

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 5

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

File No. \* SR 2023 - \* 08

Amendment No. (req. for Amendments \*) 1

Filing by Nasdaq ISE, LLC

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

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

Make Permanent Certain P.M. Settled Pilots

### 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 05/11/2023

(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: 2023.05.11 09:18:34 -04'00'

Required fields are shown with yellow backgrounds and astericks.

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WASHINGTON, D.C. 20549

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

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

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

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

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

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

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

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

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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**

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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**

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

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

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SR-ISE-2023-08. Amendment No. 1.doc

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.

Nasdaq ISE, LLC (“ISE” or “Exchange”) submits this Partial Amendment No. 1 (“Amendment”) to SR-ISE-2023-08 to make the following changes to the 19b4 and Exhibit 1, which were published:

1. Amend the third sentence of the first full paragraph of the Purpose Section on pages 25-26 of the 19b4 and pages 64-65 of the Exhibit 1 to read as follows:  
  
“Inspired by Kaul, Nimalendran and Zhang (2004)<sup>23</sup> and Albuquerque, Song and Chen (2020)<sup>24</sup>, the Exchange also employed the following regression model to control for factors related to option characteristics unrelated to the NQX Pilot and the Nonstandard Pilot:<sup>25</sup> Spread =  $\alpha$  + Call/Put Dummy + Expiry + Moneyness Categories + Month Fixed Effect +  $\varepsilon$  (1)”.
2. Insert a footnote to the end of the following sentence in the first full paragraph of the Purpose Section on page 29 of the 19b4 and page 68 of the Exhibit 1 which states, “*Post* is a dummy variable that equals to one for days after January 2018 and zero otherwise.” The new footnote would read as follows:

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<sup>23</sup> See Kaul, G., Nimalendran, m., and Zhang D., 2004, Informed Trading and Option Spreads Working Paper ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=547462](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=547462)).

<sup>24</sup> See Albuquerque, R., Song, S., and Yao, C., 2020, The Price Effects of Liquidity Shocks: A Study of SEC’s Tick-Size Experiment. *Journal of Financial Economics*. 138, 700-724 (<https://www.sciencedirect.com/science/article/pii/S0304405X20301884>).

<sup>25</sup> The calculation was inspired by Kaul, G., Nimalendran, m., and Zhang D., and Albuquerque, R., Song, S., and Yao, C. See notes 21 and 22 above. The Exchange includes control variables used in Albuquerque, R., Song, S., and Yao, C. (2020) liquidity analysis and constructs Moneyness Categories following Kaul, Nimalendran and Zhang (2004).

“Post is meant to capture the effect of the change to p.m.-settled NQX options expirations on all but the third-Friday of the month that started in January 2018. Third-Friday expirations are a.m.-settled. P.M.-settled NDX options trade as “NDXP”. Nonstandard options are exclusively listed on Phlx and ISE.”

3. Insert a new footnote into the following sentence of the Statutory Basis in the first full paragraph on page 39 of the 19b4 and page 78 of the Exhibit 1 which states, “The Exchange notes within its analysis that it seems unlikely that the introduction of NQX option contracts or XND contracts<sup>43</sup> had a significant impact on the market quality of the full-sized Nasdaq-100 Index option contracts.” The new footnote would read as follows:

“Given that the size of the market (measured in volume) for NQX and XND options volume is small compared to that of other p.m.-settled NDX options, the Exchange believes the introduction of NQX and XND option contracts are unlikely to adversely impact the market quality of a.m.-settled NDX options.”<sup>44</sup>

The Exchange notes that it is also renumbering the remainder of the footnotes to account for the 2 new footnotes being added in this Amendment No. 1.

The proposal SR-ISE-2023-08, as amended, remains consistent with the Securities Exchange Act of 1934 (“Exchange Act”), and specifically with Section 6(b)(5) of the Exchange Act because it clarifies the data, and the conclusion as to whether the

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<sup>43</sup> See note 7 above.

<sup>44</sup> See also the sections labelled NQX Volumes and XND Volumes.

introduction of NQX and XND option contracts impacted the market quality of a.m.-settled NDX options. The amendments are consistent with the Securities Exchange Act of 1934, and specifically with Section 6(b)(5) of the Exchange Act because it helps to protect investors and the public interest by clarifying the data and analysis performed with respect to the permanency of the NQX and Nonstandard pilots. There are no changes to the Exhibit 5.