

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 23	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2017 - * 78 Amendment No. (req. for Amendments *)
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Filing by Nasdaq ISE, LLC  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
Date Expires * <input type="text"/>			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
	Section 3C(b)(2) * <input type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).  
  
A proposal to amend ISE Rule 701, entitled Opening.

**Contact Information**  
Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Angela Last Name \* Saccomandi Dunn  
Title \* Principal Associate General Counsel  
E-mail \* angela.dunn@nasdaq.com  
Telephone \* (215) 496-5692 Fax

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,  
  
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.  
(Title \*)  
Date 08/17/2017 Executive Vice President and General Counsel  
By Edward S. Knight  
(Name \*)  
edward.knight@nasdaq.com

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

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 proposal to amend ISE Rule 701, entitled “Opening.”

A notice of the proposed rule change for publication in the Federal Register is at Exhibit 1 and the text of the amended Exchange Rule is at Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of the Exchange on June 21, 2017. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

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 purpose of this rule change is to amend ISE Rule 701, “Opening” to specifically amend opening obligations for Primary Market Makers or “PMMs.” The

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

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

Exchange notes that the proposed rule change is similar to a Nasdaq MRX, LLC (“MRX”) rule.<sup>3</sup>

Today, ISE Rule 701(c)(3) states that the PMM assigned in a particular equity option must enter a Valid Width Quote not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote not later than one minute after the announced market opening.

First, the Exchange proposes to add the words “or index” to further clarify that the requirement applies to equities and index options. The Exchange proposes this addition to further clarify the requirement in Rule 701(c)(3) clearly applies to equity and index options.

Second, the Exchange proposes to modify the PMM’s current obligation to enter Valid Width Quotes not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index for all assigned options, or in the case of a U.S. dollar-settled foreign currency option after the announced market opening. The Exchange believes that the current requirement is very burdensome and instead proposes to add “in 90% of their assigned series” to require a PMM to enter a Valid Width Quote not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in 90% of their assigned series, or in the case of a U.S.

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<sup>3</sup> See MRX Rule 701.

dollar-settled foreign currency option in 90% of their assigned series not later than one minute after the announced market opening.

Further, the Exchange proposes to require PMMs to promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index, or with respect to a U.S. dollar-settled foreign currency option, following the announced market opening. The Exchange's proposal is intended to account for market conditions which may prevent a PMM from opening all assigned series, for example an extremely volatile market which may impact the PMM's ability to enter aggressive quotes. Another example would be that news pertaining to a specific security is causing the underlying price to fluctuate rapidly and significantly, thereby causing the PMM to await the underlying equity price to settle before entering a Valid Width Quote. The Exchange's surveillance staff would monitor to ensure that PMMs are complying with these requirements during the Opening Process.

Today, the Opening Process for an options series will be conducted on or after 9:30 A.M if the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site), or within two minutes of market opening for the underlying currency in the case of a U.S. dollar-settled

foreign currency option (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site) the PMM's Valid Width Quote, the Valid Width Quotes of two Competitive Market Makers ("CMMs") or if neither the PMM's Valid Width Quote nor the Valid Width Quote of two CMM's have been submitted within such timeframe, if one CMM has submitted a Valid Width Quote.<sup>4</sup>

### Implementation

The Exchange proposes to implement this rule change on September 29, 2017.

#### (b) Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</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 for the reasons stated below.

The Exchange's first proposal at Rule 701(c)(3) to clarify that the requirement applies to equities and index options will make clear the applicability of the PMM's requirement to enter Valid Width Quotes. This proposed amendment is non-substantive and is intended to add clarity to the rules.

The second proposal to amend a PMM's requirement to enter Valid Width Quotes during the Opening Process is consistent with the Act because the 90% requirement to

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<sup>4</sup> See proposed Rule 701(c)(1)(i)-(iii).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

provide a Valid Width Quote in a series to which the PMM is assigned will continue to ensure that options series are opened in a timely manner, while not imposing a burdensome requirement on market participants. PMMs would be required to promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute of the dissemination of a quote or trade by the market for the underlying security or in the case of index options, following the receipt of the opening price or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening. The Exchange would monitor PMMs to ensure that they promptly provided a Valid Width Quote for the remainder of the series within a reasonable amount of time. The Exchange notes that market conditions could cause a PMM to experience circumstances where opening 100% of all of their assigned series within one minute of the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening is not feasible.

