

Capital Market, and impose a deadline to demonstrate compliance with initial listing requirements on all Nasdaq Markets to within 30 days following each business combination. The proposed rule change was published for comment in the **Federal Register** on October 11, 2017.<sup>3</sup> In response, the Commission received six comments on the proposal.<sup>4</sup> On November 22, 2017, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to January 9, 2018.<sup>5</sup> The Commission issued an order instituting proceedings under Section 19(b)(2)(B) of the Act to determine whether to approve or disapprove the proposed rule change on January 9, 2018 (“OIP”).<sup>6</sup> The Commission received three additional comments in response to the OIP, including a comment letter from Nasdaq.<sup>7</sup>

Section 19(b)(2) of the Act<sup>8</sup> provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on October 11, 2017. April 9, 2018 is 180

<sup>3</sup> See Securities Exchange Act Release No. 81816 (October 4, 2017), 82 FR 47269 (October 11, 2017) (“Notice”).

<sup>4</sup> See Letters to Brent J. Fields, Secretary, Commission, from Jeffrey M. Solomon, Chief Executive Officer, Cowen and Company, LLC, dated October 19, 2017; Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors, dated October 25, 2017; Sean Davy, Managing Director, Capital Markets Division, SIFMA, dated October 31, 2017; Akin Gump Strauss Hauer & Feld LLP, dated November 1, 2017; Steven Levine, Chief Executive Officer, EarlyBirdCapital, Inc., dated November 3, 2017; and Christian O. Nagler and David A. Curtiss, Kirkland & Ellis LLP, dated November 9, 2017.

<sup>5</sup> See Securities Exchange Act Release No. 82142 (November 22, 2017), 82 FR 56293 (November 28, 2017).

<sup>6</sup> See Securities Exchange Act Release No. 82478 (January 9, 2018), 83 FR 2278 (January 16, 2018).

<sup>7</sup> See Letters to Brent J. Fields, Secretary, Commission, from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors, dated January 25, 2018; Paul D. Tropp, Freshfields Bruckhaus Deringer US LLP, dated January 30, 2018; and Arnold Golub, Deputy General Counsel, Nasdaq, dated February 23, 2018.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

days from that date, and June 8, 2018 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change and the comment letters. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> designates June 8, 2018, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NASDAQ–2017–087).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83006; File No. SR–ISE–2018–30]

### Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend ISE Rules 700, 2008, and 2009

April 6, 2018.

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 March 29, 2018, Nasdaq ISE, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 ISE Rules 700, Days and Hours of Business, at Section (c); 2008, Days and Hours of Business; and 2009, Terms of Index Option Contracts, Supplementary Material .07, Nonstandard Expirations Pilot Program.

The text of the proposed rule change is available on the Exchange’s website at <http://ise.cchwallstreet.com/>, at the

<sup>9</sup> *Id.*

<sup>10</sup> 17 CFR 200.30–3(a)(31).

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

<sup>2</sup> 17 CFR 240.19b–4.

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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of this rule filing is to establish that transactions in expiring p.m.-settled broad-based index options, including Weekly Expirations and End of Month (“EOM”) options, may be effected on the Exchange only until 4:00 p.m. (Eastern Time) on the last trading day.<sup>3</sup> The terms of p.m.-settled broad-based index options specify that their exercise settlement value is based on the index value derived from the closing prices of component stocks.

Currently, ISE Rule 700(c) provides that broad-based index options may trade until 4:15 p.m. each business day. The Exchange now proposes to add language to Rule 700(c) to establish that on the last trading day transactions in expiring p.m.-settled broad-based index options may be effected on the Exchange between the hours of 9:30 a.m. (Eastern Time) and 4:00 p.m. (Eastern Time). The same new language is proposed to be added to Rules 2008, Trading Sessions, and 2009, Terms of Index Option Contracts, at Supplementary Material .07(d), Weekly Expirations and EOM Trading Hours. The proposed new language is substantively identical to language in Rule 24.9(e), Weekly Expirations and

<sup>3</sup> The listing and trading of p.m.-settled options on broad-based indexes with nonstandard expiration dates, including Weekly Expirations and EOM options, has been approved by the Commission on a pilot basis for an initial period of twelve months expiring on February 1, 2019 (the “Nonstandard Expirations Pilot Program” or “Pilot Program”). See Supplementary Material .07 of Rule 2009 and Securities Exchange Act Release No. 82612 (February 1, 2018), 83 FR 5470 (February 7, 2018) (SR–ISE–2017–111). To date, no Weekly Expirations or EOM options have been listed on the Exchange.

