Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2022 - * 11
Amendment No. (req. for Amendments *)

Filing by Nasdaq ISE, LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☑	☐	☐	☐	☑	☐

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

☐ 19b-4(f)(1)	☐ 19b-4(f)(4)
☐ 19b-4(f)(2)	☐ 19b-4(f)(5)
☐ 19b-4(f)(3)	☑ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *	Section 806(e)(2) *
☐	☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

☐

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
☐	☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Amend Routing Functionality in Connection with a Technology Migration

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 *	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 of 1934, Nasdaq ISE, LLC
has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date	04/27/2022	(Title *)
By	John Zecca	EVP and Chief Legal Officer
	(Name *)	

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

Date: 2022.04.27 15:51:43 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

Add | Remove | View

SR-ISE-2022-11 19b-4.doc

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 *

Add | Remove | View

SR-ISE-2022-11 Exhibit 1.doc

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 Advanced Notice by Clearing Agencies *

Add | Remove | View

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 2- Notices, Written Comments, Transcripts, Other Communications

Add | Remove | View

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 Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

Add | Remove | View

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 Sent As Paper Document

Exhibit 4 - Marked Copies

Add | Remove | View

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

Add | Remove | View

SR-ISE-2022-11 Exhibit 5.doc

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

Add | Remove | View

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")[1] and Rule 19b-4 thereunder,[2] is filing with the Securities and Exchange Commission ("Commission") a proposal to amend the following sections within Options 5, Order Protection and Locked and Crossed Markets: Section 2, Order Protection; Section 3, Locked and Crossed Markets; and Section 4, Order Routing to Other Exchanges.

Additionally, the Exchange proposes to make corresponding amendments to the following sections within Options 3, Options Trading Rules: Section 5, Entry and Display of Single-Leg Orders; Section 7, Types of Orders and Order and Quote Protocols; Section 9, Trading Halts; Section 10, Priority of Quotes and Orders; and Section 11, Auction Mechanisms. Also, amendments are proposed to the following sections within Options 7, Pricing Schedule: Section 1, General Provisions; Section 3, Regular Order Fees and Rebates; and Section 6, Other Options Fees and Rebates.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) The proposed rule change amends Nasdaq GEMX, LLC ("GEMX") and Nasdaq MRX, LLC ("MRX") Options 5, Sections 2 through 4 because GEMX and MRX incorporate ISE Options 5 by reference.

(c) Not applicable.

---

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

2 17 CFR 240.19b-4.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of the Exchange on November 16, 2021. 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

In connection with a technology migration to an enhanced Nasdaq, Inc. (“Nasdaq”) functionality which results in higher performance, scalability, and more robust architecture, the Exchange intends to adopt certain trading functionality currently utilized at Nasdaq affiliate exchanges. Specifically, the Exchange proposes to conform the routing functionality available on ISE to that of Nasdaq BX, Inc.[3] The Exchange proposes to amend the following sections within Options 5, Order Protection and Locked and Crossed Markets: Section 2, Order Protection; Section 3, Locked and Crossed Markets; and Section 4, Order Routing to Other Exchanges. Additionally, the Exchange proposes to make corresponding amendments to the following sections within Options 3, Options Trading Rules: Section 5, Entry and Display of Single-Leg Orders; Section 7, Types of Orders and Order and Quote Protocols; Section 9, Trading Halts; Section 10, Priority of Quotes and Orders; and Section 11, Auction Mechanisms, to account for the

3 GEMX and MRX incorporate ISE Options 5 by reference.

proposed amendments to Options 5. Also, amendments are proposed within the following sections of Options 7, Pricing Schedule: Section 1, General Provisions; Section 3, Regular Order Fees and Rebates; and Section 6, Other Options Fees and Rebates.

Today, ISE Options 5 describes how ISE routes orders in options via Nasdaq Execution Services, LLC ("NES")[4] to away markets. Utilizing NES to route orders to away markets is optional. Today, Members may elect to not route orders through NES and designate those orders as Do-Not-Route-Orders pursuant to Options 5, Section 4(b).[5] In the event that NES cannot provide Routing Services, the Exchange will cancel orders that, if processed by the Exchange, would violate Options 5, Section 2 (prohibition on trade-throughs) or Options 5, Section 3 (prohibition on locked and crossed markets).[6] Further, ISE Options 5 describes the manner in which ISE may route to another exchange via an Intermarket Sweep Order ("ISO")[7] under certain circumstances.[8]

---

4 NES is a broker-dealer and the Routing Facility of the Exchange. NES routes orders in options listed and open for trading on the System to away markets either directly or through one or more third-party unaffiliated routing broker-dealers pursuant to Exchange Rules on behalf of the Exchange. NES is subject to regulation as a facility of the Exchange, including the requirement to file proposed rule changes under Section 19 of the Securities Exchange Act of 1934, as amended. See Options 5, Section 4(a).

5 A do-not-route order is a market or limit order that is to be executed in whole or in part on the Exchange only. Due to prices available on another options exchange (as provided in Options 5 (Order Protection; Locked and Crossed Markets)), any balance of a do-not-route order that cannot be executed upon entry, or placed on the Exchange's limit order book, will be automatically cancelled. See Options 3, Section 7(m).

6 See Supplementary Material .02 to Options 5, Section 4.

7 Options 5, Section 1(h) provides, "Intermarket Sweep Order ("ISO")" means a limit order for an options series that, simultaneously with the routing of the ISO, one or more additional ISOs, as necessary, are routed to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or any Protected Offer, in the case of a limit order to buy, for the options series with a

Pursuant to Supplementary Material .02 to Options 5, Section 2, ISE permits certain orders to first be exposed at the NBBO to all Members for execution at the National Best Bid or Offer ("NBBO") before the order would be routed to another market for execution ("flash functionality"). Currently, with respect to flash functionality, when an incoming order is priced at or through the Away Best Bid or Offer ("ABBO"), when the ABBO is better than the Exchange Best Bid or Offer ("BBO"), such order is exposed at the current NBBO to all Exchange Members for a period of time established by the Exchange not to exceed one (1) second. During the exposure period, Exchange Members may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option.[9] If at the end of the exposure period, the order is executable at the then-current NBBO and ISE is not at the then-current NBBO, responses that equal or better the NBBO will be executed in price priority, and at the same price, allocated pro-rata based on size, after Priority Customer orders are allocated.[10] If during the exposure period, the order becomes executable on ISE at the prevailing NBBO, the

---

price that is superior to the limit price of the ISO. A Member may submit an Intermarket Sweep Order to the Exchange only if it has simultaneously routed one or more additional Intermarket Sweep Orders to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or Protected Offer, in the case of a limit order to buy, for an options series with a price that is superior to the limit price of the Intermarket Sweep Order. An ISO may be either an Immediate-Or-Cancel Order or an order that expires on the day it is entered."

8 See Supplementary Material .01 and .07 to Options 5, Section 2.

9 If a trading halt is initiated during the exposure period, the exposure period will be terminated without execution. See Supplementary Material .02 to Options 5, Section 2.

10 The percentage of the total number of contracts available at the same price that is represented by the size of a Member's response. See Supplementary Material .02(a) to Options 5, Section 2.

exposure period will be terminated, and the order will be executed against orders and quotes on the order book and responses received during the exposure period.[11] If during the exposure period the Exchange receives an unrelated order on the opposite side of the market from the exposed order that could trade against the exposed order at the prevailing NBBO price, the exposure period will be terminated and the orders will be executed.[12] If after an order is exposed, the order cannot be executed in full on the Exchange at the then-current NBBO or better, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than ISE's quote or the balance of the order will be sent to NES and any additional balance will be executed on ISE if it is marketable.[13] Any additional balance of the order that is not marketable against the then-current NBBO will be placed on ISE's order book.[14] A Do-Not-Route Order that meets the criteria for the flash order functionality will also be exposed. If the Do-Not-Route Order cannot be executed in full on the Exchange at the then-current

---

11 Such interest will be executed in price priority. At the same price, Priority Customer Orders will be executed first in time priority and then all other interest (orders, quotes and responses) will be allocated pro-rata based on size. See Supplementary Material .02(b) to Options 5, Section 2.

12 See Supplementary Material .02(c) to Options 5, Section 2.

13 Supplementary Material .06 to Options 5, Section 2 provides that in addressing Public Customer orders that are not automatically executed because there is a displayed bid or offer on another exchange trading the same options contract that is better than the best bid or offer on the Exchange pursuant to the Supplementary Material of Options 5, Section 2, the Exchange will act in compliance with its rules and with the provisions of the Exchange Act and the rules thereunder, including, but not limited to, the requirements in Section (6)(b)(4) and (5) of the Exchange Act that the rules of national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

14 See Supplementary Material .02(d) to Options 5, Section 2.

NBBO or better, the balance of the order will be placed on ISE's order book if it is not marketable against the then-current NBBO, or the balance of the order will be cancelled.

Today, Non-Customer orders[15] may opt out of being processed in accordance with Supplementary Material .02 of Options 5, Section 2.[16] If a Non-Customer opts out, when the automatic execution of an incoming Non-Customer order would result in an impermissible Trade Through, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than ISE's quote or the balance of the order will be sent to NES and any additional balance of the order will be executed on ISE if it is marketable. Any additional balance of the order that is not marketable against the then-current NBBO will be placed on ISE's order book.[17]

Today, Sweep Orders[18] will not be processed in accordance with Supplementary Material .02 of this Options 5, Section 2. Rather, when the automatic execution of an incoming Sweep Order would result in an impermissible Trade Through, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than ISE's quote or the balance of the order will be sent to NES and any additional balance of the order will be executed on ISE if it is marketable.

---

[15] The term "Non-Customer" means a person or entity that is a broker or dealer in securities. See Options 1, Section 1(a)(24).

[16] See Supplementary Material .04 to Options 5, Section 2.

[17] See Supplementary Material .04(a) to Options 5, Section 2.

[18] A Sweep Order is a limit order that is to be executed in whole or in part on the Exchange and the portion not so executed shall be routed pursuant to Supplementary Material .05 to Options 5, Section 2 to Eligible Exchange(s) for immediate execution as soon as the order is received by the Eligible Exchange(s). Any portion not immediately executed by the Eligible Exchange(s) shall be canceled. If a Sweep Order is not marketable when it is submitted to the Exchange, it shall be canceled. See Options 3, Section 7(s).

Any portion of the order not executed shall be cancelled.[19] If a Sweep Order is not marketable when it is submitted to the Exchange, it shall be cancelled.[20]

Proposal

The Exchange proposes to amend ISE's order routing functionality to conform to that of BX Options 5, Section 4. As part of the technology migration, Nasdaq seeks to conform certain trading functionality to functionality currently available on other Nasdaq affiliated options markets to create a similar routing experience for market participants across the Nasdaq options markets. Similar to BX, ISE would continue to route orders to away markets via NES. Similar to BX, ISE would offer the following order types for routing: DNR Order, FIND Order and SRCH Order. Each order type for routing will be explained below.

ISE would no longer offer flash functionality because the proposed routing functionality, similar to BX, would permit an order to be exposed for a period of time that would allow other Members to trade with the order prior to the order routing to an away market. ISE proposes to remove the rule text related to flash functionality within Supplementary Material .02 to Options 5, Section 2.

Sweep Orders were adopted on ISE in 2014, to supplement ISE's away market routing capabilities.[21] Sweep Orders do not enter the flash functionality process of

---

19 See Supplementary Material .05(a) to Options 5, Section 2.

20 See Supplementary Material .05(b) to Options 5, Section 2.

21 See Securities Exchange Act Release No. 72816 (August 12, 2014), 79 FR 48811 (August 18, 2014) (SR-ISE-2014-37) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change on Non-Customer Linkage and Sweep Orders). Prior to the introduction of Sweep Orders, the Exchange only routed Public Customer orders to away markets and cancelled any marketable Non-Customer orders that could not be executed on the ISE in compliance with the

Supplementary Material .02 of Options 5, Section 2 and are processed separately. This proposal would eliminate the Sweep Order type within Options 3, Section 7(s) and remove the Sweep Order routing discussion within Supplementary Material .05 to Options 5, Section 2. Sweep Orders are not necessary to facilitate the routing of Public Customer and Non-Customer orders to away markets because the proposed routing functionality would route all orders to away markets uniformly. Additionally, uniformly, all orders would be subject to re-pricing if the order would otherwise lock or cross an away market. The Exchange would continue to not cancel marketable orders that could not be executed on ISE because the order would lock or cross an away market, rather the order would be re-priced with the new routing functionality.

With the new routing process, a Route Timer would begin for each order that is subject to routing on the Exchange. While Members may not opt out of the Route Timer, as is the case today, the proposed routing process would create a uniform streamlined process for routing all orders (FIND and SRCH) where a market participant has elected to have an order routed; Member may continue to elect to not have their orders routed. The new routing process does not distinguish as between Public Customer orders and Non-Customer orders, rather all orders would be processed in the same manner. Further, the proposed routing process would serve to further harmonize routing across Nasdaq affiliated markets.

The Exchange also proposes to remove Supplementary Material .04 to Options 5, Section 2, which sets forth routing procedures for Non-Customer orders that opt out of

---

Options Order Protection and Locked/Crossed Market Plan. Sweep Orders were intended to facilitate the routing of Public Customer and Non-Customer orders to away markets.

being processed under the flash functionality. The Exchange has proposed to replace its current away routing regime with the proposed FIND and SRCH order routing types. The processing of Sweep Orders and the routing procedures under Supplementary Material .04 to Options 5, Section 2 were established as alternative routing procedures to the flash functionality and because the Exchange proposes to eliminate the flash order functionality, these routing procedures are no longer needed under the proposed routing procedures.

Finally, the rule text within Supplementary Material .06 to Options 5, Section 2,[22] relating to Public Customer orders that are not automatically executed because there is a displayed bid or offer on another exchange trading the same options contract that is better than the best bid or offer on the Exchange, would be removed as handling of Public Customer orders is being amended to conform to BX Options 4 handling. The Exchange will explain that handling below. The rule text within Supplementary Material .06 to Options 5, Section 2 was adopted in 2009 when ISE adopted new rules to implement the Options Order Protection and Locked/Crossed Market Plan.[23] ISE continues to be subject to compliance with its Rules, the Act, and the rules thereunder, including Sections 6(b)(4) and (5) of the Act[24] which require the Exchange to: (1) provide for the equitable allocation of reasonable dues, fees, and other charges among its participants and other persons using its facilities; and (2) prohibit unfair discrimination among customers,

22 See note 13 above.

23 See Securities Exchange Act Release No. 60559 (August 21, 2009), 74 FR 44425 (August 28, 2009) (SR-ISE-2009-27) (Order Granting Approval of a Proposed Rule Change as Modified by Amendment No. 1 Thereto To Adopt Rules Implementing the Options Order Protection and Locked/Crossed Market Plan).

24 15 U.S.C. 78f(b)(4) and (5).

issuers, brokers or dealers. As noted in the Approval Order to SR-ISE-2009-27, Customers may choose to avoid having their orders routed away by entering their order with an Immediate-or-Cancel[25] or Fill-or-Kill designation[26] in addition to the DNR functionality.

The Exchange proposes to remove the Supplementary Material to Options 5, Section 3[27] which describes how an order would be handled when the price of an incoming limit order that is not executable upon entry would lock or cross a Protected Quotation because that functionality is being amended with this filing. Specifically, today, the order would be handled in accordance with the provisions of Supplementary Material .02, .04 or .05 to Options 5, Section 2, as applicable. The Exchange's proposal removes Supplementary Material .02, .04 and .05 to Options 5, Section 2, therefore this section would no longer be possible as the current order handling is being amended with this proposal.

The Exchange also proposes to make certain conforming amendments within

---

25 An immediate-or-cancel order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled. An immediate-or-cancel order entered by a Market Maker through the Specialized Quote Feed protocol will not be subject to the (i) Limit Order Price Protection and Size Limitation Protection as defined in Options 3, Section 15(b)(2) and (3); or (ii) Limit Order Price Protection as defined in Supplementary Material .07(d) to Options 3, Section 14. See Options 3, Section 7(b)(3).

26 A fill-or-kill order is a limit order that is to be executed in its entirety as soon as it is received and, if not so executed, treated as cancelled. See Options 3, Section 7(b)(2).

27 Supplementary Material .01 to Options 5, Section 3 provides, "When the price of an incoming limit order that is not executable upon entry would lock or cross a Protected Quotation, such order shall be handled in accordance with the provisions of Supplementary Material .02, .04 or .05 to Options 5, Section 2, as applicable."

Options 3. First, the Exchange proposes to remove rule text within Options 3, Section 5(b)(1) which relates to flash functionality. Options 3, Section 5(b)(1) provides, "Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately canceled automatically by the System at the time of receipt." This rule text would no longer be necessary as the flash functionality is being eliminated.

The Exchange also proposes to renumber Options 3, Section 5(b)(2) as Options 3, Section 5(b)(1).

The Exchange proposes to amend Options 3, Section 9, Trading Halts, at subparagraph (d)(2). Among other things, the trading halt rule describes the processing of Market Orders exposed at the NBBO pursuant to Supplementary Material. 02 to Options 5, Section 2 after a trading halt. This rule text is no longer necessary with the elimination of flash functionality.

The Exchange also proposes to amend Options 3, Section 10(a)(ii)[28] to remove a reference to the flash functionality that is being eliminated. The Exchange also proposes to renumber Options 3, Section 10(a)(i) and (ii) as Options 3, Section 10(a)(1) and (2) to conform the numbering in that rule and correct a citation within Options 3, Section

---

[28] Options 3, Section 10(a)(ii) provides, "Applicability. This rule does not apply to the Block Order Mechanism described within Options 3, Section 11(a), the Facilitation Mechanism described within Options 3, Section 11(b), the Solicited Order Mechanism described within Options 3, Section 11(d), the Price Improvement Mechanism described within Options 3, Section 13, orders described within Options 3, Section 12 or an exposure period *as provided in Options 5, Section 2 at Supplementary Material .02*, unless Options 3, Section 10 is specifically referenced within ISE Rules applicable to the aforementioned functionality."

10(c)(1)(B)(i)(b) from subparagraph (a)(1)(E) to subparagraph (c)(1)(E). The Exchange proposes to amend Options 3, Section 11(g)[29] to remove a reference to the flash functionality that is being eliminated.

Finally, the Exchange proposes to amend Options 7, Pricing Schedule, to remove all references to pricing related to the flash functionality. This would include the description of a Flash Order[30] within Options 7, Section 1, General Provisions; the pricing for Flash Orders within Options 7, Section 3, Regular Order Fees and Rebates;[31]

---

29 Options 3, Section 11(g) provides, "Concurrent Complex Order and single leg auctions. An auction in the Block Order Mechanism at Options 3, Section 11(a), Facilitation Mechanism at Options 3, Section 11(b), Solicited Order Mechanism at Options 3, Section 11(d), or Price Improvement Mechanism at Options 3, Section 13(d), respectively, *or an exposure period as provided in Supplementary Material .02 to Options 5, Section 2,* for an option series may occur concurrently with a Complex Order Exposure Auction at Supplementary Material .01 to Options 3, Section 14, Complex Facilitation Auction at Options 3, Section 11(c), Complex Solicited Order Auction at Options 3, Section 11(e), or Complex Price Improvement Mechanism auction at Options 11, Section 13(e), respectively, for a Complex Order that includes that series. To the extent that there are concurrent Complex Order and single leg auctions involving a specific option series, each auction will be processed sequentially based on the time the auction commenced. At the time an auction concludes, including when it concludes early, the auction will be processed pursuant to Options 3, Section 11(a), (b), (d), or Section 13(a) *or Supplementary Material .02 to Options 5, Section 2*, as applicable, for the single option, or pursuant to Supplementary Material .01 to Options 3, Section 14, Options 3, Section 11(c), 11(e), Options 3, Section 13(e), as applicable, for the Complex Order, except as provided for at Options 3, Section 13(e)(4)(vi)."

