

“qualified client.”³ The rule allows an adviser to charge performance fees if the client has at least a certain dollar amount in assets under management (currently, \$1,000,000) with the adviser immediately after entering into the advisory contract (“assets-under-management test”) or if the adviser reasonably believes, immediately prior to entering into the contract, that the client has a net worth of more than a certain dollar amount (currently, \$2,100,000) (“net worth test”).⁴

The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) ⁵ amended section 205(e) of the Advisers Act to provide that, by July 21, 2011 and every five years thereafter, the Commission shall, by order, adjust for the effects of inflation the dollar amount thresholds included in rules issued under section 205(e), rounded to the nearest multiple of \$100,000.⁶ The Commission issued an order to revise the dollar amount thresholds of the assets-under-management and net worth tests (to \$1,000,000 and \$2,000,000, respectively, as discussed above) on July 12, 2011.⁷ Rule 205–3 codifies the threshold amounts revised by the 2011 Order and states that the Commission will issue an order on or about May 1, 2016, and approximately every five years thereafter, adjusting for inflation the dollar amount thresholds of the rule’s assets-under-management and net worth tests based on the Personal Consumption Expenditures Chain-Type Price Index (“PCE Index,” published by the United States Department of Commerce).⁸ On June 14, 2016, the Commission issued an order adjusting for inflation, as appropriate, the dollar amount thresholds of the assets-under-management test and the net worth test

(to \$1,000,000 and \$2,100,000, respectively).⁹

II. Adjustment of Dollar Amount Thresholds

On May 10, 2021, the Commission published a notice of intent to issue an order that would adjust for inflation the dollar amount thresholds of the assets-under-management test and the net worth test.¹⁰ The Commission stated that, based on calculations that take into account the effects of inflation by reference to historic and current levels of the PCE Index, the dollar amount of the assets-under-management test would increase from \$1,000,000 to \$1,100,000, and the dollar amount of the net worth test would increase from \$2,100,000 to \$2,200,000.¹¹ These dollar amounts—which are rounded to the nearest multiple of \$100,000 as required by section 205(e) of the Advisers Act—would reflect inflation from 2016 to the end of 2020.

The Commission’s notice established a deadline of June 4, 2021 for submission of requests for a hearing. No requests for a hearing have been received by the Commission.

III. Effective Date of the Order

This Order is effective as of August 16, 2021. To the extent that contractual relationships are entered into prior to the Order’s effective date, the dollar amount test adjustments in the Order would not generally apply retroactively to such contractual relationships, subject to the transition rules incorporated in rule 205–3.¹²

⁹ See 2016 Order, *supra* footnote 4. The 2016 Order was effective as of August 15, 2016. *Id.* As a result of the 2016 Order, the dollar amount threshold of the net worth test was increased to \$2,100,000, but the dollar amount threshold of the assets-under-management test remained at \$1,000,000. *Id.*

¹⁰ See Performance-Based Investment Advisory Fees, Advisers Act Release No. 5733 (May 10, 2021) [86 FR 26685 (May 17, 2021)]. Because the amount of the Commission’s inflation adjustment calculations are larger than the rounding amount specified under rule 205–3, the dollar amount of both tests would be adjusted as a result of the Commission’s inflation adjustment calculation effected pursuant to the rule.

¹¹ See *id.* at section II.A.

¹² See rule 205–3(c)(1) (“If a registered investment adviser entered into a contract and satisfied the conditions of this [section] that were in effect when the contract was entered into, the adviser will be considered to satisfy the conditions of this [section]; Provided, however, that if a natural person or company who was not a party to the contract becomes a party (including an equity owner of a private investment company advised by the adviser), the conditions of this [section] in effect at that time will apply with regard to that person or company.”); see also Investment Adviser Performance Compensation, Advisers Act Release No. 3198 (May 10, 2011) [76 FR 27959 (May 13, 2011)], at section II.B.3. The 2011 Order and 2016 Order each applied to contractual relationships

IV. Conclusion

Accordingly, pursuant to section 205(e) of the Advisers Act and section 418 of the Dodd-Frank Act,

It is hereby ordered that, for purposes of rule 205–3(d)(1)(i) under the Advisers Act [17 CFR 275.205–3(d)(1)], a qualified client means a natural person who, or a company that, immediately after entering into the contract has at least \$1,100,000 under the management of the investment adviser; and

It is further ordered that, for purposes of rule 205–3(d)(1)(ii)(A) under the Advisers Act [17 CFR 275.205–3(d)(1)(ii)(A)], a qualified client means a natural person who, or a company that, the investment adviser entering into the contract (and any person acting on his behalf) reasonably believes, immediately prior to entering into the contract, has a net worth (together, in the case of a natural person, with assets held jointly with a spouse) of more than \$2,200,000.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–13192 Filed 6–22–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92197; File No. SR–ICC–2021–013]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC End-of-Day Price Discovery Policies and Procedures

June 16, 2021.

