

Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551-5400.

Dated: May 11, 2017.

**Brent J. Fields,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80647; File No. SR-CHX-2017-07]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on April 28, 2017, the Chicago Stock Exchange, Inc. (“CHX” or 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 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

CHX proposes to amend Article 20, Rule 13(b) of the Rules of the Exchange (“CHX Rules”) to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (“Plan”).

The text of this proposed rule change is available on the Exchange's Web site at ([www.chx.com](http://www.chx.com)) and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes 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 CHX 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Article 20, Rule 13(b) (Compliance with Data Collection Requirements)<sup>3</sup> implements the data collection and Web site publication requirements of the Plan.<sup>4</sup> Paragraph .08 of Article 20, Rule 13(b) currently provides, among other things, that with respect to data for the Pre-Pilot Period<sup>5</sup> and the Pilot Period,

<sup>3</sup> See Securities Exchange Act Release No. 80227 (March 13, 2017), 82 FR 14263 (March 17, 2017) (SR-CHX-2017-05); see also Securities Exchange Act Release No. 79538 (December 13, 2016), 81 FR 91979 (December 19, 2016) (SR-CHX-2016-21); see also Securities Exchange Act Release No. 77469 (March 29, 2016), 81 FR 19275 (April 4, 2016) (SR-CHX-2016-02).

<sup>4</sup> The Plan Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (“SRO Tick Size Plan Proposal”). See Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); see also Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

<sup>5</sup> Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in CHX Article 20, Rule 13.

the Exchange shall make certain Appendix C data available to FINRA for aggregation and publication on the FINRA Web site pursuant to FINRA Rules and the Exchange will publish Appendix B data on the Exchange Web site, which shall commence on April 28, 2017.<sup>6</sup> The Exchange is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.<sup>7</sup>

Pursuant to this proposed amendment, the Exchange would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017 by August 31, 2017. Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.<sup>8</sup> Thus, for example, Appendix B data for May 2017 would be made available on the Exchange Web site by September 28, 2017, and data for the month of June 2017 would be made available on the FINRA [sic] Web site by October 28, 2017.

As noted in Item 2 of this filing, the Exchange has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date of filing.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup> in particular, in that it is designed to promote just and equitable principles of

<sup>6</sup> See Exchange Act Release No. 80227 (March 13, 2017), 82 FR 14263 (March 17, 2017) (SR-CHX-2017-05). See also Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, dated February 28, 2017.

<sup>7</sup> On March 3, 2017, FINRA filed a proposed rule change to implement an anonymous, grouped masking methodology for Appendix B.I, B.II. and B.IV. data. The comment period ended on April 5, 2017, and the Commission received three comment letters. See Securities Exchange Act Release No. 80193 (March 9, 2017) 82 FR 13901 (March 15, 2017). FINRA and the Exchange also submitted an exemptive request to the SEC, which, if granted, would permit FINRA to, among other things, publish on its Web site Appendix B.I, B.II. and B.IV. data for over-the-counter activity with respect to Trading Centers for which FINRA or the Exchange is the designated examining authority, in a manner consistent with FINRA's proposed anonymous, grouped masking methodology. See Letter from Marcia E. Asquith, Executive Vice President, Board and External Relations, FINRA, to Robert W. Errett, Deputy Secretary, SEC, dated March 2, 2017.

<sup>8</sup> FINRA, on behalf of the Participants, is submitting an exemptive request to the SEC in connection with the instant filing.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

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

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

trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

#### *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>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

A proposed rule change filed under Rule 19(b)-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The

Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.<sup>13</sup>

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.<sup>14</sup> Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of filing.<sup>15</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 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](mailto:rule-comments@sec.gov). Please include File Number SR-CHX-2017-07 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-CHX-2017-07. 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 Web site (<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 Web site 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-CHX-2017-07 and should be submitted on or before June 6, 2017.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. See Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). See also Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

<sup>14</sup> The Commission recently granted exemptive relief to the Participants delay the publication of their Appendix B data until August 31, 2017. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. See e.g., SR-BatsBYX-2017-10; SR-BatsBZX-2017-31; SR-BatsEDGA-2017-10; SR-BatsEDGX-2017-19; SR-BX-2017-022; SR-FINRA-2017-010; SR-IEX-2017-12; SR-NASDAQ-2017-044; SR-Phlx-2017-33; SR-NYSE-2017-19; SR-NYSEArca-2017-49; SR-NYSEMKT-2017-24.

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

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-09819 Filed 5-15-17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80637; File No. SR-ISE-2017-35]

### Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees To Amend Pricing Related to Options Overlying NDX and MNX

May 10, 2017.

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 April 25, 2017, 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 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 the Exchange's Schedule of Fees to amend pricing related to options overlying NDX<sup>3</sup> and MNX,<sup>4</sup> as described further below. While changes to the Schedule of Fees pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 1, 2017.