30 A "Flash Order" is an order that is exposed at the National Best Bid or Offer by the Exchange to all members for execution, as provided under Supplementary Material .02 to Options 5, Section 2. Unless otherwise noted in Section 3 pricing, Flash Orders will be assessed the applicable "Taker" Fee for the initiation of a Flash Order and will be paid/assessed the applicable "Maker" Rebate/Fee for responses. See Options 7, Section 1.

31 A market participant's order that initiates a Flash Order will be assessed the appropriate Taker Fee in Section 3. All market participant responses to Flash Orders in Select Symbols will be paid/assessed the appropriate Maker Rebate/Fee in Section 3. Responses to Flash Orders in Non-Select Symbols will be $0.25 per contract for non-Priority Customers and $0.00 for Priority Customers. See

and the waiver of the Marketing Fee for Flash Orders within Options 7, Section 6, Other Options Fees and Rebates.[32]

The Exchange proposes to re-title Options 5, Section 4 as "Order Routing" similar to BX Options 5, Section 4. Proposed new Options 5, Section 4(a) defines various terms similar to BX such as "exposure" and "exposing", except for terms specific to ISE such as utilizing "Member" instead of "Participant" and not capitalizing the term "Order Book".[33]

As noted above, the Exchange proposes to offer 2 new routing strategies, FIND and SRCH, as well as an option to "Do Not Route" or "DNR." Additionally, the Exchange proposes to amend Options 3, Section 7 to add a new Supplementary Material .04 that provides, "Routing Strategies. Orders may be entered on the Exchange with a routing strategy of FIND or SRCH, or, in the alternative, an order may be marked Do-Not-Route ("DNR") as provided in Options 5, Section 4 through FIX only." The addition of this sentence will make clear which routing strategies may be utilized when submitting an order type and it will provide a citation to the routing rule for ease of reference. Routing options may be combined with all available order types and times-in-force, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option. Also, the Exchange would remove the current description of "Do-Not-Route Orders" within Options 3, Section 7(m).

Options 7, Section 3 at note 17. The Exchange proposes to reserve note 17 within Options 7, Section 3.

32 Today, Marketing fees are waived NDX, NQX, MNX, Flash Orders and for Complex Orders in all symbols. See Options 7, Section 6E.

33 The Exchange is not defining a "System Routing Table" within this rule similar to BX as that term is not utilized elsewhere in the rule.

With respect to order entry protocols, the Exchange notes that FIX[34] is the only order entry protocol on ISE that permits routing. OTTO,[35] another order entry protocol on ISE, does not permit routing.

Proposed Options 5, Section 4(a) provides that the System[36] will route FIND and SRCH Orders with no other contingencies. Of note, Immediate-or-Cancel Orders ("IOC") will be canceled immediately if not executed, and will not be routed. ISE's System would first check the order book for available contracts for potential execution against the FIND or SRCH Orders. After the System checks the order book for available contracts, orders are sent to other available market centers for potential execution. When checking the order book, the System will seek to execute at the price at which it would send the order to an away market.[37]

---

34 "Financial Information eXchange" or "FIX" is an interface that allows Members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders to the Exchange. Features include the following: (1) execution messages; (2) order messages; (3) risk protection triggers and cancel notifications; and (4) post trade allocation messages. See Supplementary Material .03(a) to Options 3, Section 7.

35 "Ouch to Trade Options" or "OTTO" is an interface that allows Members and their Sponsored Customers to connect, send, and receive messages related to orders, auction orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying and complex instruments); (2) System event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) order messages; (6) risk protection triggers and cancel notifications; (7) auction notifications; (8) auction responses; and (9) post trade allocation messages. See Supplementary Material .03(b) to Options 3, Section 7.

36 The term "System" means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. See Options 1, Section (a)(50).

37 See proposed Options 5, Section 4(a). With respect to Reserve Orders, only the displayed portion of the order would be exposed.

The System will initiate a Route Timer for each FIND or SRCH order it receives that locks/crosses an away market price. An order will not route to an away market before the conclusion of the Route Timer which shall not exceed one second and shall begin at the time orders are accepted into the System. At the conclusion of each Route Timer, the System will consider whether an order can be routed. While the Route Timer is running, each order will be exposed[38] on the Nasdaq ISE Order Feed.[39] This exposure allows other Members to interact with the order before it is routed to an away market. If an incoming order is joining an already established BBO price when the ABBO is locked or crossed with the BBO such order will join the established BBO price and no exposure notification will be sent, otherwise a notification will be sent. Also, an order exposure will be sent when the order size is modified. For purposes of this Rule, the Exchange's opening process is governed by Options 3, Section 8 and includes an opening after a trading halt ("Opening Process"). The order routing process would be available to Members from 9:30 a.m. Eastern Time until market close and shall route orders as described within proposed Options 5, Section 4. Finally, all routing of orders shall comply with Options 5, Options Order Protection and Locked and Crossed Market Rules.

---

[38] For purposes of this Rule, "exposure" or "exposing" an order shall mean a notification sent to Members with the price, size, and side of interest that is available for execution. See proposed Options 5, Section 4(a).

[39] Nasdaq ISE Order Feed ("Order Feed") provides information on new orders resting on the book (e.g. price, quantity and market participant capacity). In addition, the feed also announces all auctions. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on ISE and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening. See Options 3, Section 23(a)(2).

With respect to priority when routing as proposed within Options 5, Section 4(a)(i), orders sent to other markets do not retain time priority with respect to other orders in the System and the System shall continue to execute other orders while routed orders are away at another market center. Once routed by the System, an order becomes subject to the rules and procedures of the destination market including,[40] but not limited to, order cancellation. A routed order can be for less than the original incoming order's size. If a routed order is subsequently returned to the Exchange, in whole or in part, that routed order, or its remainder, shall receive a new time stamp reflecting the time of its return to the System, unless any portion of the original order remains on the System, in which case the routed order shall retain its timestamp and its priority.[41] As proposed, the priority when routing is the same as priority described in BX Options 5, Section 4(a)(i).

The Exchange proposes to relocate current Options 5, Section 4(f) into proposed Options 5, Section 4(a)(ii). This is identical to rule text within BX Options 5, Section 4(a)(ii).

The Exchange proposes to remove the following sentence within current Options 5, Section 4, "The Exchange may automatically route ISOs to other exchanges under certain circumstances, including pursuant to Supplementary Material .02 to Options 5, Section 2 ("Routing Services"). In connection with such services, the following shall apply:." This sentence is no longer necessary and is being replaced by proposed Options 5, Section 4(a).

---

[40] Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange. See proposed Options 5, Section 4(a)(ii).

[41] See proposed Options 5, Section 4(a)(i).

The Exchange proposes to retain the current provisions regarding NES within current Options 5, Section 4(a)-(e) and re-letter those paragraphs (A) – (E) to correspond with lettering within BX Options 5, Section 4 which contains similar rule text. No substantive amendments are proposed to those paragraphs.

The Exchange also proposes to update a citation within new Options 5, Section 4(a)(ii)(B) from Options 3, Section 7(m), which is being reserved, to proposed Options 5, Section 4(a)(iii)(A). Finally, the Exchange proposes to conform a citation to subparagraph (d) to "D" within new Options 5, Section 4(a)(ii)(E).

The Exchange proposes to add the new routing order types within proposed Options 5, Section 4(iii). The Exchange proposes to state, "The following order types are available:". Of note, a routing option may be combined with all available order types and times-in-force noted within Options 3, Section 7, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option.[42]

The proposed first routing option is a DNR Order. The proposed rule text is substantively the same as BX Options 5, Section 4(iii)(A). The Exchange proposes to describe a DNR Order within proposed Options 5, Section 4(iii)(A). A DNR Order will never be routed outside of the Exchange regardless of the prices displayed by away markets. In order to avoid trading through, a DNR Order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price. If an away market is at a better price, the DNR Order will remain in the Exchange's order book and would display re-priced. Specifically, the Exchange would re-price the DNR

---

42 See proposed Options 5, Section 4(a).

Order at a price one minimum price variation ("MPV") inferior to that away best bid/offer. For example, if the DNR Order is locking or crossing the ABBO, the DNR Order shall be entered into the order book at the ABBO price and displayed one MPV away from the ABBO. The Exchange would immediately expose the order at the ABBO to Members, provided the option series has opened for trading. Of note, today, ISE would cancel any unexecuted balances that cannot be placed on the order book. With the re-platform, any unexecuted balances may rest on the order book as the Exchange would re-price an order that locks or crosses an away market as described within this proposal.

Any incoming order interacting with a DNR Order that is resting on the Exchange's order book would execute at the ABBO price, unless the ABBO is improved to a price which crosses the DNR Order's already displayed price. In the case where the ABBO crosses the DNR Order's price, the incoming order will execute at the previous ABBO price as the away market crossed a displayed price. Away markets have similar obligations not to trade through ISE's market. In the case where the ABBO is improved to a price which locks the DNR Order's displayed price, the incoming order will execute at the DNR Order's displayed price. Should the best away market move to an inferior price level, the DNR Order will automatically re-price from its one MPV inferior to the original ABBO and display one MPV away from the new ABBO or its original limit price, and expose such orders at the new ABBO. Once an order is booked to the order book at its original limit price, it will remain at that price until executed or cancelled. Thereafter, should the best away market improve its price such that it locks or crosses the DNR Order limit price on the order book, the Exchange will execute the resulting incoming order that is routed from the away market that locked or crossed the DNR

Order limit price. By way of example, consider the following sequence of events in the System for a DNR Order:

9:45:00:00:00 - MIAX Quote 0.95 x 1.20

9:45:00:00:10 – OPRA updates MIAX BBO 0.95 x 1.20

9:45:00:00:20 - ISE Local BBO Quote 1.00 x 1.15

9:45:00:00:30 - OPRA disseminates ISE BBO updates: 1.00 x 1.15

9:45:00:00:35: CBOE Quote 1.00 x 1.12

9:45:00:00:45 – OPRA disseminates CBOE BBO 1.00 x 1.12

9:45:00:00:50 - DNR Order: Buy 5 @ 1.15 (exposes @ ABBO of 1.12, displays 1 MPV from ABBO @ 1.11)

9:45:00:00:51 – OPRA disseminates ISE BBO updates: 1.11 x 1.15 (1.11 being the DNR Order displaying 1 MPV from ABBO)

9:45:00:00:60 - MIAX Quote updates to 1.00 x 1.10 (1.10 crosses the displayed DNR Order price, violating locked/crossed market rules; henceforth, we need not protect this price)
9:45:00:00:65 – OPRA disseminates MIAX BBO 1.00 x 1.10
9:45:00:00:75 - ISE Market Maker Order to Sell 5 @ 1.09

9:45:00:00:76 – Market Maker Order immediately executes against DNR Order 5 contracts @ 1.12 (1.12 being the 'previous' ABBO price disseminated by CBOE before the receipt of the DNR Order that was subsequently and illegally crossed by MIAX's 2nd quote)

9:45:00:00:77 - OPRA disseminates ISE BBO updates: 1.00 x 1.15 (reverts back to BBO set by ISE Local Quote since the DNR Order has executed)

Members may also elect to route their orders. The Exchange proposes to offer market participants two choices for routing options orders: FIND and SRCH. At a high level, a FIND Order will only attempt to route once and then post to the order book; it will not be eligible for routing until the next time the option series is subject to a new

Opening Process.[43] In contrast, a SRCH Order may route at any time, including during and after an Opening Process. A SRCH Order that rests on the order book may be routed to an away market if it is locked or crossed by an away market. Each of these proposed options for routing will be explained in greater detail below.

FIND Order

The Exchange proposes to adopt a new routing option at Options 5, Section 4(a)(iii)(B) for FIND Orders. The routing process for a FIND Order is the same as BX Options 5, Section 4(a)(iii)(B). As noted above, a FIND Order is an order that is: (i) routable at the conclusion of an Opening Process; and (ii) routable upon receipt during regular trading, after an option series is open. Each order marked as "FIND" that is submitted after an Opening Process would initiate a Route Timer and route in the order in which its Route Timer ends. FIND Orders that are not marketable with the ABBO upon receipt will be treated as DNR for the remainder of the trading day, and will not be subject to routing even in the event that there is a new Opening Process after a trading halt. At the end of an Opening Process, any FIND Order that is priced through the Opening Price, which is defined within ISE Options 3, Section 8(a)(3), will be cancelled, and any FIND Order that is at or inferior to the Opening Price will execute or book pursuant to ISE Opening Process at Options 3, Section 8(j). The Opening Process is described in greater detail within Options 3, Section 8.

With respect to FIND Orders, Options 5, Section 4(a)(iii)(B)(2) provides that generally, a FIND Order will be included in the displayed BBO at its limit price, unless

43 As explained below, FIND Orders that are not marketable with the ABBO upon receipt will be treated as DNR for the remainder of the trading day and post to the Order Book, even in the event that there is a new Opening Process after a trading halt.

the FIND Order locks or crosses the ABBO, in which case it will be entered into the order book at the ABBO price and displayed at one MPV inferior to the ABBO. If there exists a locked ABBO when the FIND Order is entered onto the order book, the FIND Order will be entered into the order book at the ABBO price and displayed and re-priced one MPV inferior to the ABBO. If during a Route Timer, ABBO markets move and the FIND Order becomes non-marketable against the ABBO and BBO, the FIND Order will post on the order book at its limit price. If the FIND Order is locked or crossed by away quotes, it will route at the completion of the Route Timer. However, if the ABBO worsens but remains better than the BBO, the FIND Order will re-price and be re-exposed at the new price(s) without interrupting the Route Timer.

If, during the Route Timer, any new interest arrives opposite the FIND Order that is equal to or better than the ABBO price, the FIND Order will trade against such new interest at the ABBO price, unless the ABBO is improved to a price which crosses the FIND Order's already displayed price, in which case the incoming order will execute at the previous ABBO price as the away market crossed a displayed price. Paragraph (a)(iii)(B)(2) of Options 5, Section 4 is intended to describe the possible scenarios that may occur during a Route Timer that has been initiated for a FIND Order. The Exchange believes that describing these scenarios in this introductory paragraph will provide a basis to understand certain FIND Order behaviors in certain circumstances and eliminate the need to have these circumstances repeated throughout the rule. The proposed remaining paragraphs outline System behavior in various circumstances taking into consideration away market pricing to provide market participants with expected outcomes.

Proposed ISE Options 5, Section 4(a)(iii)(B)(3) sets forth a scenario where a FIND Order received after an Opening Process is not marketable against the BBO or the ABBO. In this case, the FIND Order will be entered into the order book at its limit price and treated as DNR for the remainder of the trading day, even if there is a new Opening Process after a trading halt. As noted above, the FIND Order will only attempt to route once.

Proposed ISE Options 5, Section 4(a)(iii)(B)(4) describes a scenario where a FIND Order received after an Opening Process is marketable against the BBO when the ABBO is inferior to the BBO. In this case the FIND Order will be traded on the Exchange at or better than the BBO price. If the FIND Order has size remaining after exhausting the BBO, the Exchange proposes that it may: (1) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to and including the ABBO price, (2) be entered into the order book at its limit price, or (3) if locking or crossing the ABBO, be entered into the order book at the ABBO price and displayed one MPV away from the ABBO. The FIND Order will be treated as DNR for the remainder of the trading day, even in the event that there is a new Opening Process after a trading halt.

Proposed ISE Options 5, Section 4(a)(iii)(B)(5) describes a scenario where a FIND Order received after an Opening Process is marketable against the BBO when the ABBO is equal to the BBO. In this case, the FIND Order will be traded on the Exchange at the BBO. If the FIND Order has size remaining after exhausting the BBO, it will initiate a Route Timer, and expose the FIND Order at the ABBO to allow market participants an opportunity to interact with the remainder of the FIND Order. During the

Route Timer, the FIND Order will be included in the BBO at a price one MPV away from the ABBO. If during the Route Timer, the ABBO markets move such that the FIND Order is no longer marketable against the ABBO, the Exchange proposes that it may: (i) trade at the next BBO price (or prices) if the FIND Order price is locking or crossing that price (or prices), and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO.

Proposed ISE Options 5, Section 4(a)(iii)(B)(6) describes a scenario where at the end of the Route Timer pursuant to subparagraph (5) above, the FIND Order is still marketable with the ABBO. In this case, the FIND Order will route to an away market up to a size equal to the lesser of either: (1) an away market's size or (2) the remaining size of the FIND Order. If the FIND Order still has remaining size after routing, the Exchange proposes that it will (i) trade at the next BBO price or better, subject to the order's limit price, and, if contracts still remain unexecuted, the remaining size will be routed to away markets disseminating the same price as the BBO, or (ii) be entered into the order book and posted either at its limit price or re-priced one MPV away if the order would otherwise lock or cross the ABBO. If size still remains, as is always the case, the FIND Order will not be eligible for routing until the next time the option series is subject to a new Opening Process, which may include a re-opening after a trading halt.

Proposed ISE Options 5, Section 4(a)(iii)(B)(7) describes a scenario where a FIND Order is received after an Opening Process that is marketable against the ABBO when the ABBO is better than the BBO. In this case, the FIND Order will initiate a Route Timer, and expose the order at the ABBO to allow Members and other market participants an opportunity to interact with the FIND Order. As described within ISE

Options 5, Section 4(a)(iii)(B)(8), if, at the end of the Route Timer pursuant to subparagraph (7) above, the ABBO is still at the best price and is marketable with the FIND Order, the order will route to the away market(s) whose disseminated price(s) is better than the BBO, up to a size equal to the lesser of either: (1) the away markets' size, or (2) the remaining size of the FIND Order. If the FIND Order still has remaining size after such routing, it will (i) trade at the BBO price or better, subject to the order's limit price, and, if contracts still remain unexecuted, the remaining size will be routed to away markets disseminating the same price as the BBO, or (ii) be entered into the order book and posted either at its limit price or re-priced one MPV away if the order would otherwise lock or cross the ABBO. If the FIND Order still has remaining size it will not be eligible for routing until the next time the option series is subject to a new Opening Process, which may include a re-opening after a trading halt.

Finally, proposed ISE Options 5, Section 4(a)(iii)(B)(9) provides that a FIND Order that is routed to an away market(s) will be marked as an Intermarket Sweep Order "ISO" and designated as an IOC order.

SRCH Orders

The Exchange proposes to adopt a SRCH Order functionality at proposed Options 5, Section 4(a)(iii)(C). The routing process for a SRCH Order is the same as BX Options 5, Section 4(a)(iii)(C). A SRCH Order is routable at any time the option series is open for trading. A SRCH Order on the order book during an Opening Process (including a re-opening following a trading halt), whether it is received prior to an Opening Process or it is a Good-Till-Canceled Order[44] ("GTC") SRCH Order from a prior day, may be routed as part of an Opening Process. Similar to FIND Orders, SRCH Orders would initiate their own Route Timers and route in the order in which their Route Timers end.