I. Introduction

On April 23, 2021, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² a proposed rule change to revise and update ICC’s End-of-Day Price Discovery Policies and Procedures (the “Pricing Policy”). The Pricing Policy formalizes ICC’s end-of-day (“EOD”) price discovery process that provides prices for cleared credit default

entered into on or after the effective date and did not apply retroactively to contractual relationships previously in existence. See Investment Adviser Performance Compensation, Advisers Act Release No. 3372 (Feb. 15, 2012) [77 FR 10358 (Feb. 22, 2012)], at section I, n.16; 2016 Order, *supra* footnote 4, at section III.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The exemption applies to the entrance into, performance, renewal, and extension of advisory contracts. See rule 205–3(a).

⁴ See rule 205–3(d)(1)(i)–(ii); see also Order Approving Adjustment for Inflation of the Dollar Amount Tests in Rule 205–3 under the Investment Advisers Act of 1940, Advisers Act Release No. 4421 (June 14, 2016) [81 FR 39985 (June 20, 2016)] (“2016 Order”). Rule 205–3 includes other definitions of “qualified client” that do not reference specific dollar amount tests. See, e.g., rule 205–3(d)(1)(ii)(B) and rule 205–3(d)(1)(iii).

⁵ Public Law 111–203, 124 Stat. 1376 (2010).

⁶ See section 418 of the Dodd-Frank Act (requiring the Commission to issue an order every five years revising dollar amount tests in a rule that exempts a person or transaction from section 205(a)(1) of the Advisers Act if the dollar amount test was a factor in the Commission’s determination that the persons do not need the protections of that section).

⁷ See Order Approving Adjustment for Inflation of the Dollar Amount Tests in Rule 205–3 under the Investment Advisers Act of 1940, Advisers Act Release No. 3236 (July 12, 2011) [76 FR 41838 (July 15, 2011)] (“2011 Order”). The 2011 Order was effective as of September 19, 2011. *Id.*

⁸ See rule 205–3(e).

swap (“CDS”) contracts based on submissions from ICC’s Clearing Participants.³ The proposed rule change was published for comment in the **Federal Register** on May 6, 2021.⁴ The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC proposes updates related to firm trade obligations and certain clarifications under the Pricing Policy.⁵ As part of ICC’s current EOD price discovery process, ICC Clearing Participants (“CPs”) are required to submit daily EOD prices for cleared CDS instruments related to their open positions at ICC in accordance with the Pricing Policy. To encourage CPs to provide the best possible EOD submissions, ICC selects a subset of the potential trades generated and designates them as firm trades, which ICC then enters CPs into as cleared transactions. ICC selects specific dates on which it can require CPs to execute firm trades (“firm trade days”). For each firm trade day, ICC specifies the instruments that may become firm-trade eligible, subject to certain specified criteria. As described in more detail below, ICC proposes additional criteria in the Pricing Policy for EOD firm trades with the express purpose of maintaining the robustness of the established price discovery process and ensuring that on-market firm trades (*i.e.*, firm trades resulting from price submissions close to EOD levels that reflect market expectations and thus do not provide any value-additive market information) do not incentivize CPs to correct their outlying submissions (*i.e.*, off-market price submissions outside the proposed EOD range).⁶ By subjecting potential trades to its proposed new criteria for designating firm trades, ICC would avoid creating a high number of firm trades around its EOD levels that may unnecessarily introduce operational risks and inefficiencies into ICC’s EOD price discovery process.

