the Exchange. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change as operative upon filing.10

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–MIAX–2018–37 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–MIAX–2018–37. 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 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–MIAX–2018–37 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.11
Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Bid/Ask Differentials

December 6, 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 November 28, 2018, 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 ISE Rule 701, entitled “Opening,” ISE Rule 803, entitled “Obligations of Market Makers” and ISE Rule 100, entitled “Definitions.”

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

ISE proposes several amendments in this rule change. First, the Exchange proposes to amend ISE Rule 701, entitled “Opening” and ISE Rule 803, entitled “Obligations of Market Makers” to correct inconsistencies between the Exchange’s rule text and the operation of the System. Second, the Exchange proposes to add definitions to ISE Rule 100 to define “in-the-money” and “out-of-the-money” option series. Third, the Exchange proposes to correct various cross references to Rule 100. Each amendment will be described in more detail below.

Rule 701

Today, for the Opening Process, ISE Rule 701(a)(8) defines a “Valid Width Quote” as a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4).3

10 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).


Specifically, for the Opening Process, ISE Rule 803(b)(4) states that, for in-the-money option series, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. In practice, however, the Exchange’s System permits a Valid Width Quote in the Opening Process to be as wide as the quotation for the underlying security on the primary (listing) market.4

Proposal

The Exchange proposes to codify its current practice and correctly reflect in its Rules that the Valid Width Quote in the Opening Process apply a primary market analysis, not a national best bid or offer (“NBBO”) analysis.5 Specifically, this proposal would conform the current rule text to the current System by amending the definition of a Valid Width Quote in Rule 701, “Opening,” so that, in the case of in-the-money option series where the market for the underlying security is wider than the differentials set forth within ISE Rule 803(b)(4), the bid/ask differential may be as wide as the quotation for the underlying security on the primary7 (listing) market, or its decimal equivalent rounded down to the nearest minimum increment.

The Exchange believes that utilizing the primary market in the Opening Process is reasonable given the close connection between the primary market and the Opening Process. For example, ISE Rule 701(c)(2) provides, “For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.”

Today, in order to open, the Exchange requires either: (i) The Primary Market Maker’s (“PMM”) Valid Width Quote; (ii) the Valid Width Quotes of at least two Competitive Market Makers (“CMM”); or (iii) if neither the PMM’s Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote. The Exchange notes that it requires Market Makers to submit Valid Width Quotes during the Opening Process to guarantee liquidity, unlike other markets which may not require market makers to quote during the opening.6 Further, amending the rule text to conform to its current practice will avoid confusion and continue to permit ISE to remain one of the strongest openings in the industry.

Discretion

The Exchange proposes to codify its current practice and amend ISE Rule 803(b)(4) to adopt rule text which permits the Exchange intra-day discretion for bid/ask differentials similar to the discretion currently permitted in the Opening Process. The Exchange proposes to add a sentence to the end of the paragraph in ISE Rule 803(b)(4) indicating the Exchange may establish differences other than the above for one or more series or classes of options. The Exchange notes that it utilizes this discretion today to grant relief for individual options classes as well as relief for all option classes based upon specific criteria. Today, Market Makers may request quote relief. When determining whether to grant quote relief the Exchange considers, among other factors, the following: (i) Pending corporate actions with undisclosed or uncertain terms; (ii) company or industry news with anticipated significant market impact; (iii) government news of a sensational nature. The Exchange believes that it is necessary to grant quote relief in certain circumstances where a Market Maker may not have enough information to maintain fair and orderly markets. The Exchange notes that other markets have similar discretion for intra-day quotes today.9

The Nasdaq Options Market (“NOM”) does not require NOM Market Makers to quote during the opening, however if a NOM Market Maker decided to quote during the opening, the Market Maker would be permitted to submit a bid/ask differential with a difference not to exceed $5 between the bid and offer regardless of the price of the bid. However, respecting in-the-money series where the market for the underlying security is wider than $5, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. See NOM Rules at Chapter VII, Section 6(d)(ii).

