*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–ICEEU–2018–013 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–ICEEU–2018–013. 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 Section, 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 such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation#rule-filings.*

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–ICEEU–2018–013 and should be submitted on or before October 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–21785 Filed 10–5–18; 8:45 am]

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[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–84339; File No. SR–ISE–2018–81]**

## Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish New Pricing for Flash Orders

October 2, 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 September 18, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, 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 establish new pricing for Flash Orders within Section I of the Schedule of Fees and eliminate Section IV.G. of the Exchange's 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 establish new fees for Flash Orders[3] on ISE and remove the current pricing at Section IV.G of the Exchange's Schedule of Fees applicable to Flash Orders. The Exchange is proposing to relocate its pricing for Flash Orders within Section I, entitled ''Regular Order Fees and Rebates.'' The Exchange also proposes to amend the Flash Order definition in the Preface of the Schedule of Fees. The Exchange proposes to reserve Section IV.G.

Definition of a Flash Order

The Exchange proposes to add further detail to the definition of Flash Orders within the Preface of the Schedule of Fees to indicate the applicability of the pricing. Today, the Exchange assesses the applicable ''Taker'' Fee for the initiation of a Flash Order and does not asses any ''Maker'' Fee for responses.[4] The Exchange proposes to amend the definition of the term Flash Order by stating, unless otherwise noted in Section I pricing, Flash Orders will be assessed the applicable ''Taker'' Fee for the initiation of a Flash Order and will be paid/assessed the applicable ''Maker'' Rebate/Fee for responses.[5] The Exchange believes that adding this language will make clear what fee or rebate applies when an order initiates a Flash Order and when an order responds to a Flash Order.

The Exchange believes that Flash Orders, which initiate auctions, should be treated as ''Taker'' because the Member would be removing liquidity on ISE in the event the Member's interest was exposed as a Flash Order. A Member responding to a Flash Order would therefore be providing liquidity when executing against the Flash Order and therefore should be assessed a

[3] Nasdaq ISE's Schedule of Fees currently defines a ''Flash Order'' as an order that is exposed at the National Best Bid and Offer by the Exchange to all Members for execution prior to routing the order to another exchange or cancelling it, as provided under Supplementary Material .02 to ISE Rule 1901.

[4] However, the Exchange would pay any rebate offered in its Schedule of Fees. Today, the Maker Rebate is offered to Market Makers that qualify for the Market Maker Plus Tier.

[5] The Market Maker would not be assessed the $0.10 per contract Section I Maker Fee where the Market Maker participates in the Market Maker Plus program. A Market Maker would be assessed the $0.10 per contract fee in symbols where the Market Maker is not quoting. If the Market Maker executed a Flash Order contra a Priority Customer, the Market Maker would qualify for the $0.05 credit in addition to any Market Maker Plus tier rebate.

Maker Fee. The Exchange believes that Flash Orders encourage Members to price orders fairly to obtain a local execution on ISE.

Section 1 Amendments

The Exchange proposes to eliminate the Flash Order pricing within Section IV. G of the Schedule of Fees and relocate and amend its current Flash Order pricing within Section I of the Schedule of Fees.

The Exchange proposes to memorialize that any market participant's order that initiates a Flash Order will be assessed the appropriate Taker Fee in Section I of the Schedule of Fees.[6] The Exchange also proposes a new fee such that a market participant responding to a Flash Order will be paid/assessed the appropriate Maker Rebate [7]/Fee in Section I of the Schedule of Fees.[8] The Exchange proposes to pay a credit of $0.05 per contract to a market participant responding to a Flash Order in a Select or Non-Select Symbol contra a Priority Customer. The Exchange notes that the $0.05 per contract credit would be paid in addition to the discounted Market Maker tiers in Section IV.D, as is the case today and any Market Maker Plus rebates would also be paid.

