SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70647; File No. SR-ISE-2013-50)

October 9, 2013

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Schedule of Fees

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 September 30, 2013, 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, II, and III 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 the Substance of the Proposed Rule Change

The ISE proposes to amend its Schedule of Fees. The text of the proposed rule change is available on the Exchange's Web site (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 forth in sections A, B and C below, of the most significant aspects of such statements.

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

2 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its Schedule of Fees to: (1) decrease the discount applicable to Market Makers[3] when they trade against Priority Customer[4] complex orders that are preferenced to them on the Exchange; (2) increase the fees that it charges for executions of Priority Customer orders in non-Early Adopter Foreign Currency ("FX") Option Symbols to be equal to the fees charged for executions of orders in Early Adopter FX Option Symbols; and (3) increase the fees for Priority Customer orders routed to another exchange for execution.

On January 29, 2013, the Commission approved[5] [sic] SR-ISE-2013-05, on a one-year pilot basis, with such fees being operative from January 17, 2013 ("Approval Order")[sic].[6] Specifically, the Approval Order [sic] permits a $0.05 fee differential between Market Makers that receive preferenced complex orders and those that do not receive preferenced complex orders in classes that can be listed and traded on more than one options exchange.[7] The

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3 The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See ISE Rule 100(a)(25).

4 A Priority Customer is defined in ISE Rule 100(a)(37A) as 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).

5 The Commission notes that SR-ISE-2013-05 was immediately effective upon filing. Accordingly, the Commission did not approve SR-ISE-2013-05.

6 See Securities Exchange Act Release No. 68760 (Jan. 29, 2013), 78 FR 7844 (Feb. 4, 2013) (SR-ISE-2013-05).

7 Market Makers may be categorized as preferenced Market Makers when such Market Makers execute against a Priority Customer order preferenced to them for execution by an order flow provider. The current $0.05 per contract discount also applies to a group of symbols in which Market Makers can enter quotes in the complex order book ("Complex Quoting Symbols"). The discount applicable to the Complex Quoting Symbols is found on the Exchange's Schedule of Fees. See Section II. Complex Order Fees and Rebates, footnote 4. This proposed rule change also applies to the Complex Quoting Symbols.

Exchange proposes to reduce the fee differential from $0.05 to $0.02 per contract, which was the applicable fee differential on the Exchange prior to the Approval Order [sic].[8] Accordingly, Market Makers that add or remove liquidity from the complex order book by trading against Priority Customer complex orders that are preferenced to them will be charged: (i) $0.37 per contract in Select Symbols (including SPY), i.e. the regular rate of $0.39 per contract with a $0.02 per contract discount; and (ii) $0.80 per contract in Non-Select Symbols, i.e. the regular rate of $0.82 per contract with a $0.02 per contract discount.

The Exchange is also proposing to amend its Schedule of Fees to increase the fees for Priority Customer orders in FX options. Currently, Priority Customers pay a fee in non-Early Adopter FX Option Symbols of $0.18 per contract for non-Crossing Orders and Crossing Orders, and $0.20 per contract for Responses to Crossing Orders. In Early Adopter FX Option Symbols, this fee is $0.40 per contract for non-Crossing Orders, Crossing Orders, and Responses to Crossing Orders. The Exchange is now proposing to increase the fee for Priority Customer orders for non-Early Adopter FX Option Symbols to $0.40 per contract to be in line with the fees currently charged for Priority Customer orders in Early Adopter FX Option Symbols.

The Exchange is further proposing to amend its Schedule of Fees to increase the route-out fee applicable to Priority Customers orders. The Exchange currently charges a fee of $0.38 per contract for executions of Priority Customer orders in Standard Options in all symbols that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan. For Mini Options, this fee is currently $0.038 per contract. In order to offset costs associated with routing orders to other exchanges, the Exchange now

8 The Exchange notes that NASDAQ OMX PHLX, Inc. ("PHLX") recently reduced its own differential back to $0.02 per contract from its prior rate of $0.05 per contract. See Securities Exchange Act Release No. 69768 (June 14, 2013), 78 FR 37250 (June 20, 2013) (SR-Phlx-2013–61).

proposes to increase the route-out fee for Priority Customer orders to $0.40 per contract for Standard Options and $0.040 per contract for Mini Options. The route-out fee offsets costs incurred by the Exchange in connection with using unaffiliated broker-dealers to access other exchanges for linkage executions, and is therefore appropriate.