Proposed ISE Options 5, Section 4(a)(iii)(C)(1) provides, similar to a FIND Order, that at the end of an Opening Process, any SRCH Order that is priced through the Opening Price, as defined within Options 3, Section 8(a)(iii), will be cancelled, and any SRCH Order that is at or inferior to the Opening Price will execute or book pursuant to Options 3, Section 8(k). With respect to both FIND and SRCH Orders, Options 3, Section 8 provides a process whereby ISE arrives at an Opening Price. The System cancels any order or quote priced through the Opening Price which was not able to be satisfied either by routing to an away destination or trading in full as part of the opening trade.[45]

Similar to the FIND Order proposal, the Exchange proposes to add a paragraph at proposed ISE Options 5, Section 4(a)(iii)(C)(2), which is intended to describe at the outset possible scenarios that may occur during a Route Timer, including if the ABBO moves and if marketable new interest arrives. In the paragraphs that follow, paragraph (C)(2) would apply in the case where a Route Timer is initiated. Proposed ISE Options 5, Section 4(a)(iii)(C)(2) would provide that, generally, during a Route Timer a SRCH

---

44 A Good-Till-Canceled Order is an order to buy or sell that remains in force until the order is filled, canceled or the option contract expires; provided, however, that GTC Orders will be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. See ISE Options 3, Section 7(r).

45 See Options 3, Section 8(j)(6)(A). The Exchange notes that "priced through the Opening Price" within Options 3, Section 8 is intended to mean buying interest with a price higher than the Opening Price and selling interest with a price lower than the Opening Price.

Order will be included in the displayed BBO at its limit price, unless the SRCH Order locks or crosses the ABBO, in which case it will be entered into the order book at the ABBO price and displayed one MPV inferior to the ABBO. If there exists a locked ABBO when the SRCH Order is entered onto the order book, the SRCH Order will be entered into the order book at the ABBO price and displayed one MPV inferior to the ABBO. Once on the order book, the SRCH Order may route if it is locked or crossed by an away market.

If during a Route Timer, ABBO markets move such that the SRCH Order is no longer marketable against the ABBO or BBO, the SRCH Order will book on the order book at its limit price. If, during the Route Timer, any new interest arrives opposite the SRCH Order that is equal to or better than the ABBO price, the SRCH Order will trade against such new interest at the ABBO price, unless the ABBO is improved to a price which crosses the SRCH Order's already displayed price, in which case the incoming order will execute at the previous ABBO price as the away market crossed a displayed price. If the ABBO worsens but remains better than the BBO, the SRCH Order will re-price and be re-exposed at the new price(s) without interrupting the Route Timer. If an ABBO locks or crosses the SRCH Order during a new Route Timer, which would subsequently initiate at the conclusion of any Route Timer if interest remains, the SRCH Order may route to the away market at the ABBO at the conclusion of such Route Timer. Finally, if the SRCH Order is locked or crossed by away quotes, it will route at the completion of the Route Timer. The System will route and execute contracts contemporaneously at the end of the Route Timer.

As noted herein and proposed within proposed ISE Options 5, Section 4(a)(iii)(C)(3), a SRCH Order received after an Opening Process that is not marketable against the BBO or the ABBO will be entered into the order book at its limit price. Once on the order book, the SRCH Order is eligible for routing if it is locked or crossed by an away market.

Proposed ISE Options 5, Section 4(a)(iii)(C)(4) presents a scenario where a SRCH Order received after an Opening Process is marketable against the BBO when the ABBO is inferior to the BBO. In this case, the SRCH Order will trade at or better than the BBO price. If the SRCH Order has size remaining after exhausting the BBO, the Exchange proposes that it may: (1) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to and including the ABBO price, and/or (2) be routed, subject to a Route Timer, to away markets if all Exchange interest at better or equal prices has been exhausted, and/or (3) be entered into the order book at its limit price if not locking or crossing the BBO or the ABBO.

Proposed ISE Options 5, Section 4(a)(iii)(C)(5) provides a scenario where the SRCH Order received after an Opening Process is marketable against the BBO when the ABBO is equal to the BBO. In this case, the SRCH Order will trade at the BBO. If the SRCH Order has size remaining after exhausting the BBO, it will initiate a Route Timer and expose the SRCH Order at the ABBO to allow Members an opportunity to interact with the remainder of the SRCH Order. During the Route Timer, the SRCH Order will be included in the BBO at a price one MPV away from the ABBO.

Proposed ISE Options 5, Section 4(a)(iii)(C)(6) provides that if at the end of the Route Timer pursuant to subparagraph (5), the SRCH Order is still marketable with the

ABBO, the SRCH Order will route to an away market up to a size equal to the lesser of either: (1) the away market's size, or (2) the remaining size of the SRCH Order. If after that the SRCH Order still has remaining size after routing, it may: (i) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to the ABBO price, and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO or the ABBO.

Proposed ISE Options 5, Section 4(a)(iii)(C)(7) provides a scenario where a SRCH Order received after an Opening Process is marketable against the ABBO when the ABBO is better than the BBO. In this case, the SRCH Order will initiate a Route Timer, and expose the SRCH Order at the ABBO to allow Members an opportunity to interact with the SRCH Order. If during the Route Timer, the ABBO markets move such that the SRCH Order is no longer marketable against the ABBO, it may: (i) trade at the next BBO price (or prices) if the SRCH Order price is locking or crossing that price (or prices), and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO.

Proposed ISE Options 5, Section 4(a)(iii)(C)(8) provides that if at the end of the Route Timer pursuant to subparagraph (7), the ABBO is still the best price and is marketable with the SRCH Order, the order will route to the away market(s) whose disseminated price(s) is better than the BBO, up to a size equal to the lesser of either: (1) the away markets' size, or (2) the remaining size of the SRCH Order. However, if the SRCH Order still has remaining size after such routing, the Exchange proposes that it may: (i) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to the ABBO price, and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO or the ABBO.

Finally, as proposed in ISE Options 5, Section 4(a)(iii)(C)(9), and similar to FIND Orders, a SRCH Order that is routed to an away market(s) will be marked as an ISO and designated as an IOC Order.

Re-Pricing

Currently, Options 3, Section 5(b) provides that orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)).[46] Orders that are not automatically executed are handled pursuant to the flash functionality as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. Orders are not executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the Member as routable is routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions.[47]

The Exchange proposes to amend Options 3, Section 5(c) to specify that the System will automatically execute eligible orders using the Exchange's displayed BBO or the Exchange's non-displayed order book ("internal BBO") if the best bid and/or offer on the Exchange has been re-priced. With this change, a DNR order that locks or crosses

---

46 Options 5, Section 1(j) provides, " 'NBBO' means the national best bid and offer in an options series as calculated by an Eligible Exchange."

47 See Options 3, Section 5(d).

the ABBO may re-price and rest on the order book. Today, the DNR Order that locks or crosses the ABBO would be cancelled. The re-pricing itself is proposed to be described within Options 3, Section 5(c) and (d) similar to BX Options 3, Section 5(c) and (d). Currently, Options 3, Section 5(d) describes Trade-Through Compliance and Locked or Crossed Market behavior.

The Exchange proposes to add rule text within Options 3, Section 5(d) to describe how a non-routable order would be re-priced and remove rule text that describes the flash functionality, which is being eliminated, and language providing that, in lieu of using the flash functionality, Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

Specifically, the Exchange proposes to state within Options 3, Section 5(c), "The System automatically executes eligible orders using the Exchange's displayed best bid and offer ("BBO") or the Exchange's non-displayed order book ("internal BBO") if the best bid and/or offer on the Exchange has been re-priced pursuant to subsection (d) below." Also, the Exchange proposes to state within Options 3, Section 5(d), "An order that is designated by a Member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price." The Exchange believes that the addition of this language, similar to language within BX Options 3, Section 5(d), will provide Members with additional information as to the manner in which orders are handled by the System when those orders would lock or cross an away market.

Supplementary Material to Options 5, Section 2

The Exchange proposes to remove the rule text within Supplementary Material .01 to Options 5, Section 2 that provides,

> All public customer ISOs entered by an Electronic Access Member on behalf of an Eligible Exchange shall be represented on the Exchange as Priority Customer Orders, as defined in Options 1, Section 1(a)(38). There shall be no obligation on Electronic Access Members to determine whether the public customer for whom the Eligible Exchange is routing an ISO meets the definition of a Priority Customer.

Current ISE Options 5, Section 4(f) provides, "Entering Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange." The Exchange believes that Options 5, Section 4(f), which is proposed to be relocated to Options 5, Section 4(a)(ii), is more expansive than Supplementary Material .01 to Options 5, Section 4 and would apply to the indicator for the type of market participant. Furthermore, obligations associated with submitting ISO Orders are born by the member submitting the ISO Order. Each Exchange's rules describe how ISO Orders may be utilized.[48]

The Exchange proposes to remove the rule text within Supplementary Material .07 to Options 5, Section 2 that provides, "All orders entered on the Exchange and routed to another exchange via an ISO pursuant to the Supplementary Material of this Options 5, Section 2 that result in an execution shall be binding on the Member that entered such

---

48 See e.g. Phlx Options 3, Section 7(b)(3), The Nasdaq Options Market LLC Options 3, Section 7(a)(7), and BX Options 3, Section 7(a)(6).

orders." As noted above, current ISE Options 5, Section 4(f) provides that, "Entering Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange." Supplementary Material .07 to Options 5, Section 2 refers to orders entered pursuant to the flash functionality pursuant to Supplementary Material .02 to Options 5, Section 2, which will be eliminated and, therefore, renders the rule text within Supplementary Material .07 to Options 5, Section 2 unnecessary.

Supplementary Material to Options 5, Section 4

The Exchange proposes to remove the rule text within Supplementary Material .01 to Options 5, Section 4 that provides, "Options 5, Section 4 does not prohibit NES or third-party unaffiliated routing broker-dealers used by NES from designating a preferred market-maker at the other exchange to which the order is being routed pursuant to Options 5, Section 4." As noted above, current Options 5, Section 4(f) provides, "Entering Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange." The Exchange believes that this rule is more expansive than Supplementary Material .01 to Options 5, Section 4 and would apply to designating a preferred market-maker.

The Exchange proposes to remove the rule text within the Supplementary Material .02 to Options 5, Section 4 that provides, "In the event that NES cannot provide Routing Services, the Exchange will cancel orders that, if processed by the Exchange, would violate Options 5, Section 1 (prohibition on trade-throughs) or Options 5, Section

3 (prohibition on locked and crossed markets)." The Exchange's proposal to re-price orders which would otherwise lock or cross an away market would cause an order, that was subject to routing, to rest on the order book in the event that NES was unable to provide routing services. The Exchange proposes to remove the rule text within Supplementary Material .02 to Options 5, Section 4 to permit the Exchange to re-price and rest such orders on the order book, similar to DNR Orders.

Finally, the Exchange proposes to renumber the rule text within Supplementary Material .03 to Options 5, Section 4 to .01.

Implementation

The Exchange intends to begin implementation of the proposed rule change for ISE prior to December 22, 2023. Separately, the Exchange plans to begin implementation of the proposed rule change prior to December 23, 2022, with respect to MRX, and prior to September 1, 2023, with respect to GEMX. Each implementation would commence with a limited symbol migration and continue to migrate symbols over several weeks. The Exchange will issue an Options Trader Alert to Members to provide notification of the symbols that will migrate and the relevant dates for each exchange.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[49] in general, and furthers the objectives of Sections 6(b)(4) and Section 6(b)(5) of the Act,[50] 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,

---

[49] 15 U.S.C. 78f(b).

[50] 15 U.S.C. 78f(b)(4) and (5).

and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers and is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Exchange's proposal to adopt routing strategies, that are substantially the same as BX, with respect to DNR, FIND, and SRCH Orders is consistent with the Act because the functionality will provide ISE Members the same flexibility for routing orders that is afforded to BX Participants today.[51] With this proposal, Members would continue to route orders to away markets to obtain the best price, while also accessing ISE's order book. Further, with this proposal, Members will have the added ability to elect a particular routing strategy, FIND or SRCH, when routing their order. Also, Members may continue to elect not to route their order, as is the case today.

Additionally, today, orders that are not automatically executed are handled pursuant to the flash functionality as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. This proposal eliminates flash functionality and proposes to re-price orders that would otherwise lock or cross an away market. As is the case today, an order that is designated by the Member as routable will route in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions.

While the Exchange is eliminating the current flash functionality, ISE is proposing to adopt order routing strategies that include a Route Timer that, similar to flash functionality, will continue to advertise orders prior to routing them in an attempt to

---

51 See BX Options 5, Section 4, Order Routing.

obtain a local execution. Unlike the flash functionality where Non-Customer orders may opt out, the Route Timer will be established for each order that may route. During the Route Timer, similar to the flash functionality, Members may enter responses up to the size of the order being exposed. However, unlike flash functionality, an order that matches the price of an order during the Route Time will trade against that order without waiting for the Route Timer to complete. In contrast, with flash functionality, orders allocate at the end of the timer, with the exception of specific scenarios that will cause early termination[52] and allocate pursuant to Options 3, Section 10, with Priority Customers executing first in time and all other market participant orders being allocated size pro-rata.

The Exchange's proposal to remove Sweep Orders within Supplementary Material .05 to Options 5, Section 2 and Options 3, Section 7(s) is consistent with the Act as a Sweep Order would no longer be necessary without the flash functionality and Sweep Orders would be discontinued. Sweep Orders do not enter the flash functionality process of Supplementary Material .02 of Options 5, Section 2 and are processed separately. Sweep Orders are not necessary to facilitate the routing of Public Customer and Non-Customer orders to away markets because the proposed routing functionality would route all orders to away markets uniformly. Additionally, uniformly, all orders would be subject to re-pricing if the order would otherwise lock or cross an away market. The Exchange would continue to not cancel marketable orders that could not be executed on ISE because the order would lock or cross an away market, rather the order would be re-priced with the new routing functionality. With the new routing process, a Route

---

52 See Supplementary Material .02(b) and (c) to Options 5, Section 2.

Timer would begin for each order that is subject to routing on the Exchange. While Members may not opt out of the Route Timer, as is the case today, the proposed routing process would create a uniform streamlined process for routing all orders (FIND and SRCH) where a market participant has elected to have an order routed; Members may continue to elect to not have their orders routed. The new routing process does not distinguish as between Public Customer orders and Non-Customer orders, rather all orders would be processed in the same manner. Further, the proposed routing process would serve to further harmonize routing across Nasdaq affiliated markets.

The Exchange's proposal to remove Supplementary Material .04 to Options 5, Section 2, which sets forth routing procedures for Non-Customer orders that opt out of being processed under the flash functionality is consistent with the Act. The Exchange's proposal replaces its current away routing regime with the proposed FIND and SRCH order routing types; all orders would be processed in a uniform manner. The processing of Sweep Orders and the routing procedures under Supplementary Material .04 to Options 5, Section 2 were established as alternative routing procedures to the flash functionality and because the Exchange proposes to eliminate the flash order functionality, these routing procedures are no longer needed under the proposed routing procedures.

NES will continue to route orders to away markets on behalf of ISE. Orders executed on ISE would continue to not trade through away markets. Orders would execute at the best price, whether locally or on an away market. For these above reasons, the Exchange believes that eliminating the flash functionality and adopting routing functionality similar to BX will continue to protect investors and the general public by continuing to provide Members with an ability to route to away markets at the best price in the event ISE is not at the best price or elect not to route.

The Exchange's proposal to offer two new routing strategies to Members, similar to BX, is consistent with the Act as it will provide Members with a greater choice when routing. FIND and SRCH Orders will route away when ISE is not at the best price. All Members may elect to route orders, as FIND or SRCH, or elect not to route orders (DNR Orders).

Re-pricing orders that would otherwise lock or cross an away market, as proposed within Options 3, Section 5 is consistent with the Act. Today, BX re-prices orders by displaying them one MPV away from the best bid or offer.[53] This behavior is consistent with the protection of investors and the general public because it affords Participants the ability to obtain the best price offered among the various options markets while not locking or crossing an away market. As noted above, the Exchange would continue to not trade through an away market. Any order that locks or crosses an away market on ISE would be re-priced as a result of this amendment. This would include DNR orders resting on the order book and FIND and SRCH Orders that have not yet routed and are subject to a Route Timer.

The Exchange's proposal describes a number of potential routing scenarios to provide Members with greater transparency as to the manner in which the System would handle their order. The proposed rule also serves to inform Members about potential outcomes if a member elects to mark their order as "DNR." The various scenarios are intended to bring greater transparency to the Exchange's Rules.

---

53 See BX Options 3, Section 5.

The Exchange's proposal to only utilize FIX to route orders is consistent with the Act because the OTTO protocol is not designed for routing. Today, Members may not route orders through OTTO and this will not be changing as a result of the change in routing rules. Members on ISE may submit and route all orders through FIX. OTTO is an optional port available to all Members on ISE for the submission of orders.

The Exchange's proposal to remove the rule text within Supplementary Material .01 to Options 5, Section 2 is consistent with the Act. Today, ISE Options 5, Section 4(f) requires Members to honor trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange. This is the case for all options exchanges that receive routing instructions from their members. Today, an ISE Member that submits an order and does not mark that order as DNR would be subject to the flash functionality and routing rules within Options 5, Section 4. If that order routed to an away market, the Member would be obligated to honor that trade on the away market. Supplementary Material .01 to Options 5, Section 2 would require a public customer ISO entered by an Electronic Access Member to be represented on the Exchange as a Priority Customer Order[54] pursuant to Options 1, Section 1(a)(38). On ISE, a public customer order from an away market equates to a Priority Customer Order on ISE. Supplementary Material .01 to Options 5, Section 2 further states that there is no obligation for an Electronic Access Member to determine whether the public customer order from the away market meets the definition of a Priority Customer. As specified in Options 5, Section 4(f), Members are required to honor trades from away markets. A

54 Options 1, Section 1(a)(38) provides that the term "Priority Customer" means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

trade from an away market from a public customer would be honored on ISE as a Priority Customer without the need for additional due diligence. Finally, obligations associated with submitting ISO Orders are born by the member submitting the ISO Order. Each Exchange's rules describe how ISO Orders may be utilized.[55]

The Exchange's proposal to remove the rule text within Supplementary Material .07 to Options 5, Section 2 is consistent with the Act. Supplementary Material .07 to Options 5, Section 2 refers to orders entered pursuant to the flash functionality within Supplementary Material .02 to Options 5, Section 2, which will be eliminated, and, therefore, renders the rule text within Supplementary Material .07 to Options 5, Section 2 unnecessary.

The Exchange's proposal to remove the rule text within Supplementary Material .01 to Options 5, Section 4 is consistent with the Act. Supplementary Material .01 to Options 5, Section 4 states that Options 5, Section 4 does not prohibit NES or third-party unaffiliated routing broker-dealers used by NES from designating a preferred market-maker at the other exchange to which the order is being routed pursuant to Options 5, Section 4. The Exchange believes that it is not necessary to retain this rule text, as Options 5, Section 4(f) obligates Members to honor such trades that are executed on away markets, to the same extent they would be obligated to honor a trade executed on the Exchange. The Exchange notes that once an order is routed to an away market, the rules of the away market are in effect. For example, if an order was routed from Nasdaq ISE to Nasdaq Phlx LLC ("Phlx"), the Phlx rules would apply with respect to the

---

[55] See note 48 above.

execution of that order. The ISE Member would be required to honor the trade executed on Phlx pursuant to Phlx's rules.

The Exchange's proposal to remove the rule text within the Supplementary Material .02 to Options 5, Section 4 is consistent with the Act because the Exchange proposes to re-price orders which would otherwise lock or cross an away market. This proposal would permit the Exchange to re-price and rest such orders on the order book, similar to DNR Orders.

