

[FR Doc. 2022-07881 Filed 4-12-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94638; File No. SR-NYSENAT-2022-05]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Current Pilot Program Related to Rule 7.10

April 7, 2022.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that on April 5, 2022, NYSE National, Inc. (“NYSE National” or the “Exchange”) filed with the Securities and Exchange Commission (the “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 Substance of the Proposed Rule Change

The Exchange proposes to extend the current pilot program related to Rule 7.10 (Clearly Erroneous Executions) to the close of business on July 20, 2022. The proposed rule change is available on the Exchange’s website at www.nyse.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 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 those 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 parts of such statements.

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

1. Purpose

The purpose of the proposed rule change is to extend the current pilot program related to Rule 7.10 (Clearly Erroneous Executions) to the close of business on July 20, 2022. The pilot program is currently due to expire on April 20, 2022.

On September 10, 2010, the Commission approved, on a pilot basis, changes to Rule 11.19 (Clearly Erroneous Executions) that, among other things: (i) Provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.⁴ In 2013, the Exchange adopted a provision designed to address the operation of the Plan.⁵ Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.⁶ Rule 11.19 is no longer applicable to any securities that trade on the Exchange and has been replaced with Rule 7.10, which is substantively identical to Rule 11.19.⁷

These changes were originally scheduled to operate for a pilot period to coincide with the pilot period for the Plan to Address Extraordinary Market

Volatility (the “Limit Up-Limit Down Plan” or “LULD Plan”),⁸ including any extensions to the pilot period for the LULD Plan.⁹ In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.¹⁰ In light of that change, the Exchange amended Rule 7.10 to untie the pilot program’s effectiveness from that of the LULD Plan and to extend the pilot’s effectiveness to the close of business on October 18, 2019.¹¹ The Exchange later amended Rule 7.10 to extend the pilot’s effectiveness to the close of business on April 20, 2020,¹² October 20, 2020,¹³ April 20, 2021,¹⁴ October 20, 2021,¹⁵ and April 20, 2022.¹⁶

The Exchange now proposes to amend Rule 7.10 to extend the pilot’s effectiveness for a further three months to the close of business on July 20, 2022. If the pilot period is not either extended, replaced or approved as permanent, the prior versions of paragraphs (c), (e)(2), (f), and (g) as described in former Rule 11.19 will be in effect, and the provisions of paragraphs (i) through (k) shall be null and void.¹⁷ In such an event, the remaining sections of Rule 7.10 would continue to apply to all transactions executed on the Exchange. The Exchange understands that the other national securities exchanges and Financial Industry Regulatory Authority (“FINRA”) will also file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to Rule 7.10.

The Exchange does not propose any additional changes to Rule 7.10.

⁸ See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the “Limit Up-Limit Down Release”).

⁹ See Securities Exchange Act Release No. 71797 (March 25, 2014), 79 FR 18108 (March 31, 2014) (SR-NSX-2014-07).

¹⁰ See Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (approving Eighteenth Amendment to LULD Plan).

¹¹ See Securities Exchange Act Release No. 85522 (April 5, 2019), 84 FR 14704 (April 11, 2019) (SR-NYSENAT-2019-07).

¹² See Securities Exchange Act Release No. 87352 (October 18, 2019), 84 FR 57063 (October 24, 2019) (SR-NYSENAT-2019-24).

¹³ See Securities Exchange Act Release No. 88593 (April 8, 2020), 85 FR 20728 (April 14, 2020) (SR-NYSENAT-2020-13).

¹⁴ See Securities Exchange Act Release No. 90157 (October 13, 2020), 85 FR 66393 (October 19, 2020) (SR-NYSENAT-2020-32).

¹⁵ See Securities Exchange Act Release No. 91549 (April 14, 2021), 86 FR 20548 (April 20, 2021) (SR-NYSENAT-2021-08).

¹⁶ See Securities Exchange Act Release No. 93359 (October 15, 2021), 86 FR 58322 (October 21, 2021) (SR-NYSENAT-2021-20).

¹⁷ See *supra* notes 4-6. The prior versions of paragraphs (c), (e)(2), (f), and (g) generally provided greater discretion to the Exchange with respect to breaking erroneous trades.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR-NSX-2010-07).

⁵ See Securities Exchange Act Release No. 68803 (Feb. 1, 2013), 78 FR 9078 (Feb. 7, 2013) (SR-NSX-2013-06).

⁶ See Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR-NSX-2014-08).

⁷ See Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (SR-NYSENAT-2018-02).