EOM Trading Hours on the Last Trading Day, of the Cboe Exchange, Inc. (CBOE). The 4:00 p.m. close of trading would apply only on the last trading day of the expiring p.m.-settled options.

As CBOE explained in the proposed rule change adopting current CBOE Rule 24.9(e), Weekly Expirations and EOM options which are p.m.-settled are priced in the market based on corresponding futures values. On the last day of trading, the closing prices of the component stocks (which are used to derive the exercise settlement value) are known at 4:00 p.m. (Eastern Time) (or soon after) when the equity markets close. Despite the fact that the exercise settlement value is fixed at or soon after 4:00 p.m. (Eastern Time), if trading in expiring Weekly Expirations and EOMs were to continue for an additional fifteen minutes until 4:15 p.m. (Eastern Time) they would not be priced on corresponding futures values, but rather the known cash value. At the same time, the prices of non-expiring Weekly Expiration and EOM series would continue to move and be priced in response to changes in corresponding futures prices. Because of the potential pricing divergence that could occur between 4:00 and 4:15 p.m. on the final trading day in expiring Weekly Expirations and EOMs (e.g., switch from pricing off of futures to cash), the Exchange believes that, in order to mitigate potential investor confusion, it is appropriate to cease trading in expiring Weekly Expirations and EOMs at 4:00 p.m. on the last day of trading.<sup>4</sup>

Because the potential pricing divergence issue applies to all ISE-listed p.m.-settled options, including but not limited to the Weekly Expiration and EOM series listed on ISE, the Exchange proposes to add the exception providing for a 4:00 close of trading on the last trading day before expiration to ISE's Rule 700(c) which sets forth the trading hours for all broad-based index options, and Rule 2008, Trading Sessions, in addition to Rule 2009, Supplementary Material .07(d).

Thus, as revised, Rule 700(c) would provide that options on a broad-based index, as defined in ISE Rule 2001, may be traded on the Exchange until 4:15 p.m. each business day, except that that on the last trading day, transactions in expiring p.m.-settled broad-based index options may be effected on the Exchange between the hours of 9:30 a.m. (Eastern Time) and 4:00 p.m.

<sup>4</sup> See Securities Exchange Act Release No. 64243 (April 7, 2011), 76 FR 20771 (April 13, 2011) (SR-CBOE-2011-038) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Close of Trading Hours for Expiring End of Week and End of Month Expirations).

(Eastern Time). The exception would also be added to Rule 2008(a) which currently provides, in relevant part, that except as otherwise provided in Rule 2008 or under unusual conditions as may be determined by the President or his designee, transactions in index options may be effected on the Exchange between the hours of 9:30 a.m. (Eastern Time) and 4:15 p.m. (Eastern Time). Finally, the same change would be made to Supplementary Material .07(d) of Rule 2009, which currently provides that transactions in Weekly Expirations and EOMs may be effected on the Exchange between the hours of 9:30 a.m. (Eastern Time) and 4:15 p.m. (Eastern Time).

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, 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, by conforming the trading hours on the last trading day of Weekly Expiration and EOM options to the trading hours on CBOE. The existence of dissimilar closing times applicable to different options exchanges would likely lead to confusion for options investors and broker-dealers. Additionally, preventing continued trading on a p.m.-settled broad-based index option after the exercise settlement value has been fixed eliminates potential confusion and thereby protects investors and the public interest. The Exchange notes that p.m.-settled options on the S&P 500 index and on p.m.-settled XSP [sic] options cease trading at 4:00 p.m. Eastern Time on the last day of trading pursuant to CBOE Rule 24.6, Days and Hours of Business, Interpretations and Policies .04.

