SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83790; File No. SR-ISE-2018-69)

August 7, 2018

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Regular Order Take Fee and the QCC and Solicitation Order Rebate

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 July 25, 2018, 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 the ISE Schedule of Fees to: (i) increase the Regular Order Take Fee in SPY, QQQ, IWM, and VXX for Priority Customers;[3] and; (2) not pay the "Customer to Customer" Orders rebate for QCC and solicited orders between two Priority Customers.

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

2 17 CFR 240.19b-4.

3 A "Priority Customer" is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Rule 100(a)(37A). Unless otherwise noted, when used in the Schedule of Fees the term "Priority Customer" includes "Retail" as defined in the Schedule of Fees. See Preface to ISE Schedule of Fees.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it 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 ISE Schedule of Fees at Section I, entitled "Regular Order Fees and Rebates" as well as the Section IV, entitled "Other Options Fees and Rebates" within Section A, "QCC and Solicitation Rebate." Each proposed change is described in more detail below. The Exchange believes that each of the proposed rule changes will permit the Exchange to remain competitive in options trading.

Taker Fees

Currently, the Exchange charges a Regular Order Taker Fee for Select Symbols, other than Priority Customer orders in SPY, QQQ, IWM, and VXX, of: $0.45 per contract for Market Maker orders,[4] $0.44 per contract for Priority Customer orders and $0.46 per contract for Non-

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

Nasdaq ISE Market Makers[5] (FarMM), Firm Proprietary[6]/Broker Dealer,[7] and Professional Customers[8] orders. The Regular Order Taker Fee for Priority Customer orders in SPY, QQQ, IWM, and VXX is $0.37 per contract. The Exchange proposes to increase this Regular Order Taker Fee in SPY, QQQ, IWM, and VXX to $0.40 per contract for Priority Customer orders. While the Exchange is increasing this fee, the Exchange believes that the fee remains competitive. Also, this fee continues to be lower than other Regular Order Taker Fees for SPY, QQQ, IWM, and VXX assessed to non-Priority Customers.

QCC and Solicitation Rebate

Currently, ISE Members using Qualified Contingent Cross ("QCC") orders[9] and/or other solicited crossing orders, including solicited orders executed in the Solicitation,[10] Facilitation[11]

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5 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. See Preface to ISE Schedule of Fees.

6 A "Firm Proprietary" order is an order submitted by a Member for its own proprietary account. See Preface to ISE Schedule of Fees.

7 "Broker-Dealer" order is an order submitted by a Member for a broker-dealer account that is not its own proprietary account. See Preface to ISE Schedule of Fees.

8 A "Professional Customer" is a person or entity that is not a broker/dealer and is not a Priority Customer. See Preface to ISE Schedule of Fees.

9 A QCC Order is comprised of an originating order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Supplementary Material .01 below, coupled with a contra-side order or orders totaling an equal number of contracts. See ISE Rule 715(j).

10 The Solicited Order Mechanism is a process by which an EAM can attempt to execute orders of 500 or more contracts it represents as agent against contra orders that it solicited. Each order entered into the Solicited Order Mechanism shall be designated as all-or-none. See ISE Rule 716(e).

11 The Facilitation Mechanism is a process by which an EAM can execute a transaction wherein the EAM seeks to facilitate a block-size order it represents as agent, and/or a transaction wherein the EAM solicited interest to execute against a block-size order it represents as agent. See Rule 716(d).

or Price Improvement Mechanism (“PIM”)[12], receive rebates for each originating contract side in all symbols traded on the Exchange. Once a Member reaches a certain volume threshold in QCC orders and/or solicited crossing orders during a month, the Exchange provides rebates to that Member for all of its QCC and solicited crossing order traded contracts for that month.[13] The applicable rebates are applied on QCC and solicited crossing order traded contracts once the volume threshold is met. Today, Members receive the Non-“Customer to Customer” rebate for all QCC and/or other solicited crossing orders except for QCC and solicited orders between two Priority Customers. QCC and solicited orders between two Priority Customers receive the “Customer to Customer” Orders[14] rebate. Non-“Customer to Customer” and “Customer to Customer” volume is aggregated in determining the applicable volume tier. The current volume threshold and corresponding rebates are as follows:

Originating Contract Sides	**Non-"Customer to Customer" Rebate**	**"Customer to Customer" Rebate**
0 to 99,999	$0.00	$0.00
100,000 to 199,999	($0.05)	($0.01)
200,000 to 499,999	($0.07)	($0.01)

12 PIM 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 (a “Crossing Transaction”).

13 All eligible volume from affiliated members will be aggregated in determining QCC and Solicitation volume totals, provided there is at least 75% common ownership between the members as reflected on each member's Form BD, Schedule A.

