

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80090; File No. SR-ISE-2017-12)

February 22, 2017

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 715 and Rule 721

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 February 13, 2017, the International Securities Exchange, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 Rule 715 (Types of Orders) and Rule 721 (Crossing Orders) to codify its Qualified Contingent Cross (“QCC”) with Stock Order functionality.

The text of the proposed rule change is available on the Exchange’s Website at 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 codify functionality currently offered to members – i.e., QCC with Stock Orders. The QCC with Stock Order is a piece of functionality that facilitates the execution of stock component of qualified contingent trades. In particular, a QCC with Stock Order is a QCC Order entered with a stock component to be communicated to a designated broker-dealer for execution.³ QCC with Stock Orders assist members in maintaining compliance with Exchange rules regarding the execution of the stock component of qualified contingent trades, and help maintain an audit trail for surveillance of members for compliance with such rules.

Currently, although the Exchange has rules on QCC Orders, those rules do not specify how the stock component of such transactions is to be executed. In particular, those rules do not describe how this process may be facilitated by the Exchange electronically communicating the stock component to a designated broker-dealer for execution on the behalf of the member. The proposed rule change will increase the transparency of this process to the benefit of members and other market participants that execute QCC Orders on the Exchange, including those that use the QCC with Stock Order functionality described in this filing.

³ See Proposed Rule 715(t).

A QCC Order is comprised of an originating order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade,⁴ coupled with a contra-side order or orders totaling an equal number of contracts. QCC Orders are automatically executed upon entry provided that the execution (i) is not at the same price as a Priority Customer Order on the Exchange's limit order book and (ii) is at or between the national best bid or offer ("NBBO").⁵ QCC Orders are automatically canceled if they cannot be executed, and may only be entered in the regular trading increments applicable to the options class.⁶

Since QCC Orders represent one component of a qualified contingent trade, each QCC Order must be paired with a stock transaction. When a member enters a QCC Order, the member is responsible for executing the associated stock component of the qualified contingent trade within a reasonable period of time after the QCC Order is executed. The Exchange conducts surveillance of members to ensure that members execute the stock component of a qualified contingent trade at or near the same time as the options component. While the Exchange does not specify how the member should go about executing the stock component of

⁴ See Rule 715(j). A "qualified contingent trade" is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) At least one component is an NMS Stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. See Supplementary Material .01 to Rule 715.

⁵ See Rule 721(b).

⁶ See Rule 721(b)(1), (2).

the trade, this process is often manual and is therefore a compliance risk for members if they do not execute the stock component within a reasonable time period.

Thus, the Exchange also offers QCC with Stock Orders that communicate the stock component of a qualified contingent trade to a broker-dealer for execution in connection with the execution of a QCC Order on the Exchange. This functionality reduces the compliance burden on members by providing an automated means of executing the stock component of a qualified contingent trade, and also provides benefits for the Exchange's surveillance by providing an audit trail for the execution of the stock component. QCC with Stock Orders can be entered by members through the Exchange's front-end order and execution management system ("PrecISE"), or through the member's Financial Information eXchange ("FIX") connection to the Exchange.

QCC with Stock Orders are available to members on a voluntary basis. Members that enter QCC with Stock Orders must enter into a brokerage agreement with one or more broker-dealers designated by the Exchange.⁷ Currently, three broker-dealers have established connectivity for executing the stock component of QCC with Stock Orders. The member must designate a specific broker-dealer on each order if the member has entered into an agreement with more than one.⁸ The Exchange does not have any financial arrangement with the designated broker-dealers with respect to communicating stock orders to them.⁹ While the Exchange does not charge members a fee for the execution of the stock component of a QCC

⁷ See Proposed Supplementary Material .02 to Rule 721.

⁸ Id. The Exchange does not have any role with respect to determining where to route the stock component of a QCC with Stock Order if the member has entered into an agreement with more than one broker-dealer.

⁹ Id. The Exchange also represents that the designated broker-dealers that execute the stock component of QCC with Stock Orders do not receive other special benefits related to trading on the Exchange.

with Stock Order,¹⁰ each member would be responsible for whatever fees or other charges are imposed by their designated broker-dealer.¹¹

Members can enter QCC with Stock Orders with separate prices for the stock and options components, or with a net price for both.¹² QCC Orders may not be executable on entry if priced at the same price as a Priority Customer Order, or at a price that is outside of the NBBO. The stock component of a qualified contingent trade, however, is permitted to trade through the stock NBBO pursuant to an exemption granted by the Commission from the order protection requirements of Rule 611(a) of Regulation NMS.¹³ Net priced QCC with Stock Orders reduce the chance that members miss the market since the Exchange will calculate a price for the stock and options components that honors the net price of the package and current market prices, if possible. At the same time, the Exchange permits members to submit QCC with Stock Orders with separate stock and options prices for members that want specific prices for each individual component.

When a member enters a QCC with Stock Order, a QCC Order is entered on the Exchange.¹⁴ That QCC Order is automatically executed upon entry provided that the conditions of Rule 721(b) are met. If the QCC Order is executed, the Exchange will automatically

¹⁰ Members that enter their QCC with Stock Orders through PrecISE are charged a fee for the use of the front end terminal but are not charged transaction fees for the execution of the stock component of the trade.