## 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. Specifically, the Exchange does not believe the proposal will impose any burden on intramarket competition as all market participants will be treated in the same manner with respect to trading hours of

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

expiring p.m.-settled broad-based index options.

## 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

Because the 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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>9</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>10</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to immediately conform the trading hours on the final trading day in expiring p.m.-settled broad-based index options to those of another exchange, eliminate a potential source of confusion on the part of the investing public, as well as avoid potential pricing divergence difficulties that could occur between 4:00 and 4:15 p.m. (Eastern Time). The Exchange's proposal does not raise new issues. Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</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 the Exchange's 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.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

proposed rule change as operative upon filing.<sup>11</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 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 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-2018-30 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-2018-30. 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-2018-30, and should be submitted on or before May 3, 2018.

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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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83007; File No. SR-NASDAQ-2017-128]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the Western Asset Total Return ETF

April 6, 2018.

On December 20, 2017, The Nasdaq Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to list and trade shares ("Shares") of the Western Asset Total Return ETF ("Fund"), a series of Legg Mason ETF Investment Trust ("Trust"), under Nasdaq Rule 5735 (Managed Fund Shares). The proposed rule change was published for comment in the **Federal Register** on January 9, 2018.<sup>3</sup> On February 21, 2018, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup> The Commission

has received no comments on the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Act<sup>6</sup> to determine whether to approve or disapprove the proposed rule change.

#### I. Summary of the Exchange's Description of the Proposed Rule Change<sup>7</sup>

The Exchange proposes to list and trade Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Trust, which is registered with the Commission as an investment company under the Investment Company Act of 1940 ("1940 Act"). The Fund will be a series of the Trust.<sup>8</sup>

Legg Mason Partners Fund Advisor, LLC will be the investment manager ("Manager") to the Fund. Western Asset Management Company will serve as the sub-adviser to the Fund ("Sub-Adviser") and Western Asset Management Company Limited in London, Western Asset Management Company Pte. Ltd. in Singapore, and Western Asset Management Company Ltd in Japan will each serve as sub-sub-advisers to the Fund (collectively, "Sub-Sub-Advisers" and each, a "Sub-Sub-Adviser").<sup>9</sup> Legg Mason Investor Services, LLC ("Distributor") will be the distributor of the Fund's Shares. The Manager, each of the Sub-Advisers, and the Distributor are wholly-owned subsidiaries of Legg Mason, Inc. ("Legg Mason"). The Exchange states that an entity that is not affiliated with Legg Mason, and which is named in the Registration Statement, will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.<sup>10</sup>

designated April 9, 2018, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

<sup>6</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>7</sup> For a complete description of the Exchange's proposal, see the Notice, *supra* note 3.

<sup>8</sup> The Trust filed a registration statement on Form N-1A with the Commission with respect to the Fund but withdrew it on February 14, 2018. See Post-Effective Amendment No. 27 to the Registration Statement on Form N-1A for the Trust (File Nos. 333-206784 and 811-23096) as filed on August 8, 2017 ("Registration Statement") and Request for Withdrawal of Post-Effective Amendments Nos. 27, 31, 33, 35, 36 and 38 to the Trust's Registration Statement filed on Form N-1A as filed on February 14, 2018.

<sup>9</sup> References to "Sub-Adviser" or "Sub-Advisers" hereinafter include the Sub-Adviser and each applicable Sub-Sub-Adviser.

<sup>10</sup> According to the Exchange, none of the Manager or any of the Sub-Advisers is a broker-dealer, but each is affiliated with the Distributor, a broker-dealer. The Exchange states that each of the Manager and the Sub-Advisers has implemented and will maintain a fire wall with respect to its

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>12</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.

<sup>3</sup> See Securities Exchange Act Release No. 82439 (Jan. 3, 2018), 83 FR 1062 ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 82757, 83 FR 8532 (Feb. 27, 2018). The Commission