The Exchange believes that the proposed 90% Valid Width Quoting obligation, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening, along with the “prompt” standard for the remaining 10% of their assigned series will ensure all series are opened in a timely manner. The Exchange’s proposal accounts for market conditions which may prevent a PMM from opening all assigned series, for example an extremely volatile

market which may impact the PMM's ability to enter aggressive quotes. Another example would be that news pertaining to a specific security is causing the underlying price to fluctuate rapidly and significantly, thereby causing the PMM to await the underlying equity price to settle before entering a Valid Width Quote. The Exchange believes that the time frame for PMMs to provide a Valid Width Quote in 90% of their assigned series not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening will ensure liquidity on ISE during the Opening Process. The Exchange desires to encourage PMMs to continue to make markets on ISE at the Opening. The Exchange believes that requiring PMMs to provide a Valid Width Quote in 90% of their assigned options not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening along with the "prompt" standard for the remaining 10% will enhance the market making functions for PMMs and serve to maintain a fair and orderly market thereby promoting the protection of investors and the public interest.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposal does not change the intense competition that exists among the options markets for options business including on the opening. Nor does the Exchange believe



that the proposal will impose any burden on intra-market competition; the Opening Process involves many types of participants and interest.

The Exchange's proposal to require a PMM to enter a Valid Width Quote in 90% of their assigned series not later than one minute time following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening and promptly enter a Valid Width quote for the remaining 10% their assigned series does not create an undue burden on competition. The proposal will continue to ensure that options series are opened in a timely manner, while not imposing a burdensome requirement on market participants. PMMs would be required to promptly enter a Valid Width Quote in the remainder of their assigned series which were not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening. The Exchange would monitor PMMs to ensure that they promptly entered a Valid Width Quote for the remainder of their assigned series within a reasonable amount of time. The Exchange notes that market conditions could cause a PMM to experience circumstances where entering a Valid Width Quote for 100% of all of their assigned series within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or with respect to U.S. dollar-settled foreign currency options within one minute after the announced market opening is not

feasible. The Exchange believes that the proposed 90% obligation to enter a Valid Width Quote not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening for the underlying security along with the “prompt” standard for the remaining series will ensure all series are opened in a timely manner.

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

Not applicable.

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>7</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>8</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 does not significantly affect the protection of investors or the public interest because it is similar to MRX Rule 701. The 90% requirement to

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

provide a Valid Width Quote in a series to which the PMM is assigned will continue to ensure that options series are opened in a timely manner. Further, the Exchange believes that the time frame for PMMs to provide a Valid Width Quote in 90% of their assigned series not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening, will continue to ensure liquidity on ISE during the Opening Process. Also, PMMs would be required to promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute of the dissemination of a quote or trade by the market for the underlying security or in the case of index options, following the receipt of the opening price or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening which would ensure that PMMs promptly provide a Valid Width Quote for the remainder of the series within a reasonable amount of time. The Exchange's proposal does not impose any significant burden on competition as the proposal will continue to ensure that options series are opened in a timely manner, while not imposing a burdensome requirement on market participants.

Furthermore, Rule 19b-4(f)(6)(iii) 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: (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.

The Exchange proposes to implement this rule change on September 29, 2017.

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

This proposed rule change is based on a recently approved MRX Rule 701.<sup>9</sup>

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 for publication in the Federal Register.
5. Text of the proposed rule change.

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<sup>9</sup> See Securities Exchange Act Release No. 81205 (July 25, 2017), 82 FR 35566 (July 31, 2017)(SR-MRX-2017-01).

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-ISE-2017-78)

August \_\_, 2017

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Quoting at the Opening

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> notice is hereby given that on August 17, 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 701, entitled “Opening.”

The text of the proposed rule change is available on the Exchange’s Website at [www.ise.com](http://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

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

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

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 this rule change is to amend ISE Rule 701, “Opening” to specifically amend opening obligations for Primary Market Makers or “PMMs.” The Exchange notes that the proposed rule change is similar to a Nasdaq MRX, LLC (“MRX”) rule.<sup>3</sup>

Today, ISE Rule 701(c)(3) states that the PMM assigned in a particular equity option must enter a Valid Width Quote not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote not later than one minute after the announced market opening.

First, the Exchange proposes to add the words “or index” to further clarify that the requirement applies to equities and index options. The Exchange proposes this addition to further clarify the requirement in Rule 701(c)(3) clearly applies to equity and index options.

Second, the Exchange proposes to modify the PMM’s current obligation to enter Valid Width Quotes not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index for all assigned options, or in the

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<sup>3</sup> See MRX Rule 701.

case of a U.S. dollar-settled foreign currency option after the announced market opening. The Exchange believes that the current requirement is very burdensome and instead proposes to add “in 90% of their assigned series” to require a PMM to enter a Valid Width Quote not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in 90% of their assigned series, or in the case of a U.S. dollar-settled foreign currency option in 90% of their assigned series not later than one minute after the announced market opening.

Further, the Exchange proposes to require PMMs to promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index, or with respect to a U.S. dollar-settled foreign currency option, following the announced market opening. The Exchange’s proposal is intended to account for market conditions which may prevent a PMM from opening all assigned series, for example an extremely volatile market which may impact the PMM’s ability to enter aggressive quotes. Another example would be that news pertaining to a specific security is causing the underlying price to fluctuate rapidly and significantly, thereby causing the PMM to await the underlying equity price to settle before entering a Valid Width Quote. The Exchange’s surveillance staff would monitor to ensure that PMMs are complying with these requirements during the Opening Process.

