

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-90450; File No. SR-ISE-2020-38)

November 18, 2020

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Technical and Conforming Amendments to Options 4, Sections 3 and 5

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 November 6, 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 Options 4, Section 3, “Criteria for Underlying Securities,” and Options 4, Section 5, “Series of Options Contracts Open for Trading” to relocate certain rule text and make other minor technical amendments.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/ise/rules>, 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

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

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

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 Options 4, Section 3, “Criteria for Underlying Securities,” and Options 4, Section 5, “Series of Options Contracts Open for Trading” to relocate certain rule text and make other minor technical amendments. This rule change is similar to a rule change filed by Nasdaq BX, Inc.<sup>3</sup>

Options 4, Section 3

The Exchange proposes to amend Options 4, Section 3(k)(i) to add the words “or ETNs” after the phrase “collectively known as “Index-Linked Securities” for additional clarity. The Exchange believes that this addition of “ETNs” will assist Members in locating this rule text.

Options 4, Section 5

The Exchange proposes to amend and relocate certain portions of Options 4, Section 5, as well as the Supplementary Material to Options 4, Section 5 in order that rule text related to certain strike listing programs be placed with related rule text. Proposed relocated rule text is not being amended with this proposal, unless otherwise noted.

The Exchange proposes to relocate Supplementary Material .10 within Options 4, Section 5 to new Options 4, Section 5(a)(1).

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<sup>3</sup> See Securities Exchange Act Release No. 90218 (October 19, 2020), 85 FR 67579 (October 23, 2020) (SR-BX-2020-030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Technical Amendments to the Options Listing Rules).

The Exchange proposes to amend ISE Options 4, Section 5(b) to mirror the exact language of BX Options 4, Section 5(b). The amendments to this provision (b) are non-substantive. The introductory clause is being removed as the Rule is read as whole. The phrase “type of options of a class of options” is being simplified to read “class of options.” The term “shall” is being replaced with “will.” A number “(1)” is being added next to the term “one.” The phrase “expiration month and series for each class of options open for trading on the Exchange” is being replaced with “series of options in that class” for simplicity. The last sentence is being amended to replace “each” with “that” and replace “which is reasonably close” with “relative.” Finally, the phrase “price per share at which the underlying stock is traded in the primary market at about the time that class of options is first opened for trading on the Exchange” is being replaced with “underlying stock price in the primary market at about the time that class of options is first opened for trading on the Exchange.” These amendments are non-substantive.

The Exchange proposes to relocate Options 4, Section 5(f) to the end of Options 4, Section 5(c).

The Exchange proposes to remove the phrase “this Rule and” from ISE Options 4, Section 5(d) so that it is identical to BX Options 4, Section 5(d). The Exchange also proposes to add a “the” to that sentence. These amendments are non-substantive.

The Exchange proposes to relocate Options 4, Section 5(h) to the end of Options 4, Section 5(d). The Exchange proposes to amend the phrase “Fund Shares” to “Exchange-Traded Fund Shares.” The citation to “Section 5(h)” is being replaced with “Section 3(h) of this Options 4”. These amendments are non-substantive.

The Exchange proposes to relocate Supplementary Material .13 within Options 4, Section 5 to new Options 4, Section 5(e).

The Exchange proposes to relocate Supplementary Material .11 within Options 4, Section 5 to new Options 4, Section 5(f).

The Exchange proposes to add a new ISE Options 4, Section 5(g), which is identical to BX Options 4, Section 5(g), which provides, “The Exchange will open at least one expiration month for each class of options open for trading on the Exchange.” Today the Exchange opens at least one expiration month for each class of options. Adding this rule text will make clear the manner in which ISE lists options.

The Exchange proposes to relocate Supplementary Material .06 within Options 4, Section 5 to new Options 4, Section 5(h).

The Exchange proposes to relocate Supplementary Material .07 within Options 4, Section 5 to new Options 4, Section 5(i).

The Exchange proposes to add a new ISE Options 4, Section 5(j), which is identical to BX Options 4, Section 5(j), which provides, “The interval of strike prices may be \$2.50 in any multiply-traded option class to the extent permitted on the Exchange by the Commission or once another exchange trading that option lists strike prices of \$2.50 on such options class.” The addition of this rule text will align ISE’s Rule with BX’s Rule and provide context on permissible intervals.

The Exchange proposes to add a new ISE Options 4, Section 5(k), which is identical to BX Options 4, Section 5(k), which provides, “New series of equity options, options on Exchange Traded Funds, and options on Trust Issued Receipts opened for trading shall be subject to the

range limitations set forth in Options 4, Section 6(b).” The addition of this rule text will align ISE’s Rule with BX’s Rule and provide a cross-citation to the appropriate range limitation rule.

The Exchange proposes to amend Supplementary Material .01(a) to ISE Options 4, Section 5 to add the word “national” before securities exchange to conform ISE’s rule text to BX’s rule text at Supplementary Material .01(a) to Options 4, Section 5.

