



Kevin Kennedy
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April 1, 2021

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F. Street NE.
Washington, DC 20549

Re: SR-NYSEAMER-2021-11
SR-NYSEAMER-2021-06
SR-NYSEAMER-2020-64, Amendment No. 1

Dear Ms. Countryman:

Nasdaq ISE, LLC (“ISE”) respectfully submits this comment in response to NYSE American LLC’s (“NYSE American”) proposals¹ to modify NYSE American’s Single-Leg and Complex Customer Best Execution (“CUBE”) auctions to provide optional all-or-none (“AON”) functionality for larger-sized orders (i.e., 500 or more contracts) (“CUBE AON Proposals”), and price those auctions (“Pricing Proposal”).² NYSE American indicates that the CUBE AON Proposals will allow it to compete for solicited transactions with other options exchanges with similar mechanisms citing, among other exchanges, ISE’s Solicited Order Mechanism and Complex Solicited Order Mechanism (“ISE Mechanisms”).³

¹ See Securities Exchange Release Nos. 90584 (December 7, 2020), 85 FR 80196 (December 11, 2020) (SR-NYSEAMER-2020-64) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Modify Rule 971.1NY Regarding Customer Best Execution Auctions to Provide Optional All-or-None Functionality for Larger-Sized Orders); and 91068 (February 5, 2021), 86 FR 9112 (February 11, 2021) (SR-NYSEAMER-2021-06) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Rule 971.2NY Regarding Its Complex Customer Best Execution Auction).

² See Securities Exchange Release No. 91180 (February 22, 2021), 86 FR 12053 (March 1, 2021) (SR-NYSEAMER-2021-11) (Notice of Filing and Immediate Effectiveness of Proposed Change Amending the NYSE American Options Fee Schedule To Introduce Pricing for the Use of a New AON Functionality in Single-Leg and Complex Customer Best Execution Auctions).

³ See Securities Exchange Release Nos. 90584 (December 7, 2020), 85 FR 80196, 80199 (December 11, 2020) (SR-NYSEAMER-2020-64); and 91068 (February 5, 2021), 86 FR 9112, 9116 (February 11, 2021) (SR-NYSEAMER-2021-06).

ISE disagrees with NYSE American's assertion that the CUBE AON Proposals are similar to ISE's Mechanisms. The CUBE AON Proposals appear to permit the entry of contra party principal interest into the CUBE AON mechanism, while ISE strictly prohibits contra party principal orders to be submitted into the ISE Mechanisms. This distinction creates a material difference between the CUBE AON Proposals and the ISE Mechanisms.

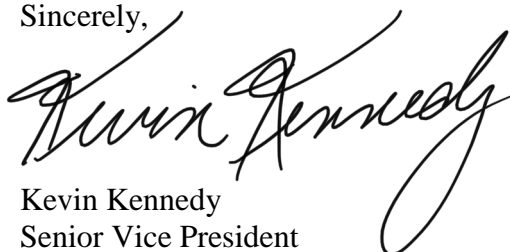
The ISE Mechanisms provide a process by which an Electronic Access Member can attempt to execute orders of 500 or more contracts it represents as agent (the "Agency Order") against contra orders that it solicited.⁴ ISE Members may not use the ISE Mechanisms to circumvent ISE rules limiting principal transactions. Specifically, ISE Options 3, Section 22(b) provides that Electronic Access Members may not execute as principal orders they represent as agent within the Solicitation Mechanism pursuant to Options 3, Section 11(d) and (e).

In contrast, NYSE American's CUBE AON Proposals seem to permit a contra side order to represent *principal interest* or solicited interest. In particular, Rule 971.1NY (governing Single-Leg CUBE, including the optional AON functionality) and Rule 971.2NY (governing Complex CUBE, including the optional AON functionality) define "Contra Order" and "Complex Contra Order," respectively, as representing principal interest or non-Customer interest the initiating participant has solicited to trade solely with the CUBE order. Further, the Pricing Proposal defines for pricing purposes an AON Contra Order as "principal interest or solicited interest an Initiating Participant is using to guarantee the execution of an AON CUBE Order in a Single-Leg or Complex CUBE Auction." The foregoing appears to clarify the distinction that ISE attests is a material difference as between the NYSE American and ISE mechanisms.

Permitting market participants to enter paired orders into a solicited mechanism where one side represents principal interest fosters internalization, inhibits competition from responders, and limits the opportunity for the customer to receive the best possible price for a portion of the agency order. ISE requests the Commission suspend the pricing proposal while it reconsiders the approval of the original proposal.

ISE thanks the Commission for the opportunity to comment on these rule filings. If you have any additional questions, or if we can be of further assistance in this matter, please do not hesitate to contact us.

Sincerely,



Kevin Kennedy
Senior Vice President
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⁴ See ISE Options 3, Section 11(d) and (e).