facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2015, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the Auction, in particular for orders for fewer than 50 contracts; the degree of competition for order flow in such Auctions; and a comparison of liquidity in the Auctions with liquidity on the Exchange generally.[23] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts, when the spread in the option is $0.02 or more. At the same time, as the Exchange has recognized, the data do not demonstrate that such orders have realized significant price improvement when the NBBO has a bid/ask differential of $0.01.[24] Recognizing this, the Exchange has proposed to amend the Auction eligibility requirements to reject an Agency Order of less than 50 contracts where the NBBO has a bid/ask differential of $0.01. The Exchange's proposal to modify the Auction eligibility requirements for orders of fewer than 50 contracts and seek permanent approval of the Pilot, as amended with the new provision, will, in the Commission's view, promote opportunities for price improvement.

The Commission believes that, particularly for Auctions for fewer than 50 contracts when the bid/ask differential is wider than $0.01, the data provided by the Exchange support its proposal to make the Pilot permanent. The data demonstrate that the Auction generally provides price improvement opportunities to orders, including orders of retail customers and particularly when the bid/ask differential is wider than $0.01, that there is meaningful competition for orders on the Exchange; and that there exists an active and liquid market functioning on the Exchange outside of the Auction.[25] The Commission further believes that the proposed revisions to the eligibility requirements for Agency Orders of fewer than 50 contracts with respect to circumstances when the NBBO is $0.01 wide should help to enhance the operation of the Auction by limiting its use for smaller orders to circumstances when there are more meaningful opportunities for price improvement, and should benefit investors and others in a manner that is consistent with the Act. Thus, the Commission has determined to approve the Exchange's proposed revisions to Rule 515A and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (SR–MIAX–2016–46), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01615 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

[23] *See* Exhibit 3 to SR–MIAX–2016–46.

[24] *See* Notice, *supra* note 3, at 90032.

[25] *See* Exhibit 3 to SR–MIAX–2016–46.

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79840; File No. SR–ISEGemini–2016–23]

Self-Regulatory Organizations; ISE Gemini, LLC; Order Granting Approval of Proposed Rule Change To Amend ISE Gemini Rule 723 and To Make Pilot Program Permanent

January 18, 2017.

I. Introduction

On December 12, 2016, ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] a proposed rule change to amend the eligibility requirements for its Price Improvement Mechanism (''PIM'' or ''Auction'') and make permanent those aspects of the PIM that are currently operating on a pilot basis. The proposed rule change was published for comment in the **Federal Register** on December 19, 2016.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange adopted PIM as part of its application to be registered as a national securities exchange under its previous name of Topaz Exchange, LLC (''Topaz'').[4] Pursuant to ISE Gemini Rule 723, an Electronic Access Member (''EAM'') may electronically submit for execution an order it represents as agent (''Agency Order'') against principal interest or against a solicited order for the full size of the Agency Order, provided it submits the Agency Order for electronic execution into the PIM (a ''Crossing Transaction''). Parts of the PIM are currently operating on a pilot basis (''Pilot''),[5] which is set to expire on January 18, 2017.[6] The Exchange proposes to make the Pilot permanent, and also proposes to amend the Auction eligibility requirements for certain Agency Orders of less than 50 option contracts.

A. PIM Eligibility Requirements for Agency Orders of Fewer than 50 Contracts

Currently, the PIM may be initiated if certain conditions are met. The Crossing Transaction must be entered only at a price that is equal to or better than the National Best Bid/Offer (''NBBO'') on the opposite side of the market from the Agency Order, and better than the limit order or quote on the ISE Gemini order book on the same side of the Agency Order.[7]

ISE Gemini proposes to amend ISE Gemini Rule 723(b) to require EAMs to provide at least $0.01 price improvement for an Agency Order if that order is for less than 50 option contracts and if the difference between the NBBO is $0.01. For the period beginning January 19, 2017 until a date specified by the Exchange in a Regulatory Information Circular, which date shall be no later than April 15, 2017, ISE Gemini will adopt a member conduct standard to implement this

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79541 (December 13, 2016), 81 FR 91974 (''Notice'').