The Exchange's proposal to remove pricing related to flash functionality is reasonable, equitable and not unfairly discriminatory because the flash functionality would no longer be available to any Member. It is reasonable to remove the fees related to flash orders and the references to flash orders from the Pricing Schedule because the Exchange is removing the flash functionality from its Rulebook. Additionally, it is equitable and not unfairly discriminatory to remove the fees related to flash orders and the references to flash orders from the Pricing Schedule because no Exchange Member would be able to utilize the flash functionality once it is removed from the System.

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 Exchange's proposal to adopt routing, similar to BX,[56] does not impose an undue burden on inter-market competition as the proposal will permit ISE Members to continue to route orders to away markets to obtain the best price, while also accessing

---

56 See BX Options 5, Section 4, Order Routing.

ISE's order book, albeit with new routing options that are afforded to BX Participants today. The FIND and SRCH routing options would be available to all ISE Members. Finally, the options not to route (DNR Order) would continue to be offered to all ISE Members.

The Exchange's proposal to remove Sweep Orders within Supplementary Material .05 to Options 5, Section 2 and Options 3, Section 7(s) does not impose an undue burden on competition because a Sweep Order would no longer be necessary without the flash functionality and Sweep Orders would be discontinued.

The Exchange's proposal to only utilize FIX to route order does not impose an undue burden on competition because the OTTO protocol is not designed for routing. Today, Members may not route orders through OTTO and this will not be changing as a result of the change in routing rules. Members on ISE may submit and route all orders through FIX. OTTO is an optional port available to all Members on ISE for submitting orders.

The Exchange's proposal to re-price orders that would lock or cross away markets does not impose an undue burden on inter-market competition. Similar to BX Options 5, Section 4, the Exchange would re-price orders one MPV away from the best bid or offer. Better priced orders would continue to be accessible on ISE's order book. ISE would continue to not trade through an away market. Any order that locks or crosses an away market on ISE would be re-priced as a result of this amendment. This would include DNR orders resting on the order book and FIND and SRCH Orders that have not yet routed and are subject to a Route Timer.

The Exchange's proposal to remove the rule text within Supplementary Material .01 to Options 5, Section 2, Supplementary Material .07 to Options 5, Section 2 and Supplementary Material .01 to Options 5, Section 4 does not impose an undue burden on competition because ISE Options 5, Section 4(f) already requires Members to honor trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange. This would apply to the indicator for the type of market participant and designating a preferred market-maker, as well as obviate the need for redundant or unnecessary rule text.

The proposal to remove Supplementary Material .07 to Options 5, Section 2 does not impose an undue burden on competition. This rule discusses the obligation of a member who has entered an order on the Exchange that is routed away via an ISO pursuant to the flash functionality. The Exchange is proposing to remove the flash functionality, so the rule is no longer needed. In addition, obligations associated with submitting ISO Orders are born by the member submitting the ISO Order. Each Exchange's rules describe how ISO Orders may be utilized.[57] Finally, the Exchange's proposal to remove the rule text within the Supplementary Material .02 to Options 5, Section 4 does not impose an undue burden on competition because the Exchange proposes to re-price orders which would otherwise lock or cross an away market.

The Exchange's proposal to remove pricing related to flash functionality does not impose an undue burden on competition because the flash functionality would no longer be available to any Member.

---

[57] See note 48 above.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)[58] of the Act and Rule 19b-4(f)(6) thereunder[59] 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 believes its proposal to adopt a routing strategy, similar to BX,[60] does not significantly affect the protection of investors or the public interest. The Exchange's proposal to adopt routing strategies, similar to BX, with respect to DNR, FIND, and SRCH Orders will provide ISE Members the same flexibility for routing orders that is afforded to BX Participants today.[61] With this proposal, Members would

58 15 U.S.C. 78s(b)(3)(A)(iii).

59 17 CFR 240.19b-4(f)(6).

60 See BX Options 5, Section 4, Order Routing.

61 Id.

continue to be able to route orders to away markets to obtain the best price, while also accessing ISE's order book. Further, all Members will have the added ability to elect a particular routing strategy, FIND or SRCH, when routing their order. Members may continue to elect not to route their order, as is the case today. Finally, re-pricing orders and displaying them one MPV away from the best bid or offer is similar to the manner in which orders re-price today on BX. ISE would continue to not trade through an away market. The Exchange's proposal to remove pricing related to flash functionality is reasonable, equitable and not unfairly discriminatory because the flash functionality would no longer be available to any Member.

The Exchange's proposal does not impose any significant burden on competition as, all Members have the option to elect to route with any routing strategy or not to route an order. Removing rule text within Supplementary Material .01 to Options 5, Section 2, Supplementary Material .07 to Options 5, Section 2 and Supplementary Material .01 to Options 5, Section 4 that is captured by Options 5, Section 4(f) would obviate the need for redundant or unnecessary rule text. Finally, the Exchange's proposal to remove the rule text within the Supplementary Material .02 to Options 5, Section 4 does not significantly affect the protection of investors or the public interest or impose any significant burden on competition as the Exchange proposes to re-price orders which would otherwise lock or cross an away market. The Exchange's proposal to remove pricing related to flash functionality does not impose an undue burden on competition because the flash functionality would no longer be available to any Member.

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.

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

This proposal adopts rule text similar to BX Options 3, Section 5; Options 3, Section 7; and Options 5, Section 4.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-ISE-2022-11)

April __, 2022

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Routing Functionality in Connection with a Technology Migration

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 27, 2022, 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 the following sections within Options 5, Order Protection and Locked and Crossed Markets: Section 2, Order Protection; Section 3, Locked and Crossed Markets; and Section 4, Order Routing to Other Exchanges.

Additionally, the Exchange proposes to make corresponding amendments to the following sections within Options 3, Options Trading Rules: Section 5, Entry and Display of Single-Leg Orders; Section 7, Types of Orders and Order and Quote Protocols; Section 9, Trading Halts; Section 10, Priority of Quotes and Orders; and Section 11, Auction Mechanisms. Also, amendments are proposed to the following sections within Options 7,

---

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

2 17 CFR 240.19b-4.

Pricing Schedule: Section 1, General Provisions; Section 3, Regular Order Fees and Rebates; and Section 6, Other Options Fees and Rebates.

The text of the proposed rule change is available on the Exchange's Website at https://listingcenter.nasdaq.com/rulebook/ise/rules, 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

In connection with a technology migration to an enhanced Nasdaq, Inc. ("Nasdaq") functionality which results in higher performance, scalability, and more robust architecture, the Exchange intends to adopt certain trading functionality currently utilized at Nasdaq affiliate exchanges. Specifically, the Exchange proposes to conform the routing functionality available on ISE to that of Nasdaq BX, Inc.[3] The Exchange proposes to amend the following sections within Options 5, Order Protection and Locked and Crossed Markets: Section 2, Order Protection; Section 3, Locked and Crossed Markets; and Section 4, Order Routing to Other Exchanges. Additionally, the Exchange

[3] GEMX and MRX incorporate ISE Options 5 by reference.

proposes to make corresponding amendments to the following sections within Options 3, Options Trading Rules: Section 5, Entry and Display of Single-Leg Orders; Section 7, Types of Orders and Order and Quote Protocols; Section 9, Trading Halts; Section 10, Priority of Quotes and Orders; and Section 11, Auction Mechanisms, to account for the proposed amendments to Options 5. Also, amendments are proposed within the following sections of Options 7, Pricing Schedule: Section 1, General Provisions; Section 3, Regular Order Fees and Rebates; and Section 6, Other Options Fees and Rebates.

Today, ISE Options 5 describes how ISE routes orders in options via Nasdaq Execution Services, LLC ("NES")[4] to away markets. Utilizing NES to route orders to away markets is optional. Today, Members may elect to not route orders through NES and designate those orders as Do-Not-Route-Orders pursuant to Options 5, Section 4(b).[5] In the event that NES cannot provide Routing Services, the Exchange will cancel orders that, if processed by the Exchange, would violate Options 5, Section 2 (prohibition on trade-throughs) or Options 5, Section 3 (prohibition on locked and crossed markets).[6] Further, ISE Options 5 describes the manner in which ISE may route to another exchange

4 NES is a broker-dealer and the Routing Facility of the Exchange. NES routes orders in options listed and open for trading on the System to away markets either directly or through one or more third-party unaffiliated routing broker-dealers pursuant to Exchange Rules on behalf of the Exchange. NES is subject to regulation as a facility of the Exchange, including the requirement to file proposed rule changes under Section 19 of the Securities Exchange Act of 1934, as amended. See Options 5, Section 4(a).

5 A do-not-route order is a market or limit order that is to be executed in whole or in part on the Exchange only. Due to prices available on another options exchange (as provided in Options 5 (Order Protection; Locked and Crossed Markets)), any balance of a do-not-route order that cannot be executed upon entry, or placed on the Exchange's limit order book, will be automatically cancelled. See Options 3, Section 7(m).

6 See Supplementary Material .02 to Options 5, Section 4.

via an Intermarket Sweep Order ("ISO")[7] under certain circumstances.[8]

Pursuant to Supplementary Material .02 to Options 5, Section 2, ISE permits certain orders to first be exposed at the NBBO to all Members for execution at the National Best Bid or Offer ("NBBO") before the order would be routed to another market for execution ("flash functionality"). Currently, with respect to flash functionality, when an incoming order is priced at or through the Away Best Bid or Offer ("ABBO"), when the ABBO is better than the Exchange Best Bid or Offer ("BBO"), such order is exposed at the current NBBO to all Exchange Members for a period of time established by the Exchange not to exceed one (1) second. During the exposure period, Exchange Members may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option.[9] If at the end of the exposure period, the order is executable at the then-current NBBO and ISE is not at the then-current NBBO, responses that equal or better the NBBO will be executed in price priority, and at the same price,

---

7 Options 5, Section 1(h) provides, "Intermarket Sweep Order ("ISO")" means a limit order for an options series that, simultaneously with the routing of the ISO, one or more additional ISOs, as necessary, are routed to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or any Protected Offer, in the case of a limit order to buy, for the options series with a price that is superior to the limit price of the ISO. A Member may submit an Intermarket Sweep Order to the Exchange only if it has simultaneously routed one or more additional Intermarket Sweep Orders to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or Protected Offer, in the case of a limit order to buy, for an options series with a price that is superior to the limit price of the Intermarket Sweep Order. An ISO may be either an Immediate-Or-Cancel Order or an order that expires on the day it is entered."

8 See Supplementary Material .01 and .07 to Options 5, Section 2.

9 If a trading halt is initiated during the exposure period, the exposure period will be terminated without execution. See Supplementary Material .02 to Options 5, Section 2.

allocated pro-rata based on size, after Priority Customer orders are allocated.[10] If during the exposure period, the order becomes executable on ISE at the prevailing NBBO, the exposure period will be terminated, and the order will be executed against orders and quotes on the order book and responses received during the exposure period.[11] If during the exposure period the Exchange receives an unrelated order on the opposite side of the market from the exposed order that could trade against the exposed order at the prevailing NBBO price, the exposure period will be terminated and the orders will be executed.[12] If after an order is exposed, the order cannot be executed in full on the Exchange at the then-current NBBO or better, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than ISE's quote or the balance of the order will be sent to NES and any additional balance will be executed on ISE if it is marketable.[13] Any additional balance of the order that is not marketable

---

[10] The percentage of the total number of contracts available at the same price that is represented by the size of a Member's response. See Supplementary Material .02(a) to Options 5, Section 2.

[11] Such interest will be executed in price priority. At the same price, Priority Customer Orders will be executed first in time priority and then all other interest (orders, quotes and responses) will be allocated pro-rata based on size. See Supplementary Material .02(b) to Options 5, Section 2.

[12] See Supplementary Material .02(c) to Options 5, Section 2.

[13] Supplementary Material .06 to Options 5, Section 2 provides that in addressing Public Customer orders that are not automatically executed because there is a displayed bid or offer on another exchange trading the same options contract that is better than the best bid or offer on the Exchange pursuant to the Supplementary Material of Options 5, Section 2, the Exchange will act in compliance with its rules and with the provisions of the Exchange Act and the rules thereunder, including, but not limited to, the requirements in Section (6)(b)(4) and (5) of the Exchange Act that the rules of national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

against the then-current NBBO will be placed on ISE's order book.[14] A Do-Not-Route Order that meets the criteria for the flash order functionality will also be exposed. If the Do-Not-Route Order cannot be executed in full on the Exchange at the then-current NBBO or better, the balance of the order will be placed on ISE's order book if it is not marketable against the then-current NBBO, or the balance of the order will be cancelled.

Today, Non-Customer orders[15] may opt out of being processed in accordance with Supplementary Material .02 of Options 5, Section 2.[16] If a Non-Customer opts out, when the automatic execution of an incoming Non-Customer order would result in an impermissible Trade Through, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than ISE's quote or the balance of the order will be sent to NES and any additional balance of the order will be executed on ISE if it is marketable. Any additional balance of the order that is not marketable against the then-current NBBO will be placed on ISE's order book.[17]

Today, Sweep Orders[18] will not be processed in accordance with Supplementary Material .02 of this Options 5, Section 2. Rather, when the automatic execution of an

---

[14] See Supplementary Material .02(d) to Options 5, Section 2.

[15] The term "Non-Customer" means a person or entity that is a broker or dealer in securities. See Options 1, Section 1(a)(24).

[16] See Supplementary Material .04 to Options 5, Section 2.

[17] See Supplementary Material .04(a) to Options 5, Section 2.

[18] A Sweep Order is a limit order that is to be executed in whole or in part on the Exchange and the portion not so executed shall be routed pursuant to Supplementary Material .05 to Options 5, Section 2 to Eligible Exchange(s) for immediate execution as soon as the order is received by the Eligible Exchange(s). Any portion not immediately executed by the Eligible Exchange(s) shall be canceled. If a Sweep Order is not marketable when it is submitted to the Exchange, it shall be canceled. See Options 3, Section 7(s).

incoming Sweep Order would result in an impermissible Trade Through, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than ISE's quote or the balance of the order will be sent to NES and any additional balance of the order will be executed on ISE if it is marketable. Any portion of the order not executed shall be cancelled.[19] If a Sweep Order is not marketable when it is submitted to the Exchange, it shall be cancelled.[20]

Proposal

The Exchange proposes to amend ISE's order routing functionality to conform to that of BX Options 5, Section 4. As part of the technology migration, Nasdaq seeks to conform certain trading functionality to functionality currently available on other Nasdaq affiliated options markets to create a similar routing experience for market participants across the Nasdaq options markets. Similar to BX, ISE would continue to route orders to away markets via NES. Similar to BX, ISE would offer the following order types for routing: DNR Order, FIND Order and SRCH Order. Each order type for routing will be explained below.

ISE would no longer offer flash functionality because the proposed routing functionality, similar to BX, would permit an order to be exposed for a period of time that would allow other Members to trade with the order prior to the order routing to an away market. ISE proposes to remove the rule text related to flash functionality within Supplementary Material .02 to Options 5, Section 2.

---

19 See Supplementary Material .05(a) to Options 5, Section 2.

20 See Supplementary Material .05(b) to Options 5, Section 2.

Sweep Orders were adopted on ISE in 2014, to supplement ISE's away market routing capabilities.[21] Sweep Orders do not enter the flash functionality process of Supplementary Material .02 of Options 5, Section 2 and are processed separately. This proposal would eliminate the Sweep Order type within Options 3, Section 7(s) and remove the Sweep Order routing discussion within Supplementary Material .05 to Options 5, Section 2. Sweep Orders are not necessary to facilitate the routing of Public Customer and Non-Customer orders to away markets because the proposed routing functionality would route all orders to away markets uniformly. Additionally, uniformly, all orders would be subject to re-pricing if the order would otherwise lock or cross an away market. The Exchange would continue to not cancel marketable orders that could not be executed on ISE because the order would lock or cross an away market, rather the order would be re-priced with the new routing functionality.

With the new routing process, a Route Timer would begin for each order that is subject to routing on the Exchange. While Members may not opt out of the Route Timer, as is the case today, the proposed routing process would create a uniform streamlined process for routing all orders (FIND and SRCH) where a market participant has elected to have an order routed; Member may continue to elect to not have their orders routed. The new routing process does not distinguish as between Public Customer orders and Non-

---

21 See Securities Exchange Act Release No. 72816 (August 12, 2014), 79 FR 48811 (August 18, 2014) (SR-ISE-2014-37) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change on Non-Customer Linkage and Sweep Orders). Prior to the introduction of Sweep Orders, the Exchange only routed Public Customer orders to away markets and cancelled any marketable Non-Customer orders that could not be executed on the ISE in compliance with the Options Order Protection and Locked/Crossed Market Plan. Sweep Orders were intended to facilitate the routing of Public Customer and Non-Customer orders to away markets.

Customer orders, rather all orders would be processed in the same manner. Further, the proposed routing process would serve to further harmonize routing across Nasdaq affiliated markets.

The Exchange also proposes to remove Supplementary Material .04 to Options 5, Section 2, which sets forth routing procedures for Non-Customer orders that opt out of being processed under the flash functionality. The Exchange has proposed to replace its current away routing regime with the proposed FIND and SRCH order routing types. The processing of Sweep Orders and the routing procedures under Supplementary Material .04 to Options 5, Section 2 were established as alternative routing procedures to the flash functionality and because the Exchange proposes to eliminate the flash order functionality, these routing procedures are no longer needed under the proposed routing procedures.

Finally, the rule text within Supplementary Material .06 to Options 5, Section 2,[22] relating to Public Customer orders that are not automatically executed because there is a displayed bid or offer on another exchange trading the same options contract that is better than the best bid or offer on the Exchange, would be removed as handling of Public Customer orders is being amended to conform to BX Options 4 handling. The Exchange will explain that handling below. The rule text within Supplementary Material .06 to Options 5, Section 2 was adopted in 2009 when ISE adopted new rules to implement the Options Order Protection and Locked/Crossed Market Plan.[23] ISE continues to be

---

22 See note 13 above.

23 See Securities Exchange Act Release No. 60559 (August 21, 2009), 74 FR 44425 (August 28, 2009) (SR-ISE-2009-27) (Order Granting Approval of a Proposed Rule Change as Modified by Amendment No. 1 Thereto To Adopt Rules Implementing the Options Order Protection and Locked/Crossed Market Plan).

subject to compliance with its Rules, the Act, and the rules thereunder, including Sections 6(b)(4) and (5) of the Act[24] which require the Exchange to: (1) provide for the equitable allocation of reasonable dues, fees, and other charges among its participants and other persons using its facilities; and (2) prohibit unfair discrimination among customers, issuers, brokers or dealers. As noted in the Approval Order to SR-ISE-2009-27, Customers may choose to avoid having their orders routed away by entering their order with an Immediate-or-Cancel[25] or Fill-or-Kill designation[26] in addition to the DNR functionality.

The Exchange proposes to remove the Supplementary Material to Options 5, Section 3[27] which describes how an order would be handled when the price of an incoming limit order that is not executable upon entry would lock or cross a Protected Quotation because that functionality is being amended with this filing. Specifically, today, the order would be handled in accordance with the provisions of Supplementary

---

24 15 U.S.C. 78f(b)(4) and (5).

25 An immediate-or-cancel order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled. An immediate-or-cancel order entered by a Market Maker through the Specialized Quote Feed protocol will not be subject to the (i) Limit Order Price Protection and Size Limitation Protection as defined in Options 3, Section 15(b)(2) and (3); or (ii) Limit Order Price Protection as defined in Supplementary Material .07(d) to Options 3, Section 14. See Options 3, Section 7(b)(3).

26 A fill-or-kill order is a limit order that is to be executed in its entirety as soon as it is received and, if not so executed, treated as cancelled. See Options 3, Section 7(b)(2).

