submissions should refer to File Number SR–GEMX–2020–12 and should be submitted on or before June 22, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11647 Filed 5–29–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88939; File No. SR–ISE–2020–20]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Options 7

May 26, 2020.

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 May 11, 2020, 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 the Exchange's Pricing Schedule at Options 7, as described further below.

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 Exchange proposes to amend its Pricing Schedule at Options 7 to: (i) Adjust the Market Maker Plus regular maker rebate for SPY, QQQ, and IWM, and (ii) modify its QCC and Solicitation Rebate program. The Exchange has designated the proposed pricing changes to be operative on May 1, 2020. Each change is described below.

ISE initially filed the proposed rule change on April 30, 2020 (SR–ISE–2020–19). On May 11, 2020, ISE withdrew that filing and submitted this this filing.

Market Maker Plus

The Exchange currently operates a Market Maker Plus program for regular orders in Select[3] and Non-Select Symbols,[4] which provides tiered incentives to Market Makers[5] based on the percentage of time spent quoting at the national best bid or offer (''NBBO'').[6] Market Makers that qualify for this program will not pay the maker fee of $0.11 per contract (in Select Symbols) or $0.70 (in Non-Select Symbols), and will instead receive incentives based on the applicable Market Maker Plus Tier for which they qualify. Market Makers are evaluated each trading day for the percentage of time spent on the NBBO for qualifying series that expire in two successive thirty calendar day periods beginning on that trading day.[7] A Market Maker Plus is a Market Maker who is on the NBBO a specified percentage of the time on average for the month based on daily performance in the qualifying series for each of the two successive periods described above. If a Market Maker would qualify for a different Market Maker Plus tier in each of the two successive periods described above, then the lower of the two Market Maker Plus tier fees or rebates would apply to all contracts.[8] A Market Maker's worst quoting day each month for each of the two successive periods described above, on a per symbol basis, is excluded in calculating whether a Market Maker qualifies for this incentive.[9] These general qualification requirements will remain unchanged with the modifications to the applicable Market Maker Plus incentives described herein.

For SPY, QQQ, and IWM, the Exchange currently provides the below maker rebates based on the applicable Market Maker Plus tier for which the Market Maker qualifies.

SPY, QQQ, AND IWM

Market maker plus tier (specified percentage)	Regular maker rebate	Linked maker rebate
Tier 1 (70% to less than 80%)	($0.00)	N/A
Tier 2 (80% to less than 85%)	($0.18)	($0.15)

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Select Symbols'' are options overlying all symbols listed on the Exchange that are in the Penny Pilot Program.

[4] ''Non-Select Symbols'' are options overlying all symbols except Select Symbols.

[5] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(21).

[6] *See* Options 7, Section 3, note 5.

[7] Qualifying series are series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium.

[8] Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers—*i.e.,* badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol. Only badge/suffix combinations quoting a minimum of ten trading days within the month is used to determine whether the Market Maker Plus status has been met and the specific tier to be applied to the Market Maker's performance for that month.

[9] A Market Maker who qualifies for Market Maker Plus Tiers 2 or higher in at least four of the previous six months will be eligible to receive a reduced Tier 2 incentive in a given month where the Market Maker does not qualify for any Market Maker Plus tiers. For Select Symbols, this rebate is the applicable Tier 2 rebate reduced by $0.08 per contract. For Non-Select Symbols, this fee is the Tier 2 fee increased by $0.08 per contract.

SPY, QQQ, AND IWM—Continued

Market maker plus tier (specified percentage)	Regular maker rebate	Linked maker rebate
Tier 3 (85% to less than 90%)	($0.22)	($0.19)
Tier 4 (90% or greater)	($0.26)	($0.23)

The Exchange now proposes to replace Market Maker Plus Tier 1 with new Tier 1a and Tier 1b. As proposed, the Market Maker Plus Tier qualification requirements and associated incentive will be as follows: (1) 50% to less than 65% to qualify for the $0.00 per contract Tier 1a regular maker rebate (*i.e.,* free executions instead of paying the $0.11 per contract maker fee), and (2) 65% to less than 80% to qualify for the $0.05 per contract Tier 1b regular maker rebate. Current Market Maker Plus Tiers 2–4 as set forth above and the associated maker rebates will remain unchanged under this proposal. In addition, the Exchange will not offer any linked maker rebates for proposed Tiers 1a and 1b.

The proposed changes are intended to fortify Market Maker participation in the Exchange's Market Maker Plus program for SPY, QQQ, and IWM. By lowering the percentage of time required to be spent quoting at the NBBO that is necessary to qualify for the $0.00 and $0.05 per contract regular maker rebates in Tier 1a and Tier 1b, respectively, the Exchange seeks to make it easier for Market Makers to qualify as Market Maker Plus in SPY, QQQ, and IWM, and to better enable existing Market Maker Plus participants to maintain their qualifications as such. By fortifying participation in this program, the Exchange believes that the proposed changes will continue to encourage Market Makers to post quality markets in SPY, QQQ, and IWM, thereby improving trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market.

