fee of $0.20 per contract for regular orders in Non-Select Symbols instead of the normal $0.25 per contract fee. With the proposed changes, that Market Maker would not be entitled to any discount for trades in NDX, and would instead pay a fee of $0.75 per contract. That Market Maker's executions in NDX, however, would still be counted towards the monthly volume calculation (i.e., to reach the 250,000 contract threshold).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[25] 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.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[26]

Likewise, in NetCoalition v. Securities and Exchange Commission[27] ("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[28] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . .

24 15 U.S.C. 78f(b).

25 15 U.S.C. 78f(b)(4) and (5).

26 Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

27 NetCoalition v. SEC, 615 F.3d 525 (D.C. Cir. 2010).

28 See NetCoalition, at 534 - 535.

. to be made available to investors and at what cost."[29]

Further, "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'…."[30] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

<u>Fees and Rebates for Regular Orders in NDX</u>

The Exchange believes that the proposed pricing changes for NDX are reasonable, equitable and not unfairly discriminatory as NDX transitions to an exclusively-listed product. Similar to other proprietary products, the Exchange seeks to recoup the operational costs for listing proprietary products.[31] Also, pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in particular products. Other options exchanges price by symbol.[32] Further, the Exchange notes that with its products, market participants are offered an opportunity to either transact options

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29 <u>Id.</u> at 537.

30 <u>Id.</u> at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

31 By way of example, in analyzing an obvious error, the Exchange would have additional data points available in establishing a theoretical price for a multiply listed option as compared to a proprietary product, which requires additional analysis and administrative time to comply with Exchange rules to resolve an obvious error.

32 <u>See</u> pricing for Russell 2000 Index ("RUT") on Chicago Board Options Exchange, Incorporated's ("CBOE") Fees Schedule.

overlying NDX or separately execute options overlying PowerShares QQQ Trust ("QQQ").[33] Offering products such as QQQ provides market participants with a variety of choices in selecting the product they desire to utilize to transact NDX.[34] When exchanges are able to recoup costs associated with offering proprietary products, it incentivizes growth and competition for the innovation of additional products.

As proposed, the Exchange seeks to eliminate the existing fee structure for regular NDX orders, and instead adopt standard transaction fees for all such orders. Specifically, the proposed pricing changes for NDX will result in a flat fee of $0.75 per contract for all regular Non-Priority Customer orders, and no fees for all regular Priority Customer orders. While the proposed fee amounts for Non-Priority Customer orders in NDX are higher than the existing fees assessed for such orders, the Exchange believes, as noted above, that the proposed fee amounts are reasonable as NDX transitions to an exclusively-listed product. Similar to other proprietary products, the Exchange seeks to recoup the operational costs for listing proprietary products. The Exchange also believes that the proposed elimination of the Crossing Fee Cap for Firm Proprietary and Non-Nasdaq ISE Market Maker orders in NDX is reasonable for the same reason.

Furthermore, as it relates to the Existing Transaction Fees, the Exchange believes that the increased fees for Non-Priority Customer orders in NDX are reasonable because the proposed fee amounts are in line with NASDAQ PHLX LLC's $0.75 per contract options transaction charge in NDX assessed to all electronic market participant orders other than customer orders.[35] While the Exchange is proposing a greater fee increase for Market Maker NDX orders than all

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33 QQQ is an exchange-traded fund based on the Nasdaq-100 Index®.

34 By comparison, a market participant may trade options overlying RUT or separately the market participant has the choice of trading iShares Russell 2000 Index Fund ("IWM") Exchange-Traded Fund Shares options, which are also multiply listed.

35 See Phlx's Pricing Schedule, Section II.

other Non-Priority Customer NDX orders,[36] the Exchange also recently waived the $0.70 marketing fee for NDX orders.[37] The Exchange therefore believes that the increased fees for Market Maker orders in NDX are reasonable because the total fees assessed to Market Makers NDX orders are lower overall than the fees historically assessed to such orders. For example, a Market Maker transacting a regular order in NDX would previously be assessed a $0.25 or $0.20 (for orders sent by an EAM) per contract transaction fee for orders in Non-Select Symbols, a $0.22 per contract license surcharge for Non-Priority Customer orders in NDX, and a $0.70 per contract marketing fee for a total charge of $1.17 or $1.12 (for orders sent by an EAM). With this proposal, a Market Maker transacting a regular order in NDX will be assessed a $0.75 per contract transaction fee, a $0.25 per contract license surcharge, and no marketing fee for a total charge of $1.00. Finally, the Exchange will not charge a transaction fee for any regular Priority Customer orders in NDX, which also is in line with Phlx, where customers are not charged an options transaction charge in NDX.[38]

As it relates to Auction Orders in NDX, the Exchange believes that the increased fees for Market Maker orders in NDX are reasonable because the total fees are generally lower overall under the Exchange's proposal than the total fees historically assessed to such orders. As noted above, the Exchange recently waived the $0.70 marketing fee for NDX orders. As such, a Market Maker transacting a regular Crossing Order in NDX would previously be assessed a

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36 The fees are increasing from $0.25 to $0.75 per contract for Market Maker orders not sent by an EAM, and from $0.20 to $0.75 per contract for Market Maker orders sent by an EAM. The fees for all other Non-Priority Customer NDX orders are increasing from $0.72 to $0.75.

37 See Securities Exchange Act Release No. 80249 (March 15, 2017), 82 FR 14586 (March 21, 2017) (SR-ISE-2017-23). The Exchange also increased the license surcharge for Non-Priority Customer orders in NDX from $0.22 to $0.25 as part of this rule filing.