Today, all market participants are being assessed a Taker Fee. Today, no market participant responding to a Flash Order is assessed a Maker Fee in Section I. Today a credit of $0.05 per contract is paid to a market participant trading against a Priority Customer, Professional Customer or Preferenced Priority Customer [9] in a Select Symbol or a Professional Customer in a Non-Select Symbol. With this proposal, Taker Fees would continue to be assessed to a market participant's order that initiates a Flash Order. With this proposal, a Maker Fee would be assessed to all market participants responding to a Flash Order, except a Priority Customer.[10] With this proposal, market participants executing against a Professional Customer in a Non-Select Symbol would no longer be paid a $0.05 per contract credit. The $0.05 per contract credit would now be paid to market participants that executed against Priority Customers in Select and Non-Select Symbols, in addition to the discounted Market Maker tiers in Section IV.D. The Exchange proposes to add language to make this clear in the Schedule of Fees within note 6. The Exchange proposes to add a new note 17 and state, ''A market participant's order which initiates a Flash Order will be assessed the appropriate Taker Fee in Section I. Market participants responding to a Flash Order will be paid/assessed the appropriate Maker Rebate/Fee in Section I. In addition to aforementioned fees, a credit of $0.05 per contract will be paid to a market participant responding to a Flash Order in a Select or Non-Select Symbols which executes contra a Priority Customer.''

The Exchange believes that the proposal will bring more clarity to the Schedule of Fees with respect to Flash Orders. Also, the Exchange's proposal is intended to incentivize all ISE Members initiate or respond to a Flash Order contra a Priority Customer by submitting interest on ISE.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[12] 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.

Definition of a Flash Order

The Exchange's proposal to amend the definition of Flash Orders within the Preface is reasonable because it will add greater transparency to the applicability of the fees. The Exchange believes that indicating how the Exchange will apply Maker or Taker Fees to Flash Orders will bring greater transparency to the manner in which these fees are assessed. This amendment is equitable and not unfairly discriminatory as the Exchange will uniformly assess the Maker and Taker Fees in Section I as described in the Flash Orders definition to Members that either initiate or respond to the Flash Order.

The Exchange believes that Flash Orders, which initiate auctions, should be treated as ''Taker'' because the Member would be removing liquidity on ISE in the event the Member's interest was exposed as a Flash Order. A Member responding to a Flash Order would therefore be providing liquidity when executing against the Flash Order and therefore should be assessed a Maker Fee. The Exchange believes that Flash Orders encourage Members to price orders fairly to obtain a local execution on ISE.

Section 1 Amendments

The Exchange's proposal to eliminate Flash Order pricing within Section IV.G of the Schedule of Fees and relocate and amend its current Flash Order pricing within Section I of the Schedule of Fees is reasonable. The Exchange's proposal will uniformly pay a credit of $0.05 per contract to any market participant responding to a Flash Order in a Select or Non-Select Symbol which executes contra a Priority Customer. Today, the Exchange pays a credit of $0.05 per contract in certain circumstances such as when trading against a Priority Customer or a Professional Customer or a Preferenced Priority Customer [13] in a Select Symbol. Also, a $0.05 per contract credit is paid when trading against a Professional Customer in a Non-Select Symbol. Although the Exchange would not pay a credit of $0.05 per contract to a market participant trading against a Professional Customer in a Select Symbol or a Non-Select Symbol, the

[6] For Select Symbols the Taker Fee is currently $0.45 per contract for Market Makers, $0.46 per contract for Non-Nasdaq ISE Market Maker (FarMM), Firm Proprietary/Broker-Dealer and Professional Customer and $0.44 per contract for Priority Customer, except in SPY, QQQ, IWM and VXX where the fee shall be $0.40 per contract. For Non-Select Symbols the Taker Fee would be $0.25 per contact for Market Maker, subject to tier discounts in Section IV.D of the Schedule of Fees, $0.20 per contract for Market Maker orders sent by an Electronic Access Member, $0.72 per contract for a Non-Nasdaq ISE Market Maker (FarMM), Firm Proprietary/Broker-Dealer and Professional Customer Priority Customers are assessed no transaction Taker Fee in Non-Select Symbols.

[7] *See* note 4 above.