Specifically, ICC proposes to amend Section 2.4.1 of the Pricing Policy (Selecting Firm-Trade Days and Firm-

Trade Eligible Instruments) by adding a new subsection (d) (Trade Price Deviation Constraint) to Section 2.4.1. As proposed, new Section 2.4.1.d of the Pricing Policy would incorporate additional criteria that must be met for ICC to generate firm trades, which ICC refers to as the trade price deviation constraint (the “constraint”). In addition to new subsection (d), the proposed rule change would add references to the constraint throughout the existing subsections of Section 2.4.1, specifically in subsection (a) with respect to firm trade days for index instruments, subsection (b) with respect to firm trade days for single name instruments, and subsection (c) with respect to firm trade days for index option instruments. The proposed rule change would describe the constraint in subsection (d) of Section 2.4.1 as follows. Under the proposed constraint, ICC would avoid creating a high number of trades around its EOD levels by not designating potential trades as firm trades if the magnitude of the hypothetical profit/loss is smaller in magnitude than the absolute value of the difference between the EOD level and either the bid price or offer price. To achieve the stated purpose of the constraint, ICC would only designate a potential trade as a firm trade if the trade level fell outside the EOD level plus/minus one half the EOD bid-offer width (“BOW”) for the given instrument. Such constraint would not apply when the potential firm trade is formed by crossing two outlying submission trades.

With respect to credit default index swaptions (“Index Options”), ICC proposes additional language in amended subsection 2.4.1.c (Index Option Firm Trade Days) concerning the designation of a potential trade as a firm trade by subjecting strips of puts and/or calls to the CP open interest and ICC open interest requirements. The Pricing Policy currently incorporates similar open interest requirements for indices and single names. Under the proposed CP open interest requirement in amended subsection 2.4.1.c, for ICC to designate a potential trade as a firm trade, both parties must have a cleared open interest, as of the designated times, in one or more Index Option instrument sharing the same underlying index instrument, expiration date, strike convention, exercise style and transaction type. Under the proposed ICC open interest requirement, ICC would only designate a potential trade in a given Index Option instrument as a firm trade if ICC has a cleared open interest in that instrument.

In addition, ICC proposes several clarifications to the Pricing Policy. In

Section 2.2.2 (Non-Submission Assessments), ICC proposes to abbreviate the term “ICC Board of Managers” to “Board.” In Section 2.6 (CP’s Use of Third-Party Providers), ICC proposes revisions to clarify the circumstances under which a CP may participate in the EOD price discovery process on behalf of another CP. Section 2.6 currently provides that, subject to the prior consent of ICC, a CP may designate another CP to participate in the EOD price discovery process on its behalf. Amended Section 2.6 would remove ICC’s prior consent and specify that a CP “may allow an affiliated CP (CP B) to participate in the EOD price discovery process on its behalf.” In Section 3 (Governance), ICC proposes to memorialize its existing practice by adding a new sentence stating that the Pricing Policy document is subject to review by the Risk Committee and review and approval by the Board at least annually.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.⁷ For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act and Rules 17Ad-22(e)(2)(i) and (v)⁸ and 17Ad-22(e)(6)(iv) thereunder.⁹

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.¹⁰

As noted above, the proposed rule change would amend Section 2.4.1 of the Pricing Policy by adding new subsection (d) to incorporate a new trade price deviation constraint as additional criteria that must be met for the generation of firm trades for each type of cleared CDS instrument at ICC and to amend the existing subsections of

³ Capitalized terms used but not defined herein have the meanings specified in the Pricing Policy.

⁴ Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC End-of-Day Price Discovery Policies and Procedures, Exchange Act Release No. 91733 (April 30, 2021); 86 FR 24425 (May 6, 2021) (SR-ICC-2021-013) (“Notice”).

⁵ The description herein is substantially excerpted from the Notice.

⁶ Notice, 86 FR at 24426.

⁷ 15 U.S.C. 78s(b)(2)(C).

⁸ 17 CFR 240.17Ad-22(e)(2)(i) and (v).

⁹ 17 CFR 240.17Ad-22(e)(6)(iv).

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

Section 2.4.1 to include references to the constraint where appropriate; namely, index instruments or indices in subsection (a), single name instruments in subsection (b), and Index Options in subsection (c). The Commission believes that by amending its Pricing Policy to include the proposed constraint in subsection (d) as described above, ICC would enhance its ability to maintain the accuracy, integrity, and effectiveness of the EOD price discovery process by not designating potential trades as firm trades if the magnitude of the hypothetical profit/loss is smaller in magnitude than the absolute value of the difference between the EOD level and either the bid price or offer price. This in turn could incentivize CPs to make EOD price submissions that help ICC maintain the robustness of its price discovery process and help ensure that on-market firm trades do not incentivize CPs to correct their outlying submissions. By subjecting potential trades to the proposed constraint, ICC would promote the prompt and accurate clearance and settlement of CDS contracts by avoiding the creation of an unnecessarily high number of firm trades around its EOD levels that could increase operational risks and inefficiencies in ICC's EOD price discovery process.