[4] *See* Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10–209) (''Exchange Approval Order''). The Exchange's PIM was largely based on a similar functionality offered by the International Securities Exchange, LLC (''ISE''). *See id.* The Exchange subsequently changed its name to ISE Gemini. *See* Securities Exchange Act Release No. 71586 (February 20, 2014), 79 FR 10861 (February 26, 2014) (SR–Topaz–2014–06).

[5] Two components of PIM were approved by the Commission on a pilot basis: (1) the early conclusion of the PIM; and (2) no minimum size requirement of orders.

[6] *See* Securities Exchange Act Release No. 78343 (July 15, 2016), 81 FR 47483 (July 21, 2016) (SR–ISEGemini–2016–07) (''PIM July 2016 Extension'').

[7] *See* ISE Gemini Rule 723(b)(1).

requirement.[8] Under this provision, ISE Gemini is proposing to amend the Auction Eligibility Requirements to require that, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, an EAM shall not enter a Crossing Transaction unless such Crossing Transaction is entered at a price that is one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, and better than any limit order on the limit order book on the same side of the market as the Agency Order. This requirement will apply regardless of whether the Agency Order is for the account of a public customer, or where the Agency Order is for the account of a broker dealer or any other person or entity that is not a Public Customer.

Failure to provide such price improvement will subject members to the fines set forth in ISE Rule 1614(d)(4).[9] The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of less than 50 contracts.[10]

The Exchange is also proposing a systems-based mechanism to implement this price improvement requirement, which shall be effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM.[11] Under this provision, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, the Crossing Transaction must be entered at one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order and better than the limit order or quote on the ISE Gemini order book on the same side of the Agency Order.

The Exchange will retain the current requirements for PIM eligibility in all other instances. Accordingly, if the Agency Order is for 50 option contracts or more or if the difference between the NBBO is greater than $0.01, the Crossing Transaction must be entered only at a price that is equal to or better than the NBBO and better than the limit order or quote on the ISE Gemini order book on the same side as the Agency Order.

The Exchange believes that these changes to PIM may provide additional opportunities for Agency Orders of fewer than 50 option contracts to receive price improvement over the NBBO where the difference in the NBBO is $0.01 and therefore encourage the increased submission of orders of under 50 option contracts.[12] The Exchange notes that the statistics for the current pilot, which include, among other things, price improvement for orders of fewer than 50 option contracts under the current Auction eligibility requirements, show relatively small amounts of price improvement for such orders.[13] ISE Gemini believes that the proposed requirements will therefore increase the price improvement that orders of fewer than 50 option contracts may receive in PIM.[14]

B. Pilot Program

Two components of the PIM were approved by the Commission on a pilot basis: (1) The early conclusion of the PIM; [15] and (2) no minimum size requirement of orders. The provisions were approved for a pilot period that currently expires on January 18, 2017.[16] The Exchange proposes to have the Pilot approved on a permanent basis.

During the Pilot period, the Exchange submitted certain data periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders, there is significant price improvement available through the PIM, and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism.[17]

1. No Minimum Size Requirement

Supplemental Material .03 to Rule 723 provides that, as part of the current Pilot, there will be no minimum size requirement for orders to be eligible for the Auction. The Exchange believes that the data gathered since the approval of the Pilot, which it discussed in the Notice, establishes that there is liquidity and competition both within the PIM and outside of the PIM, and that there are opportunities for significant price improvement within the PIM.[18]

The Exchange compiled price improvement data in orders from January through June 2016. For January 2016, where the order was on behalf of a Public Customer, the order was for 50 contracts or less, and ISE Gemini was at the NBBO, the most contracts traded (4,192) occurred when the spread was between $0.05 and $0.10.[19] Of these, the greatest number of contracts (1,400) received $0.03 price improvement. In comparison, 6 contracts that traded at this spread received no price improvement. When the spread was $0.01 for this same category, a total of 499 contracts traded; 349 contracts received no price improvement, and 150 received $0.01 price improvement.[20]

