

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64343; File No. SR-ISE-2011-26)

April 26, 2011

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Option Expiration Months Open for Trading on the Exchange

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 April 20, 2011, 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 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 to permit the Exchange to list additional expiration months if such expiration months are listed on another exchange. The text of the proposed rule change is available on the Exchange’s website 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 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 ISE Rules to permit the Exchange to list additional expiration months if such expiration months are listed on another exchange.

This filing is based on a filing previously submitted by NASDAQ OMX PHLX, Inc. ("PHLX").³

Under current rule 504(e), ISE usually will open four (4) expiration months for each type of option of a class of options open for trading on the Exchange: the first two (2) being the two nearest months, regardless of the quarterly cycle on which that class trades; the third and fourth being the next two months of the quarterly cycle previously designated by the Exchange for that specific class. For example, if the Exchange listed in late September a new stock option on a January-April-July-October quarterly cycle, the Exchange would list the two nearest-term months (October and November) and the next two expiration months of the cycle (January and April). Further, when the October series expire, the Exchange would add the December series as the next nearest month. And when the November series expire, the Exchange would add the July series as the next month of the cycle.

In 2010, the Exchange established a pilot program to add up to two additional expiration months for each class of options opened for trading on the Exchange (the "Additional Expiration Months Pilot").⁴ Under the Additional Expiration Months Pilot, ISE lists expiration months that

³ See Securities Exchange Act Release No. 63700 (January 11, 2011) 76 FR 2931 (January 18, 2011) (SR-PHLX-2011-04). In its filing, PHLX cites to the Commission's approval of the NASDAQ Options Market and rules pertaining thereto as the basis for making the change to its rules.

⁴ See Securities Exchange Act Release No. 63104 (October 14, 2010) 75 FR 64773 (October 20, 2011) (SR-ISE-2010-91).

are considered “mid-month.” For example, for options classes that have expiration months of October, November, January, and April, the Exchange lists the December series. For options classes that have expiration months of October, November, February and May, the Exchange lists the December and January series. The listing of additional expiration months has been well-received by our members and has had very limited impact on system resources.

PHLX recently submitted a filing to adopt rules pursuant to which it can open “at least one expiration month” for each class of options opened for trading on that exchange.⁵ Consequently, while ISE is currently restricted to listing a limited number of expiration months that are permissible under its rules and the Additional Expiration Months Pilot, PHLX has the ability to list an unlimited number of expiration months, including those that ISE would not be able to currently list under its rules. Indeed, PHLX has listed additional expiration months that no other exchange, including ISE, can currently list. For example, in February 2011, PHLX listed the October 2011 expiration in Omnicare, Inc. (ticker: OCR). PHLX was able to list that expiration month based on its amended rule. Meanwhile, ISE could not list the October 2011 series under Rule 504(e) because the standard expiration months for OCR in February are March, April, June, and September. ISE also could not list the October 2011 series as part of the Additional Expiration Months Pilot because OCR is not one of the classes selected by the Exchange to participate in the Additional Expiration Months Pilot (nor could ISE select it for the Additional Expiration Months Pilot because all 20 available selections have been chosen). As a result, PHLX was the only exchange that listed the October 2011 series in OCR and continues to trade that series without any competition.

⁵ This paragraph was modified at the request of the Exchange on April 25, 2011. See e-mail, dated April 25, 2011, from Samir M. Patel, Assistant General Counsel, International Securities Exchange, to Kathleen J. Gray, Attorney, Division of Trading and Markets, Commission.

For competitive reasons, ISE now proposes to add new Supplementary Material .10 to its Rule 504 and Supplementary Material .04 to ISE Rule 2009 to permit the Exchange to list additional expiration months on options classes opened for trading on the Exchange if such expiration months are opened for trading on at least one other national securities exchange. This proposed rule change will allow ISE to match the listing of expiration months that PHLX or NOM lists in the event ISE is not able to list those expiration months because they do not comport to ISE Rules or the Additional Expiration Months Pilot.

The Exchange notes that the proposed rule change affords additional flexibility in that it will permit the exchange to list those additional expiration months that have an actual demand from market participants thereby potentially reducing the proliferation of classes and series. The Exchange believes the proposed rule change is proper, and indeed necessary, in light of the need to have rules that permit the listing of identical expiration months across exchanges for products that multiply-listed and fungible with one another. The Exchange believes that the proposed rule change should encourage competition and be beneficial to traders and market participants by providing them with a means to trade on the Exchange securities that are listed and traded on other exchanges.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (“Exchange Act”) for this proposed rule change is the requirement under Section 6(b)(5)⁶ that an exchange have rules that are designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism for a free and open market and a national market system, and in general, to protect investors and the public interest. In particular, the proposed rule change will permit

⁶ 15 U.S.C. 78f(b)(5).

the Exchange to accommodate requests made by its members and other market participants to list the additional expiration months and thus encourage competition without harming investors or the public interest.

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

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 does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal should promote competition by allowing

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

the Exchange to list and trade option series that are trading on other options exchanges.

Therefore, the Commission designates the proposal operative upon filing.⁹

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.

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-2011-26 on the subject line.

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-2011-26. 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

⁹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2011-26 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.¹⁰

Cathy H. Ahn
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).