

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83370; File No. SR-ISE-2018-48)

June 4, 2018

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend and Reorganize Chapter V of the ISE Schedule of Fees

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 22, 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 and reorganize Chapter V of the ISE Schedule of Fees.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Chapter V of the ISE Schedule of Fees to: (i) eliminate the Table of Contents; (ii) retitle Section V, currently titled “Trading Application;” (iii) retitle Parts A, B and C of Chapter V which are currently titled “Installation,” “Software License & Maintenance” and “Reserved” respectively; and (iv) eliminate the Part D title, “INET Port Fees” and amend and reorganize the current port fees. Each change will be described in more detail below. The Exchange believes that the proposed amendments to the Schedule of Fees will provide more clarity as to the current fees. The Exchange notes that no fee changes are being introduced with this rule change. The Exchange is simply reorganizing its rules to conform to other Nasdaq affiliate markets by aligning the location and description of its rules on each market.

Table of Contents

The Exchange proposes to eliminate the Table of Contents in the ISE Schedule of Fees. The Table Contents are unnecessary. The website where the ISE rules are listed³ contains hyperlinks and a skeleton of the available rules within the site and enables market participants to view all rules in that section.

Section V, Trading Application

The Exchange proposes to retitle Section V, currently titled “Trading Application” as “Connectivity Fees.” The Exchange believes that this title more accurately describes the types of fees contained in this chapter. No other changes are being made to this section.

³ ISE rules are located at: <http://ise.cchwallstreet.demo.cch.com/>

Chapter V, Parts A, B and C

The Exchange proposes to amend Chapter V, Part A to retitle this section from “Installation” to “Trading Application.” The Exchange propose to amend Chapter V, Part B to retitle this section from “Software License & Maintenance” to “Trading Application.” The Exchange proposes to retitle Chapter V, Part C, which is currently “Reserved” as “Ports and Other Services.” The Exchange believes that these titles more accurately describes the types of fees contained in Chapter V by section. The Exchange is not otherwise amending Parts A and B. The Exchange is proposing to relocate from current Part D, titled “INET Port Fees” into Part C.

INET Port Fees

The Exchange proposes to eliminate the title to Chapter V, Part D, titled “INET Port Fees.” The Exchange is proposing to restructure the port fees currently in Part D into newly retitled Part C.

The Exchange proposes to add language at the beginning of new Part C which provides, “The below charges are assessed by ISE for connectivity to ISE.” The Exchange believes that this sentence makes clear that the fees apply to ISE. The Exchange proposes to define a port as “a logical connection or session that enables a market participant to send inbound messages and/or receive outbound messages from the Exchange using various communication protocols.” The Exchange believes this definition will assist members in distinguishing ports from other offerings.

The Exchange proposes to relocate the current port fees within Part D to Part C and restructure the port fees into 4 categories. The Exchange proposes to list order and quote protocols first, order and execution offerings next, followed by data ports and other ports as the last section. The Exchange proposes to list data offerings that are offered at no cost. The

Exchange believes that aligning its offerings, where relevant, with other affiliated markets⁴ will provide more transparency as to the offerings for market participants.

The Exchange proposes to add a new section (i) and include the following introductory sentence, “The following order and quote protocols are available on ISE.” The Exchange proposes to list the order entry protocol port fees for FIX, SQF and OTTO in this section. The fees are not being amended, the existing fees are being relocated into new section (i).

The Exchange proposes to add a new section (ii) and include the following introductory sentence, “The following order and execution information is available to Members.” The Exchange intends to list other port or interface information into this section that are available to ISE Members. The Exchange is relocating the CTI and FIX DROP port fees. No changes are being made to those fees. The Exchange also proposes to list TradeInfo ISE Interface into this section. The Exchange has recently filed to establish this Interface within the ISE rules.⁵ The Exchange proposes to note this interface is available on ISE at no cost.

The Exchange proposes to add a new section (iii) and include the following language, “The following data port fees apply in connection with data subscriptions pursuant to ISE Rules at Chapter VIII. These ports are available to non-ISE Members and ISE Members.” Today, ISE does not assess a fee for these ports outlined in new section (iii). Similar to other Nasdaq Affiliated Markets the Exchange proposes to list all of the ports that Members and Non-Members obtain today at no cost. The Exchange believes that listing these ports in addition to the data subscriptions will bring more transparency to the Schedule of Fees.

⁴ The Exchange offers various services across its 6 affiliated options markets, ISE, Nasdaq Phlx LLC, Nasdaq BX, Inc., The Nasdaq Options Market LLC, Nasdaq GEMX, LLC and Nasdaq MRX, LLC (“Nasdaq Affiliated Markets”).

⁵ See SR-ISE-2018-47 (not yet published).

The Exchange proposes to add a new section (iv) entitled “Other ports” and relocate the Disaster Recovery Ports into this section. The Exchange also proposes to make clear that a Disaster Recovery Port is available for any port listed in proposed sections (i) – (iii).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency as to the ports offered on ISE.

The Exchange’s proposal to remove the Table of Contents and retitle the various parts of Chapter V are administrative. These changes are consistent with the protection of investor and the public interest because the amendments are intended to bring greater clarity to the Rulebook. The Exchange’s proposal to reorganize the port fees into sections and include pricing for ports that are offered at no cost is also consistent with the protection of investor and the public interest because it will bring greater transparency to the Exchange’s current offerings.

B. Self-Regulatory Organization’s Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,⁸ the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange’s proposal

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(8).

does not impose an undue burden on competition, rather the Exchange is seeking to provide greater transparency within its rules with respect to the various ports offered on ISE.

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 Act⁹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6)¹¹ normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)¹² 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 proposed rule change may become effective and operative immediately upon filing. The Exchange states that it believes the waiver will further the protection of investors and the public interest because it will provide greater transparency as to various ports available to market participants. The Exchange further states that the proposed rule

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

change will bring greater clarity to the Schedule of Fees. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.¹³

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 e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2018-48 on the subject line.

¹³ 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).

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-2018-48. 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-2018-48 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.¹⁴

Eduardo A. Aleman
Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).