The Commission also believes that the proposed amendments to subsection 2.4.1.c (Index Option Firm Trade Days), as described above, would ensure that the firm trade obligations for Index Options are subject to similar CP open interest and ICC open interest requirements as those that currently apply to indices and single names. These aspects of the proposed rule change should further enhance the consistency and integrity of ICC's EOD price discovery process across all three types of CDS instruments that ICC clears. Consequently, the Commission believes that all of the proposed changes to Section 2.4.1 should promote the prompt and accurate clearance and settlement of CDS transactions by ICC.

As noted above, ICC proposes other revisions to clarify that a CP may allow an affiliated CP to participate in the EOD price discovery process on its behalf without ICC's prior consent, to memorialize that the Pricing Policy is subject to review by the Risk Committee and review and approval by the Board at least annually, and to include the shorthand reference to the "Board" instead of the longer reference to the ICC Board of Managers in the Pricing Policy document. The Commission finds that these proposed drafting clarifications and improvements would enhance the clarity, transparency, and

readability of the Pricing Policy for ICC management, employees, and CPs that, in turn, should help them understand their respective authorities, rights, and obligations regarding ICC's EOD price discovery process and its role in the clearance and settlement of CDS transactions.

The Commission believes that the proposed changes, taken as a whole, should enhance ICC's ability to manage the overall EOD price discovery process and the risks of clearing CDS instruments, including the calculation and collection of margin requirements that will account for each type of specific instrument as part of its overall risk-based margin system and risk management processes which rely, in part, on the EOD prices submitted by ICC's CPs.¹¹ Moreover, the Commission believes these risks, if mismanaged, could threaten ICC's ability to operate and therefore its ability to clear and settle transactions and safeguard funds. As a result, the Commission believes that these proposed changes should promote ICC's ability to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.

Therefore, the Commission believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.¹²

B. Consistency With Rule 17Ad-22(e)(2)(i) and (v) Under the Act

Rules 17Ad-22(e)(2)(i) and (v)¹³ require each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to, among other things, provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility, respectively. As noted above, the proposed amendments to Section 3 (Governance) would memorialize that the Pricing Policy is subject to review by the Risk Committee and review and approval by ICC's Board of Managers at least annually. The Commission believes this aspect of the proposed rule change would improve

¹¹ See SEC Release No. 34-82960 (Mar. 28, 2018), 83 FR 14300, 14302 (Apr. 3, 2018) (SR-ICC-2018-002) (finding improvements to ICC's end-of-day pricing process would improve "ICC's risk management processes related to the end-of-day pricing process, including the calculation and collection of certain margin requirements" and would "promote the prompt and accurate clearance and settlement of the products cleared by ICC, and . . . enhance ICC's ability to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible").

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 17 CFR 240.17Ad-22(e)(2)(i) and (v).

the clarity and transparency of the Pricing Policy document and its governance processes by specifying relevant roles and lines of responsibility within ICC. The Commission believes that the proposed rule change is therefore consistent with Rules 17Ad-22(e)(2)(i) and (v).¹⁴

C. Consistency With Rule 17Ad-22(e)(6)(iv) Under the Act

Rule 17Ad-22(e)(6)(iv)¹⁵ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses reliable sources of timely price data and uses procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable. The Commission believes the proposed changes to Section 2.4.1 to incorporate the proposed constraint in the firm trade provisions governing each type of cleared CDS instrument should help ICC manage the quality and quantity of EOD price submissions from CPs by only designating a potential trade as a firm trade if the trade level falls outside the proposed EOD range for the given CDS instrument. This, in turn, should help ICC establish and maintain accurate margin requirements that will account for the risks posed by each type of CDS instrument as part of its overall risk-based margin system and risk management processes.

Further, the proposed changes to subsection 2.4.1.c that would designate a potential trade as a firm trade by subjecting strips of puts and/or calls to both the CP open interest and ICC open interest requirements would help ensure that the firm trade obligations for Index Options are subject to similar open interest requirements as those that currently apply to indices and single names. The Commission believes these proposed changes should help ICC maintain the integrity and effectiveness of its EOD price discovery process for the provision of reliable prices for Index Options, which could, in turn, be used to further enhance ICC's ability to establish and maintain risk-based margin requirements for such instruments which rely, in part, on the EOD prices provided by CPs. The Commission believes that the proposed rule change is therefore consistent with Rule 17Ad-22(e)(6)(iv).¹⁶

¹⁴ 17 CFR 240.17Ad-22(e)(2)(i) and (v).

¹⁵ 17 CFR 240.17Ad-22(e)(6)(iv).

