

representative of their typical usage of the new ports. Moreover, the proposed fees are in line with the fees assessed by other exchanges for the same or similar connectivity.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed fee changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

#### *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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>18</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2017-87 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2017-87. This file number should be included on the subject line if email 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2017-87 and should be submitted on or before November 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-22757 Filed 10-19-17; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81878; File No. SR-ISE-2017-88]

### **Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees To Increase the Crossing Fee Cap**

October 16, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 2, 2017, Nasdaq ISE, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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 Schedule of Fees to increase the Crossing Fee Cap for members that do not commit in advance to paying the full Crossing Fee Cap at the end of each month.

The text of the proposed rule change is available on the Exchange's Web site at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at 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.

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

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

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>19</sup> 17 CFR 200.30-3(a)(12).

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

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees to increase the Crossing Fee Cap for members that do not commit in advance to paying the full Crossing Fee Cap at the end of each month. Currently, the Exchange has a Crossing Fee Cap of \$75,000 per month per member on all Firm Proprietary<sup>3</sup> and Non-Nasdaq ISE Market Maker<sup>4</sup> transactions that are part of the originating or contra side of a Crossing Order.<sup>5</sup> Members that elect prior to the start of the month to pay \$65,000 per month have these crossing fees capped at that level instead, regardless of actual trading volume. All eligible volume from affiliated Members is aggregated for purposes of the Crossing Fee Cap, provided there is at least 75% common ownership between the Members as reflected on each Member's Form BD, Schedule A. The Exchange now proposes to increase the Crossing Fee Cap to \$90,000 per month; provided, however, that members that commit in advance to paying the full Crossing Fee Cap at the end of each month will continue to have these fees capped at \$65,000 per month.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>7</sup> 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that it is reasonable and equitable to increase the Crossing Fee Cap as the proposed Crossing Fee Cap is set at a level that the

Exchange believes appropriately rewards members for executing a high volume of Crossing Orders on the Exchange. The proposed Crossing Fee Cap remains lower than similar fee caps available on other options exchanges, including NYSE American Options and NYSE Arca Options, which both have fee caps set at \$100,000 per month, subject to the potential for reduced caps based on a member's tier achieved.<sup>8</sup> As proposed, members that do not elect to pay the discounted rate in full each month will be eligible to have their fees capped at the new rate of \$90,000 per month. At the same time, members that commit to their Crossing Order fees in advance will continue to receive a discounted rate of \$65,000 per month, which will encourage members to bring their Crossing Order flow to the Exchange. In particular, the Exchange believes that the proposed fee change may further incentivize members to commit to the discounted Crossing Fee Cap, and will bring more Crossing Order flow to the Exchange as a result. The Exchange believes that this will benefit all members and investors that trade on the Exchange as it will provide additional opportunities for market participants to interact with this Crossing Order Flow, contributing to a robust and competitive market. Furthermore, the Exchange believes that the proposed fee change is not unfairly discriminatory because all members will have the option to make the required commitment in order to qualify for the discounted Crossing Fee Cap, or will be subject to the Crossing Fee Cap proposed here. The Crossing Fee Cap will be uniformly applied to members based on their election.

*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. Although the Exchange is increasing the Crossing Fee Cap, the Exchange believes that the proposed cap is set at an appropriate level. Moreover, any member that wishes to lower their fees can continue to prepay the Crossing Fee Cap, and thereby qualify for a discounted fee. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such

an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

*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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and Rule 19b-4(f)(2)<sup>10</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2017-88 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-ISE-2017-88. This file number should be included on the subject line if email 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

<sup>3</sup> A "Firm Proprietary" order is an order submitted by a member for its own proprietary account.

<sup>4</sup> A "Non-Nasdaq ISE Market Maker" is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

<sup>5</sup> Crossing Orders are contracts that are submitted as part of a Facilitation, Solicitation, PIM, Block or QCC order. Fees charged by the Exchange for Responses to Crossing Orders are not included in the calculation of the monthly fee cap. Surcharge fees charged by the Exchange for licensed products and the fees for index options are not included in the calculation of the monthly fee cap.