QCC and Solicitation Rebate

Currently, Members using the Qualified Contingent Cross (''QCC'') [10] and/or other solicited crossing orders, including solicited orders executed in the Solicitation,[11] Facilitation [12] or Price Improvement Mechanisms (''PIM''),[13] receive rebates for each originating contract side in all symbols traded on the Exchange.[14] Once a Member reaches a certain volume threshold in QCC orders and/or other solicited crossing orders during a month, the Exchange provides rebates to that Member for all of its QCC and solicited crossing order traded contracts for that month. The applicable rebates are applied on QCC and solicited crossing order traded contracts once the volume threshold is met. Members receive the rebate for all QCC and/or other solicited crossing orders except for QCC and solicited orders between two Priority Customers,[15] which do not receive any rebate.

At this time, the Exchange proposes to no longer provide the QCC and Solicitation Rebate to solicited orders executed in PIM. The Exchange has observed that few members have received this rebate, with little associated volume.[16] To effect this change, the Exchange proposes to remove the reference to PIM in Section 6.A. In addition, the Exchange proposes to add a new defined term ''Solicited Orders,'' which will encompass QCC orders and/or other solicited orders executed in the Solicitation and Facilitation Mechanisms, and use this defined term throughout Section 6.A to make clear what types of solicited crossing orders will qualify the Member for the QCC and Solicitation Rebate. The volume thresholds and applicable rebates will remain unchanged under this proposal.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[18] 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's proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, ,'[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [19]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities

[10] A QCC Order is comprised of an originating order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Supplementary Material .01 to Options 3, Section 7, coupled with a contra-side order or orders totaling an equal number of contracts. *See* Options 3, Section 7(j).

[11] The Solicited Order Mechanism is a process by which an Electronic Access Member (''EAM'') can attempt to execute orders of 500 or more contracts it represents as agent against contra orders that it solicited. Each order entered into the Solicited Order Mechanism shall be designated as all-or-none. *See* Options 3, Section 11(d).

[12] The Facilitation Mechanism is a process by which an EAM can execute a transaction wherein the EAM seeks to facilitate a block-size order it represents as agent, and/or a transaction wherein the EAM solicited interest to execute against a block-size order it represents as agent. *See* Options 3, Section 11(b).

[13] The PIM is a process by which an EAM can provide price improvement opportunities for a transaction wherein the EAM seeks to facilitate an order it represents as agent, and/or a transaction wherein the EAM solicited interest to execute against an order it represents as agent. *See* Options 3, Section 13.

[14] *See* Options 7, Section 6.A.

[15] 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 Options 1, Section 1(a)(37).

[16] For example, of the contract sides that qualified for the QCC and Solicitation Rebate in March 2020, less than 1% of that volume represented solicited PIM orders.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4) and (5).

[19] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (DC Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [20]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Market Maker Plus

The Exchange believes that the proposed changes to its Market Maker Plus program for SPY, QQQ, and IWM are reasonable and equitable for several reasons. As noted above, the Exchange's proposal is intended to fortify participation in this program and improve market quality on ISE. The Exchange's proposal to lower the required percentage of time spent at the NBBO to qualify for Market Maker Plus Tiers 1a and 1b will improve the overall incentive to Market Makers to participate in this program by making it easier for Market Makers to qualify for Market Maker Plus in SPY, QQQ, and IWM. By broadening the Market Maker Plus in this manner, the Exchange will encourage new participants in the program and help ensure that existing Market Maker Plus participants continue to qualify as such.

The Exchange will apply the proposed changes to SPY, QQQ, and IWM as they are three of the most actively traded symbols on ISE, and the Exchange therefore believes that incentivizing liquidity in these three names will have a significant and beneficial impact on market quality on the Exchange. Further, the Exchange believes that the proposed Tier 1a and Tier 1b qualifications for SPY, QQQ, and IWM will continue to require Market Makers to quote at the NBBO for a significant percentage of time in order to glean the benefits of the associated incentives.[21] For the foregoing reasons, the Exchange believes that its proposal will further encourage Market Makers to maintain tight markets in SPY, QQQ, and IWM, thereby increasing liquidity and attracting additional order flow to the Exchange, which will benefit all market participants in the quality of order interaction.

The Exchange also believes that the proposed changes to the Market Maker Plus program for SPY, QQQ, and IWM are not unfairly discriminatory as all Market Makers can qualify for this program by meeting the requirements that are designed to incentivize Market Makers to maintain quality markets. In addition, the Exchange continues to believe that it is not unfairly discriminatory to offer rebates under this program to only Market Makers. Market Makers, and in particular, those Market Makers that participate in the Market Maker Plus program and achieve Market Maker Plus status, add value through continuous quoting and are subject to additional requirements and obligations (such as quoting obligations) that other market participants are not.