14 A “Customer to Customer” order is a QCC or other solicited order between two Priority Customers.

500,000 to 749,999	($0.09)	($0.03)
750,000 to 999,999	($0.10)	($0.03)
1,000,000+	($0.11)	($0.03)

At this time, the Exchange proposes to not pay the "Customer to Customer" Orders rebate for QCC and solicited orders between two Priority Customers. The Exchange proposes to amend its Schedule of Fees to make clear that such a rebate will not be paid. "Customer-to-Customer" Rebates are being removed from the table within the Schedule of Fees. The Exchange notes that this rebate did not attract volume as anticipated when the rebate was implemented. The Exchange is also amending the sentence that provides, "Non-"Customer to Customer" and "Customer to Customer" volume will be aggregated in determining the applicable volume tier" with language which removes the term "Customer to Customer" and instead descriptively defines that volume. The proposed sentence states, "Volume resulting from all QCC and solicited orders will be aggregated in determining the applicable volume tier." In addition the Exchange is removing references to "Non-"Customer to Customer" rebate" and simply noting the term "rebate." The Exchange believes that the term Non-"Customer to Customer" is no longer necessary. The language makes clear that Members will receive the rebate for all QCC and/or other solicited crossing orders except for QCC and solicited orders between two Priority Customers. No other changes are being made to the manner in which rebates are calculated or paid.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[16] 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.

Taker Fees

The Exchange believes that the proposed change to increase Regular Order Priority Customer Taker Fees in SPY, QQQ, IWM, and VXX from $0.37 to $0.40 per contract is reasonable because the increased Taker Fee remains competitive and will continue to be attractive to market participants. Priority Customers will continue to receive reduced Regular Order Taker Fees in SPY, QQQ, IWM, and VXX, which represent some of the most heavily traded symbols on ISE. In particular, the proposed Taker Fees are lower than Taker Fees assessed to Priority Customer orders in other Select Symbols[17] as well as Taker Fees assessed to other market participants.[18] As such, the Exchange believes that the proposed Regular Order Taker Fees will continue to attract order flow to the benefit of all market participants that trade on the Exchange.

The Exchange believes that the proposed change to increase Regular Order Priority Customer Taker Fees in SPY, QQQ, IWM, and VXX from $0.37 to $0.40 per contract is

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

16 15 U.S.C. 78f(b)(4) and (5).

17 Currently, ISE charges a Regular Order Taker Fee for Select Symbols, other than SPY, QQQ, IWM, and VXX, of $0.44 per contract for Priority Customer orders.

18 Currently, the Exchange charges a Regular Order Taker Fee for Select Symbols of $0.45 per contract for Market Maker orders and $0.46 per contract for FarMM, Firm Proprietary/Broker Dealer, and Professional Customers orders.

equitable and not unfairly discriminatory because despite the increase to the fee, Priority Customer interest will continue to be assessed the lowest Regular Order Taker Fees in these symbols. Priority Customer interest brings valuable liquidity to the market, which liquidity benefits other market participants. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

QCC and Solicitation Rebate

The Exchange believes that the proposed change to not pay the "Customer to Customer" Rebate for QCC and solicited orders between two Priority Customers is reasonable. Despite the removal of the rebate, the Exchange believes that the proposal will continue to encourage Members to transact QCC and/or other solicited crossing orders on ISE. The Exchange notes that Customer-to-Customer Orders will continue to be aggregated with all other volume to determine the applicable volume tier for rebates.

The Exchange believes that the proposed change to not pay the "Customer to Customer" Orders rebate for QCC and solicited orders between two Priority Customers is equitable and not unfairly discriminatory because the Exchange would uniformly not pay any Member a rebate for Customer-to-Customer Orders. The Customer-to-Customer Orders will continue to be counted toward the rebates for all market participants that qualify for such rebates.

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. With respect to the increase to the Regular Order Taker Fees for Priority Customers in SPY, QQQ, IWM, and VXX, the Exchange does not believe this proposal imposes an undue burden on competition because despite the increase to the fee, Priority Customer interest will continue to be assessed the lowest Regular Order Taker Fees in these symbols. Priority Customer interest brings valuable liquidity to the market, which liquidity benefits other market participants. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

With respect to the proposed change to not pay the "Customer to Customer" Orders rebate for QCC and solicited orders between two Priority Customers, the Exchange does not believe this proposal imposes an undue burden on competition because the Exchange would uniformly not pay any Member a rebate for Customer-to-Customer Orders. The Customer-to-Customer Orders will continue to be counted toward the rebates for all market participants that qualify for such rebates.

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

No written comments were either solicited or received.

III. <u>Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action</u>

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[19] and Rule 19b-4(f)(2)[20] 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

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19 15 U.S.C. 78s(b)(3)(A)(ii).

20 17 CFR 240.19b-4(f)(2).

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. Please include File Number SR-ISE-2018-69 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2018-69. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2018-69 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.[21]

Eduardo A. Aleman
Assistant Secretary

[21] 17 CFR 200.30-3(a)(12).