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

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>8</sup> See NYSE American Options Fee Schedule, Section I. Options Transaction Fees and Credits, I. Firm Monthly Fee Cap; NYSE Arca Options Fees and Charges, NYSE Arca Options: Trade-Related Charges for Standard Options, Firm and Broker Dealer Monthly Fee Cap.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2017-88 and should be submitted on or before November 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-22753 Filed 10-19-17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81881; File No. SR-GEMX-2017-44]

### Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees To Increase the Monthly Cap on the Fees Assessed for Specialized Quote Feed and SQF Purge Ports That Market Makers Utilize To Connect to the Exchange

October 16, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 2, 2017, Nasdaq GEMX, LLC ("GEMX" 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 its Schedule of Fees to increase the monthly cap on the fees assessed for Specialized Quote Feed ("SQF")<sup>3</sup> and SQF Purge<sup>4</sup> Ports that Market Makers<sup>5</sup> utilize to connect to the Exchange.

The text of the proposed rule change is available on the Exchange's Web site at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at 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 is proposing to amend its Schedule of Fees to increase the monthly cap on the fees assessed for Specialized Quote Feed ("SQF")<sup>6</sup> and

<sup>3</sup> SQF is an interface that allows market makers to connect and send quotes, sweeps and auction responses into the Exchange. Data includes the following: (1) Options Auction Notifications (e.g., opening imbalance, Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (e.g., start of messages, start of system hours, start of quoting, start of opening); (4) Option Trading Action Messages (e.g., halts, resumes); (5) Execution Messages; (6) Quote Messages (quote/sweep messages, risk protection triggers or purge notifications).

<sup>4</sup> SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the market maker.

<sup>5</sup> The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See GEMX Rule 100(a)(25).

<sup>6</sup> SQF is an interface that allows market makers to connect and send quotes, sweeps and auction responses into the Exchange. Data includes the following: (1) Options Auction Notifications (e.g., opening imbalance, Flash, PIM, Solicitation and Facilitation or other information); (2) Options

SQF Purge<sup>7</sup> Ports that Market Makers<sup>8</sup> utilize to connect to the Exchange. Currently, the Exchange charges monthly SQF and SQF Purge Port Fees of \$1,250 per port, and caps these fees for Market Makers utilizing these ports at \$12,500 per month ("SQF Fee Cap"). The Exchange now proposes to increase the SQF Fee Cap from \$12,500 to \$17,500. The monthly \$1,250 per port fees for SQF and SQF Purge Ports will remain unchanged.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>10</sup> 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that increasing the SQF Fee Cap from \$12,500 to \$17,500 is reasonable because it better aligns the fees collected from Market Makers utilizing the SQF and SQF Purge Ports with the costs associated with maintaining and supporting the ports, as well as the initial investment in such ports for the Exchange. The Exchange also believes that the proposed increase of the SQF Fee Cap is reasonable because it will allow the Exchange to recoup costs while continuing to cap infrastructure costs for Market Makers that subscribe to a large number of ports due to their larger market making footprint on the Exchange. Without such a cap, Market Makers may be inhibited from expanding their activity on the Exchange. As a general principal, the Exchange believes that greater participation on the Exchange by members improves market quality for all market participants. Thus, in arriving at a fee cap of \$17,500, the Exchange balanced the desire to improve market quality against the need to cover costs and make a profit. Lastly, the Exchange notes that its affiliate, Nasdaq Phlx

Symbol Directory Messages; (3) System Event Messages (e.g., start of messages, start of system hours, start of quoting, start of opening); (4) Option Trading Action Messages (e.g., halts, resumes); (5) Execution Messages; (6) Quote Messages (quote/sweep messages, risk protection triggers or purge notifications).

<sup>7</sup> SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the market maker.

<sup>8</sup> The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See GEMX Rule 100(a)(25).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

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