The Exchange proposes to amend Supplementary Material .01(b) to ISE Options 4, Section 5 to change the word “stock” to “security.” This is a non-substantive amendment which conforms ISE’s rule text to BX’s rule text at Supplementary Material .01(b) to Options 4, Section 5.

The Exchange proposes to amend current Supplementary Material .01(b)(v) to ISE Options 4, Section 5 to add the title “Long-Term Options Series or” before “LEAPS” for greater context.

The Exchange proposes to amend current Supplementary Material .01(d) to ISE Options 4, Section 5 to remove the word “Interval” in two places to conform ISE’s rule text to BX’s rule text at Supplementary Material .01(d) to Options 4, Section 5.

The Exchange proposes to relocate Supplementary Material .01(e) to ISE Options 4, Section 5 to the end of Supplementary Material .01(b) to Options 4, Section 5.

The Exchange proposes to relocate ISE Options 4, Section 5(g) to Supplementary Material .02 within Options 4, Section 5 and add a title “\$2.50 Strike Price Interval Program.”<sup>4</sup>

The Exchange proposes to relocate Supplementary Material .12 within ISE Options 4, Section 5 to the end of renumbered Supplementary .03(e) of Options 4, Section 5.

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<sup>4</sup> The Exchange proposes to relocate current Supplementary Material .02 to Options 4, Section 5 to new Options 4, Section 6, as described below.

The Exchange proposes to delete the first sentence of renumbered Supplementary Material .03(e) within ISE Options 4, Section 5 of the Short Term Options Series Program, which provides “The interval between strike prices on Short Term Option Series shall be the same as the strike prices for series in that same option class that expire in accordance with the normal monthly expiration cycle.” The Exchange notes that this rule text is not necessary because with the relocation of the strike listing rules for Short Term Option Series, which are proposed to be relocated from Supplementary Material .13 of Options 4, Section 5 to the end of Supplementary .03(e) of Options 4, Section 5, the reference becomes unnecessary.

The Exchange proposes to remove Supplementary Material .04 to ISE Options 5, Section 4 as this cross reference to the Mini-Nasdaq-100 Index (“MNX” or “Mini-NDX”) is not necessary as this index is discussed within Options 4A, Section 12(c)(5). This amendment is non-substantive.

#### *Other Technical Amendments*

The Exchange proposes to update certain outdated citations to rule text within ISE Options 4, Section 5. The Exchange proposes to re-number and re-letter certain sections for consistency, and remove reserved sections from the rule.

#### 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

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

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

investors and the public interest. The Exchange's proposal to make a non-substantive amendment to ISE Options 4, Section 3(k)(i) to add the more commonly used term "ETN" next to "Index-Linked Securities" will allow Members to search the rule text using the term "ETN".

Amending ISE Options 4, Section 5 to relocate rule text within the related listing program will make the rule easier to understand. Conforming the rule text of ISE within Options 4, Section 5 to the rule text of BX within Options 4, Section 5 will harmonize the listing rules of these Nasdaq affiliated markets. The proposed amendments to conform ISE's rule text to BX rule text are non-substantive. The technical rule changes within ISE Options 4, Section 5, to re-number and re-letter sections of the rule are non-substantive and intended to provide clarity to the rule text.

The Exchange's proposal to add a new ISE Options 4, Section 5(g), which is identical to BX Options 4, Section 5(g), will add greater clarity to ISE's rule. This rule makes clear that at least one expiration month for each class of options will be opened. Today the Exchange opens at least one expiration month for each class of options. Adding this rule text will make clear the manner in which ISE lists options.

The Exchange's proposal to add a new ISE Options 4, Section 5(j), which is identical to BX Options 4, Section 5(j) will align ISE's Rule with BX's Rule and provide context on permissible intervals. Additionally, the proposal to add a new ISE Options 4, Section 5(k), which is identical to BX Options 4, Section 5(k), will align ISE's Rule with BX's Rule and provide a cross-citation to the appropriate range limitation rule.

The proposal to remove Supplementary Material .04 to ISE Options 5, Section 4 as this cross reference to the Mini-Nasdaq-100 Index ("MNX" or "Mini-NDX") is not necessary as this product is discussed within Options 4A, Section 12(c)(5). This amendment is non-substantive.

The Exchange believes that the proposed amendments are consistent with the Act and the protection of investors and the general public because the amendments bring greater clarity to ISE's listing rules.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes are non-substantive and are intended to provide greater clarity.

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) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>9</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>10</sup>

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<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 a self-regulatory organization 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.

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

<sup>10</sup> 17 CFR 240.19b-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 requested that the Commission waive the 30-day operative delay. As the proposed rule change raises no novel issues and promotes clarity and consistency within the Exchange's options listing rules, 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 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 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2020-38 on the subject line.

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

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-2020-38. This file number should be included on the subject line if e-mail 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-2020-38, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

J. Matthew DeLesDernier  
Assistant Secretary

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