27 Supplementary Material .01 to Options 5, Section 3 provides, “When the price of an incoming limit order that is not executable upon entry would lock or cross a Protected Quotation, such order shall be handled in accordance with the provisions of Supplementary Material .02, .04 or .05 to Options 5, Section 2, as applicable.”

Material .02, .04 or .05 to Options 5, Section 2, as applicable. The Exchange's proposal removes Supplementary Material .02, .04 and .05 to Options 5, Section 2, therefore this section would no longer be possible as the current order handling is being amended with this proposal.

The Exchange also proposes to make certain conforming amendments within Options 3. First, the Exchange proposes to remove rule text within Options 3, Section 5(b)(1) which relates to flash functionality. Options 3, Section 5(b)(1) provides, "Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately canceled automatically by the System at the time of receipt." This rule text would no longer be necessary as the flash functionality is being eliminated.

The Exchange also proposes to renumber Options 3, Section 5(b)(2) as Options 3, Section 5(b)(1).

The Exchange proposes to amend Options 3, Section 9, Trading Halts, at subparagraph (d)(2). Among other things, the trading halt rule describes the processing of Market Orders exposed at the NBBO pursuant to Supplementary Material. 02 to Options 5, Section 2 after a trading halt. This rule text is no longer necessary with the elimination of flash functionality.

The Exchange also proposes to amend Options 3, Section 10(a)(ii)[28] to remove a

---

28 Options 3, Section 10(a)(ii) provides, "Applicability. This rule does not apply to the Block Order Mechanism described within Options 3, Section 11(a), the Facilitation Mechanism described within Options 3, Section 11(b), the Solicited Order Mechanism described within Options 3, Section 11(d), the Price Improvement Mechanism described within Options 3, Section 13, orders

reference to the flash functionality that is being eliminated. The Exchange also proposes to renumber Options 3, Section 10(a)(i) and (ii) as Options 3, Section 10(a)(1) and (2) to conform the numbering in that rule and correct a citation within Options 3, Section 10(c)(1)(B)(i)(b) from subparagraph (a)(1)(E) to subparagraph (c)(1)(E). The Exchange proposes to amend Options 3, Section 11(g)[29] to remove a reference to the flash functionality that is being eliminated.

Finally, the Exchange proposes to amend Options 7, Pricing Schedule, to remove all references to pricing related to the flash functionality. This would include the description of a Flash Order[30] within Options 7, Section 1, General Provisions; the

---

described within Options 3, Section 12 or an exposure period *as provided in Options 5, Section 2 at Supplementary Material .02*, unless Options 3, Section 10 is specifically referenced within ISE Rules applicable to the aforementioned functionality."

29 Options 3, Section 11(g) provides, "Concurrent Complex Order and single leg auctions. An auction in the Block Order Mechanism at Options 3, Section 11(a), Facilitation Mechanism at Options 3, Section 11(b), Solicited Order Mechanism at Options 3, Section 11(d), or Price Improvement Mechanism at Options 3, Section 13(d), respectively, *or an exposure period as provided in Supplementary Material .02 to Options 5, Section 2,* for an option series may occur concurrently with a Complex Order Exposure Auction at Supplementary Material .01 to Options 3, Section 14, Complex Facilitation Auction at Options 3, Section 11(c), Complex Solicited Order Auction at Options 3, Section 11(e), or Complex Price Improvement Mechanism auction at Options 11, Section 13(e), respectively, for a Complex Order that includes that series. To the extent that there are concurrent Complex Order and single leg auctions involving a specific option series, each auction will be processed sequentially based on the time the auction commenced. At the time an auction concludes, including when it concludes early, the auction will be processed pursuant to Options 3, Section 11(a), (b), (d), or Section 13(a) *or Supplementary Material .02 to Options 5, Section 2*, as applicable, for the single option, or pursuant to Supplementary Material .01 to Options 3, Section 14, Options 3, Section 11(c), 11(e), Options 3, Section 13(e), as applicable, for the Complex Order, except as provided for at Options 3, Section 13(e)(4)(vi)."

30 A "Flash Order" is an order that is exposed at the National Best Bid or Offer by the Exchange to all members for execution, as provided under Supplementary Material .02 to Options 5, Section 2. Unless otherwise noted in Section 3 pricing,

pricing for Flash Orders within Options 7, Section 3, Regular Order Fees and Rebates;[31] and the waiver of the Marketing Fee for Flash Orders within Options 7, Section 6, Other Options Fees and Rebates.[32]

The Exchange proposes to re-title Options 5, Section 4 as "Order Routing" similar to BX Options 5, Section 4. Proposed new Options 5, Section 4(a) defines various terms similar to BX such as "exposure" and "exposing", except for terms specific to ISE such as utilizing "Member" instead of "Participant" and not capitalizing the term "Order Book".[33]

As noted above, the Exchange proposes to offer 2 new routing strategies, FIND and SRCH, as well as an option to "Do Not Route" or "DNR." Additionally, the Exchange proposes to amend Options 3, Section 7 to add a new Supplementary Material .04 that provides, "Routing Strategies. Orders may be entered on the Exchange with a routing strategy of FIND or SRCH, or, in the alternative, an order may be marked Do-Not-Route ("DNR") as provided in Options 5, Section 4 through FIX only." The addition

---

Flash Orders will be assessed the applicable "Taker" Fee for the initiation of a Flash Order and will be paid/assessed the applicable "Maker" Rebate/Fee for responses. See Options 7, Section 1.

31 A market participant's order that initiates a Flash Order will be assessed the appropriate Taker Fee in Section 3. All market participant responses to Flash Orders in Select Symbols will be paid/assessed the appropriate Maker Rebate/Fee in Section 3. Responses to Flash Orders in Non-Select Symbols will be $0.25 per contract for non-Priority Customers and $0.00 for Priority Customers. See Options 7, Section 3 at note 17. The Exchange proposes to reserve note 17 within Options 7, Section 3.

32 Today, Marketing fees are waived NDX, NQX, MNX, Flash Orders and for Complex Orders in all symbols. See Options 7, Section 6E.

33 The Exchange is not defining a "System Routing Table" within this rule similar to BX as that term is not utilized elsewhere in the rule.

of this sentence will make clear which routing strategies may be utilized when submitting an order type and it will provide a citation to the routing rule for ease of reference. Routing options may be combined with all available order types and times-in-force, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option. Also, the Exchange would remove the current description of "Do-Not-Route Orders" within Options 3, Section 7(m).

With respect to order entry protocols, the Exchange notes that FIX[34] is the only order entry protocol on ISE that permits routing. OTTO,[35] another order entry protocol on ISE, does not permit routing.

Proposed Options 5, Section 4(a) provides that the System[36] will route FIND and SRCH Orders with no other contingencies. Of note, Immediate-or-Cancel Orders ("IOC") will be canceled immediately if not executed, and will not be routed. ISE's

---

34 "Financial Information eXchange" or "FIX" is an interface that allows Members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders to the Exchange. Features include the following: (1) execution messages; (2) order messages; (3) risk protection triggers and cancel notifications; and (4) post trade allocation messages. See Supplementary Material .03(a) to Options 3, Section 7.

35 "Ouch to Trade Options" or "OTTO" is an interface that allows Members and their Sponsored Customers to connect, send, and receive messages related to orders, auction orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying and complex instruments); (2) System event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) order messages; (6) risk protection triggers and cancel notifications; (7) auction notifications; (8) auction responses; and (9) post trade allocation messages. See Supplementary Material .03(b) to Options 3, Section 7.

36 The term "System" means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. See Options 1, Section (a)(50).

System would first check the order book for available contracts for potential execution against the FIND or SRCH Orders. After the System checks the order book for available contracts, orders are sent to other available market centers for potential execution. When checking the order book, the System will seek to execute at the price at which it would send the order to an away market.[37]

The System will initiate a Route Timer for each FIND or SRCH order it receives that locks/crosses an away market price. An order will not route to an away market before the conclusion of the Route Timer which shall not exceed one second and shall begin at the time orders are accepted into the System. At the conclusion of each Route Timer, the System will consider whether an order can be routed. While the Route Timer is running, each order will be exposed[38] on the Nasdaq ISE Order Feed.[39] This exposure allows other Members to interact with the order before it is routed to an away market. If an incoming order is joining an already established BBO price when the ABBO is locked or crossed with the BBO such order will join the established BBO price and no exposure notification will be sent, otherwise a notification will be sent. Also, an order exposure

37 See proposed Options 5, Section 4(a). With respect to Reserve Orders, only the displayed portion of the order would be exposed.

38 For purposes of this Rule, "exposure" or "exposing" an order shall mean a notification sent to Members with the price, size, and side of interest that is available for execution. See proposed Options 5, Section 4(a).

39 Nasdaq ISE Order Feed ("Order Feed") provides information on new orders resting on the book (e.g. price, quantity and market participant capacity). In addition, the feed also announces all auctions. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on ISE and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening. See Options 3, Section 23(a)(2).

will be sent when the order size is modified. For purposes of this Rule, the Exchange's opening process is governed by Options 3, Section 8 and includes an opening after a trading halt ("Opening Process"). The order routing process would be available to Members from 9:30 a.m. Eastern Time until market close and shall route orders as described within proposed Options 5, Section 4. Finally, all routing of orders shall comply with Options 5, Options Order Protection and Locked and Crossed Market Rules.

With respect to priority when routing as proposed within Options 5, Section 4(a)(i), orders sent to other markets do not retain time priority with respect to other orders in the System and the System shall continue to execute other orders while routed orders are away at another market center. Once routed by the System, an order becomes subject to the rules and procedures of the destination market including,[40] but not limited to, order cancellation. A routed order can be for less than the original incoming order's size. If a routed order is subsequently returned to the Exchange, in whole or in part, that routed order, or its remainder, shall receive a new time stamp reflecting the time of its return to the System, unless any portion of the original order remains on the System, in which case the routed order shall retain its timestamp and its priority.[41] As proposed, the priority when routing is the same as priority described in BX Options 5, Section 4(a)(i).

The Exchange proposes to relocate current Options 5, Section 4(f) into proposed Options 5, Section 4(a)(ii). This is identical to rule text within BX Options 5, Section 4(a)(ii).

---

[40] Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange. See proposed Options 5, Section 4(a)(ii).

[41] See proposed Options 5, Section 4(a)(i).

The Exchange proposes to remove the following sentence within current Options 5, Section 4, "The Exchange may automatically route ISOs to other exchanges under certain circumstances, including pursuant to Supplementary Material .02 to Options 5, Section 2 ("Routing Services"). In connection with such services, the following shall apply:." This sentence is no longer necessary and is being replaced by proposed Options 5, Section 4(a).

The Exchange proposes to retain the current provisions regarding NES within current Options 5, Section 4(a)-(e) and re-letter those paragraphs (A) – (E) to correspond with lettering within BX Options 5, Section 4 which contains similar rule text. No substantive amendments are proposed to those paragraphs.

The Exchange also proposes to update a citation within new Options 5, Section 4(a)(ii)(B) from Options 3, Section 7(m), which is being reserved, to proposed Options 5, Section 4(a)(iii)(A). Finally, the Exchange proposes to conform a citation to subparagraph (d) to "D" within new Options 5, Section 4(a)(ii)(E).

The Exchange proposes to add the new routing order types within proposed Options 5, Section 4(iii). The Exchange proposes to state, "The following order types are available:". Of note, a routing option may be combined with all available order types and times-in-force noted within Options 3, Section 7, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option.[42]

The proposed first routing option is a DNR Order. The proposed rule text is substantively the same as BX Options 5, Section 4(iii)(A). The Exchange proposes to

---

42 See proposed Options 5, Section 4(a).

describe a DNR Order within proposed Options 5, Section 4(iii)(A). A DNR Order will never be routed outside of the Exchange regardless of the prices displayed by away markets. In order to avoid trading through, a DNR Order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price. If an away market is at a better price, the DNR Order will remain in the Exchange's order book and would display re-priced. Specifically, the Exchange would re-price the DNR Order at a price one minimum price variation ("MPV") inferior to that away best bid/offer. For example, if the DNR Order is locking or crossing the ABBO, the DNR Order shall be entered into the order book at the ABBO price and displayed one MPV away from the ABBO. The Exchange would immediately expose the order at the ABBO to Members, provided the option series has opened for trading. Of note, today, ISE would cancel any unexecuted balances that cannot be placed on the order book. With the re-platform, any unexecuted balances may rest on the order book as the Exchange would re-price an order that locks or crosses an away market as described within this proposal.

Any incoming order interacting with a DNR Order that is resting on the Exchange's order book would execute at the ABBO price, unless the ABBO is improved to a price which crosses the DNR Order's already displayed price. In the case where the ABBO crosses the DNR Order's price, the incoming order will execute at the previous ABBO price as the away market crossed a displayed price. Away markets have similar obligations not to trade through ISE's market. In the case where the ABBO is improved to a price which locks the DNR Order's displayed price, the incoming order will execute at the DNR Order's displayed price. Should the best away market move to an inferior price level, the DNR Order will automatically re-price from its one MPV inferior to the original ABBO and display one MPV away from the new ABBO or its original limit price, and expose such orders at the new ABBO. Once an order is booked to the order book at its original limit price, it will remain at that price until executed or cancelled. Thereafter, should the best away market improve its price such that it locks or crosses the DNR Order limit price on the order book, the Exchange will execute the resulting incoming order that is routed from the away market that locked or crossed the DNR Order limit price. By way of example, consider the following sequence of events in the System for a DNR Order:

9:45:00:00:00 - MIAX Quote 0.95 x 1.20

9:45:00:00:10 – OPRA updates MIAX BBO 0.95 x 1.20

9:45:00:00:20 - ISE Local BBO Quote 1.00 x 1.15

9:45:00:00:30 - OPRA disseminates ISE BBO updates: 1.00 x 1.15

9:45:00:00:35: CBOE Quote 1.00 x 1.12

9:45:00:00:45 – OPRA disseminates CBOE BBO 1.00 x 1.12

9:45:00:00:50 - DNR Order: Buy 5 @ 1.15 (exposes @ ABBO of 1.12, displays 1 MPV from ABBO @ 1.11)

9:45:00:00:51 – OPRA disseminates ISE BBO updates: 1.11 x 1.15 (1.11 being the DNR Order displaying 1 MPV from ABBO)

9:45:00:00:60 - MIAX Quote updates to 1.00 x 1.10 (1.10 crosses the displayed DNR Order price, violating locked/crossed market rules; henceforth, we need not protect this price)
9:45:00:00:65 – OPRA disseminates MIAX BBO 1.00 x 1.10
9:45:00:00:75 - ISE Market Maker Order to Sell 5 @ 1.09

9:45:00:00:76 – Market Maker Order immediately executes against DNR Order 5 contracts @ 1.12 (1.12 being the 'previous' ABBO price disseminated by CBOE before the receipt of the DNR Order that was subsequently and illegally crossed by MIAX's 2nd quote)

9:45:00:00:77 - OPRA disseminates ISE BBO updates: 1.00 x 1.15 (reverts back to BBO set by ISE Local Quote since the DNR Order has executed)

Members may also elect to route their orders. The Exchange proposes to offer market participants two choices for routing options orders: FIND and SRCH. At a high level, a FIND Order will only attempt to route once and then post to the order book; it will not be eligible for routing until the next time the option series is subject to a new Opening Process.[43] In contrast, a SRCH Order may route at any time, including during and after an Opening Process. A SRCH Order that rests on the order book may be routed to an away market if it is locked or crossed by an away market. Each of these proposed options for routing will be explained in greater detail below.

FIND Order

The Exchange proposes to adopt a new routing option at Options 5, Section 4(a)(iii)(B) for FIND Orders. The routing process for a FIND Order is the same as BX Options 5, Section 4(a)(iii)(B). As noted above, a FIND Order is an order that is: (i) routable at the conclusion of an Opening Process; and (ii) routable upon receipt during regular trading, after an option series is open. Each order marked as "FIND" that is submitted after an Opening Process would initiate a Route Timer and route in the order in which its Route Timer ends. FIND Orders that are not marketable with the ABBO upon receipt will be treated as DNR for the remainder of the trading day, and will not be subject to routing even in the event that there is a new Opening Process after a trading halt. At the end of an Opening Process, any FIND Order that is priced through the Opening Price, which is defined within ISE Options 3, Section 8(a)(3), will be cancelled, and any FIND Order that is at or inferior to the Opening Price will execute or book

43 As explained below, FIND Orders that are not marketable with the ABBO upon receipt will be treated as DNR for the remainder of the trading day and post to the Order Book, even in the event that there is a new Opening Process after a trading halt.

pursuant to ISE Opening Process at Options 3, Section 8(j). The Opening Process is described in greater detail within Options 3, Section 8.

With respect to FIND Orders, Options 5, Section 4(a)(iii)(B)(2) provides that generally, a FIND Order will be included in the displayed BBO at its limit price, unless the FIND Order locks or crosses the ABBO, in which case it will be entered into the order book at the ABBO price and displayed at one MPV inferior to the ABBO. If there exists a locked ABBO when the FIND Order is entered onto the order book, the FIND Order will be entered into the order book at the ABBO price and displayed and re-priced one MPV inferior to the ABBO. If during a Route Timer, ABBO markets move and the FIND Order becomes non-marketable against the ABBO and BBO, the FIND Order will post on the order book at its limit price. If the FIND Order is locked or crossed by away quotes, it will route at the completion of the Route Timer. However, if the ABBO worsens but remains better than the BBO, the FIND Order will re-price and be re-exposed at the new price(s) without interrupting the Route Timer.

If, during the Route Timer, any new interest arrives opposite the FIND Order that is equal to or better than the ABBO price, the FIND Order will trade against such new interest at the ABBO price, unless the ABBO is improved to a price which crosses the FIND Order's already displayed price, in which case the incoming order will execute at the previous ABBO price as the away market crossed a displayed price. Paragraph (a)(iii)(B)(2) of Options 5, Section 4 is intended to describe the possible scenarios that may occur during a Route Timer that has been initiated for a FIND Order. The Exchange believes that describing these scenarios in this introductory paragraph will provide a basis to understand certain FIND Order behaviors in certain circumstances and eliminate the need to have these circumstances repeated throughout the rule. The proposed remaining paragraphs outline System behavior in various circumstances taking into consideration away market pricing to provide market participants with expected outcomes.

Proposed ISE Options 5, Section 4(a)(iii)(B)(3) sets forth a scenario where a FIND Order received after an Opening Process is not marketable against the BBO or the ABBO. In this case, the FIND Order will be entered into the order book at its limit price and treated as DNR for the remainder of the trading day, even if there is a new Opening Process after a trading halt. As noted above, the FIND Order will only attempt to route once.

Proposed ISE Options 5, Section 4(a)(iii)(B)(4) describes a scenario where a FIND Order received after an Opening Process is marketable against the BBO when the ABBO is inferior to the BBO. In this case the FIND Order will be traded on the Exchange at or better than the BBO price. If the FIND Order has size remaining after exhausting the BBO, the Exchange proposes that it may: (1) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to and including the ABBO price, (2) be entered into the order book at its limit price, or (3) if locking or crossing the ABBO, be entered into the order book at the ABBO price and displayed one MPV away from the ABBO. The FIND Order will be treated as DNR for the remainder of the trading day, even in the event that there is a new Opening Process after a trading halt.

