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–NYSECHX–2019–15, andshould be submitted on or before November 19, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23546 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87390; File No. SR–ISE–2019–26]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Market Maker Plus Program

October 23, 2019.

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 October 10, 2019, 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 Market Maker Plus program under Options 7, Section 3.

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.

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 qualifications for Market Makers to achieving Market Maker Plus status.

The Exchange initially filed the proposed pricing changes on October 1, 2019 (SR–ISE–2019–25). On October 10, 2019, the Exchange withdrew that filing and submitted this filing.

As set forth in Section 3 of the Pricing Schedule, the Exchange operates a Market Maker Plus program for regular orders in Select Symbols[3] that provides the below tiered rebates to Market Makers[4] based on time spent quoting at the National Best Bid or National Best Offer (''NBBO''). This program is designed to reward Market Makers that contribute to market quality by maintaining tight markets in Select Symbols.

SELECT SYMBOLS OTHER THAN SPY, QQQ, IWM, AMZN, FB, AND NVDA

Market Maker Plus tier (specified percentage)	Maker rebate
Tier 1 (80% to less than 85%)	($0.15)
Tier 2 (85% to less than 95%)	(0.18)
Tier 3 (95% or greater)	(0.22)

SPY, QQQ, AND IWM

Market Maker Plus tier (specified percentage)	Regular Maker rebate	Linked Maker rebate[5]
Tier 1 (70% to less than 80%)	($0.00)	N/A
Tier 2 (80% to less than 85%)	(0.18)	(0.15)
Tier 3 (85% to less than 90%)	(0.22)	(0.19)
Tier 4 (90% or greater)	(0.26)	(0.23)

[28] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] ''Select Symbols'' are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

[4] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(20).

[5] To encourage Market Makers to maintain quality markets in SPY, QQQ, and IWM in particular, members that maintain tight markets in those symbols are eligible for higher regular maker rebates and may also be eligible for linked maker rebates, as shown in the table above. Specifically, the following symbols are linked for purposes of the linked maker rebate: (1) SPY and QQQ, and (2) SPY and IWM. Market Makers that qualify for Market Maker Plus Tiers 2–4 above for executions in SPY, QQQ, or IWM may be eligible for a linked maker rebate in a linked symbol in addition to the regular maker rebate for the applicable tier. The linked maker rebate applies to executions in SPY, QQQ, or IWM if the Market Maker does not achieve the applicable tier in that symbol but achieves the tier (*i.e.,* any of Market Maker Plus Tiers 2–4) for any badge/suffix combination in the other linked symbol, in which case the higher tier achieved applies to both symbols. If a Market Maker would qualify for a linked maker rebate in SPY based on the tier achieved in QQQ and the tier achieved in IWM then the higher of the two linked maker rebates will be applied to SPY. The regular maker rebate will be provided in the symbol that qualifies the Market Maker for the higher tier based on percentage of time at the NBBO.

AMZN, FB, AND NVDA

Market Maker Plus tier (specified percentage)	Maker rebate [6]
Tier 1 (70% to less than 85%)	($0.15)
Tier 2 (85% to less than 95%)	(0.18)
Tier 3 (95% or greater)	(0.22)

Market Makers are evaluated each trading day for the percentage of time spent on the NBBO for qualifying series that expire in two successive thirty calendar day periods beginning on that trading day. A Market Maker Plus is a Market Maker who is on the NBBO a specified percentage of the time on average for the month based on daily performance in the qualifying series for each of the two successive periods described above. Qualifying series are series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium. If a Market Maker would qualify for a different Market Maker Plus tier in each of the two successive 30 calendar day periods, then the lower of the two Market Maker Plus tier rebates shall apply to all contracts.[7] A Market Maker's worst quoting day each month for each of the two successive periods described above, on a per symbol basis, is excluded in calculating whether a Market Maker qualifies for this rebate.[8]

While the Exchange believes that the Market Maker Plus program has been successful overall in encouraging better market quality in Select Symbols, the Exchange has also observed that in extremely volatile months, Market Makers are less likely to meet the stringent Market Maker Plus tier qualifications for that month because they are unable to hit the tiers as easily. The Exchange therefore proposes to change its Market Maker Plus qualifications to avoid penalizing Market Makers that have historically contributed to market quality on the Exchange. In particular, the Exchange proposes that a Market Maker who qualifies for Market Maker Plus Tiers 2 or higher in at least four of the previous six months will be eligible to receive a reduced Tier 2 rebate in a given month where the Market Maker does not qualify for any Market Maker Plus Tiers.[9] This rebate will be the applicable Tier 2 rebate reduced by $0.08 per contract (*i.e.,* $0.10 per contract for the regular maker rebate or $0.07 per contract for the linked maker rebate).

