

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60854; File No. SR-ISE-2009-84)

October 21, 2009

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange, LLC to Amend ISE Rules Relating to the Minimum Size Requirement for Quotations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that, on October 19, 2009, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) 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 Exchange has filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 its rules pertaining to the minimum size requirement for quotations. The text of the proposed rule change is available on the Exchange’s Web site 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

¹ 15 U.S.C.78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

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 self-regulatory organization 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

This proposed rule change is based on a filing previously submitted by the Chicago Board Options Exchange ("CBOE") that was effective on filing.⁵ ISE proposes to amend its rules pertaining to the minimum size requirement for quotations. Currently, ISE Rule 804 requires that unless the Exchange has declared a fast market pursuant to ISE Rule 704, a market maker may not initially enter a bid or offer of less than ten (10) contracts. ISE now proposes to amend its rules to allow the Exchange to set a minimum quotation size requirement on a class by class basis, provided the minimum set by the Exchange is at least one contract. ISE would not impose a minimum quotation size requirement greater than 10 contracts.

ISE recently listed options on Berkshire Hathaway Inc.'s Class B securities ("baby Berkshires") and under the Exchange's current rules, ISE market makers are required to quote in this product for at least 10 contracts. With the underlying security trading above \$3,000, the minimum value for a trade in baby Berkshire options is more than \$30,000, which effectively removes ISE's market makers from competing with the other exchanges that do not have a 10 contract minimum quotation requirement. Pursuant to this proposed rule change, ISE expects to

⁵ See Securities Exchange Act Release No. 58828 (October 21, 2008), 73 FR 63749 (October 27, 2008) (SR-CBOE-2008-107).

lower the minimum quotation size requirement for baby Berkshire options from 10 contracts to one contract. Further, ISE believes it should have the flexibility to change the minimum size requirement on a class by class basis depending on market conditions and the trading and liquidity in a particular option class and its underlying security. ISE notes that the minimum quotation size requirement for market makers on CBOE, NYSEArca and the Nasdaq Options Market is only one contract (See CBOE Rules 6.2B, 8.7, 8.14, 8.15A, NYSEArca Rule 6.37B and Nasdaq Options Market Rule Section 6(a).) As a result, ISE believes the proposed rule change is based on and similar to the rules of other options exchanges.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”)⁶ and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, because it will permit the Exchange to set a minimum quotation size requirement on a class by class basis, provided the minimum size is at least one contract. ISE believes that this flexibility will enable the Exchange to take into consideration market conditions and the trading and liquidity in a particular option class and its underlying security.

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

⁶ 15 U.S.C. 78a.

⁷ 15 U.S.C. 78(f)(b).

⁸ 15 U.S.C. 78(f)(b)(5).

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A)⁹ of the Act and Rule 19b-4(f)(6)¹⁰ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing.¹¹ However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 C.F.R. 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission 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. ISE has satisfied this requirement.

interest. The Exchange requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),¹² which would make the rule change operative immediately.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to immediately begin to set the minimum quotation size on a class-by-class basis as is done currently on other exchanges.¹³ Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.¹⁵

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 e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2009-84 on the subject line.

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ See note 5, supra.

¹⁴ 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).

¹⁵ 15 U.S.C. 78s(b)(3)(C).

Paper comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2009-84. This file number should be included on the subject line if e-mail 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such 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-ISE-2009-84 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).