The text of the proposed rule change is available on the Exchange's Web site at [www.ise.com](http://www.ise.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.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Schedule of Fees to make changes to pricing related to NDX and MNX. The proposed changes are discussed in the following sections.

###### Fees and Rebates for Regular Orders in NDX

The Exchange proposes to amend its Schedule of Fees to make pricing changes related to NDX. The Exchange notes that NDX is transitioning to be exclusively listed on the Exchange and its affiliated markets in 2017.<sup>5</sup> In light of this transition, the Exchange seeks to amend its NDX pricing structure.

Today, as set forth in Section I of the Schedule of Fees, the Exchange charges the following transaction fees for regular orders in Non-Select Symbols<sup>6</sup> ("Existing Transaction Fees"): (i) \$0.25 per contract for Market Maker<sup>7</sup> orders not sent by an Electronic Access Member ("EAM");<sup>8</sup> (ii) \$0.20 per contract for Market Maker orders sent by an EAM; (iii) \$0.72 per contract for Non-Nasdaq ISE Market Maker<sup>9</sup> orders; (iv) \$0.72 per contract for Firm

Proprietary<sup>10</sup>/Broker-Dealer<sup>11</sup> orders; and (v) \$0.72 per contract for Professional Customer<sup>12</sup> orders. Priority Customers<sup>13</sup> are not assessed a transaction fee for regular orders in Non-Select Symbols (including NDX). In addition, as set forth in Section IV.B of the Schedule of Fees, the Exchange charges a \$0.25 per contract license surcharge for all Non-Priority Customer<sup>14</sup> orders in NDX ("NDX Surcharge").

The Exchange also currently assesses different fees for regular Non-Select Symbol orders executed in the Exchange's crossing mechanisms, as set forth in Section I of the Schedule of Fees (such orders, "Auction Orders"). In particular, the Exchange charges fees for Crossing Orders,<sup>15</sup> including separate fees for PIM orders of 100 or fewer contracts, which fees apply to all regular Non-Priority Customer orders in Non-Select Symbols (including NDX) on both the originating and contra side of a Crossing Order.<sup>16</sup> For regular Market Maker orders not sent by an EAM, the fee for Crossing Orders is currently \$0.25 per contract, subject to applicable tier discounts.<sup>17</sup> For all other regular Non-Priority Customer orders (*i.e.* Market Maker orders sent by an EAM, Non-Nasdaq ISE Market Maker orders, Firm Proprietary/Broker-Dealer orders, and Professional Customers orders), the fee for Crossing Orders is currently \$0.20 per contract.<sup>18</sup> For regular Priority Customer orders in Non-Select Symbols,

<sup>10</sup> A "Firm Proprietary" order is an order submitted by a member for its own proprietary account.

<sup>11</sup> A "Broker-Dealer" order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

<sup>12</sup> A "Professional Customer" is a person or entity that is not a broker/dealer and is not a Priority Customer.

<sup>13</sup> 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 Rule 100(a)(37A).

<sup>14</sup> Non-Priority Customer includes Market Maker, Non-Nasdaq ISE Market Maker, Firm Proprietary/Broker-Dealer, and Professional Customer.

<sup>15</sup> A "Crossing Order" is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism ("PIM") or submitted as a Qualified Contingent Cross order. For purposes of this Fee Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

<sup>16</sup> Firm Proprietary and Non-Nasdaq ISE Market Maker Crossing Orders (including PIM orders of 100 or fewer contracts) are also subject to the Crossing Fee Cap provided in Section IV.H of the Schedule of Fees.

<sup>17</sup> See Schedule of Fees, Section IV.C.

<sup>18</sup> This fee is reduced to \$0.10 per contract for Professional Customer orders either submitted as a Qualified Contingent Cross order or executed in the Exchange's Solicited Order Mechanism.

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> NDX represents options on the Nasdaq 100 Index traded under the symbol NDX ("NDX").

<sup>4</sup> MNX represents options on one-tenth the value of the Nasdaq 100 Index traded under the symbol MNX ("MNX").

<sup>5</sup> The Exchange and its affiliates will exclusively list NDX in the near future upon expiration of open expiries in this product on other markets.

<sup>6</sup> "Non-Select Symbols" are options overlying all symbols that are not in the Penny Pilot Program. NDX is a Non-Select Symbol.

<sup>7</sup> The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See Rule 100(a)(25).

<sup>8</sup> In addition, these Market Maker fees are subject to tier discounts. Specifically, Market Makers that execute a monthly volume of 250,000 contracts or more are entitled to a discounted rate of \$0.20 per contract. See Schedule of Fees, Section IV.C.

<sup>9</sup> 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.