Extending the effectiveness of Rule 7.10 for an additional three months will provide the Exchange and other self-regulatory organizations additional time to consider whether further amendments to the clearly erroneous execution rules are appropriate.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,¹⁸ in general, and Section 6(b)(5) of the Act,¹⁹ in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. The Exchange believes that extending the clearly erroneous execution pilot under Rule 7.10 for an additional three months would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the amended clearly erroneous executions rule should continue to be in effect on a pilot basis while the Exchange and other self-regulatory organizations consider whether further amendments to these rules are appropriate.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while the Exchange and other self-regulatory organizations consider whether further amendments to these rules are

appropriate. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act²⁰ and Rule 19b-4(f)(6) thereunder.²¹ Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.²²

A proposed rule change filed under Rule 19b-4(f)(6)²³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁴ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange asked that the Commission waive the 30 day operative delay so that the proposal may become operative immediately upon filing. Waiver of the 30-day operative delay would extend the protections provided by the current pilot program, without any changes, while the Exchange and other self-regulatory organizations

consider whether further amendments to these rules are appropriate. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²⁵

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)²⁶ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSENAT-2022-05 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-NYSENAT-2022-05. 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

²⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

²¹ 17 CFR 240.19b-4(f)(6).

²² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the five-day pre-filing requirement in this case.

²³ 17 CFR 240.19b-4(f)(6).

²⁴ 17 CFR 240.19b-4(f)(6)(iii).

²⁵ 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).

²⁶ 15 U.S.C. 78s(b)(2)(B).

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

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-NYSENAT-2022-05 and should be submitted on or before May 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022-07844 Filed 4-12-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94632; File No. SR-ISE-2022-09]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot To Permit the Listing and Trading of Options Based on 1/5 the Value of the Nasdaq-100 Index and the Nonstandard Expirations Pilot

April 7, 2022.

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 March 31, 2022, 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 extend the pilot to permit the listing and trading of options based on 1/5 the value of the Nasdaq-100 Index ("Nasdaq-100") and the Exchange's nonstandard expirations pilot program, both currently set to expire on May 4, 2022.

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

ISE proposes to extend 2 pilots, which are both set to expire on May 4, 2022. The Exchange proposes to extend (1) its pilot to permit the listing and trading of options based on 1/5 the value of the Nasdaq-100 Index ("NQX Pilot"), and (2) the Exchange's nonstandard expirations pilot program ("Nonstandard Pilot").

NQX Pilot

ISE filed a rule change to permit the listing and trading of index options on the Nasdaq 100 Reduced Value Index ("NQX") on a twelve month pilot basis.³ NQX options trade independently of and in addition to NDX options, and the NQX options are subject to the same rules that presently govern the trading of index options based on the Nasdaq-100, including sales practice rules, margin requirements, trading rules, and position and exercise limits. Similar to NDX, NQX options are European-style and cash-settled, and have a contract multiplier of 100. The contract

specifications for NQX options mirror in all respects those of the NDX options contract listed on the Exchange, except that NQX options are based on 1/5 of the value of the Nasdaq-100, and are P.M.-settled pursuant to Options 4A, Section 12(a)(6).

The Exchange proposes to amend ISE Options 4A, Section 12(a)(6)(i) to extend the current NQX Pilot period to November 4, 2022. The NQX Pilot was previously extended with the last extension through May 4, 2022.⁴ The Exchange continues to have sufficient capacity to handle additional quotations and message traffic associated with the listing and trading of NQX options. In addition, index options are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange also continues to have adequate surveillance procedures to monitor trading in NQX options thereby aiding in the maintenance of a fair and orderly market. Additionally, there is continued investor interest in these products and this extension will provide additional time to collect data related to the NQX Pilot. The Exchange believes that the proposed extension of the NQX Pilot will not have an adverse impact on capacity.

NQX Pilot Report

The Exchange currently makes public on its website the data and analysis previously submitted to the Commission on the NQX Pilot and will continue to make public any data or analysis it submits under the NQX Pilot in the future. The Exchange intends to submit a rule change proposing permanency of the NQX Pilot and would either provide additional data in such proposal or in an annual report. The Exchange would continue to provide the Commission with ongoing data unless and until the NQX Pilot is made permanent or discontinued.

Nonstandard Pilot

ISE filed a rule change for the listing and trading on the Exchange, on a twelve month pilot basis, of p.m.-settled options on broad-based indexes with nonstandard expirations dates.⁵ The

⁴ See Securities Exchange Act Release Nos. 86071 (June 10, 2019), 84 FR 27822 (June 14, 2019) (SR-ISE-2019-18); 87379 (October 22, 2019), 84 FR 57793 (October 28, 2019) (SR-ISE-2019-27); 88683 (April 17, 2020), 85 FR 22768 (April 23, 2020) (SR-ISE-2020-18); 90257 (October 22, 2020), 85 FR 68387 (October 28, 2020) (SR-ISE-2020-33); 91485 (April 6, 2021), 86 FR 19052 (April 12, 2021) (SR-ISE-2021-05); and 93448 (October 28, 2021), 86 FR 60717 (November 3, 2021) (SR-ISE-2021-22).

³ See Securities Exchange Act Release No. 82911 (March 20, 2018), 83 FR 12966 (March 26, 2018) (SR-ISE-2017-106) (Approval Order).

⁵ See Securities Exchange Act Release No. 82612 (February 1, 2018), 83 FR 5470 (February 7, 2018)

²⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.