In comparison, in January 2016, where the order was on behalf of a Public Customer, and the order was for greater than 50 contracts, and ISE Gemini was at the NBBO, the most contracts traded (1,495) occurred where the spread was $0.02. Of those contracts, the greatest number of contracts (979) received $0.01 price improvement, and 456 contracts received no price improvement.[21]

In January 2016, where the order was on behalf of a Public Customer, the order was for 50 contracts or less, and ISE Gemini was not at the NBBO, the most contracts traded (1,403) occurred when the spread was between $0.05 and $0.10. Of this category, the greatest number of contracts (570) received

[8] The Exchange notes that its indirect parent company, U.S. Exchange Holdings, Inc. has been acquired by Nasdaq, Inc. *See* Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISEGemini–2016–05). Pursuant to this acquisition, ISE Gemini platforms are migrating to Nasdaq platforms, including the platform that operates PIM. ISE Gemini intends to retain the proposed member conduct standard requiring price improvement for options orders of under 50 contracts where the difference between the NBBO is $0.01 until the ISE Gemini platforms and the corresponding symbols are migrated to the platforms operated by Nasdaq, Inc. *See* Notice, *supra* note 3, at 91975 n.7.

[9] In a separate proposed rule change, ISE is proposing to adopt similar price improvement requirements for orders of fewer than 50 contracts for its PIM. As part of that rule change, ISE is proposing to amend ISE Rule 1614 (Imposition of Fines for Minor Rule Violations) to add Rule 1614(d)(4), which will provide that, beginning January 19, 2017, any member who enters an order into PIM for fewer than 50 contracts, while the National Best Bid or Offer spread is $0.01, must provide price improvement of at least one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, which increment may not be smaller than $0.01. Failure to provide such price improvement will result in members being subject to the following fines: $500 for the second offense, $1,000 for the third offense, and $2,500 for the fourth offense. Subsequent offenses will subject the member to formal disciplinary action. ISE will review violations on a monthly cycle to assess these violations. The Commission notes that the ISE proposal was approved in conjunction with this proposal. *See* Securities Exchange Act Release No. 34–79829 (January 18, 2017) (SR–ISE–2016–29).

[10] *See* Notice, *supra* note 3, at 91975–76.

[11] *See id.* at 91976. *See also* proposed ISE Gemini Rule 723(b).

[12] *See* Notice, *supra* note 3, at 91976.

[13] *See id.*

[14] *See id.*

[15] *See* ISE Gemini Rule 723(c)(5) and (d)(4).

[16] *See* PIM July 2016 Extension, *supra* note 6.

[17] *See* Supplementary Material .03 to ISE Gemini Rule 723.

[18] *See* Notice, *supra* note 3, at 91976–77. *See also* Exhibit 3 to SR–ISEGemini–2016–23.

[19] According to the Exchange, this discussion of January 2016 data is illustrative of data that was gathered between January 2016 and July 2016. *See* Notice, *supra* note 3, at 91976 n.13. The complete underlying data for January 2016 through June 2016 was attached as Exhibit 3 to the Notice.

[20] *See* Notice, *supra* note 3, at 91977.

[21] *See id.*

$0.01 price improvement.[22] In comparison, when the spread was $0.01 in this same category, a total of 80 contracts traded, and all received price improvement.[23]

In comparison, in January 2016, where the order was on behalf of a Public Customer, and order was for greater than 50 contracts, and ISE Gemini was not at the NBBO, the most contracts traded (4,846) occurred where the spread was $0.05—$0.10. Of those contracts, the greatest number of contracts (1,234) received $0.01 price improvement, and 1,008 contracts received no price improvement.[24]

ISE Gemini believes that the data gathered during the Pilot period indicates that there is meaningful competition in PIM auctions for all size orders, there is an active and liquid market functioning on the Exchange outside of the auction mechanism, and that there are opportunities for significant price improvement for orders executed through PIM.[25] The Exchange therefore has requested that the Commission approve the no-minimum size requirement on a permanent basis.

