

pursuant to the same procedures applicable to \$1 cabinet trades, except that for sub-dollar cabinet trades (i) bids and offers for opening transactions are permitted only to accommodate closing transactions, and (ii) transactions in option classes participating in the Penny Pilot Program are permitted.⁷ The Exchange believes that “allowing a price of at least \$0 but less than \$1 better accommodates the closing of options positions in series that are worthless or not actively traded, particularly when there has been a significant move in the price of the underlying security, resulting in a large number of series being out-of-the-money.”⁸

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act⁹ and the rules and regulations thereunder applicable to a national securities exchange.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹ 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 investors and the public interest.

In the Notice, the Exchange explains that it initially adopted the sub-dollar cabinet trade rule on a pilot basis to “evaluate the efficacy of the change and to address any operational issues that might arise in processing [c]abinet trades.”¹² The Exchange represents that at the time it adopted the pilot, its system permitted reporting cabinet trades at prices as small as \$0.0001, as it does today.¹³ Based on its experience with these types of trades, the Exchange

represents that its system “allows [c]abinet trades to be processed in a manner similar to how all other trades are processed by the [E]xchange.”¹⁴

In support of making the pilot program permanent, the Exchange represents that “there are no operational issues in processing and clearing [c]abinet [t]rades in penny and sub-penny increments.”¹⁵ The Exchange also represents that “members and member organizations have not raised any concerns with the processing of [c]abinet trades.”¹⁶ Finally, the Exchange represents that it is “not aware of the Options Clearing Corporation (“OCC”) having operational issues with processing [c]abinet trades submitted by the Exchange.”¹⁷

Based on the representations of the Exchange, the Commission believes that permanent approval of the sub-dollar cabinet trade pilot is consistent with the Act. In particular, the Commission notes that the Exchange’s system allows it to process cabinet trades in the normal course. Further, the Exchange has not observed any issues or concerns with sub-dollar cabinet trades at the Exchange level, with and among its members, or in processing the trades through OCC. Accordingly, the Exchange’s rule appears reasonably designed to remove impediments, prevent fraudulent and manipulative acts and practices, and foster cooperation and coordination with persons engaged in facilitating transactions in securities. Further, permanent approval will continue to provide investors with choice when considering a cabinet trade, including the ability to price such trades below \$1 per contract.

IV. Accelerated Approval of Proposed Rule Changes

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁸ to approve the proposed rule changes prior to the 30th day after the date of publication of the Notice in the **Federal Register**.¹⁹ The Commission believes that the proposed rule change does not raise novel regulatory issues. The Commission notes that earlier this year it approved similar proposed rule

changes from NYSE Arca, Inc.²⁰ and NYSE American LLC (formerly known as NYSE MKT LLC)²¹ making permanent sub-dollar cabinet trade pilot programs. The Exchange has represented that its system is able to process cabinet trades similar to the processing of its other trades, it has not experienced any issues processing cabinet trades at the Exchange or through OCC, and its members have not expressed concerns. In addition, the Commission did not receive any comments on the proposed changes. Accordingly, the Commission finds that good cause exists to approve the proposed rule changes on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²² that the proposed rule change (SR-Phlx-2017-99) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82446; File No. SR-ISE-2017-112]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Certain Non-Transaction Fees in the Exchange’s Schedule of Fees

January 5, 2018.

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 December 22, 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

²⁰ See Securities Exchange Act Release No. 80615 (May 5, 2017), 82 FR 22036 (May 11, 2017) (SR-NYSEArca-2017-24).

²¹ See Securities Exchange Act Release No. 80616 (May 5, 2017), 82 FR 22033 (May 11, 2017) (SR-NYSEMKT-2017-13).

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁷ See Commentary .02 to Phlx Rule 1059.

⁸ Notice, *supra* note 3, at 58826. The Exchange notes that this is especially true for transactions in options classes in the Penny Pilot Program, for which cabinet trades are not otherwise permitted. See *id.*

⁹ 15 U.S.C. 78f.