Today, the Opening Process for an options series will be conducted on or after 9:30 A.M if the system has received, within two minutes (or such shorter time as

determined by the Exchange and disseminated to membership on the Exchange's web site) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site), or within two minutes of market opening for the underlying currency in the case of a U.S. dollar-settled foreign currency option (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's web site) the PMM's Valid Width Quote, the Valid Width Quotes of two Competitive Market Makers ("CMMs") or if neither the PMM's Valid Width Quote nor the Valid Width Quote of two CMM's have been submitted within such timeframe, if one CMM has submitted a Valid Width Quote.<sup>4</sup>

### Implementation

The Exchange proposes to implement this rule change on September 29, 2017.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</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 for the reasons stated below.

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<sup>4</sup> See proposed Rule 701(c)(1)(i)-(iii).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).



The Exchange's first proposal at Rule 701(c)(3) to clarify that the requirement applies to equities and index options will make clear the applicability of the PMM's requirement to enter Valid Width Quotes. This proposed amendment is non-substantive and is intended to add clarity to the rules.

The second proposal to amend a PMM's requirement to enter Valid Width Quotes during the Opening Process is consistent with the Act because the 90% requirement to provide a Valid Width Quote in a series to which the PMM is assigned will continue to ensure that options series are opened in a timely manner, while not imposing a burdensome requirement on market participants. PMMs would be required to promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute of the dissemination of a quote or trade by the market for the underlying security or in the case of index options, following the receipt of the opening price or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening. The Exchange would monitor PMMs to ensure that they promptly provided a Valid Width Quote for the remainder of the series within a reasonable amount of time. The Exchange notes that market conditions could cause a PMM to experience circumstances where opening 100% of all of their assigned series within one minute of the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening is not feasible.

The Exchange believes that the proposed 90% Valid Width Quoting obligation, not later than one minute following the dissemination of a quote or trade by the market

for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening, along with the “prompt” standard for the remaining 10% of their assigned series will ensure all series are opened in a timely manner. The Exchange’s proposal accounts for market conditions which may prevent a PMM from opening all assigned series, for example an extremely volatile market which may impact the PMM’s ability to enter aggressive quotes. Another example would be that news pertaining to a specific security is causing the underlying price to fluctuate rapidly and significantly, thereby causing the PMM to await the underlying equity price to settle before entering a Valid Width Quote. The Exchange believes that the time frame for PMMs to provide a Valid Width Quote in 90% of their assigned series not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening will ensure liquidity on ISE during the Opening Process. The Exchange desires to encourage PMMs to continue to make markets on ISE at the Opening. The Exchange believes that requiring PMMs to provide a Valid Width Quote in 90% of their assigned options not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening along with the “prompt” standard for the remaining 10% will enhance the market making functions for PMMs and serve to

maintain a fair and orderly market thereby promoting the protection of investors and the public interest.

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 proposal does not change the intense competition that exists among the options markets for options business including on the opening. Nor does the Exchange believe that the proposal will impose any burden on intra-market competition; the Opening Process involves many types of participants and interest.

The Exchange's proposal to require a PMM to enter a Valid Width Quote in 90% of their assigned series not later than one minute time following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening and promptly enter a Valid Width quote for the remaining 10% their assigned series does not create an undue burden on competition. The proposal will continue to ensure that options series are opened in a timely manner, while not imposing a burdensome requirement on market participants. PMMs would be required to promptly enter a Valid Width Quote in the remainder of their assigned series which were not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening. The Exchange would monitor PMMs to ensure that they promptly entered a Valid Width Quote for the remainder of their assigned series within a

reasonable amount of time. The Exchange notes that market conditions could cause a PMM to experience circumstances where entering a Valid Width Quote for 100% of all of their assigned series within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or with respect to U.S. dollar-settled foreign currency options within one minute after the announced market opening is not feasible. The Exchange believes that the proposed 90% obligation to enter a Valid Width Quote not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening for the underlying security along with the “prompt” standard for the remaining series will ensure all series are opened in a timely manner.

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 Act<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup>

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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:

##### 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](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2017-78 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-2017-78. This file number should be included on the subject line if e-mail is used. To help the Commission process

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<sup>8</sup> 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.

and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<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-2017-78 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.<sup>9</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

New text is underlined.

**Nasdaq ISE RULEBOOK**

\* \* \* \* \*

**CHAPTER 7****Doing Business On The Exchange**

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**Rule 701. Opening**

(a) and (b) No change.

(c) Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM Eastern Time are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.

(1) and (2) No Change.

(3) The PMM assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening.

(4) and (5) No change.

(d) – (l) No change.

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