

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71685; File No. SR-ISE-2014-11)

March 11, 2014

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Permit Market Makers to Enter Opening Only Orders in Appointed Options Classes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on February 25, 2014 the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange 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 ISE proposes to amend Rule 805(a) to permit market makers to enter Opening Only Orders in the options classes to which they are appointed. The text of the proposed rule change is available on the Exchange’s website (<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 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set

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

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

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 Exchange proposes to amend Rule 805(a) to permit market makers to enter Opening Only Orders in the options classes to which they are appointed. On October 7, 2010 the Exchange filed an immediately effective rule change that, among other things, established two new order types, including the "Opening Only Order," which is a limit order that can be entered for the opening rotation only.<sup>3</sup> When the ISE adopted this new order type, however, it did not add it to the list of order types in Rule 805(a) that market makers are permitted to trade in their appointed classes.<sup>4</sup> Because of this, market makers are not currently permitted to submit Opening Only Orders in the options classes to which they are appointed. Prior to the launch of the ISE's T7 trading system (formerly "Optimise"), which introduced Opening Only Orders, market makers could submit immediate-or-cancel ("IOC") orders prior to the opening of trading, which provided the same functionality as ISE's current Opening Only Orders. Specifically, like Opening Only Orders, the ISE permitted members to submit IOC orders at any time prior to the opening of trading, which would then execute during the opening rotation, with any unexecuted portion being cancelled. Under the T7 trading system, however, IOC orders are only permitted intraday. The Exchange now proposes to amend its rules so that market makers are able to use this functionality again by submitting Opening Only Orders to the ISE. Market makers on other

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<sup>3</sup> See Exchange Act Release No. 63117 (October 15, 2010), 75 FR 65042 (October 21, 2010) (SR-ISE-2010-101). An "Opening Only Order" is a limit order that can be entered for the opening rotation only. Any portion of the order that is not executed during the opening rotation is cancelled.

<sup>4</sup> Market makers are currently permitted to submit the following order types in their appointed options classes: IOC orders, market orders, fill-or-kill orders, complex orders, and certain block orders and non-displayed penny orders. See ISE Rule 805(a).

options exchanges, such as the MIAX Options Exchange (“MIAX”), similarly have the ability to enter “opening only” order types in their appointed classes.<sup>5</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the “Act”),<sup>6</sup> in general, and with Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to promote just and equitable principles of trade, 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. The Exchange believes that allowing market makers to use Opening Only Orders will give those members greater flexibility to update prices during the opening rotation. Specifically, market makers have requested that they be permitted to use Opening Only Orders so that they may use this order type to update their prices in single series during the opening process more efficiently than relying on quoting systems that are designed to update prices across multiple series. As explained above, “opening only” orders types are available to market makers on other exchanges, and this functionality was previously available to ISE market makers prior to the introduction of the T7 trading system as members, including market makers, were able to submit IOC orders for execution in the opening rotation. Moreover, because any portion of an Opening Only Order that is not executed during the opening rotation is cancelled, this proposed rule change is generally consistent with Rule 805(a), which was intended to prevent market makers from having both standing limit orders and quotes in the same options class.

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<sup>5</sup> See MIAX Rule 605(a).

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

In accordance with Section 6(b)(8) of the Act,<sup>8</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed rule change is pro-competitive as it permits market makers to use functionality already available to other ISE members, and to market makers on other exchanges, who are currently able to submit Opening Only Orders or other similar order types.

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 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 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<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

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<sup>8</sup> 15 U.S.C. 78f(b)(8).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>11</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>12</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that the proposal will allow market makers, during the opening process, to use an order type that more efficiently update their prices. The Exchange also stated that Opening Only Orders are presently available to other ISE members and to market makers on competing options exchanges. The Commission believes that the proposed rule change presents no novel issues. Moreover, the Commission believes that the proposed rule change is consistent with the protection of investors and the public interest, because it allows the market makers to more efficiently, and thereby more readily, display updated prices to the public. Therefore, the Commission waives the 30-day operative delay requirement and designates the proposed rule change to be operative upon filing.<sup>13</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.

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<sup>11</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>13</sup> 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).

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2014-11 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-2014-11. 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 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; 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-2014-11 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.<sup>14</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).