2. Early Conclusion of the PIM

Supplemental Material .05 to Rule 723 provides that Rule 723(c)(5) and Rule 723(d)(4), which relate to the termination of the exposure period by unrelated orders shall be part of the current Pilot. Rule 723(c)(5) provides that the exposure period will automatically terminate (i) at the end of the 500 millisecond period,[26] (ii) upon the receipt of a market or marketable limit order on the Exchange in the same series, or (iii) upon the receipt of a nonmarketable limit order in the same series on the same side of the market as the Agency Order that would cause the price of the Crossing Transaction to be outside of the best bid or offer on the Exchange. Rule 723(d)(4) provides that, when a market order or marketable limit order on the opposite side of the market from the Agency Order ends the exposure period, it will participate in the execution of the Agency Order at the price that is mid-way between the best counter-side interest and the NBBO, so that both the market or marketable limit order and the Agency Order receive price improvement. Transactions will be rounded, when necessary, to the $0.01 increment that favors the Agency Order.

As with the no minimum size requirement, the Exchange has gathered data on these three conditions to assess the effect of early PIM conclusions on the Pilot. For the period from January 2016 through June 2016, there were a total of 65 early terminated Auctions. The number of orders in early terminated PIM auctions constituted 0.08% of total PIM orders.[27] There were a total of 325 contracts that traded through early terminated Auctions. The number of contracts in early terminated PIM auctions represented 0.11% of total PIM contracts.[28]

Based on the data gathered during the Pilot, the Exchange does not anticipate that any of these conditions will occur with significant frequency, or will otherwise significantly affect the functioning of the PIM.[29] The Exchange therefore has requested that the Commission approve this aspect of the Pilot on a permanent basis.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[30] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[31] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2016, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the Auction, in particular for orders of fewer than 50 contracts; the degree of competition for order flow in such Auctions; and a comparison of liquidity in the Auctions with liquidity on the Exchange generally.[32] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts, when the spread in the option is $0.02 or more. At the same time, as the Exchange has recognized, the data do not demonstrate that such orders have realized significant price improvement when the NBBO has a bid/ask differential of $0.01.[33] Recognizing this, the Exchange has proposed to amend the Auction eligibility requirements to require the Initiating Participant to guarantee at least $0.01 of price improvement for Agency Orders of fewer than 50 contracts where the NBBO has a bid/ask differential of $0.01, whether or not the Exchange BBO is the same as the NBBO.

The Exchange's proposal to modify the Auction eligibility requirements for orders of fewer than 50 contracts and seek permanent approval of the Pilot, as amended with the new provision, will, in the Commission's view, promote opportunities for price improvement for such orders when the NBBO is $0.01 wide, while continuing to provide opportunities for price improvement when spreads are wider than $0.01.

In addition, the Commission has carefully evaluated the Pilot data and has determined that it would be beneficial to customers and to the options market as a whole to approve on a permanent basis the provisions concerning early conclusion of the PIM. The Commission notes that there have been few instances of early termination of the PIM.

The Commission believes that, particularly for Auctions for fewer than 50 contracts when the bid/ask differential is wider than $0.01, the data provided by the Exchange support its proposal to make the Pilot permanent. The data demonstrate that the Auction generally provides price improvement opportunities to orders, including orders of retail customers and particularly when the bid/ask differential is wider than $0.01; that there is meaningful competition for orders on the Exchange; and that there

[22] *See id.*

[23] *See id.*

[24] *See id.*

[25] *See id.*

[26] The Commission notes that, at the time of the filing of this proposal, the duration of the exposure period was 500 milliseconds. The Exchange recently received approval to modify the exposure period to a time period designated by the Exchange of no less than 100 milliseconds and no more than one second. *See* Securities Exchange Act Release No. 79735 (January 4, 2017), 82 FR 3043 (January 10, 2017) (SR–ISEGemini–2016–14).

[27] *See* Notice, *supra* note 3, at 91977.