[8] For Select Symbols the Maker Fee is currently $0.10 per contract for Market Makers, except that (i) Market Makers that qualify for Market Maker Plus will not pay this fee if they meet the applicable tier thresholds set forth in the table within Section I of the Schedule of Fees and will instead receive a rebate based on the applicable tier for which they qualify; (ii) no fee will be charged or rebate provided when trading against non-Priority Customer Complex Orders that leg into the regular order book; and (iii) $0.15 per contract fee applies instead of the applicable fee or rebate when trading against Priority Customer Complex Orders that leg into the regular order book, $0.10 per contract for Non-Nasdaq ISE Market Maker (FarMM), except that a $0.15 per contract fee applies instead of the applicable fee or rebate when trading against Priority Customer complex orders that leg into the regular order book, $0.10 per contract for Firm Proprietary/Broker-Dealer and Professional Customer and no fee for Priority Customer. For Non-Select Symbols the Maker Fee would be $0.25 per contact for Market Maker, subject to tier discounts in Section IV.D of the Schedule of Fees, $0.20 per contract for Market Maker orders sent by an Electronic Access Member, $0.72 per contract for a Non-Nasdaq ISE Market Maker (FarMM), Firm Proprietary/Broker-Dealer and Professional Customer Priority Customers are assessed no transaction Maker Fee in Non-Select Symbols.

[9] Credit applies to a Nasdaq ISE Market Maker when trading against a Priority Customer order that is preferenced to that Market Maker.

[10] Priority Customers are not assessed Maker Fee within Section I today.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] Today, the credit applies to a Nasdaq ISE Market Maker when trading against a Priority Customer order that is preferenced to that Market Maker.

Exchange would uniformly pay all market participants a $0.05 per contract credit when transacting a Flash Order in either a Select or Non-Select Symbol, provided that the contra-side to the transaction is a Priority Customer. The Exchange does not believe that it is unfairly discriminatory to pay a credit only when trading against a Priority Customer Order and not paying a credit when transacting contra a Professional Customer because Professional Customers, unlike Priority Customers, have access to sophisticated trading systems that contain functionality not available to Priority Customers. Also, Professional Customers have the same technological and informational advantages as broker-dealers trading for their own account. The Exchange believes that Professional Customers, who are considered sophisticated algorithmic traders effectively compete with Market Makers and broker-dealers [14] without the obligations of either.

Also, the Exchange would now begin to assess a Maker Fee to all market participants responding to a Flash Order, except Priority Customers. While the Exchange would now assess Maker Fees if responding to a Flash Order, market participants also have the opportunity with this proposal to receive a $0.05 per contract credit for responding to a Priority Customer in Non-Select Symbols. The Exchange believes that assessing the Maker Fee is reasonable because the Exchange believes that there is more opportunity to earn a credit. The Exchange notes that Priority Customers are assessed no Maker Fee. The Exchange does not believe that it is unfairly discriminatory to not assess Priority Customers a Maker Fee because Priority Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers. The Exchange's proposal to eliminate Flash Order pricing within Section IV.G of the Schedule of Fees and relocate and amend its current Flash Order pricing within Section I of the Schedule of Fees is equitable and not unfairly discriminatory. Although the Exchange would not pay a credit of $0.05 per contract to a market participant trading against a Professional Customer in a Select Symbol or a Professional Customer in a Non-Select Symbol, the Exchange would uniformly pay all market participants a $0.05 per contract credit when transacting a Flash Order in either a Select or Non-Select Symbol, provided that the contra-side to the transaction is a Priority Customer. The Exchange believes that it is equitable and not unfairly discriminatory to assess market participants who respond to a Flash Order a Section I Maker Fee because the Exchange would be uniformly assessing the fee uniformly to all market participants. The Exchange does not believe that it is unfairly discriminatory to pay a credit only when trading against a Priority Customer Order and not another type of market participant because unlike other order flow, Priority Customer Order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers. The Exchange believes that the proposed changes provide all market participants that trade on ISE an opportunity to earn an additional rebate when executing against Priority Customer Orders.

*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. The Exchange is amending existing Flash Order pricing to more uniformly apply this pricing to all market participants and therefore does not believe this proposal will cause an undue burden on inter-market competition. The Exchange believes that the proposed pricing remains competitive. The Exchange notes that Professional Customers, unlike Priority Customers, have access to sophisticated trading systems that contain functionality not available to Priority Customers. Also, Professional Customers have the same technological and informational advantages as broker-dealers trading for their own account. The Exchange believes that Professional Customers, who are considered sophisticated algorithmic traders effectively compete with Market Makers and broker-dealers [15] without the obligations of either. Priority Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers.