¹⁰ 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).

¹¹ 15 U.S.C. 78f(b)(5).

¹² See Notice, *supra* note 3, at 58826.

¹³ See *id.*

¹⁴ *Id.* See also *id.* at 58826 (noting that “in 2016, there were a total of 442 [c]abinet [t]rades” on the Exchange “comprising 244,734 contracts,” and “[e]ach contract was executed at a price of \$0.01.”).

¹⁵ See Notice, *supra* note 3, at 58826.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ As noted above, the Notice was published for comment in the **Federal Register** on December 14, 2017 and the comment period closed on December 29, 2017. Accordingly, the 30th day after publication of the Notice is January 13, 2018.

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 certain non-transaction fees in the Exchange's Schedule of Fees.

The text of the proposed rule change is available on the Exchange's website at <http://ise.cchwallstreet.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 purpose of the proposed rule change is to amend certain non-transaction fees in the Exchange's Schedule of Fees. ISE currently charges its members various non-transaction fees to trade on the Exchange and use its facilities, including a monthly access fee and an annual regulatory fee. Such fees are designed to help defray the technical, regulatory, and administrative costs associated with a member's use of the Exchange. Specifically, the Exchange currently assesses a monthly access fee to all its members that is \$500 per month per Electronic Access Member ("EAM") membership, \$4,000 per month per Primary Market Maker ("PMM") membership, and \$2,000 per month per Competitive Market Maker ("CMM") membership.³ Payment of the monthly access fee entitles members to trade on ISE as a PMM, CMM, or EAM based on their membership type. In

³ See ISE Schedule of Fees, Section VI.A Access Fees. In the event where a single member firm has multiple ISE memberships, the monthly access fee is charged for each membership. For example, if a single member firm is both an EAM and a CMM, or owns multiple CMM memberships, the firm is subject to the monthly access fee for each of those memberships.

addition, Exchange currently charges a tiered annual regulatory fee to all its members that is: (i) For PMMs, a fee of \$7,500 for the first PMM membership, \$1,500 for each additional PMM membership, and \$1,000 for each CMM membership; (ii) for CMMs, (who are not also PMMs), a fee of \$5,000 per membership for the first CMM membership⁴ and \$1,000 for each additional CMM membership; and (iii) for EAMs, a fee of \$5,000 for each EAM membership.⁵

In order to keep pace with rising overhead, the Exchange now proposes to increase the monthly access fee for Market Makers (*i.e.*, PMMs and CMMs) from \$4,000 to \$5,000 per PMM membership and from \$2,000 to \$2,500 per CMM membership. The monthly access fee of \$500 per membership for EAMs will remain unchanged under this proposal. In connection with the proposed increase in the monthly access fees for Market Makers, the Exchange also proposes to eliminate the annual regulatory fee for all its members.

As noted above, members are required to pay a variety of non-transaction fees, including the monthly access fee and annual regulatory fee, to be able to trade on the Exchange and use its facilities. By increasing the monthly access fee and eliminating the annual regulatory fee in the manner discussed above, the Exchange is essentially consolidating these fees rather than having members pay two separate charges for their use of the Exchange. With the proposed changes, Market Makers may be assessed at a higher rate overall to use the Exchange, while EAMs may be assessed at a lower rate because the Exchange is increasing the monthly access fee for Market Makers only, but eliminating the annual regulatory fee for all members.⁶ The Exchange will absorb the cost of the eliminated annual regulatory fee for EAMs going forward.

The access fee and regulatory fee were adopted in 2000 to help recover the

⁴ This fee will only be charged for the first CMM membership within each group of affiliated companies. Affiliated CMMs will pay the incremental regulatory fee charged for additional CMM memberships.

⁵ See ISE Schedule of Fees, Section VII.D Regulatory Fee.

