

adding clarity as to which rules are operative and when, thereby reducing potential confusion, and making the Exchange's rules easier to navigate. The Exchange also believes that eliminating obsolete material from its rulebook also removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete material in the Exchange's rulebook. The Exchange believes that eliminating such obsolete material would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather facilitate the industry's transition to a T+2 regular-way settlement cycle. The Exchange also believes that the proposed rule change will serve to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 necessary or appropriate in the public interest, for the protection of investors, or 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 change 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-NYSEARCA-2017-82 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-NYSEARCA-2017-82. 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-NYSEARCA-2017-82 and should be submitted on or before September 1, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

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

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**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

### **Sunshine Act Meeting**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold an Open Meeting on Tuesday, August 15, 2017 at 1:00 p.m., in the Auditorium (L-002) at the Commission's headquarters building, to hear oral argument in an appeal from an initial decision of an administrative law judge by respondents Frank H. Chiappone, Andrew G. Guzzetti, William F. Lex, Thomas E. Livingston, Brian T. Mayer, and Philip S. Rabinovich, formerly registered representatives associated with former broker-dealer McGinn, Smith & Co., Inc.

On February 25, 2015, the ALJ found that Chiappone, Lex, Livingston, Mayer, and Rabinovich violated antifraud provisions of the federal securities laws by recommending that customers purchase securities without conducting a reasonable investigation into the offerings as well as provisions of the securities laws prohibiting unregistered offers and sales of securities. The ALJ barred or suspended these respondents from certain associations in the securities industry and ordered them to pay third-tier civil money penalties, to pay disgorgement of commissions received for their sales in violation of the antifraud provisions plus prejudgment interest, and to cease and desist from further violations of the securities laws. The ALJ found that Guzzetti failed reasonably to supervise the other respondents, ordered him to pay a third-tier civil money penalty, and suspended him from association in certain capacities in the securities industry.

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

Respondents appealed the ALJ's findings of liability and the sanctions imposed to the Commission. The issues likely to be considered at oral argument include, among other things, whether the findings of liability should be sustained, and what sanctions, if any, are appropriate in the public interest, as well as respondents' arguments that the proceeding violated various Constitutional, statutory, and regulatory requirements.

For further information, please contact Brent J. Fields from the Office of the Secretary at (202) 551-5400.

Dated: August 8, 2017.

**Brent J. Fields,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81322; File No. SR-ISE-2017-76]

### Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 720, Nullification and Adjustment of Options Transactions Including Obvious Errors

August 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 26, 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 Rule 720, Nullification and Adjustment of Options Transactions including Obvious Errors.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on a date that is within ninety (90) days after the Commission approved a similar proposal filed by Bats BZX on July 6, 2017.

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 and other options exchanges recently adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.<sup>3</sup> The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion. Specifically, as described in the Initial Filing, the Exchange and all other options exchanges have been working to further improve the review of potentially erroneous transactions as well as their subsequent adjustment by creating an objective and universal way to determine Theoretical Price in the event a reliable NBBO is not available. Because this initiative required additional exchange and industry discussion as well as additional time for development and implementation, the Exchange and the other options exchanges determined to proceed with the Initial Filing and to undergo a secondary initiative to complete any additional improvements to the

applicable rule. In this filing, the Exchange proposes to adopt procedures that will lead to a more objective and uniform way to determine Theoretical Price in the event a reliable NBBO is not available. In addition to this change, the Exchange has proposed two additional minor changes to its rules. The Exchange's proposal mirrors that of Bats BZX, which the Exchange [sic] approved on July 6, 2017,<sup>4</sup> and those that the other options exchanges intend to file, except that it omits the section of the proposal that pertains to trading halts due to the fact that the Supplementary Material to Exchange Rule 702 already includes the applicable language.

##### Calculation of Theoretical Price Using a Third Party Provider

Under the harmonized rule, when reviewing a transaction as potentially erroneous, the Exchange needs to first determine the "Theoretical Price" of the option, *i.e.*, the Exchange's estimate of the correct market price for the option. Pursuant to Rule 720, if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last national best bid ("NBB") just prior to the trade in question with respect to an erroneous sell transaction or the last national best offer ("NBO") just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions described below exists. Thus, whenever the Exchange has a reliable NBB or NBO, as applicable, just prior to the transaction, then the Exchange uses this NBB or NBO as the Theoretical Price.

The Rule also contains various provisions governing specific situations where the NBB or NBO is not available or may not be reliable. Specifically, the Rule specifies situations in which there are no quotes or no valid quotes for comparison purposes, when the national best bid or offer ("NBBO") is determined to be too wide to be reliable, and at the open of trading on each trading day. In each of these circumstances, in turn, because the NBB or NBO is not available or is deemed to be unreliable, the Exchange determines Theoretical Price. Under the current Rule, when determining Theoretical Price, Exchange personnel generally consult and refer to data such as the prices of related series, especially the closest strikes in the option in question. Exchange personnel may also take into

<sup>4</sup> See Securities Exchange Act Release No. 34-81084 (July 6, 2017) (granting approval of Bats BZX proposal), 82 FR 32216 (July 12, 2017); 82 FR 23684 (May 23, 2017) (SR-BatsBZX-2017-035) (notice of filing of Bats BZX proposal).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 34-74896 (May 7, 2015); 80 FR 27373 (May 13, 2015) (SR-ISE-2015-18) (the "Initial Filing").