

necessary or appropriate in furtherance of the purposes of the Act.

In terms of intra-market competition, the Exchange will apply the proposed surcharge uniformly to all market participants. As discussed above, the majority of NDX contracts have a premium of less than \$25.00 and these contracts would not incur the proposed \$0.25 surcharge as they would fall under the premium price threshold at which the surcharge would be assessed. By limiting the proposed surcharge to higher-priced NDX contracts (*i.e.*, with a premium price of \$25.00 or higher), the Exchange believes that its proposal will continue to promote liquidity in NDX by maintaining lower costs for lower-priced NDX contracts. Greater liquidity benefits all market participants by providing more trading opportunities, tighter spreads, and added market transparency and price discovery.

In terms of inter-market competition, 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 options 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. As noted above, market participants are offered an opportunity to transact in NDX or XND, or separately execute options overlying QQQ. Offering these products provides market participants with a variety of choices in selecting the product they desire to use to gain exposure to the Nasdaq 100 Index. Furthermore, the proposed surcharge is in line with surcharges assessed on other products at another options exchange.¹⁸

In addition to the Exchange, market participants have alternative options exchanges that they may participate on and direct their order flow, which list proprietary products that compete with NDX.¹⁹ 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 changes will impair the ability of members or competing options exchanges 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.²⁰ 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-ISE-2024-29 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-2024-29. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-ISE-2024-29 and should be submitted on or before August 19, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-16550 Filed 7-26-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, August 1, 2024.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

¹⁸ See *supra* note 10.

¹⁹ See *e.g.*, pricing for Russell 2000 Index ("RUT") on Cboe's Fees Schedule and Cboe C2 Exchange, Inc.'s ("C2") Fees Schedule. See also SPX pricing on Cboe's Fees Schedule. Both RUT and SPX are proprietary products on the Cboe markets that are broad-based index options, like NDX and NDXP.

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

²¹ 17 CFR 200.30-3(a)(12).

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION:

For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Authority: 5 U.S.C. 552b.

Dated: July 25, 2024.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-16733 Filed 7-25-24; 4:15 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100577; File No. SR-GEMX-2024-22]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fees for Nasdaq 100 Index Options in Options 7, Section 3

July 23, 2024.

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 July 12,

2024, 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 the fees for Nasdaq 100 Index options in the Exchange’s Pricing Schedule at Options 7, Section 3.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/gemx/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

The purpose of the proposed rule change is to amend the fees for NDX³ in Options 7, Section 3. The Exchange initially filed the proposed pricing changes on July 1, 2024 (SR-GEMX-2024-18). On July 12, 2024, the

Exchange withdrew that filing and submitted this filing.

Today, the Exchange assesses transaction fees of \$0.75 per contract for all Non-Priority Customer⁴ orders in NDX and \$0.25 per contract for all Priority Customers⁵ NDX orders. The Exchange now proposes to assess a surcharge of \$0.25 per contract to all market participants for executions in NDX with a premium price of \$25.00 or greater.⁶ The fees for NDX executions with a premium price of less than \$25.00 will remain unchanged under this proposal. The Exchange notes that charging different fees based on the option premium is consistent with how other options are priced at another options exchange.⁷ The Exchange further notes that the proposed surcharge amount is within the range of surcharges assessed for transactions in other products at other options exchanges.⁸

The Exchange notes that less than 50% of total NDX executed volume is in NDX contracts with a premium of \$25.00 or greater, as shown in the chart below.⁹

⁴ “Non-Priority Customers” include Market Makers, Non-Nasdaq GEMX Market Makers (FarMMs), Firm Proprietary/Broker-Dealers, and Professional Customers.

⁵ A “Priority Customer” is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq GEMX Options 1, Section 1(a)(36).

⁶ See proposed note 14 (which is currently reserved) of Options 7, Section 3.

⁷ For example, Cboe Options (“Cboe”) currently assesses customers a \$0.36 per contract fee (if premium < \$1.00) or \$0.45 per contract fee (if premium ≥ \$1.00) for SPX and SPESG options. Cboe also currently assesses market-makers a \$0.05 per contract fee (if premium is \$0.00–\$0.10) or \$0.23 per contract (if premium ≥ \$0.11) for VIX options. See Cboe Fees Schedule.

⁸ For example, Cboe currently assesses customers a \$0.25 per contract exotic surcharge and a \$0.21 per contract execution surcharge in SPX and SPESG options. See Cboe Fees Schedule. In addition, the Exchange’s affiliate, Nasdaq Phlx LLC (“Phlx”) current assesses a \$0.25 per contract complex surcharge for executions in singly-listed U.S. dollar-settled foreign currency options. See Phlx Options 7, Section 5.D.

⁹ The chart includes A.M. and P.M. settled options on the full value of the Nasdaq 100® Index on Nasdaq ISE, LLC, Nasdaq GEMX, LLC, and Nasdaq Phlx LLC.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ NDX represents A.M. settled options on the full value of the Nasdaq 100 Index traded under the symbol NDX.