⁶ For example, a PMM currently pays a total of \$55,500 per year in access and regulatory fees (\$48,000 of annual access fees plus the \$7,500 annual regulatory fee) for one PMM membership while an EAM pays a total of \$11,000 per year (\$6,000 of annual access fees plus the \$5,000 annual regulatory fee) for one EAM membership. As proposed, the PMM would pay a total of \$60,000 per year in access fees for one PMM membership while the EAM would pay a total of \$6,000 per year for one EAM membership.

costs of operating a trading market,⁷ including the technical, regulatory, and administrative costs associated with a member's use of the Exchange. The monthly access fee amounts have not changed since this fee was adopted, while the annual regulatory fee was last amended in 2006.⁸ Accordingly, the Exchange believes that the fee changes proposed herein should be a more accurate reflection of the costs associated with a member's use of the Exchange today.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁰ 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 the proposed increase in the monthly Market Maker access fees to \$5,000 per PMM membership and \$2,500 per CMM membership is reasonable and equitable. The proposed access fees will help the Exchange keep pace with rising overhead, and are within the range of similar fees charged by other options exchanges, including for example, C2 Options Exchange ("C2"), which charges its market makers a monthly access fee of \$5,000 per permit.¹¹

Furthermore, while the Exchange is increasing the monthly access fees for Market Makers, the Exchange believes that this is partially offset by the elimination of the annual regulatory fees for all members. As noted above, members are required to pay a variety of non-transaction fees, including the monthly access fee and annual regulatory fee, to be able to trade on the Exchange and use its facilities. By consolidating the annual regulatory fee with the access fee in the manner discussed above rather than having members pay two separate charges for their use of the Exchange, ISE is simplifying the Schedule of Fees to the benefit of its members. The Exchange also believes that the proposed changes are reasonable and equitable because the

⁷ See Securities Exchange Act Release No. 42370 (April 28, 2000), 65 FR 26256 (May 5, 2000) (SR-ISE-00-02).

⁸ See Securities Exchange Act Release No. 53634 (April 12, 2006), 71 FR 20147 (April 19, 2006) (SR-ISE-2006-16).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

¹¹ See C2 Fee Schedule, Section 3 Access Fees.

fees should be a more accurate representation of the costs associated with a member's use of the Exchange today for the reasons discussed above.

As noted above, some members will be impacted more than others with this proposal because the Exchange is increasing the monthly access fee for Market Makers only, but eliminating the annual regulatory fee for all members. The Exchange does not believe that this is unfairly discriminatory because the resources dedicated to the supporting and regulating a member vary on the type of membership. Generally, PMMs are subject to greater obligations than CMMs are and CMMs are subject to greater obligations than EAMs are. Furthermore, the technical, regulatory, and administrative costs associated with an EAM's use of the Exchange are not as high as those associated with Market Makers.

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. As discussed above, the proposed fee changes are designed to more accurately reflect the technical, regulatory, and administrative costs associated with a member's use of the Exchange, and the fees remain competitive with similar fees offered on other options exchanges. The Exchange 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. 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.

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,¹² and Rule 19b-4(f)(2)¹³ 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. Please include File Number SR-ISE-2017-112 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-2017-112. 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 website (<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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2017-112 and should be submitted on or before February 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Eduardo A. Aleman,
Assistant Secretary.

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SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15399 and #15400; MISSISSIPPI Disaster Number MS-00104]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Mississippi

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the presidential declaration of a major disaster for public assistance only for the state of Mississippi (FEMA-4350-DR), dated 11/22/2017.

Incident: Hurricane Nate.

Incident Period: 10/06/2017 through 10/10/2017.

DATES: Issued on 01/02/2018.

Physical Loan Application Deadline Date: 01/22/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 08/22/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT:

A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Mississippi, dated 11/22/2017, is hereby amended to include the following areas as adversely affected by the disaster.

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

¹³ 17 CFR 240.19b-4(f)(2).

¹⁴ 17 CFR 200.30-3(a)(12).