For example, Market Maker 1 (''MM 1'') meets the SPY Market Maker Plus Tier 2 level in all of the previous 6 months. In the current month, there is a significant increase in volatility and MM 1 is unable to meet the stringent Market Maker Plus requirements within the month. With the proposal, MM 1 would receive a reduced rebate of $0.10 per contract (*i.e.,* the SPY Tier 2 $0.18 per contract rebate reduced by $0.08 per contract) in the current month based on meeting the Market Maker Plus Tier 2 qualifications in SPY for at least 4 out of the previous six months.

Applicability to and Impact on Participants

With the proposed changes, the Exchange seeks to avoid penalizing historically strong Market Maker Plus program participants in similar situations as the one outlined above, thereby easing the burden on Market Makers to maintain their Market Maker Plus qualification, which ultimately will fortify its Market Maker Plus program. Of course, the Market Maker would still need to meet the stringent requirements of the applicable Market Maker Plus Tier 2 qualifications [10] at least four of the six previous months in order to glean the benefits of the reduced rebate proposed above. The Market Maker would also need to meet the rigorous Tier 2 qualifications each month going forward to maintain the four-month cushion in order to gather the proposed rebate benefits. By fortifying participation in this program, the Exchange believes that the proposed changes will continue to encourage Market Makers to post tight markets in Select Symbols, thereby improving trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market.

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.

The Exchange believes that the proposed changes to its Market Maker Plus program is reasonable and equitable for several reasons. As a threshold matter, the Exchange is

[6] Market Makers that qualify for Market Maker Plus Tiers 1–3 above for executions in two out of the three symbols AMZN, FB, or NVDA will be eligible for a maker rebate in the third symbol, in addition to the maker rebate for the applicable tier in the other two symbols. The maker rebate will apply to executions in AMZN, FB, or NVDA if the Market Maker does not achieve the applicable tier in that symbol but achieves the tier (*i.e.,* any of Market Maker Plus Tiers 1–3) for any badge/suffix combination in the other two symbols. If a Market Maker would qualify for different Market Maker Plus Tiers 1–3 in two symbols, then the lower of the two maker rebates will be applied to the third symbol (*e.g.,* Market Maker Plus qualification in Tier 1 and Tier 2 across two symbols would earn Market Maker Plus Tier 1 in the third symbol). If all three symbols separately achieve any of the Market Maker Plus Tiers 1–3, the symbol that achieves the tier with the lowest maker rebate will instead receive the same maker rebate as the symbol that achieved the next lowest tier.

[7] Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers—*i.e.,* badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol. Only badge/suffix combinations quoting a minimum of ten trading days within the month will be used to determine whether the Market Maker Plus status has been met and the specific tier to be applied to the Market Maker's performance for that month.

[8] In addition, the Exchange may exclude from any member's monthly Market Maker Plus tier calculation any Unanticipated Event; provided that the Exchange will only remove the day for members that would have a lower time at the NBBO for the specified series with the day included. *See* Options 7, Section 1(a)(2) for the definition of ''Unanticipated Event.''

[9] Except in SPY, QQQ, and IWM, if a Market Maker qualifies for Market Maker Plus Tier 1 in a given month after qualifying for Tier 2 or higher in at least four of the previous six months, the Market Maker would receive the higher $0.15 per contract Tier 1 rebate for that month instead of a reduced Tier 2 rebate of $0.10 per contract. Today, the Exchange does not provide any rebates to Market Makers for meeting the Market Maker Plus Tier 1 qualifications in SPY, QQQ IWM. *See* Options 7, Section 3, note 5.

[10] Thus, a Market Maker would need to be on the NBBO at least 80% of the time (*i.e.,* Tier 2 or higher) for SPY, QQQ, and IWM, and at least 85% of the time for all other Select Symbols.

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

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

subject to significant competitive forces in the market for options transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''[13]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors. As noted above, the Exchange's proposal is intended to fortify participation in the Market Maker Plus program, which the Exchange believes has been successful overall in encouraging better market quality in Select Symbols. The Exchange believes that further encouraging Market Makers to maintain tight markets in Select Symbols will increase liquidity and attract additional order flow to the Exchange, which benefits all market participants in the quality of order interaction.

In particular, the Exchange's proposal to provide a reduced rebate to Market Makers who do not qualify for any Market Maker Plus tiers in a given month, but qualified for Market Maker Plus Tier 2 or higher in at least four of the previous six months preserves the intent of the Market Maker Plus program to reward Market Makers who contribute to market quality by maintaining tight markets based on time spent quoting at the NBBO. The Exchange proposes to provide the reduced rebate to Market Makers that qualified for Market Maker Plus Tier 2 or higher in the requisite time period as opposed to Market Maker Plus Tier 1 because Tier 1 currently does not provide rebates to qualifying Market Makers across all Select Symbols.[14]

As discussed above, the Exchange has observed that in extremely volatile months, Market Makers are less likely to meet the stringent Market Maker Plus tier qualifications for that month because they are unable to hit the tiers as easily. For example, the Exchange observed a decrease in Market Maker Plus program participation concurrent with increased volatility in August 2019. In particular, in July 2019, around 41% of the total number of ISE Market Makers had qualified for Market Maker Plus Tier 2 in any Select Symbol. In August 2019, the Exchange saw this percentage drop to less than 30%. Had the proposed changes been in place for August 2019, around 47% of all ISE Market Makers would have qualified for Tier 2 using the 6-month look-back period. Given the foregoing, the Exchange seeks to avoid penalizing Market Makers that have historically been strong participants in the Exchange's Market Maker Plus program by easing the burden on these Market Makers to maintain their Market Maker Plus qualification.

