



## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104090; File No. SR-ISE-2025-29]

### **Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend NDX Fees**

September 26, 2025.

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 September 24, 2025, 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 the fees for Nasdaq 100<sup>®</sup> Index options<sup>3</sup> in the Exchange’s Pricing Schedule at Options 7, Section 5.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on October 1, 2025.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/ise/rulefilings>, and at the principal office of the Exchange.

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

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

<sup>3</sup> “NDX” means A.M. or P.M. settled options on the full value of the Nasdaq 100<sup>®</sup> Index. See Options 7, Section 1(c).

## 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 fees for the Nasdaq 100<sup>®</sup> Index (“NDX”)<sup>4</sup> and fees for the nonstandard expiration dates (“NDXP”).<sup>5</sup>

As set forth in Options 7, Section 5, the Exchange currently charges all Non-Priority Customer<sup>6</sup> orders in NDX and NDXP a \$0.75 per contract transaction fee for simple transactions. Priority Customer<sup>7</sup> orders are currently assessed a \$0.25 per contract transaction fee in NDX and NDXP for simple transactions. Note 1 of Options 7, Section 5 provides that for all executions in complex NDX orders for Non-Priority Customers, the applicable complex order fees for Non-Select Symbols in Section 4 will apply. Options 7, Section 4 Complex Orders Maker Fees in Select Symbols<sup>8</sup> for Non-Customers are assessed as follows: a \$0.10 per contract for Market

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<sup>4</sup> NDX represents A.M.-settled options on the full value of the Nasdaq 100 Index traded under the symbol NDX.

<sup>5</sup> NDXP represents P.M.-settled options on the full value of the Nasdaq 100 Index traded under the symbol NDXP.

<sup>6</sup> “Non-Priority Customers” include Market Makers, Non-Nasdaq ISE Market Makers (FarMMs), Firm Proprietary / Broker-Dealers, and Professional Customers. See Options 7, Section 1(c).

<sup>7</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 Nasdaq ISE Options 1, Section 1(a)(37). Unless otherwise noted, when used in this 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(c).

<sup>8</sup> “Select Symbols” are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Interval Program. See Options 7, Section 1(c).

Makers,<sup>9</sup> Firm Proprietary<sup>10</sup>/Broker-Dealers<sup>11</sup> and Professional Customers<sup>12</sup> and \$0.20 per contract for Non-Nasdaq ISE Market Makers (FarMM).<sup>13</sup> Options 7, Section 4 Complex Orders Maker Fees in Non-Select Symbols<sup>14</sup> for Non-Customers are assessed as follows: a \$0.20 per contract for Market Makers, Firm Proprietary/Broker-Dealers, Professional Customers and Non-Nasdaq ISE Market Makers (FarMM). Options 7, Section 4 Complex Orders Taker Fees in Select Symbols for Non-Customers are assessed as follows: a \$0.50 per contract for Market Makers, Firm Proprietary/Broker-Dealers, Professional Customers and Non-Nasdaq ISE Market Makers (FarMM). Options 7, Section 4 Complex Orders Taker Fees in Non-Select Symbols for Non-Customers are assessed as follows: a \$1.15 per contract for Market Makers, Firm Proprietary/Broker-Dealers, Professional Customers and Non-Nasdaq ISE Market Makers (FarMM).

At this time, the Exchange proposes to increase the Priority Customer pricing in NDX and NDXP from \$0.25 to \$0.50 per contract for simple orders. The Exchange is not proposing to amend its pricing for complex orders. Priority Customers will continue to be assessed a lower fee as compared to Non-Priority Customers. While the Exchange is increasing the fee, the Exchange believes that a Priority Customer fee of \$0.50 per contract will continue to attract order flow to the Exchange.

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<sup>9</sup> The term “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively. See Options 1, Section 1(a)(21).

<sup>10</sup> A “Firm Proprietary” order is an order submitted by a member for its own proprietary account. See Options 7, Section 1(c).

<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. See Options 7, Section 1(c).

<sup>12</sup> 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(c).

<sup>13</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. See Options 7, Section 1(c).

<sup>14</sup> “Non-Select Symbols” are options overlying all symbols excluding Select Symbols. See Options 7, Section 1(c).

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>15</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>16</sup> 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 its proposal to increase the Priority Customer pricing in NDX and NDXP from \$0.25 to \$0.50 per contract for simple executions is reasonable because Priority Customers will continue to be assessed a lower fee as compared to Non-Priority Customers. While the Exchange is increasing the fee, the Exchange believes that a Priority Customer fee of \$0.50 per contract for simple executions will continue to attract order flow to the Exchange. The Exchange notes that market participants are offered different ways to gain exposure to the Nasdaq 100 Index, whether through the Exchange's proprietary products like options overlying NDX or XND, or separately through multi-listed options overlying Invesco QQQ Trust ("QQQ").<sup>17</sup> Offering such products provides market participants with a variety of choices in selecting the product they desire to utilize in order to gain exposure to the Nasdaq 100 Index.

The Exchange believes that its proposal is equitable and not unfairly discriminatory because it will be applied uniformly to all Priority Customers. Assessing lower fees to Priority Customers as compared to Non-Priority Customers is equitable and not unfairly discriminatory because Priority Customers liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding

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

<sup>16</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>17</sup> QQQ is an exchange-traded fund based on the same Nasdaq 100 Index as NDX and XND.

increase in order flow from other market participants, to the benefit of all market participants who may interact with the order flow.

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.

In terms of intra-market competition, the Exchange believes that its proposal does not impose an undue burden on competition because it will be applied uniformly to all Priority Customers. Assessing lower fees to Priority Customers as compared to Non-Priority Customers does not impose an undue burden on competition because Priority Customers liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants, to the benefit of all market participants who may interact with the order flow.

In terms of inter-market competition, the Exchange notes that it 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 to remain competitive with other options exchanges. 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. As noted above, market participants are offered an opportunity to transact in NDX, NDXP, or XND, or separately execute options overlying QQQ. Offering these products provides market participants with a variety of choices in selecting the product they desire to use to gain exposure to the Nasdaq 100 Index.

In addition to the Exchange, market participants have alternative options exchanges that they may participate on and direct their order flow, which list proprietary products that compete

with NDX and NDXP.<sup>18</sup> 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 options exchanges 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)(ii) of the Act.<sup>19</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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission’s internet comment form (<https://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-ISE-2025-29 on the subject line.

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<sup>18</sup> See e.g., pricing for Russell 2000 Index (“RUT”) on Cboe’s Fees Schedule and Cboe C2 Exchange, Inc.’s (“C2”) Fees Schedule. See also SPX pricing on Cboe’s Fees Schedule. Both RUT and SPX are proprietary products on the Cboe markets that are broad-based index options, like NDX and NDXP.

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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-2025-29. 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 (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-ISE-2025-29 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>20</sup> 17 CFR 200.30-3(a)(12).