

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80569; File No. SR-ISE-2017-34)

May 1, 2017

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Quote Mitigation

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 26, 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, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE Rule 804(h) regarding quote mitigation.

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.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 ISE Rule 804, entitled "Market Maker Quotations," to specifically amend Rule 804(h) which addresses the Exchange's quote traffic mitigation plan to adopt a similar quote mitigation plan to that of NASDAQ PHLX LLC ("Phlx").

ISE implemented its quote mitigation plan in conjunction with joining other options exchanges in entering into the Penny Pilot Program to Quote Certain Options in Pennies. In 2007, ISE proposed to amend its rules to permit certain options classes to be quoted in pennies during a six-month pilot.³

ISE Rule 804(h) provides that ISE shall utilize a mechanism so that newly-received quotations and other changes to the Exchange's best bid and offer are not disseminated for a period of up to, but not more than one second. With the upcoming planned migration to INET,⁴ the Exchange proposes to utilize a plan similar to that of Phlx for quote mitigation. The Exchange proposes to amend Rule 804(h) to adopt language similar to Phlx. Since 2007, Phlx has operated on INET, the same system that ISE will be migrating to utilize.

Phlx Rule 1082(a)(ii)(C) sets forth the conditions under which Phlx disseminates updated quotations based on changes in the Exchange's disseminated price and/or size. Phlx disseminates an updated bid and offer price, together with the size associated with such bid and offer, when:

³ See Securities Exchange Release Act. No. 55161 (February 1, 2007), 72 FR 4754 (January 24, 2007) (SR-ISE-2006-62) (Order Granting Approval to Proposed Rule Change as Modified by Amendment Nos. 1 and 2 Thereto, To Implement a Penny Pilot Program To Quote Certain Options in Pennies).

⁴ See Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR-ISE-2017-03) (Order Approving Proposed Rule Change, as Modified by Amendment No. 1, to Amend Various Rules in Connection with a System Migration to Nasdaq INET Technology).

(1) Phlx's disseminated bid or offer price increases or decreases; (2) the size associated with Phlx's disseminated bid or offer decreases; or (3) the size associated with Phlx's bid (offer) increases by an amount greater than or equal to a percentage (never to exceed 20%)⁵ of the size associated with the previously disseminated bid (offer). Such percentage, which would never exceed 20%, would be determined on an issue-by-issue basis by the Exchange and announced to membership via an Exchange circular. The percentage size increase necessary to give rise to a refreshed quote may vary from issue to issue, depending, without limitation, on the liquidity, average volume, and average number of quotations submitted in the issue. The mitigation would apply to all options traded on ISE.

The Exchange will not be adopting Phlx Rule 1082(a)(ii)(C)(4). This functionality is not necessary on INET. Phlx adopted 1082(a)(ii)(C)(4) when it was not operating on INET, with its subsequent replatform to INET functionality, 1082(a)(ii)(C)(4) was no longer necessary because of the real-time features which exist on INET. The INET functionality rendered the rule text in 1082(a)(ii)(C)(4) as unnecessary.

The Exchange will begin a system migration to Nasdaq INET in Q2 of 2017.⁶ The migration will be on a symbol by symbol basis as specified by the Exchange in a notice to Members. The Exchange is proposing to implement this rule change once all symbols have migrated to INET.

Upon completion of the migration to INET, ISE will set an initial percentage of 3% to be applied to all issues, which will be announced in an Options Trader Alert. ISE will continue to

⁵ Phlx has set its percentage to 10%. See <http://www.nasdaqtrader.com/content/phlxmemos/2007/jan/0197-07.pdf>.

⁶ See Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR-ISE-2017-03) (Order Approving Proposed Rule Change, as Modified by Amendment No. 1, to Amend Various Rules in Connection with a System Migration to Nasdaq INET Technology).

monitor the quote activity on the market and would not notify participants of any incremental increase in the size of the Exchange's quote to be disseminated to OPRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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 reducing the number of options quotations required to be submitted to OPRA and, therefore, mitigating the Exchange's quote message traffic and capacity. By adopting a quote mitigation plan similar to Phlx, the Exchange will continue to mitigate quotes and monitor its quote capacity, as is the case today. While the Phlx method differs from that of ISE's rule, the Exchange believes that Phlx's method today successfully mitigates quotes on that market. In addition, ISE desires to adopt a similar mitigation as currently utilized by its affiliated market, as it will operate on the same architecture.

The Phlx quote mitigation process has been in place since 2007. Phlx is operating on the INET system today, the same system that ISE will migrate to for its operating system. The Exchange believes that Phlx's quote mitigation process has successfully controlled Phlx's quote capacity. The Exchange believes that it is reasonable to utilize a similar process as Phlx to mitigate quotes for ISE given the system architecture which will be utilized on ISE with the upcoming migration. Additionally, Nasdaq, Inc., a common parent to Phlx and ISE, has experience with this quote mitigation strategy on INET. The Exchange has selected to mitigate ISE at 3% to start and determine if the percentage will need to be adjusted thereafter. While ISE,

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

similar to Phlx, is a mature market with various auction offerings and higher volumes, ISE will be newly migrated to INET. The Exchange plans on monitoring the volume on this market to determine if the percentage needs to be adjusted. Utilizing 3% as the initial percentage will provide the Exchange with data for the newly migrated market.

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 proposes to mitigate all options trading on ISE. All options exchanges have a quote mitigation process in place in connection with their participation in the Penny Pilot Program.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁰

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

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

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

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:

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-2017-34 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-2017-34. 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-2017-34 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.¹¹

Eduardo A. Aleman
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(12).