[28] *See id.*

[29] *See id.*

[30] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[31] 15 U.S.C. 78f(b)(5).

[32] *See* Exhibit 3 to SR–ISEGemini–2016–23.

[33] *See* Notice, *supra* note 3, at 91976.

exists an active and liquid market functioning on the Exchange outside of the Auction.[34] The Commission further believes that the proposed revisions to the eligibility requirements for orders of fewer than 50 contracts with respect to circumstances when the NBBO is no more than $0.01 wide should help to enhance the operation of the Auction by providing meaningful opportunities for price improvement in such circumstances, and should benefit investors and others in a manner that is consistent with the Act.

The Commission further notes that, as discussed more fully above, ISE Gemini is initially proposing to implement is price improvement requirement for Agency Orders of fewer than 50 option contracts where the difference in the NBBO is $0.01 with a member conduct standard.[35] As described in greater detail above, ISE Gemini proposes to enforce this requirement under ISE Rule 1614(d)(4). The Commission believes that ISE Gemini's proposed member conduct standard and ISE Rule 1614(d)(4) are reasonable means to implement the price improvement requirement until implementation of its proposed systems-based mechanism for this requirement, which will become effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM. The Commission further notes that the Exchange has represented that its proposed member conduct standard will be effective until the migration of all symbols to the INET platform, which shall be no later than April 15, 2017.[36]

Thus, the Commission has determined to approve the Exchange's proposed revisions to ISE Gemini Rule 723(b) and Supplementary Material .03 and .05 to ISE Gemini Rule 723, and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–ISEGemini–2016–23), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01618 Filed 1–24–17; 8:45 am]

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[34] *See* Exhibit 3 to SR–ISEGemini–2016–23.

[35] The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of fewer than 50 contracts. *See* Notice, *supra* note 3, at 91275–76.

[36] *See* Notice, *supra* note 3, at 91275 & n.7.

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79816; File No. SR–CBOE–2017–003]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

January 18, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 3, 2017, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "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 its Fees Schedule. The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to make a number of amendments to its Order Routing Subsidy (ORS) and Complex Order Routing Subsidy (CORS) Programs (collectively "Programs"). By way of background, the ORS and CORS Programs allow CBOE to enter into subsidy arrangements with any CBOE Trading Permit Holder ("TPH") (each, a "Participating TPH") or Non-CBOE TPH broker-dealer (each a "Participating Non-CBOE TPH") that meet certain criteria and provide certain order routing functionalities to other CBOE TPHs, Non-CBOE TPHs and/or use such functionalities themselves.[3] (The term "Participant" as used in this filing refers to either a Participating TPH or a Participating Non-CBOE TPH). Participants in the ORS Program receive a payment from CBOE for every executed contract for simple orders routed to CBOE through their system. CBOE does not make payments under the ORS Program with respect to executed contracts in single-listed options classes traded on CBOE, or with respect to complex orders or spread orders. Similarly, participants in the CORS Program receive a payment from CBOE for every executed contract for complex orders routed to CBOE through their system. CBOE does not make payments under the CORS Program with respect to executed contracts in single-listed options classes traded on CBOE or with respect to simple orders. Currently, under both programs the Exchange pays a subsidy of $0.02 per contract for all customer (origin code "C") orders and a subsidy of $0.06 per contract for all non-customer orders.

The Exchange first proposes to exclude customer orders from the Programs and eliminate the customer order subsidy. The Exchange also proposes to increase the subsidy for non-customer orders from $0.06 per contract to $0.07 per contract under both ORS and CORS. The Exchange notes that another Exchange with a similar subsidy program also does not provide subsidies for customer orders.[4]

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

[2] 17 CFR 240.19b–4.

[3] *See* CBOE Fees Schedule, "Order Router Subsidy Program" and "Complex Order Router Subsidy Program" tables for more details on the ORS and CORS Programs.

[4] *See* NASDAQ PHLX LLC Pricing Schedule, Section IV(e) [sic], Other Transaction Fees, Market Access and Routing Subsidy ("MARS").