Proposed ISE Options 5, Section 4(a)(iii)(B)(5) describes a scenario where a FIND Order received after an Opening Process is marketable against the BBO when the ABBO is equal to the BBO. In this case, the FIND Order will be traded on the Exchange at the BBO. If the FIND Order has size remaining after exhausting the BBO, it will initiate a Route Timer, and expose the FIND Order at the ABBO to allow market participants an opportunity to interact with the remainder of the FIND Order. During the Route Timer, the FIND Order will be included in the BBO at a price one MPV away from the ABBO. If during the Route Timer, the ABBO markets move such that the FIND Order is no longer marketable against the ABBO, the Exchange proposes that it may: (i) trade at the next BBO price (or prices) if the FIND Order price is locking or crossing that price (or prices), and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO.

Proposed ISE Options 5, Section 4(a)(iii)(B)(6) describes a scenario where at the end of the Route Timer pursuant to subparagraph (5) above, the FIND Order is still marketable with the ABBO. In this case, the FIND Order will route to an away market up to a size equal to the lesser of either: (1) an away market's size or (2) the remaining size of the FIND Order. If the FIND Order still has remaining size after routing, the Exchange proposes that it will (i) trade at the next BBO price or better, subject to the order’s limit price, and, if contracts still remain unexecuted, the remaining size will be routed to away markets disseminating the same price as the BBO, or (ii) be entered into the order book and posted either at its limit price or re-priced one MPV away if the order would otherwise lock or cross the ABBO. If size still remains, as is always the case, the FIND Order will not be eligible for routing until the next time the option series is subject to a new Opening Process, which may include a re-opening after a trading halt.

Proposed ISE Options 5, Section 4(a)(iii)(B)(7) describes a scenario where a FIND Order is received after an Opening Process that is marketable against the ABBO when the ABBO is better than the BBO. In this case, the FIND Order will initiate a Route Timer, and expose the order at the ABBO to allow Members and other market participants an opportunity to interact with the FIND Order. As described within ISE Options 5, Section 4(a)(iii)(B)(8), if, at the end of the Route Timer pursuant to subparagraph (7) above, the ABBO is still at the best price and is marketable with the FIND Order, the order will route to the away market(s) whose disseminated price(s) is better than the BBO, up to a size equal to the lesser of either: (1) the away markets' size, or (2) the remaining size of the FIND Order. If the FIND Order still has remaining size after such routing, it will (i) trade at the BBO price or better, subject to the order's limit price, and, if contracts still remain unexecuted, the remaining size will be routed to away markets disseminating the same price as the BBO, or (ii) be entered into the order book and posted either at its limit price or re-priced one MPV away if the order would otherwise lock or cross the ABBO. If the FIND Order still has remaining size it will not be eligible for routing until the next time the option series is subject to a new Opening Process, which may include a re-opening after a trading halt.

Finally, proposed ISE Options 5, Section 4(a)(iii)(B)(9) provides that a FIND Order that is routed to an away market(s) will be marked as an Intermarket Sweep Order "ISO" and designated as an IOC order.

SRCH Orders

The Exchange proposes to adopt a SRCH Order functionality at proposed Options 5, Section 4(a)(iii)(C). The routing process for a SRCH Order is the same as BX Options 5, Section 4(a)(iii)(C). A SRCH Order is routable at any time the option series is open for trading. A SRCH Order on the order book during an Opening Process (including a re-opening following a trading halt), whether it is received prior to an Opening Process or it is a Good-Till-Canceled Order[44] ("GTC") SRCH Order from a prior day, may be routed as part of an Opening Process. Similar to FIND Orders, SRCH Orders would initiate their own Route Timers and route in the order in which their Route Timers end.

Proposed ISE Options 5, Section 4(a)(iii)(C)(1) provides, similar to a FIND Order, that at the end of an Opening Process, any SRCH Order that is priced through the Opening Price, as defined within Options 3, Section 8(a)(iii), will be cancelled, and any SRCH Order that is at or inferior to the Opening Price will execute or book pursuant to Options 3, Section 8(k). With respect to both FIND and SRCH Orders, Options 3, Section 8 provides a process whereby ISE arrives at an Opening Price. The System cancels any order or quote priced through the Opening Price which was not able to be satisfied either by routing to an away destination or trading in full as part of the opening trade.[45]

Similar to the FIND Order proposal, the Exchange proposes to add a paragraph at proposed ISE Options 5, Section 4(a)(iii)(C)(2), which is intended to describe at the outset possible scenarios that may occur during a Route Timer, including if the ABBO moves and if marketable new interest arrives. In the paragraphs that follow, paragraph (C)(2) would apply in the case where a Route Timer is initiated. Proposed ISE Options 5,

---

44 A Good-Till-Canceled Order is an order to buy or sell that remains in force until the order is filled, canceled or the option contract expires; provided, however, that GTC Orders will be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. See ISE Options 3, Section 7(r).

45 See Options 3, Section 8(j)(6)(A). The Exchange notes that "priced through the Opening Price" within Options 3, Section 8 is intended to mean buying interest with a price higher than the Opening Price and selling interest with a price lower than the Opening Price.

Section 4(a)(iii)(C)(2) would provide that, generally, during a Route Timer a SRCH Order will be included in the displayed BBO at its limit price, unless the SRCH Order locks or crosses the ABBO, in which case it will be entered into the order book at the ABBO price and displayed one MPV inferior to the ABBO. If there exists a locked ABBO when the SRCH Order is entered onto the order book, the SRCH Order will be entered into the order book at the ABBO price and displayed one MPV inferior to the ABBO. Once on the order book, the SRCH Order may route if it is locked or crossed by an away market.

If during a Route Timer, ABBO markets move such that the SRCH Order is no longer marketable against the ABBO or BBO, the SRCH Order will book on the order book at its limit price. If, during the Route Timer, any new interest arrives opposite the SRCH Order that is equal to or better than the ABBO price, the SRCH Order will trade against such new interest at the ABBO price, unless the ABBO is improved to a price which crosses the SRCH Order's already displayed price, in which case the incoming order will execute at the previous ABBO price as the away market crossed a displayed price. If the ABBO worsens but remains better than the BBO, the SRCH Order will re-price and be re-exposed at the new price(s) without interrupting the Route Timer. If an ABBO locks or crosses the SRCH Order during a new Route Timer, which would subsequently initiate at the conclusion of any Route Timer if interest remains, the SRCH Order may route to the away market at the ABBO at the conclusion of such Route Timer. Finally, if the SRCH Order is locked or crossed by away quotes, it will route at the completion of the Route Timer. The System will route and execute contracts contemporaneously at the end of the Route Timer.

As noted herein and proposed within proposed ISE Options 5, Section 4(a)(iii)(C)(3), a SRCH Order received after an Opening Process that is not marketable against the BBO or the ABBO will be entered into the order book at its limit price. Once on the order book, the SRCH Order is eligible for routing if it is locked or crossed by an away market.

Proposed ISE Options 5, Section 4(a)(iii)(C)(4) presents a scenario where a SRCH Order received after an Opening Process is marketable against the BBO when the ABBO is inferior to the BBO. In this case, the SRCH Order will trade at or better than the BBO price. If the SRCH Order has size remaining after exhausting the BBO, the Exchange proposes that it may: (1) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to and including the ABBO price, and/or (2) be routed, subject to a Route Timer, to away markets if all Exchange interest at better or equal prices has been exhausted, and/or (3) be entered into the order book at its limit price if not locking or crossing the BBO or the ABBO.

Proposed ISE Options 5, Section 4(a)(iii)(C)(5) provides a scenario where the SRCH Order received after an Opening Process is marketable against the BBO when the ABBO is equal to the BBO. In this case, the SRCH Order will trade at the BBO. If the SRCH Order has size remaining after exhausting the BBO, it will initiate a Route Timer and expose the SRCH Order at the ABBO to allow Members an opportunity to interact with the remainder of the SRCH Order. During the Route Timer, the SRCH Order will be included in the BBO at a price one MPV away from the ABBO.

Proposed ISE Options 5, Section 4(a)(iii)(C)(6) provides that if at the end of the Route Timer pursuant to subparagraph (5), the SRCH Order is still marketable with the

ABBO, the SRCH Order will route to an away market up to a size equal to the lesser of either: (1) the away market's size, or (2) the remaining size of the SRCH Order. If after that the SRCH Order still has remaining size after routing, it may: (i) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to the ABBO price, and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO or the ABBO.

Proposed ISE Options 5, Section 4(a)(iii)(C)(7) provides a scenario where a SRCH Order received after an Opening Process is marketable against the ABBO when the ABBO is better than the BBO. In this case, the SRCH Order will initiate a Route Timer, and expose the SRCH Order at the ABBO to allow Members an opportunity to interact with the SRCH Order. If during the Route Timer, the ABBO markets move such that the SRCH Order is no longer marketable against the ABBO, it may: (i) trade at the next BBO price (or prices) if the SRCH Order price is locking or crossing that price (or prices), and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO.

Proposed ISE Options 5, Section 4(a)(iii)(C)(8) provides that if at the end of the Route Timer pursuant to subparagraph (7), the ABBO is still the best price and is marketable with the SRCH Order, the order will route to the away market(s) whose disseminated price(s) is better than the BBO, up to a size equal to the lesser of either: (1) the away markets' size, or (2) the remaining size of the SRCH Order. However, if the SRCH Order still has remaining size after such routing, the Exchange proposes that it may: (i) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to the ABBO price, and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO or the ABBO.

Finally, as proposed in ISE Options 5, Section 4(a)(iii)(C)(9), and similar to FIND Orders, a SRCH Order that is routed to an away market(s) will be marked as an ISO and designated as an IOC Order.

Re-Pricing

Currently, Options 3, Section 5(b) provides that orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)).[46] Orders that are not automatically executed are handled pursuant to the flash functionality as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. Orders are not executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the Member as routable is routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions.[47]

The Exchange proposes to amend Options 3, Section 5(c) to specify that the System will automatically execute eligible orders using the Exchange's displayed BBO or the Exchange's non-displayed order book ("internal BBO") if the best bid and/or offer on the Exchange has been re-priced. With this change, a DNR order that locks or crosses

46 Options 5, Section 1(j) provides, " 'NBBO' means the national best bid and offer in an options series as calculated by an Eligible Exchange."

47 See Options 3, Section 5(d).

the ABBO may re-price and rest on the order book. Today, the DNR Order that locks or crosses the ABBO would be cancelled. The re-pricing itself is proposed to be described within Options 3, Section 5(c) and (d) similar to BX Options 3, Section 5(c) and (d). Currently, Options 3, Section 5(d) describes Trade-Through Compliance and Locked or Crossed Market behavior.

The Exchange proposes to add rule text within Options 3, Section 5(d) to describe how a non-routable order would be re-priced and remove rule text that describes the flash functionality, which is being eliminated, and language providing that, in lieu of using the flash functionality, Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

Specifically, the Exchange proposes to state within Options 3, Section 5(c), "The System automatically executes eligible orders using the Exchange's displayed best bid and offer ("BBO") or the Exchange's non-displayed order book ("internal BBO") if the best bid and/or offer on the Exchange has been re-priced pursuant to subsection (d) below." Also, the Exchange proposes to state within Options 3, Section 5(d), "An order that is designated by a Member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price." The Exchange believes that the addition of this language, similar to language within BX Options 3, Section 5(d), will provide Members with additional information as to the manner in which orders are handled by the System when those orders would lock or cross an away market.

Supplementary Material to Options 5, Section 2

The Exchange proposes to remove the rule text within Supplementary Material .01 to Options 5, Section 2 that provides,

> All public customer ISOs entered by an Electronic Access Member on behalf of an Eligible Exchange shall be represented on the Exchange as Priority Customer Orders, as defined in Options 1, Section 1(a)(38). There shall be no obligation on Electronic Access Members to determine whether the public customer for whom the Eligible Exchange is routing an ISO meets the definition of a Priority Customer.

Current ISE Options 5, Section 4(f) provides, "Entering Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange." The Exchange believes that Options 5, Section 4(f), which is proposed to be relocated to Options 5, Section 4(a)(ii), is more expansive than Supplementary Material .01 to Options 5, Section 4 and would apply to the indicator for the type of market participant. Furthermore, obligations associated with submitting ISO Orders are born by the member submitting the ISO Order. Each Exchange's rules describe how ISO Orders may be utilized.[48]

The Exchange proposes to remove the rule text within Supplementary Material .07 to Options 5, Section 2 that provides, "All orders entered on the Exchange and routed to another exchange via an ISO pursuant to the Supplementary Material of this Options 5, Section 2 that result in an execution shall be binding on the Member that entered such

---

[48] See e.g. Phlx Options 3, Section 7(b)(3), The Nasdaq Options Market LLC Options 3, Section 7(a)(7), and BX Options 3, Section 7(a)(6).

orders." As noted above, current ISE Options 5, Section 4(f) provides that, "Entering Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange." Supplementary Material .07 to Options 5, Section 2 refers to orders entered pursuant to the flash functionality pursuant to Supplementary Material .02 to Options 5, Section 2, which will be eliminated and, therefore, renders the rule text within Supplementary Material .07 to Options 5, Section 2 unnecessary.

Supplementary Material to Options 5, Section 4

The Exchange proposes to remove the rule text within Supplementary Material .01 to Options 5, Section 4 that provides, "Options 5, Section 4 does not prohibit NES or third-party unaffiliated routing broker-dealers used by NES from designating a preferred market-maker at the other exchange to which the order is being routed pursuant to Options 5, Section 4." As noted above, current Options 5, Section 4(f) provides, "Entering Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange." The Exchange believes that this rule is more expansive than Supplementary Material .01 to Options 5, Section 4 and would apply to designating a preferred market-maker.

The Exchange proposes to remove the rule text within the Supplementary Material .02 to Options 5, Section 4 that provides, "In the event that NES cannot provide Routing Services, the Exchange will cancel orders that, if processed by the Exchange, would violate Options 5, Section 1 (prohibition on trade-throughs) or Options 5, Section

3 (prohibition on locked and crossed markets)." The Exchange's proposal to re-price orders which would otherwise lock or cross an away market would cause an order, that was subject to routing, to rest on the order book in the event that NES was unable to provide routing services. The Exchange proposes to remove the rule text within Supplementary Material .02 to Options 5, Section 4 to permit the Exchange to re-price and rest such orders on the order book, similar to DNR Orders.

Finally, the Exchange proposes to renumber the rule text within Supplementary Material .03 to Options 5, Section 4 to .01.

Implementation

The Exchange intends to begin implementation of the proposed rule change for ISE prior to December 22, 2023. Separately, the Exchange plans to begin implementation of the proposed rule change prior to December 23, 2022, with respect to MRX, and prior to September 1, 2023, with respect to GEMX. Each implementation would commence with a limited symbol migration and continue to migrate symbols over several weeks. The Exchange will issue an Options Trader Alert to Members to provide notification of the symbols that will migrate and the relevant dates for each exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[49] in general, and furthers the objectives of Sections 6(b)(4) and Section 6(b)(5) of the Act,[50] 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,

---

49 15 U.S.C. 78f(b).

50 15 U.S.C. 78f(b)(4) and (5).

and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers and is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Exchange's proposal to adopt routing strategies, that are substantially the same as BX, with respect to DNR, FIND, and SRCH Orders is consistent with the Act because the functionality will provide ISE Members the same flexibility for routing orders that is afforded to BX Participants today.[51] With this proposal, Members would continue to route orders to away markets to obtain the best price, while also accessing ISE's order book. Further, with this proposal, Members will have the added ability to elect a particular routing strategy, FIND or SRCH, when routing their order. Also, Members may continue to elect not to route their order, as is the case today.

Additionally, today, orders that are not automatically executed are handled pursuant to the flash functionality as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. This proposal eliminates flash functionality and proposes to re-price orders that would otherwise lock or cross an away market. As is the case today, an order that is designated by the Member as routable will route in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions.

While the Exchange is eliminating the current flash functionality, ISE is proposing to adopt order routing strategies that include a Route Timer that, similar to flash functionality, will continue to advertise orders prior to routing them in an attempt to

---

51 See BX Options 5, Section 4, Order Routing.

obtain a local execution. Unlike the flash functionality where Non-Customer orders may opt out, the Route Timer will be established for each order that may route. During the Route Timer, similar to the flash functionality, Members may enter responses up to the size of the order being exposed. However, unlike flash functionality, an order that matches the price of an order during the Route Time will trade against that order without waiting for the Route Timer to complete. In contrast, with flash functionality, orders allocate at the end of the timer, with the exception of specific scenarios that will cause early termination[52] and allocate pursuant to Options 3, Section 10, with Priority Customers executing first in time and all other market participant orders being allocated size pro-rata.

The Exchange's proposal to remove Sweep Orders within Supplementary Material .05 to Options 5, Section 2 and Options 3, Section 7(s) is consistent with the Act as a Sweep Order would no longer be necessary without the flash functionality and Sweep Orders would be discontinued. Sweep Orders do not enter the flash functionality process of Supplementary Material .02 of Options 5, Section 2 and are processed separately. Sweep Orders are not necessary to facilitate the routing of Public Customer and Non-Customer orders to away markets because the proposed routing functionality would route all orders to away markets uniformly. Additionally, uniformly, all orders would be subject to re-pricing if the order would otherwise lock or cross an away market. The Exchange would continue to not cancel marketable orders that could not be executed on ISE because the order would lock or cross an away market, rather the order would be re-priced with the new routing functionality. With the new routing process, a Route

---

52 See Supplementary Material .02(b) and (c) to Options 5, Section 2.

Timer would begin for each order that is subject to routing on the Exchange. While Members may not opt out of the Route Timer, as is the case today, the proposed routing process would create a uniform streamlined process for routing all orders (FIND and SRCH) where a market participant has elected to have an order routed; Members may continue to elect to not have their orders routed. The new routing process does not distinguish as between Public Customer orders and Non-Customer orders, rather all orders would be processed in the same manner. Further, the proposed routing process would serve to further harmonize routing across Nasdaq affiliated markets.

The Exchange's proposal to remove Supplementary Material .04 to Options 5, Section 2, which sets forth routing procedures for Non-Customer orders that opt out of being processed under the flash functionality is consistent with the Act. The Exchange's proposal replaces its current away routing regime with the proposed FIND and SRCH order routing types; all orders would be processed in a uniform manner. The processing of Sweep Orders and the routing procedures under Supplementary Material .04 to Options 5, Section 2 were established as alternative routing procedures to the flash functionality and because the Exchange proposes to eliminate the flash order functionality, these routing procedures are no longer needed under the proposed routing procedures.

NES will continue to route orders to away markets on behalf of ISE. Orders executed on ISE would continue to not trade through away markets. Orders would execute at the best price, whether locally or on an away market. For these above reasons, the Exchange believes that eliminating the flash functionality and adopting routing functionality similar to BX will continue to protect investors and the general public by continuing to provide Members with an ability to route to away markets at the best price in the event ISE is not at the best price or elect not to route.

The Exchange's proposal to offer two new routing strategies to Members, similar to BX, is consistent with the Act as it will provide Members with a greater choice when routing. FIND and SRCH Orders will route away when ISE is not at the best price. All Members may elect to route orders, as FIND or SRCH, or elect not to route orders (DNR Orders).

Re-pricing orders that would otherwise lock or cross an away market, as proposed within Options 3, Section 5 is consistent with the Act. Today, BX re-prices orders by displaying them one MPV away from the best bid or offer.[53] This behavior is consistent with the protection of investors and the general public because it affords Participants the ability to obtain the best price offered among the various options markets while not locking or crossing an away market. As noted above, the Exchange would continue to not trade through an away market. Any order that locks or crosses an away market on ISE would be re-priced as a result of this amendment. This would include DNR orders resting on the order book and FIND and SRCH Orders that have not yet routed and are subject to a Route Timer.