2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Securities and Exchange Act of 1934 (the "Act")[9] in general, and furthers the objectives of Section 6(b)(4) of the Act[10] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that reducing the current discount applicable to Market Makers when they trade against Priority Customer complex orders that are preferenced to them from $0.05 to $0.02 per contact is reasonable, equitable, and not unfairly discriminatory because reducing the discount for preferenced orders will narrow the fee differential between Market Makers that receive preferenced orders and those that do not. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to continue to assess lower fees to preferenced Market Makers that add or remove liquidity from the complex order book by trading against Priority Customer orders that are preferenced to them because preferenced Market Makers are subject to heightened and burdensome quoting obligations that do not apply to non-preferenced Market Makers or to other market participants.[11]

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[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] Preferenced Market Makers are required to continuously quote at least 90% of the series of an options class, whereas non-preferenced market makers are required to quote only 60% of the series of an options class. See ISE Rule 804(e).

The Exchange believes that its proposal to increase the fee for Priority Customer orders in non-Early Adopter FX Option Symbols to $0.40 per contract is reasonable and equitably allocated because the proposed fee is identical to the fee currently charged by the Exchange for Early Adopter FX Option Symbols. With this proposed rule change, Priority Customers will be charged the same fee regardless of whether they place orders in Early Adopter or non-Early Adopter FX Option Symbols.

The Exchange believes the proposed route-out fee is reasonable and equitable as it provides the Exchange the ability to recover costs associated with using unaffiliated broker-dealers to route Priority Customer orders to other exchanges for linkage executions. The Exchange also believes that the proposed fees are not unfairly discriminatory because these fees would be uniformly applied to all Priority Customer orders routed to other exchanges. As fees to access liquidity for Priority Customer orders have risen at other exchanges, it has become necessary for the Exchange to raise routing fees in order to recoup the higher costs. The Exchange notes that a number of other exchanges currently charge a variety of routing related fees associated with customer and non-customer orders that are subject to linkage handling. The Exchange also notes that the fees proposed herein are within the range of fees charged by some of the Exchange's competitors.[12]

The Exchange has determined to charge fees for regular orders in Mini Options at a rate that is 1/10th the rate of fees the Exchange currently provides for trading in Standard Options. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to assess lower fees to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees are reasonable and equitable in light of the fact that Mini

[12] See PHLX Fee Schedule, Section V, Routing Fees; and Chicago Board Options Exchange ("CBOE") Fees Schedule, Linkage Fees.

Options have a smaller exercise and assignment value, specifically 1/10th that of a Standard Option contract, and, as such, is levying fees that are 1/10th of what market participants pay to trade Standard Options.

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

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

The Exchange is proposing to decrease the fee differential between Market Makers that receive preferenced orders and those that do not receive preferenced orders. The Exchange believes that decreasing this fee differential does not create an undue burden on competition. The differential is similar to the differential currently in place at the PHLX and furthermore reduces intra-market competition by reducing the differential between preferenced and non-preferenced market makers.

The Exchange believes the proposed fee for Priority Customer orders in non-Early Adopter FX Option Symbols does not impose a burden on competition because it will apply a uniform fee to Priority Customer orders in all FX Option symbols traded on the Exchange. Even though these options are solely listed on ISE, the Exchange operates in a highly competitive market, comprised of twelve exchanges, any of which can determine to trade similar products.[13]

With respect to increasing the Priority Customer route-out fee, the Exchange believes the proposed fee change does not impose a burden on competition because the proposed fee is consistent with fees charged by other exchanges and will uniformly apply to all Priority

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13 At least one other exchange currently trades foreign currency options. While PHLX World Currency Options® are not fungible with FX Options, they provide investors with a choice to trade in a competing product. See PHLX World Currency Options® at http://www.nasdaqtrader.com/Micro.aspx?id=PHLXFOREXOptions

Customer orders in Standard Options and Mini Options that are routed out to other exchanges for linkage executions. The Exchange notes that Members can and do route these orders to other markets or specify that ISE not route orders away on their behalf.

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflects this competitive environment.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[14] and subparagraph (f)(2) of Rule 19b-4 thereunder,[15] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such 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

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[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b-4(f)(2).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2013-50 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-2013-50. 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 such filing also will be available for inspection and copying at the principal offices 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-2013-50, 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]

Kevin M. O'Neill
Deputy Secretary

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[16] 17 CFR 200.30-3(a)(12).