The Exchange's proposal to eliminate Flash Order pricing within Section IV.G of the Schedule of Fees and relocate and amend its current Flash Order pricing within Section I of the Schedule of Fees does not impose an undue burden on competition. Although the Exchange would not pay a credit of $0.05 per contract to a market participant trading against a Professional Customer in a Select Symbol or a Non-Select Symbol, the Exchange would uniformly pay all market participants a $0.05 per contract credit when transacting a Flash Order in either a Select or Non-Select Symbol, provided that the contra-side to the transaction is a Priority Customer. The Exchange believes that it does not impose an undue burden on competition to assess market participants who respond to a Flash Order a Section I Maker Fee because the Exchange would be uniformly assessing the fee uniformly to all market participants. The Exchange does not believe that it is unfairly discriminatory to pay a credit only when trading against a Priority Customer Order because this type of order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers. The Exchange notes that Professional Customers, unlike Priority Customers, have access to sophisticated trading systems that contain functionality not available to Priority Customers. Also, Professional Customers have the same technological and informational advantages as broker-dealers trading for their own account. The Exchange believes that Professional Customers, who are considered sophisticated algorithmic traders effectively compete with Market Makers and broker-dealers [16] without the obligations of either. Priority Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers. The Exchange is amending existing Flash Order pricing to provide all market participants that trade on ISE an opportunity to earn an additional credit in Non-Select Symbols when executing against Priority Customer Orders.

*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

[14] Broker-Dealers pay registration and membership fees in self-regulatory organizations ("SRO") and incur costs to comply and assure that their associated persons comply with the Act and SRO rules.

[15] *See* note 14 above.

[16] *See* note 14 above.

19(b)(3)(A)(ii) of the Act.[17] 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–2018–81 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–2018–81. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2018–81 and should be submitted on or before October 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018–21786 Filed 10–5–18; 8:45 am]

**BILLING CODE 8011–01–P**

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–84340; File No. SR–BOX–2018–30]**

## Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BOX Rule 7600(a)(4) (Qualified Open Outcry Orders—Floor Crossing)

October 2, 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 September 20, 2018, BOX Exchange LLC (the ''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 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 7600(a)(4) (Qualified Open Outcry Orders—Floor Crossing). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

### 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Rule 7600(a)(4) to provide the ability for the Exchange to determine the applicable number of legs for a Complex Qualified Open Outcry Orders (''Complex QOO Order'').[3] Currently, Complex QOO Orders are limited to a maximum of four (4) legs on the BOX Trading Floor. The Exchange proposes to have the applicable number of legs now be determined by the Exchange.[4] The Exchange notes that only orders that meet the definition of a Complex Order[5] are allowed to trade on the BOX Trading Floor.[6] Any orders that are entered into the system as a Complex Order on the BOX Trading Floor that do not meet the definition of a Complex Order will be rejected.

The Exchange will inform Participants in advance of any change to the number of legs via Informational Circular. The Exchange notes that another exchange in the industry has similar rules in place which provide flexibility in determining the maximum number of legs for complex orders at their respective exchange.[7]

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

[2] 17 CFR 240.19b–4.

[3] A QOO Order is a two-sided order that is used by Floor Brokers to execute transactions from the Trading Floor. *See* Rule 7600.

[4] The Exchange notes that the number of legs determined by the Exchange will apply to all classes. The Exchange also notes that the proposal discussed herein is not making any changes to the priority rules for Complex Orders.

[5] The term ''Complex Order'' means any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. *See* BOX Rule 7240(a)(7).

[6] On the Trading Floor, a Floor Broker or such Floor Broker's employee shall, contemporaneously upon receipt of an order, and prior to announcement of such an order in the trading crowd, record all options orders represented by such Floor Broker onto the Floor Broker's order entry mechanism. *See* Rule 7580(e)(1).

[7] *See* Cboe Exchange Inc. (''Cboe'') Rule 6.53.02. Cboe's rule states that ''[c]omplex orders of twelve (12) or less must be entered on a single order ticket at time of systemization. If permitted by the Exchange (which the Exchange will announce by