The Exchange's proposal describes a number of potential routing scenarios to provide Members with greater transparency as to the manner in which the System would handle their order. The proposed rule also serves to inform Members about potential outcomes if a member elects to mark their order as "DNR." The various scenarios are intended to bring greater transparency to the Exchange's Rules.

---

53 See BX Options 3, Section 5.

The Exchange's proposal to only utilize FIX to route orders is consistent with the Act because the OTTO protocol is not designed for routing. Today, Members may not route orders through OTTO and this will not be changing as a result of the change in routing rules. Members on ISE may submit and route all orders through FIX. OTTO is an optional port available to all Members on ISE for the submission of orders.

The Exchange's proposal to remove the rule text within Supplementary Material .01 to Options 5, Section 2 is consistent with the Act. Today, ISE Options 5, Section 4(f) requires Members to honor trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange. This is the case for all options exchanges that receive routing instructions from their members. Today, an ISE Member that submits an order and does not mark that order as DNR would be subject to the flash functionality and routing rules within Options 5, Section 4. If that order routed to an away market, the Member would be obligated to honor that trade on the away market. Supplementary Material .01 to Options 5, Section 2 would require a public customer ISO entered by an Electronic Access Member to be represented on the Exchange as a Priority Customer Order[54] pursuant to Options 1, Section 1(a)(38). On ISE, a public customer order from an away market equates to a Priority Customer Order on ISE. Supplementary Material .01 to Options 5, Section 2 further states that there is no obligation for an Electronic Access Member to determine whether the public customer order from the away market meets the definition of a Priority Customer. As specified in Options 5, Section 4(f), Members are required to honor trades from away markets. A

---

[54] Options 1, Section 1(a)(38) provides that the term "Priority Customer" means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

trade from an away market from a public customer would be honored on ISE as a Priority Customer without the need for additional due diligence. Finally, obligations associated with submitting ISO Orders are born by the member submitting the ISO Order. Each Exchange's rules describe how ISO Orders may be utilized.[55]

The Exchange's proposal to remove the rule text within Supplementary Material .07 to Options 5, Section 2 is consistent with the Act. Supplementary Material .07 to Options 5, Section 2 refers to orders entered pursuant to the flash functionality within Supplementary Material .02 to Options 5, Section 2, which will be eliminated, and, therefore, renders the rule text within Supplementary Material .07 to Options 5, Section 2 unnecessary.

The Exchange's proposal to remove the rule text within Supplementary Material .01 to Options 5, Section 4 is consistent with the Act. Supplementary Material .01 to Options 5, Section 4 states that Options 5, Section 4 does not prohibit NES or third-party unaffiliated routing broker-dealers used by NES from designating a preferred market-maker at the other exchange to which the order is being routed pursuant to Options 5, Section 4. The Exchange believes that it is not necessary to retain this rule text, as Options 5, Section 4(f) obligates Members to honor such trades that are executed on away markets, to the same extent they would be obligated to honor a trade executed on the Exchange. The Exchange notes that once an order is routed to an away market, the rules of the away market are in effect. For example, if an order was routed from Nasdaq ISE to Nasdaq Phlx LLC ("Phlx"), the Phlx rules would apply with respect to the

---

[55] See note 48 above.

execution of that order. The ISE Member would be required to honor the trade executed on Phlx pursuant to Phlx's rules.

The Exchange's proposal to remove the rule text within the Supplementary Material .02 to Options 5, Section 4 is consistent with the Act because the Exchange proposes to re-price orders which would otherwise lock or cross an away market. This proposal would permit the Exchange to re-price and rest such orders on the order book, similar to DNR Orders.

The Exchange's proposal to remove pricing related to flash functionality is reasonable, equitable and not unfairly discriminatory because the flash functionality would no longer be available to any Member. It is reasonable to remove the fees related to flash orders and the references to flash orders from the Pricing Schedule because the Exchange is removing the flash functionality from its Rulebook. Additionally, it is equitable and not unfairly discriminatory to remove the fees related to flash orders and the references to flash orders from the Pricing Schedule because no Exchange Member would be able to utilize the flash functionality once it is removed from the System.

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's proposal to adopt routing, similar to BX,[56] does not impose an undue burden on inter-market competition as the proposal will permit ISE Members to continue to route orders to away markets to obtain the best price, while also accessing

[56] See BX Options 5, Section 4, Order Routing.

ISE's order book, albeit with new routing options that are afforded to BX Participants today. The FIND and SRCH routing options would be available to all ISE Members. Finally, the options not to route (DNR Order) would continue to be offered to all ISE Members.

The Exchange's proposal to remove Sweep Orders within Supplementary Material .05 to Options 5, Section 2 and Options 3, Section 7(s) does not impose an undue burden on competition because a Sweep Order would no longer be necessary without the flash functionality and Sweep Orders would be discontinued.

The Exchange's proposal to only utilize FIX to route order does not impose an undue burden on competition because the OTTO protocol is not designed for routing. Today, Members may not route orders through OTTO and this will not be changing as a result of the change in routing rules. Members on ISE may submit and route all orders through FIX. OTTO is an optional port available to all Members on ISE for submitting orders.

The Exchange's proposal to re-price orders that would lock or cross away markets does not impose an undue burden on inter-market competition. Similar to BX Options 5, Section 4, the Exchange would re-price orders one MPV away from the best bid or offer. Better priced orders would continue to be accessible on ISE's order book. ISE would continue to not trade through an away market. Any order that locks or crosses an away market on ISE would be re-priced as a result of this amendment. This would include DNR orders resting on the order book and FIND and SRCH Orders that have not yet routed and are subject to a Route Timer.

The Exchange's proposal to remove the rule text within Supplementary Material .01 to Options 5, Section 2, Supplementary Material .07 to Options 5, Section 2 and Supplementary Material .01 to Options 5, Section 4 does not impose an undue burden on competition because ISE Options 5, Section 4(f) already requires Members to honor trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange. This would apply to the indicator for the type of market participant and designating a preferred market-maker, as well as obviate the need for redundant or unnecessary rule text.

The proposal to remove Supplementary Material .07 to Options 5, Section 2 does not impose an undue burden on competition. This rule discusses the obligation of a member who has entered an order on the Exchange that is routed away via an ISO pursuant to the flash functionality. The Exchange is proposing to remove the flash functionality, so the rule is no longer needed. In addition, obligations associated with submitting ISO Orders are born by the member submitting the ISO Order. Each Exchange's rules describe how ISO Orders may be utilized.[57] Finally, the Exchange's proposal to remove the rule text within the Supplementary Material .02 to Options 5, Section 4 does not impose an undue burden on competition because the Exchange proposes to re-price orders which would otherwise lock or cross an away market.

The Exchange's proposal to remove pricing related to flash functionality does not impose an undue burden on competition because the flash functionality would no longer be available to any Member.

---

57 See note 48 above.

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[58] and subparagraph (f)(6) of Rule 19b-4 thereunder.[59]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

---

58 15 U.S.C. 78s(b)(3)(A)(iii).

59 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.

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-2022-11 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-2022-11. 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 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-2022-11 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.[60]

J. Matthew DeLesDernier
Assistant Secretary

60 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

NASDAQ ISE, LLC Rules

* * * * *

Options 3 Options Trading Rules

* * * * *

Section 5. Entry and Display of Single-Leg Orders

* * * * *

(b) **NBBO Price Protection**. Orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)).

(1) [Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt.

(2)]There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(k)).

(c) The System automatically executes eligible orders using the Exchange's displayed best bid and offer ("BBO")<u> or the Exchange's non-displayed order book ("internal BBO") if the best bid and/or offer on the Exchange has been re-priced pursuant to subsection (d) below</u>.

(d) **Trade-Through Compliance and Locked or Crossed Markets**. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the Member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. [Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.] <u>An order that is designated by a Member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.</u>

* * * * *

Section 7. Types of Orders and Order and Quote Protocols

* * * * *

(m) Reserved.[**Do-Not-Route Orders**. A do-not-route order is a market or limit order that is to be executed in whole or in part on the Exchange only. Due to prices available on another options exchange (as provided in Options 5 (Order Protection; Locked and Crossed Markets)), any balance of a do-not-route order that cannot be executed upon entry, or placed on the Exchange's limit order book, will be automatically cancelled.]

* * * * *

(s) Reserved.[**Sweep Order.** A Sweep Order is a limit order that is to be executed in whole or in part on the Exchange and the portion not so executed shall be routed pursuant to Supplementary Material .05 to Options 5, Section 2 to Eligible Exchange(s) for immediate execution as soon as the order is received by the Eligible Exchange(s). Any portion not immediately executed by the Eligible Exchange(s) shall be canceled. If a Sweep Order is not marketable when it is submitted to the Exchange, it shall be canceled.]

* * * * *

Supplementary Material to Options 3, Section 7

* * * * *

.04 **Routing Strategies**. Orders may be entered on the Exchange with a routing strategy of FIND or SRCH, or, in the alternative, an order may be marked as Do-Not-Route ("DNR") as provided in Options 5, Section 4 through FIX only.

* * * * *

Section 9. Trading Halts

* * * * *

(d) Capitalized terms used in this paragraph shall have the same meaning as provided for in the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS, as it may be amended from time to time ("LULD Plan"). During a Limit State and Straddle State in the Underlying NMS stock:

(1) The Exchange will not open an affected option.

(2) Provided the Exchange has opened an affected option for trading, the Exchange shall reject Market Orders, as defined in Options 3, Section 7(a), and Market Complex Orders as defined in Options 3, Section 14(b), and shall notify Members of the reason for such rejection. The Exchange shall cancel Complex Orders that are Market Orders residing in the System, if the Market Complex Order becomes marketable while the affected underlying is in a Limit or Straddle State. [Market Orders exposed at the NBBO pursuant to

Supplementary Material. 02 to Option 5, Section 2 or]Market Complex Orders exposed for price improvement pursuant to Supplementary Material .01 to Options 3, Section 14, pending in the System[,] will continue to be processed. If at the end of the exposure period the affected underlying is in a Limit or Straddle State, the [Market Order or the] Market Complex Order will be cancelled. If the affected underlying is no longer in a Limit or Straddle State after the exposure period, the [Market Order or the]Market Complex Order will be processed with normal handling.

* * * * *

Section 10. Priority of Quotes and Orders

(a) Definitions and Applicability.

([i]1) As provided in Options 1, Section 1(a)(6) and (a)(26), a "bid" is a quotation or Limit Order to buy options contracts and an "offer" is a quotation or Limit Order to sell options contracts. "Quotations," which are defined in Options 1, Section 1 (a)(46), may only be entered on the Exchange by Market Makers in the options classes to which they are appointed under Options 2, Section 3. Limit Orders may be entered by Market Makers in certain circumstances as provided in the Rules and by Electronic Access Members (either as agent or as principal). "Priority Customer Orders" and "Professional Orders" are defined in Options 1, Section 1(a)(38) and (39).

([ii]2) **Applicability**. This rule does not apply to the Block Order Mechanism described within Options 3, Section 11(a), the Facilitation Mechanism described within Options 3, Section 11(b), the Solicited Order Mechanism described within Options 3, Section 11(d), the Price Improvement Mechanism described within Options 3, Section 13, orders described within Options 3, Section 12[or an exposure period as provided in Options 5, Section 2 at Supplementary Material .02], unless Options 3, Section 10 is specifically referenced within ISE Rules applicable to the aforementioned functionality.

* * * * *

(c) *Execution Priority and Processing in the System*. The Exchange will apply a Size Pro- Rata execution algorithm to orders, unless otherwise specified. The System shall execute trading interest within the System in price priority, meaning it will execute all trading interest at the best price level within the System before executing trading interest at the next best price. Size Pro-Rata Priority shall mean that if there are two or more resting orders or quotes at the same price, the System allocates contracts from an incoming order or quote to resting orders and quotes beginning with the resting order or quote displaying the largest size proportionally according to displayed size, based on the total number of contracts displayed at that price. If the result is not a whole number, it will be rounded up to the nearest whole number. If there are still contracts to be allocated after the displayed size of all orders at that price has been executed, the remaining size from the incoming order will be allocated proportionally against non-displayed interest according to remaining total size of each resting order at such price, beginning with the order which has the largest total size remaining.

(1) Priority Overlays Applicable to Size Pro-Rata Execution Algorithm: the Exchange will apply the following designated Member priority overlays. No Member shall be entitled to receive a number of contracts that is greater than the size that is associated with their quotation or order.

* * * * *

(B) **Enhanced Primary Market Maker Priority**: A Primary Market Maker may be assigned by the Exchange in each option class in accordance with Options 2, Section 3(b). After all Priority Customer orders have been fully executed, provided the Primary Market Maker's quote is at the NBBO, the Primary Market Maker shall be entitled to receive the allocation described in Options 3, Section 10(c)(1)(B)(i), unless the incoming order to be allocated is a Preferenced Order and the Primary Market Maker is not the Preferred Market Maker, in which case allocation would be pursuant to (c)(1)(C). If the order is a Preferenced Order and the Primary Market Maker is also the Preferred Market Maker ("Preferred Market Maker Priority") then the Preferred Market Maker Participation Entitlement in (c)(1)(C) or (c)(1)(E) applies. The Primary Market Maker shall not be entitled to receive a number of contracts that is greater than the size associated with such Primary Market Maker's quote.

(i) When the Primary Market Maker is at the same price as a non- Priority Customer Order or Market Maker quote and the number of contracts is greater than 5, the Primary Market Maker shall receive the greater of:

a. 60% of remaining interest if there is one other non-Priority Customer Order or Market Maker quote at that price; 40% of remaining interest if there are two other non-Priority Customer Orders or Market Maker quotes at that price; or 30% of remaining interest if there are more than two other non-Priority Customer Orders and Market Maker quotes at that price (the "Primary Market Maker Participation Entitlement"); or

b. the Primary Market Maker's Size Pro-Rata share under subparagraph ([a]c)(1)(E) ("All Other Remaining Interest").

* * * * *

Section 11. Auction Mechanisms

* * * * *

(g) **Concurrent Complex Order and single leg auctions**. An auction in the Block Order Mechanism at Options 3, Section 11(a), Facilitation Mechanism at Options 3, Section 11(b), Solicited Order Mechanism at Options 3, Section 11(d), or Price Improvement Mechanism at Options 3, Section 13(d), respectively, [or an exposure period as provided in Supplementary Material .02 to Options 5, Section 2,] for an option series may occur concurrently with a Complex Order Exposure Auction at Supplementary Material .01 to Options 3, Section 14, Complex Facilitation Auction at Options 3, Section 11(c), Complex Solicited Order Auction at Options 3, Section 11(e), or Complex Price Improvement Mechanism auction at Options 11, Section 13(e), respectively, for a Complex Order that includes that series. To the extent that there are concurrent Complex Order and single leg auctions involving a specific option series, each auction will be processed sequentially based on the time the auction commenced. At the time an auction concludes, including when it concludes early, the auction will be processed pursuant to Options 3, Section 11(a), (b), (d), or Section 13(a)[or Supplementary Material .02 to Options 5, Section 2], as applicable, for the single option, or pursuant to Supplementary Material .01 to Options 3, Section 14, Options 3, Section 11(c), 11(e), Options 3, Section 13(e), as applicable, for the Complex Order, except as provided for at Options 3, Section 13(e)(4)(vi).

* * * * *

Options 5 Order Protection and Locked and Crossed Markets

* * * * *

Section 2. Order Protection

* * * * *

[Supplementary Material to Options 5, Section 2

.01 All public customer ISOs entered by an Electronic Access Member on behalf of an Eligible Exchange shall be represented on the Exchange as Priority Customer Orders, as defined in Options 1, Section 1(a)(38). There shall be no obligation on Electronic Access Members to determine whether the public customer for whom the Eligible Exchange is routing an ISO meets the definition of a Priority Customer.

.02 When an incoming order is priced at or through the ABBO, when the ABBO is better than the Exchange BBO, such order shall be exposed at the current NBBO to all Exchange Members for a time period established by the Exchange not to exceed one (1) second. During the exposure period, Exchange Members may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option. If a trading halt is initiated during the exposure period, the exposure period will be terminated without execution.

(a) If at the end of the exposure period, the order is executable at the then-current NBBO and the Nasdaq ISE is not at the then-current NBBO, responses that equal or better the NBBO will be executed in price priority, and at the same price, allocated pro-rata based on size (i.e., the percentage of the total number of contracts available at the same price that is represented by the size of a Member's response).

(b) If during the exposure period, the order becomes executable on the Nasdaq ISE at the prevailing NBBO, the exposure period will be terminated, and the order will be executed against orders and quotes on the book and responses received during the exposure period. Such interest will be executed in price priority. At the same price, Priority Customer Orders will be executed first in time priority and then all other interest (orders, quotes and responses) will be allocated pro-rata based on size.

(c) If during the exposure period the Exchange receives an unrelated order on the opposite side of the market from the exposed order that could trade against the exposed order at the prevailing NBBO price, the exposure period will be terminated and the orders will be executed pursuant to (b) above.

(d) If after an order is exposed, the order cannot be executed in full on the Exchange at the then-current NBBO or better, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than the Nasdaq ISE's quote or the balance of the order will be sent to NES (as defined in Options 5, Section 4) and any additional balance of the order will be executed on the Nasdaq ISE if it is marketable. Any additional balance of the order that is not marketable against the then-current NBBO will be placed on the Nasdaq ISE book.

(e) If after a an order that is marked "do-not-route" is exposed, the order cannot be executed in full on the Exchange at the then-current NBBO or better (i) the balance of the order will be placed on the Nasdaq ISE book if it is not marketable against the then-current NBBO, or (ii) the balance of the order will be canceled.

(f) A pattern or practice of submitting orders that cause an exposure period to conclude early for purposes of Options 3, Section 22 will be deemed conduct inconsistent with just and equitable principles of trade and a violation of Options 9, Section 1 and other Exchange Rules.

.04 Non-Customer Order(s), as defined in Options 1, Section 1(a)(25), may opt out of being processed in accordance with Supplementary Material .02 of this Options 5, Section 2. Such order(s) will be processed as follows:

(a) When the automatic execution of an incoming Non-Customer Order would result in an impermissible Trade Through, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than the Nasdaq ISE's quote or the balance of the order will be sent to NES (as defined in Options 5, Section 4) and any additional balance of the order will be executed on the Nasdaq ISE if it is marketable. Any additional balance of the order that is not marketable against the then-current NBBO will be placed on the Nasdaq ISE book.

(b) If an order is marked "do-not-route" and the order cannot be executed in full on the Exchange at the then current NBBO or better (i) the balance of the order will be placed on the Nasdaq ISE book if it is not marketable against the then current NBBO, or (ii) the balance of the order will be cancelled.

.05 Sweep Order(s), as defined in Options 3, Section 7(s), will not be processed in accordance with Supplementary Material .02 of this Options 5, Section 2. Such order(s) will be processed as follows:

(a) When the automatic execution of an incoming Sweep Order would result in an impermissible Trade Through, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than the Nasdaq ISE's quote or the balance of the order will be sent to NES and any additional balance of the order will be executed on the Nasdaq ISE if it is marketable. Any portion of the order not executed shall be canceled.

(b) If a Sweep Order is not marketable when it is submitted to the Exchange, it shall be canceled.