QCC and Solicitation Rebate

The Exchange believes that it is reasonable to no longer provide the QCC and Solicitation Rebate to solicited orders executed in PIM. As noted above, few Members have received this rebate for solicited PIM orders, and related volume is low.[22] As such, the Exchange believes that the proposed elimination will have minimal impact on Members. Furthermore, the Exchange notes that it already offers competitive pricing for PIM orders. For instance, the Exchange currently assesses a fee of $0.10 per contract for regular and complex PIM orders to all market participants (other than Priority Customers for which the Exchange currently charges no fee), which is significantly lower than the Exchange's other transaction fees, including the fees assessed to other Crossing Orders.[23] Furthermore, this $0.10 per contract fee may be further reduced if the non-Priority Customer executes a certain ADV threshold in PIM in a given month.[24] Accordingly, the Exchange believes that its pricing structure for PIM, with the proposed changes, will continue to encourage market participant PIM activity, including solicited PIM activity, and will streamline its PIM incentive structure.

The Exchange also believes that its proposal is equitable and not unfairly discriminatory because with the proposed changes, no market participant will receive the rebate for solicited PIM orders. Accordingly, the Exchange's proposal will apply uniformly to all market participants.

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.

In terms of intra-market competition, the Exchange does not believe that its proposal will place any category of Exchange market participant at a competitive disadvantage. The proposed changes to the Market Maker Plus program for SPY, QQQ, and IWM are intended to improve market quality by fortifying and encouraging participation in this program. As discussed above, the Exchange believes that its proposal will encourage all Market Makers to improve market quality by providing significant quoting at the NBBO in SPY, QQQ, and IWM, which in turn improves trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market, thereby attracting additional order flow to the Exchange. As it relates to the proposed elimination of the rebate for solicited PIM orders, the Exchange believes that its proposal will continue to encourage market participant activity in PIM given the Exchange's competitive PIM pricing structure, as discussed above. Accordingly, the Exchange believes that the proposed changes will continue to attract order flow to the Exchange, thereby encouraging additional volume and liquidity to the benefit of all market participants.

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

[20] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[21] As proposed, a Market Maker would need to be on the NBBO 50% to less than 65% of the time to qualify for the Tier 1a rebate of $0.00, and 65% to less than 80% of the time for the Tier 1b rebate of $0.05.

[22] *See supra* note 16.

[23] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, PIM or submitted as a QCC order. For purposes of this Pricing Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders. Today, the Exchange charges all non-Priority Customers a $0.20 per contract fee for regular and complex Crossing Orders except PIM orders. Priority Customers are not charged Crossing Order fees. *See* Options 7, Section 3 and Section 4.

[24] See Options 7, Section 3, note 13 (setting forth discounted PIM fees for regular orders) and Section 4, note 9 (setting forth discounted PIM fees for complex orders).

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.

Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and rebate changes. 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 order execution venues 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 [25] and Rule 19b–4(f)(2) [26] 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–2020–20 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–2020–20.* 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–2020–20 and should be submitted on or before June 22, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11646 Filed 5–29–20; 8:45 am]

BILLING CODE 8011–01–P

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 240.19b–4(f)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88960/May 27, 2020]

Order Under Section 17A and Section 36 of the Securities Exchange Act of 1934 Extending Temporary Exemptions From Specified Provisions of the Exchange Act and Certain Rules Thereunder

On March 20, 2020, the Securities and Exchange Commission (''Commission'') issued an order pursuant to its authority under Sections 36 and 17A(c)(1) of the Exchange Act that granted transfer agents (and other persons with regard to Exchange Act section 17(f)(2) and Rule 17f–2 thereunder) the following temporary exemptions: (1) Transfer agents from the requirements of Sections 17A and 17(f)(1) of the Exchange Act, as well as Rules 17Ad–1 through 17Ad–11, 17Ad–13 through 17Ad–20, and 17f–1 thereunder; and (2) transfer agents and other persons subject to such requirements, from the requirements of Section 17(f)(2) of the Exchange Act and Rule 17f–2 thereunder (collectively, the ''Exemptions'').[1] The Exemptions were granted in light of the challenges that may be presented by COVID–19 and are scheduled to expire on May 30, 2020.

The Commission understands from transfer agents and their representatives, as well as other persons, that COVID–19 may continue to present challenges in timely meeting certain of their obligations under the federal securities laws. For this reason and the reasons stated in the Order originally granting the Exemptions, the Commission finds that extending the Exemptions until June 30, 2020, pursuant to its authority under Sections 36 and 17A(c)(1) of the Exchange Act, is appropriate in the public interest and consistent with the protection of investors.

Accordingly, *It Is Ordered*, pursuant to Sections 17A and 36 of the Exchange Act, that the time period for the Exemptions specified in the Order are hereby extended to June 30, 2020 where the conditions below are satisfied.

Conditions

(a) A registrant or other person relying on the Order must provide written notification to the Commission by June 30, 2020 of the following: [2]

[1] *See* Securities Exchange Act Release No. 34–88488 (March 20, 2020), 85 FR 17122 (March 26, 2020) (''Order'').

[2] A registrant or other person who is relying on the Order and has already provided a written notification to the Commission may rely on this extension without submitting another written notification solely with respect to the Exempted