¹⁶ 17 CFR 240.17Ad-22(e)(6)(iv).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act and Rules 17Ad-22(e)(2)(i) and (v) and 17Ad-22(e)(6)(iv) thereunder.¹⁷

It is therefore ordered pursuant to Section 19(b)(2) of the Act¹⁸ that the proposed rule change (SR-ICC-2021-013), be, and hereby is, approved.¹⁹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-13102 Filed 6-22-21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92190; File No. SR-ISE-2021-13]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend ISE's Pricing Schedule at Options 7, Section 3, "Regular Order Fees and Rebates" and Section 4, "Complex Order Fees and Rebates"

June 16, 2021.

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 June 8, 2021, Nasdaq ISE, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 amend ISE's Pricing Schedule at Options 7, Section 3, "Regular Order Fees and Rebates" and Section 4, "Complex Order Fees and Rebates."

The Exchange originally filed the proposed pricing change on June 1, 2021 (SR-ISE-2021-12). On June 8, 2021, the Exchange withdrew that filing and submitted this filing.

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 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 ISE's Pricing Schedule at Options 7, Section 3, "Regular Order Fees and Rebates" and Section 4, "Complex Order Fees and Rebates." Each change is described below.

Options 7, Section 3 Regular Order Fees and Rebates

Today, the Exchange assesses a Maker Fee of \$0.18 per contract in Select Symbols³ for Market Maker,⁴ Non-Nasdaq ISE Market Maker (FarMM),⁵

³ "Select Symbols" are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Interval Program. See Options 7, Section 1.

⁴ This fee applies to Market Maker orders sent to the Exchange by Electronic Access Members. Market Makers that qualify for Market Maker Plus will not pay this fee if they meet the applicable tier thresholds set forth in Options 7, Section 3. Market Makers will instead be assessed fees or rebates based on the applicable tier for which they qualify. See notes 5 and 8 within Options 7, Section 3. Market Maker Plus for Select Symbols is not being amended. The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See Options 1, Section 1(a)(21).

⁵ A "Non-Nasdaq ISE Market Maker" is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange. See Options 7, Section 1.

Firm Proprietary⁶/Broker-Dealer,⁷ and Professional Customer⁸ orders. Priority Customer⁹ orders are not assessed a Select Symbol Maker Fee.

Further, today, pursuant to Options 7, Section 3, note 10, a Market Maker is not charged a fee or paid a rebate when trading against non-Priority Customer Complex Orders¹⁰ that leg into the regular¹¹ order book. Also, today, pursuant to Options 7, Section 3, note 11, a Market Maker, FarMM, Firm Proprietary/Broker Dealer, and Professional Customer are assessed a \$0.25 per contract fee, instead of the applicable fee or rebate, when trading against Priority Customer Complex Orders that leg into the regular order book. Today, Market Makers that qualify for Market Maker Plus in Select Symbols pay a \$0.15 per contract fee in the symbols for which they qualify for Market Maker Plus when trading against Priority Customer Complex Orders of less than 50 contracts in Select Symbols that leg into the regular order book. Further, Market Makers that qualify for Market Maker Plus in Select Symbols do not pay any fee nor receive any rebate in the symbols for which they qualify for Market Maker Plus when trading against Priority Customer Complex Orders of 50 contracts or more in Select Symbols that leg into the regular order book.

The Exchange proposes to remove rule text from Options 7, Section 3, note 11, which provides that Market Makers that qualify for Market Maker Plus in Select Symbols will pay a \$0.15 per contract fee in symbols for which they

⁶ A "Firm Proprietary" order is an order submitted by a member for its own proprietary account. See Options 7, Section 1.

⁷ A "Broker-Dealer" order is an order submitted by a member for a broker-dealer account that is not its own proprietary account. See Options 7, Section 1.

⁸ A "Professional Customer" is a person or entity that is not a broker/dealer and is not a Priority Customer. See Options 7, Section 1.

⁹ 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 ISE Options 1, Section 1(a)(37). Unless otherwise noted, when used in the Pricing Schedule the term "Priority Customer" includes "Retail." A "Retail" order is a Priority Customer order that originates from a natural person, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Options 7, Section 1.

¹⁰ A "Complex Order" is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, as provided in Nasdaq ISE Options 3, Section 14, as well as Stock-Option Orders. See Options 7, Section 1.

¹¹ A "Regular Order" is an order that consists of only a single option series and is not submitted with a stock leg. See Options 7, Section 1.

¹⁷ 17 CFR 240.17Ad-22(e)(6)(iv).

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.