The Exchange believes that the proposed ''lookback'' period of at least four out of the previous six months is an appropriate measure of strong past performance in the Market Maker Plus program as it requires Market Makers to meet the stringent requirements of Market Maker Plus Tier 2 or higher for a significant period of time in order to receive the reduced rebates.[15] Furthermore, the Market Maker would also need to meet the rigorous Tier 2 qualifications each month going forward to maintain the four month cushion in order to glean the proposed rebate benefits. The Exchange also believes the proposed reduction of the applicable Tier 2 rebate by $0.08 per contract[16] is set at an appropriate level that is lower than any Market Maker Plus tiered rebate that a Market Maker would normally receive while still providing enough of a cushion that avoids penalizing historically strong Market Maker Plus program participants.

Accordingly, the Exchange believes that its proposal is reasonable and equitable because the modified criteria will continue to require Market Makers to quote significantly at the NBBO, thereby continuing to contribute to market quality in a meaningful way. In fact, with the proposed changes, the Exchange will fortify participation in the Market Maker Plus program by helping ensure that historically strong program participants continue to participate and qualify as Market Maker Plus, which will further improve market quality.

The Exchange believes that the proposed changes to the qualifications to Market Maker Plus are not unfairly discriminatory as all Market Makers will be subject to the same qualification criteria for Market Maker Plus. The Exchange also continues to believe that it is not unfairly discriminatory to offer rebates under this program to only Market Makers. Market Makers, and in particular, those Market Makers that participate in the Market Maker Plus Program and achieve Market Maker Plus status, add value through continuous quoting and are subject to additional requirements and obligations (such as quoting obligations) that other market participants are not. Finally, the Exchange believes that the proposed changes will continue to encourage Market Makers to post tight markets in Select Symbols, thereby increasing liquidity and attracting additional order flow to the Exchange, which benefits all market participants in the quality of order interaction.

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.

Intra-Market Competition

The proposed amendments to the Exchange's Market Maker Plus program described above do not impose an undue burden on intra-market competition. While the proposal would apply directly to those Market Makers that achieve the Market Maker Plus Tier 2 standards described above, the Exchange believes that the proposed changes will fortify and encourage participation in the Market Maker Plus program, ultimately to the benefit of all market participants. As discussed

[13] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[14] In particular, Market Makers that qualify for Market Maker Plus Tier 1 in SPY, QQQ or IWM currently do not receive any rebates, so it would not be feasible to apply the proposed reduction of $0.08 to those symbols at the Tier 1 level.

[15] *See supra* note 10.

[16] Thus, with the proposed changes, the reduced rebate would be $0.10 per contract for the regular maker rebate (*i.e.,* the $0.18 per contract regular Tier 2 maker rebate reduced by $0.08 per contract), and $0.07 per contract for the linked maker rebate (*i.e.,* the $0.15 per contract linked Tier 2 maker rebate reduced by $0.08 per contract).

above, the Exchange believes that the proposed changes will continue to encourage all Market Makers to improve market quality by providing significant quoting at the NBBO in Select Symbols, which in turn improves trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market, thereby attracting additional order flow to the Exchange. For these reasons, the Exchange does not believe that its proposal will place any category of Exchange market participant at a competitive disadvantage.

Inter-Market Competition

The proposed changes are designed to ensure that the goals of the Exchange's Market Maker Plus program are furthered by fortifying participation in the program and to avoid penalizing Market Makers that have historically made quality markets in Select Symbols for a significant amount of time. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and rebate changes. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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 19(b)(3)(A) of the Act [17] and paragraph (f)(2) of Rule 19b-4 thereunder.[18] 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.* Please include File Number SR–ISE–2019–26 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–2019–26. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2019–26 and should be submitted on or before November 19, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23547 Filed 10–28–19; 8:45 am]

BILLING CODE 8011–01–P

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

[18] 17 CFR 240.19b–4(f)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87386; File No. SR–OCC–2019–009]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Related to Proposed Changes to The Options Clearing Corporation's Rules, Clearing Fund Methodology Policy, and Clearing Fund and Stress Testing Methodology

October 23, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2019, the Options Clearing Corporation (''OCC'') 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 primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is filed in connection with proposed enhancements to OCC's Clearing Fund and stress testing rules and methodology designed to: (1)

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

[2] 17 CFR 240.19b–4.