38 See Phlx's Pricing Schedule, Section II.

$0.25 or $0.20 (for orders sent by an EAM) per contract fee for orders in Non-Select Symbols, a $0.22 per contract NDX Surcharge, and a $0.70 per contract marketing fee for a total charge of $1.17 or $1.12 (for orders sent by an EAM). For Responses to Crossing Orders in NDX, a Market Maker would previously be assessed a $0.50 per contract fee for Responses to Crossing Orders in Non-Select Symbols, a $0.22 per contract NDX Surcharge, and a $0.70 per contract marketing fee for a total charge of $1.42. That Market Maker would be charged a considerably lower total amount of $1.00 for both types of Auction Orders under the Exchange's proposal. While the total fees assessed for Market Makers transacting regular PIM orders of 100 or fewer NDX contracts are slightly higher under this proposal than the total fees historically assessed to such orders,[39] the Exchange believes that the slight increase is reasonable because it is offset by the significant decrease for the other two Auction Orders as previously discussed.

The Exchange also believes that the increased fees for the other Non-Priority Customer Auction Orders in NDX are reasonable because the total fee of $1.00 per contract under the Exchange's proposal is comparable to the total amounts charged for similar proprietary products on other exchanges. For example, C2 Options Exchange, Inc. ("C2") charges all market participants other than public customers and C2 market makers a $0.55 transaction fee and a $0.45 index license surcharge fee in RUT, which is another broad-based index option and similar proprietary product, for a total of $1.00.[40]

Furthermore, the Exchange believes that its proposal to eliminate the break-up rebate for regular Non-Nasdaq ISE Market Maker, Firm Proprietary / Broker-Dealer, Professional

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39 The total fees previously assessed to a Market Maker for such PIM orders in NDX would be $0.97 per contract because of the $0.05 PIM order fee, the $0.22 NDX Surcharge, and the $0.70 marketing fee.

40 See C2's Fees Schedule, Section 1C. As it relates to the market participants noted above, C2 applies the $0.55 transaction fee to all executions in RUT other than trades on the open.

Customer, and Priority Customer orders in NDX is reasonable because it is similar to other exchanges, which do not provide rebates for certain proprietary products. On Phlx, no rebates are paid on NDX contracts.[41] Additionally, C2 does not provide any rebates for RUT.[42] In addition, the Exchange believes that it is reasonable to eliminate the break-up rebate for regular Priority Customer orders in NDX because even after the elimination of the rebate, such Priority Customer orders (including Priority Customer Auction Orders) will not be assessed any fees under the proposed pricing structure.

The Exchange's proposed fee amounts for all regular Non-Priority Customer orders in NDX (including Non-Priority Customer Auction Orders) is also equitable and not unfairly discriminatory because the Exchange will uniformly assess a $0.75 per contract fee for all such market participant orders. The Exchange believes it is equitable and not unfairly discriminatory to assess this increased fee on all participants except Priority Customers because the Exchange seeks to encourage Priority Customer order flow and the liquidity such order flow brings to the marketplace, which in turn benefits all market participants.

Additionally, the Exchange believes that the proposed elimination of the Crossing Fee Cap for Firm Proprietary and Non-Nasdaq ISE Market Maker orders in NDX is equitable and not unfairly discriminatory because the Exchange will eliminate the Crossing Fee Cap for all similarly-situated members.

Finally, the Exchange's proposal to eliminate the break-up rebate for regular Non-Nasdaq ISE Market Maker, Firm Proprietary / Broker-Dealer, Professional Customer, and Priority Customer orders in NDX is an equitable allocation and is not unfairly discriminatory because the Exchange will eliminate the rebate for all similarly-situated members. As noted above, the

41 See Phlx's Pricing Schedule, Section B.

42 See pricing for RUT on C2's Fees Schedule.

Exchange believes it is equitable and not unfairly discriminatory to eliminate the rebate for Priority Customer NDX orders as well because these orders (including Priority Customer Auction Orders) will no longer be assessed any fees under the proposed pricing structure.

Non-Priority Customer License Surcharge for MNX

The Exchange believes its proposal to remove any references to MNX in Section IV.B of the Schedule of Fees is reasonable because the Exchange is seeking to eliminate the $0.25 MNX Surcharge. The Exchange's proposal to remove references to the MNX Surcharge is also equitable and not unfairly discriminatory because the Exchange will eliminate the surcharge for all similarly-situated members.

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 inter-market or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, 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 and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to 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.

In terms of intra-market competition, the proposed changes to adopt separate pricing for all regular orders in NDX will result in total fees for orders in NDX becoming more uniform across all classes of market participants, while still permitting Priority Customers to transact in NDX free of any transaction charge. Removing the break-up rebate will also enhance the Exchange's ability to offer other rebates or reduced fees that could incentivize behavior that would enhance market quality on the Exchange, which would benefit all members. Finally, the Exchange's proposal to remove any references to MNX from Section IV.B of the Schedule of Fees will not have an impact on competition as it is simply designed to eliminate the MNX Surcharge for all Non-Priority Customers. Lastly, it is also important to note that despite the proposed fee increases with respect to NDX, members may continue to separately execute options overlying PowerShares QQQ Trust ("QQQ").

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,[43] and Rule 19b-4(f)(2)[44] 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.

43 15 U.S.C. 78s(b)(3)(A)(ii).

44 17 CFR 240.19b-4(f)(2).

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2017-35 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-2017-35. 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 website (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-2017-35 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.[45]

Eduardo A. Aleman
Assistant Secretary

[45] 17 CFR 200.30-3(a)(12).