.06 In addressing Public Customer Orders that are not automatically executed because there is a displayed bid or offer on another exchange trading the same options contract that is better than the best bid or offer on the Exchange pursuant to the Supplementary Material of this Options 5, Section 2, the Exchange will act in compliance with these Rules and with the provisions of the Exchange Act and the rules thereunder, including, but not limited to, the requirements in Section (6)(b)(4) and (5) of the Exchange Act that the rules of national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

.07 All orders entered on the Exchange and routed to another exchange via an ISO pursuant to the Supplementary Material of this Options 5, Section 2 that result in an execution shall be binding on the Member that entered such orders.]

Section 3. Locked and Crossed Markets

* * * * *

[Supplementary Material to Options 5, Section 3

.01 When the price of an incoming limit order that is not executable upon entry would lock or cross a Protected Quotation, such order shall be handled in accordance with the provisions of Supplementary Material .02, .04 or .05 to Options 5, Section 2, as applicable.]

Section 4. Order Routing[**to Other Exchanges**]

<u>(a) The Exchange offers two routing strategies, FIND and SRCH. Each of these routing strategies will be explained in more detail below. An order may in the alternative be marked Do Not Route or “DNR”. The Exchange notes that for purposes of this Rule the System will route FIND and SRCH Orders with no other contingencies. Immediate-or-Cancel (“IOC”) Orders will be cancelled immediately if not executed, and will not be routed. The System checks the order book for available contracts for potential execution against the FIND or SRCH Orders. After the System checks the order book for available contracts, orders are sent to other available market centers for potential execution. When checking the order book, the System will seek to execute at the price at which it would send the order to an away market. For purposes of this Rule, a Route Timer shall not exceed one second and shall begin at the time orders are accepted into the System, and the System will consider whether an order can be routed at the conclusion of each</u>

<u>Route Timer. Finally, for purposes of this Rule, "exposure" or "exposing" an order shall mean a notification sent to Members with the price, size, and side of interest that is available for execution. Exposure notifications will be sent to Members in accordance with the routing procedures described in Options 5, Section 4(a)(iii) below except if an incoming order is joining an already established BBO price when the ABBO is locked or crossed with the BBO, in which case such order will join the established BBO price and no exposure notification will be sent. An order exposure will be sent if the order size is modified. For purposes of this Rule, the Exchange's opening process is governed by Options 3, Section 8 and includes an opening after a trading halt ("Opening Process"). Routing options may be combined with all available order types and times-in-force, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option. The order routing process shall be available to Members from 9:30 a.m. Eastern Time until market close and shall route orders as described below. Members can designate orders as either available for routing or not available for routing. All routing of orders shall comply with Options 5, Options Order Protection and Locked and Crossed Market Rules.</u>

<u>(i) **Priority of Routed Orders**. Orders sent to other markets do not retain time priority with respect to other orders in the System and the System shall continue to execute other orders while routed orders are away at another market center. Once routed by the System, an order becomes subject to the rules and procedures of the destination market including, but not limited to, order cancellation. A routed order can be for less than the original incoming order's size. If a routed order is subsequently returned, in whole or in part, that routed order, or its remainder, shall receive a new time stamp reflecting the time of its return to the System, unless any portion of the original order remains on the System, in which case the routed order shall retain its timestamp and its priority.</u>

<u>(ii) Entering Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange.</u>

[The Exchange may automatically route ISOs to other exchanges under certain circumstances, including pursuant to Supplementary Material .02 to Options 5, Section 2 ("Routing Services"). In connection with such services, the following shall apply:]

([a]<u>A</u>) The Exchange shall route orders in options via Nasdaq Execution Services, LLC ("NES"), a broker-dealer that is a Member of an unaffiliated SRO which is the designated examining authority for the broker-dealer. NES serves as the Routing Facility of the Exchange (the "Routing Facility"). The sole use of the Routing Facility by the System will be to route orders in options listed and open for trading on the System to away markets either directly or through one or more third-party unaffiliated routing broker-dealers pursuant to Exchange Rules on behalf of the Exchange. The Routing Facility is subject to regulation as a facility of the Exchange, including the requirement to file proposed rule changes under Section 19 of the Securities Exchange Act of 1934, as amended.

([b]B) Use of NES to route orders to other market centers is optional. Parties that do not desire to use NES must designate orders as Do-Not-Route-Orders as described in Options [3]5, Section [7(m)]4(a)(iii)(A).

([c]C) The Exchange shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and the Routing Facility, and any other entity, including any affiliate of the Routing Facility; or, where there is a routing broker, the Exchange, the Routing Facility and any routing broker, and any other entity, including any affiliate of the routing broker (and if the routing broker or any of its affiliates engages in any other business activities other than providing routing services to the Exchange, between the segment of the routing broker or affiliate that provides the other business activities and the segment of the routing broker that provides the routing services).

(1) The books, records, premises, officers, directors, agents, and employees of the Routing Facility, as a facility of the Exchange, shall be deemed to be the books, records, premises, officers, directors, agents, and employees of the Exchange for purposes of and subject to oversight pursuant to the Act. The books and records of the Routing Facility, as a facility of the Exchange, shall be subject at all times to inspection and copying by the Exchange and the Commission.

(2) The Exchange and NES may not use a routing broker for which the Exchange or any affiliate of the Exchange is the designated examining authority.

([d]D) *Market Access*. In addition to the Exchange Rules regarding routing to away trading centers, NES as defined above, has, pursuant to Rule 15c3-5 under the Act, implemented certain tests designed to mitigate risks associated with providing the Exchange's Members with access to such away trading centers. Pursuant to the policies and procedures developed by NES to comply with Rule 15c3-5, if an order or series of orders are deemed to be violative of applicable pre-trade requirements of Rule 15c3-5, the order will be rejected prior to routing and/or NES will seek to cancel any orders that have been routed.

([e]E) The Exchange will determine the logic that provides when, how, and where orders are routed away to other exchanges. Except as provided in subparagraph ([d]D) above, the routing broker(s) cannot change the terms of an order or the routing instructions, nor does the routing broker have any discretion about where to route an order.

[(f) Entering Members whose orders are routed to away markets shall be obligated to honor such trades that are executed on away markets to the same extent they would be obligated to honor a trade executed on the Exchange.]

(iii) The following order types are available:

(A) **DNR Order**. A DNR Order will never be routed outside of the Exchange regardless of the prices displayed by away markets. A DNR Order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price but, if that best away market remains, the DNR Order will remain in the Exchange's order book and be displayed at a price one minimum price variation ("MPV") inferior to that away best bid/offer. If the DNR Order is locking or crossing the ABBO, the DNR Order shall be entered into the order book at the ABBO price and displayed one MPV away from the ABBO. The Exchange shall immediately expose the order at the ABBO to Members, provided the option series has opened for trading. Any incoming order interacting with such a resting DNR Order will execute at the ABBO price, unless (1) the ABBO is improved to a price which crosses the DNR Order's already displayed price, in which case the incoming order will execute at the previous ABBO price as the away market crossed a displayed price; or (2) the ABBO is improved to a price which locks the DNR Order's displayed price, in which case the incoming order will execute at the DNR Order's displayed price. Should the best away market move to an inferior price level, the DNR Order will automatically re-price from its one MPV inferior to the original ABBO and display one MPV away from the new ABBO or its original limit price, and expose such orders at the new ABBO. Once booked at its original limit price, it will remain at that price until executed or cancelled. Should the best away market improve its price such that it locks or crosses the DNR Order limit price, the Exchange will execute the resulting incoming order that is routed from the away market that locked or crossed the DNR Order limit price.

(B) **FIND Order.** A FIND Order is an order that is: (i) routable at the conclusion of an Opening Process; and (ii) routable upon receipt during regular trading, after an option series is open. FIND Orders submitted after an Opening Process initiate their own Route Timers and are routed in the order in which their Route Timers end. FIND Orders that are not marketable with the ABBO upon receipt will be treated as DNR for the remainder of the trading day and post to the order book, even in the event that there is a new Opening Process after a trading halt.

(1) At the end of an Opening Process, any FIND Order that is priced through the Opening Price, pursuant to Options 3, Section 8(a)(3), will be cancelled, and any FIND Order that is at or inferior to the Opening Price will execute or book pursuant to Options 3, Section 8(j).

(2) Generally, a FIND Order will be included in the displayed BBO at its limit price, unless the FIND Order locks or crosses the ABBO, in which case it will be entered into the order book at the ABBO price and displayed one MPV inferior to the ABBO. If there exists a locked ABBO when the FIND Order is entered onto the order book, the FIND Order will be entered into the order book at the ABBO price and displayed one MPV inferior to the ABBO. If during a Route Timer, ABBO markets move such that the FIND Order is no longer marketable against the ABBO nor marketable against the BBO, the FIND Order will post at its limit price. If the FIND Order is locked or crossed by away quotes, it will route at the completion of the Route Timer. If the ABBO worsens but remains better than the BBO, the FIND Order will reprice and be re-exposed at the new price(s) without interrupting the Route Timer. If, during the Route Timer, any new interest arrives opposite the

FIND Order that is equal to or better than the ABBO price, the FIND Order will trade against such new interest at the ABBO price, unless the ABBO is improved to a price which crosses the FIND Order's already displayed price, in which case the incoming order will execute at the previous ABBO price as the away market crossed a displayed price.

(3) A FIND Order received after an Opening Process that is not marketable against the BBO or the ABBO will be entered into the order book at its limit price. The FIND Order will be treated as DNR for the remainder of the trading day, even in the event that there is a new Opening Process after a trading halt.

(4) A FIND Order received after an Opening Process that is marketable against the BBO when the ABBO is inferior to the BBO will be traded on the Exchange at or better than the BBO price. If the FIND Order has size remaining after exhausting the BBO, it may: (1) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to and including the ABBO price, (2) be entered into the order book at its limit price, or (3) if locking or crossing the ABBO, be entered into the order book at the ABBO price and displayed one MPV away from the ABBO. The FIND Order will be treated as DNR for the remainder of the trading day, even in the event that there is a new Opening Process after a trading halt.

(5) A FIND Order received after an Opening Process that is marketable against the BBO when the ABBO is equal to the BBO will be traded on the Exchange at the BBO. If the FIND Order has size remaining after exhausting the BBO, it will initiate a Route Timer, and expose the FIND Order at the ABBO to allow market participants an opportunity to interact with the remainder of the FIND Order. During the Route Timer, the FIND Order will be included in the BBO at a price one MPV away from the ABBO. If during the Route Timer, the ABBO markets move such that the FIND Order is no longer marketable against the ABBO, it may: (i) trade at the next BBO price (or prices) if the FIND Order price is locking or crossing that price (or prices), and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO.

(6) If, at the end of the Route Timer pursuant to subparagraph (5) above, the FIND Order is still marketable with the ABBO, the FIND Order will route to an away market up to a size equal to the lesser of either: (1) an away market's size or (2) the remaining size of the FIND Order. If the FIND Order still has remaining size after routing, it will (i) trade at the next BBO price or better, subject to the order's limit price, and, if contracts still remain unexecuted, the remaining size will be routed to away markets disseminating the same price as the BBO, or (ii) be entered into the order book and posted either at its limit price or re-priced one MPV away if the order would otherwise lock or cross the ABBO. If size still remains, the FIND Order will not be eligible for routing until the next time the option series is subject to a new Opening Process, which may include a re-opening after a trading halt.

(7) A FIND Order received after an Opening Process that is marketable against the ABBO when the ABBO is better than the BBO will initiate a Route Timer, and expose the FIND Order at the ABBO to allow Members and other market participants an opportunity to interact with the FIND Order.

(8) If, at the end of the Route Timer pursuant to subparagraph (7) above, the ABBO is still the best price and is marketable with the FIND Order, the order will route to the away market(s) whose disseminated price(s) is better than the BBO, up to a size equal to the lesser of either: (1) the away markets' size, or (2) the remaining size of the FIND Order. If the FIND Order still has remaining size after such routing, it will (i) trade at the BBO price or better, subject to the order's limit price, and, if contracts still remain unexecuted, the remaining size will be routed to away markets disseminating the same price as the BBO, or (ii) be entered into the order book and posted either at its limit price or re-priced one MPV away if the order would otherwise lock or cross the ABBO. If size remains, the FIND Order will not be eligible for routing until the next time the option series is subject to a new Opening Process, which may include a re-opening after a trading halt.

(9) A FIND Order that is routed to an away market(s) will be marked as an Intermarket Sweep Order "ISO" and designated as an IOC Order.

(C) **SRCH Order**. A SRCH Order is routable at any time. A SRCH Order on the order book during an Opening Process (including a re-opening following a trading halt), whether it is received prior to an Opening Process or it is a GTC SRCH Order from a prior day, may be routed as part of an Opening Process. Orders initiate their own Route Timers and are routed in the order in which their Route Timers end.

(1) At the end of an Opening Process, any SRCH Order that is priced through the Opening Price, pursuant to Options 3, Section 8(a)(iii), will be cancelled, and any SRCH Order that is at or inferior to the Opening Price will execute or book pursuant to Options 3, Section 8(k).

(2) Generally, a SRCH Order will be included in the displayed BBO at its limit price, unless the SRCH Order locks or crosses the ABBO, in which case it will be entered into the order book at the ABBO price and displayed one MPV inferior to the ABBO. If there exists a locked ABBO when the SRCH Order is entered onto the order book, the SRCH Order will be entered into the order book at the ABBO price and displayed one MPV inferior to the ABBO. Once on the order book, the SRCH Order is eligible for routing if it is locked or crossed by an away market. If during a Route Timer, ABBO markets move such that the SRCH Order is no longer marketable against the ABBO nor marketable against the BBO, the SRCH Order will book at its limit price. If, during the Route Timer, any new interest arrives opposite the SRCH Order that is equal to or better than the ABBO price, the SRCH Order will trade against such new interest at the ABBO price, unless the ABBO is improved to a price which crosses the SRCH Order's already displayed price, in which case the incoming order will execute at the previous ABBO price as the away

market crossed a displayed price. If the ABBO worsens but remains better than the BBO, the SRCH Order will reprice and be re-exposed at the new price(s) without interrupting the Route Timer. If an ABBO locks or crosses the SRCH Order during a new Route Timer, which would subsequently initiate at the conclusion of any Route Timer if interest remains, the SRCH Order may route to the away market at the ABBO at the conclusion of such Route Timer. If the SRCH Order is locked or crossed by away quotes, it will route at the completion of the Route Timer. The System will route and execute contracts contemporaneously at the end of the Route Timer.

(3) A SRCH Order received after an Opening Process that is not marketable against the BBO or the ABBO will be entered into the order book at its limit price. Once on the order book, the SRCH Order is eligible for routing if it is locked or crossed by an away market.

(4) A SRCH Order received after an Opening Process that is marketable against the BBO when the ABBO is inferior to the BBO will be traded on the Exchange at or better than the BBO price. If the SRCH Order has size remaining after exhausting the BBO, it may: (1) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to and including the ABBO price, and/or (2) be routed, subject to a Route Timer, to away markets if all Exchange interest at better or equal prices has been exhausted, and/or (3) be entered into the order book at its limit price if not locking or crossing the BBO or the ABBO.

(5) A SRCH Order received after an Opening Process that is marketable against the BBO when the ABBO is equal to the BBO will be traded on the Exchange at the BBO. If the SRCH Order has size remaining after exhausting the BBO, it will initiate a Route Timer and expose the SRCH Order at the ABBO to allow Members and other market participants an opportunity to interact with the remainder of the SRCH Order. During the Route Timer, the SRCH Order will be included in the BBO at a price one MPV away from the ABBO.

(6) If, at the end of the Route Timer pursuant to subparagraph (5) above, the SRCH Order is still marketable with the ABBO, the SRCH Order will route to an away market up to a size equal to the lesser of either: (1) the away market's size, or (2) the remaining size of the SRCH Order. If the SRCH Order still has remaining size after routing, it may: (i) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to the ABBO price, and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO or the ABBO.

(7) A SRCH Order received after an Opening Process that is marketable against the ABBO when the ABBO is better than the BBO will initiate a Route Timer, and expose the SRCH Order at the ABBO to allow Members and other market participants an opportunity to interact with the SRCH Order. If during the Route Timer, the ABBO markets move such that the SRCH Order is no longer marketable

against the ABBO, it may: (i) trade at the next BBO price (or prices) if the SRCH Order price is locking or crossing that price (or prices), and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO.

(8) If, at the end of the Route Timer pursuant to subparagraph (7) above, the ABBO is still the best price and is marketable with the SRCH Order, the order will route to the away market(s) whose disseminated price(s) is better than the BBO, up to a size equal to the lesser of either: (1) the away markets' size, or (2) the remaining size of the SRCH Order. If the SRCH Order still has remaining size after such routing, it may: (i) trade at the next BBO price (or prices) if the order price is locking or crossing that price (or prices) up to the ABBO price, and/or (ii) be entered into the order book at its limit price if not locking or crossing the BBO or the ABBO.

(9) A SRCH Order that is routed to an away market(s) will be marked as an ISO and designated as an IOC Order.

Supplementary Material to Options 5, Section 4

[.01 Options 5, Section 4 does not prohibit NES or third-party unaffiliated routing broker-dealers used by NES from designating a preferred market-maker at the other exchange to which the order is being routed pursuant to Options 5, Section 4.

.02 In the event that NES cannot provide Routing Services, the Exchange will cancel orders that, if processed by the Exchange, would violate Options 5, Section 1 (prohibition on trade-throughs) or Options 5, Section 3 (prohibition on locked and crossed markets).]

.0[3]1 Rule 1004 of Regulation SCI under the Exchange Act requires the establishment of standards for the designation of those Members the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of a fair and orderly market should the Exchange's business continuity and disaster recovery plans be activated. Rule 1004 also requires the Exchange to designate Members pursuant to those standards and require participation by such Designated Members in scheduled functional and performance testing of the operation of such plans, in the manner and frequency specified by the Exchange, provided that such frequency shall not be less than once every 12 months. Therefore, in accordance with Rule 1004 of Regulation SCI under the Exchange Act, NES has been designated by the Exchange as necessary for the maintenance of a fair and orderly market should the Exchange's business continuity and disaster recovery plans be activated. As the result of such designation, NES is required to participate in functional and performance testing of such plans at least once every 12 months.

* * * * *

Options 7 Pricing Schedule

Section 1. General Provisions

* * * * *

[A "**Flash Order**" is an order that is exposed at the National Best Bid or Offer by the Exchange to all members for execution, as provided under Supplementary Material .02 to Options 5, Section 2. Unless otherwise noted in Section 3 pricing, Flash Orders will be assessed the applicable "Taker" Fee for the initiation of a Flash Order and will be paid/assessed the applicable "Maker" Rebate/Fee for responses.]

* * * * *

Section 3. Regular Order Fees and Rebates

* * * * *

17. <u>Reserved.</u>[A market participant's order that initiates a Flash Order will be assessed the appropriate Taker Fee in Section 3. All market participant responses to Flash Orders in Select Symbols will be paid/assessed the appropriate Maker Rebate/Fee in Section 3. Responses to Flash Orders in Non-Select Symbols will be $0.25 per contract for non-Priority Customers and $0.00 for Priority Customers.]

* * * * *

Section 6. Other Options Fees and Rebates

* * * * *

E. Marketing Fee

Symbols	**Fee**
Non-Select Symbols	$0.00*

* No marketing fees are charged for Select and Non-Select Symbols. If the Exchange determines to charge a marketing fee in the future, it will do so pursuant to a rule filing.

» Marketing fees apply to Nasdaq ISE Market Makers for each Regular Priority Customer contract executed except as noted below.

» Marketing fees do not apply to Nasdaq ISE Market Makers for each Regular Priority Customer contract executed in Select Symbols.

» Marketing fees are waived NDX, NQX, MNX, [Flash Orders] and for Complex Orders in all symbols.

* * * * *