The Exchange notes that it does not utilize a last sale calculation. The Exchange believes that the quotation for the underlying security on the primary market provides an accurate reflection of the market. A last sale calculation may not be an accurate reflection of the market because the last sale may not be representative of the primary market in all cases, particularly if a halt were to occur.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,11 in general, and furthers the American LLC Rule 925NY(b)(4), NYSE Arca, Inc. 6.37–O(b)(4).
The Exchange believes that it is necessary to grant quote relief in certain circumstances where a Market Maker may not have enough information to maintain fair and orderly markets. The Exchange notes that other markets have similar discretion for intra-day quotes today.15

Rule 100

The Exchange’s proposal to define the terms “in-the-money” and “out-of-the-money” for purposes of Market Maker quoting obligations in Rules 701 and 803 is consistent with the Act and protects investors and the public interest by bringing greater transparency to the Rulebook. Each of these defined terms would apply for purposes of Market Maker quoting obligations in Rules 701 and 803. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which “in-the-money” and “out-of-the-money” options series are defined for purposes of other options rules.

Cross-References

The Exchange’s proposal to amend cross-references to Rule 100 within Rules 713, 720 and Rule 1901 to refer to the current definitions is consistent with the Act because it will correct references to definitions.

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 nor necessary or appropriate in furtherance of the purposes of the Act.

Rules 701 and 803

The Exchange’s proposal to codify its current practice of utilizing the primary market in the Opening Process does not unduly burden competition because the current practice maintains a close connection between the primary market and the Opening Process. The primary market reflects the current trading environment. The Exchange notes that the proposal does not create an undue burden on intra-market competition because Market Makers are the only market participants subject to quoting requirements and these participants have valuable information with respect to the underlying instrument under the current process to make informed decisions and take calculated risks in the marketplace when providing liquidity. Market Makers remain responsible for maintaining fair and orderly markets.

Disclosure

The Exchange’s proposal to codify the Exchange’s ability to permit intra-day discretion similar to the discretion currently permitted in the Opening Process does not impose an undue burden on competition because Market Makers are the only market participants subject to quoting requirements and the proposal specifically considers the need for Market Makers to have information to make informed decisions to make calculated risks in the marketplace so that they may provide liquidity while maintaining fair and orderly markets. The proposed amendments do not create undue burdens on inter-market competition because other options markets have the same intra-day requirements.16

Rule 100

The Exchange’s proposal to define the terms “in-the-money” or “out-of-the-money” for purposes of Market Maker quoting obligations in Rules 701 and 803 does not unduly burden competition, rather it adds greater transparency to the Rulebook and makes clear the applicability of the definitions to avoid confusion with respect to the remainder of the options rules.

Cross-References

The Exchange’s proposal to amend cross-references to Rule 100 in Rules 713, 720 and Rule 1901 to refer to the current definitions does not unduly burden competition because it will correct references to definitions.

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 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)(iii) of the Act17 and subparagraph (f)(6) of Rule 19b–4 thereunder.18

16 See note 9 above.
18 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to...
A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to 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 Exchange states that immediately codifying its current practice within its rules to accurately reflect the operation of the Exchange’s System will avoid confusion. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change as operative upon filing.

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–2018–96 on the subject line.

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 5.1–E(a)(2)

December 6, 2018.

Pursuant to Section 19(b)(1) 1 of the Securities Exchange Act of 1934 (“Act”) 2 and Rule 19b–4 thereunder, 3 notice is hereby given that, on November 27, 2018, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which have been prepared by the self-regulatory organization. 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 NYSE Arca Rule 5.1–E(a)(2) to remove the requirement that the Exchange file with the Securities and Exchange Commission the “Commission”) a Form 19b–4(e) for each “new derivative securities product” that will commence trading on the Exchange pursuant to unlisted trading privileges. The proposed rule change is available on the Exchange’s website at www.nyse.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 self-regulatory organization 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 those 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 parts of such statements.


21 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).