¹¹ These fees are billed directly by the member's designated broker-dealer.

¹² See Proposed Supplementary Material .01 Rule 721.

¹³ See Securities Exchange Act Release Nos. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006) (Order Granting an Exemption for Qualified Contingent Trades From Rule 611(a) of Regulation NMS Under the Securities Exchange Act of 1934); 57620 (April 4, 2008), 73 FR 19271 (April 9, 2008) (Order Modifying the Exemption for Qualified Contingent Trades from Rule 611(a) of Regulation NMS Under the Securities Exchange Act of 1934).

¹⁴ See Proposed Rule 721(c)(1).

communicate the stock component to the member's designated broker-dealer for execution.¹⁵

Although QCC Orders are eligible for automatic execution, it is possible that the QCC Order may not be executable based on market prices at the time the order is entered. If the QCC Order is not capable of being executed, the entire QCC with Stock Order, including both the stock and options components, is cancelled.¹⁶ This prevents members from executing the stock component of a qualified contingent trade where the options component has not been successfully executed.

Furthermore, it is possible that the member will receive an execution for the QCC Order but not the stock component communicated to the broker-dealer. Once the stock component is communicated to the member's designated broker-dealer for execution, the broker-dealer is responsible for determining whether the stock component may be executed in accordance with all of the rules applicable to execution of such orders. Members that execute the options component of a qualified contingent trade entered as a QCC with Stock Order remain responsible for the execution of the stock component if they do not receive an execution from their designated broker-dealer.¹⁷ In such cases, the Exchange will inform the member that the stock component of the trade has not been executed, and that they must find an alternative means of executing the stock component. The Exchange conducts surveillance to ensure that members execute the stock component of their qualified contingent trades; this surveillance also extends to QCC with Stock Orders where the options component is successfully executed but the stock component is not.

Example 1:

Stock NBBO: \$100 x \$101

¹⁵ See Proposed Rule 721(c)(2).

¹⁶ See Proposed Rule 721(c)(3).

¹⁷ See Proposed Supplementary Material .03 to Rule 721.

Option NBBO: \$1 x \$2

Member submits a QCC with Stock Order buying 1,000 puts and 100,000 shares of stock with a net price of \$101.50.

QCC Order is entered on the Exchange and executed at a price of \$1.50.

Stock component is routed to member's designed broker-dealer at a price of \$100.

The stock component is executed successfully, or the member remains responsible for executing the stock component elsewhere.

Example 2:

Stock NBBO: \$100 x \$101

Option NBBO: \$1 x \$2

Member submits a QCC with Stock Order buying 1,000 puts at \$1.99 and 100,000 shares of stock at \$100.

QCC Order is entered on the Exchange and executed at a price of \$1.99.

Stock component is routed to the member's designed broker-dealer at a price of \$100.

The stock component is executed successfully, or the member remains responsible for executing the stock component elsewhere.

Example 3:

Stock NBBO: \$100 x \$101

ABBO: \$1.00 x \$1.05

Exchange BBO: \$1.00 (Priority Customer) x 1.01 (Priority Customer)

Member submits a QCC with Stock Order buying 1,000 puts at \$1.01 and 100,000 shares of stock at \$100.

QCC Order is entered on the Exchange at a price of \$1.01 and is cancelled due to being at the same price as a Priority Customer order on the Exchange.

Because the QCC Order is not successfully executed the entire QCC with Stock Order is cancelled.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹⁸ In particular, the proposal is consistent with Section 6(b)(5) of the Act,¹⁹ because is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms 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 the proposed rule change is designed to promote just and equitable principles of trade because it will increase transparency for members and other market participants with respect to how the Exchange facilitates the execution of the stock component of qualified contingent trades. The QCC with Stock Order is an optional piece of functionality offered to members to communicate the stock component of a qualified contingent trade to a designated broker-dealer for execution. Members that do not wish to use QCC with Stock functionality can enter QCC Orders on the Exchange and separately execute the stock component of their trades on another venue. Members can also build their own technology to electronically communicate the stock component of a qualified contingent trade to a broker-dealer for execution. QCC with Stock Orders reduce members' compliance burden because it

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

allows for the automatic submission of the stock component of a qualified contingent trade in connection with the execution of the options component(s) as a QCC Order on the Exchange. It also provides benefits to the Exchange by establishing an audit trail for the execution of the stock component of such trades within a reasonable period of time after the execution of the QCC Order. Members remain responsible for ensuring the execution of the stock component of a qualified contingent trade. Nevertheless, the Exchange believes that members have found the QCC with Stock Order functionality useful for ensuring compliance with the requirement that they execute the stock component of a qualified contingent trade within a reasonable period of time after executing the option component(s) on the Exchange as a QCC Order. The Exchange therefore believes that QCC with Stock Orders are designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and in general, to protect investors and the public interest.

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

In accordance with Section 6(b)(8) of the Act,²⁰ 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. QCC with Stock Orders facilitate member compliance with the requirements associated with executing QCC Orders on the Exchange, and are not designed to impose any unnecessary burden on competition. Members are not required to use QCC with Stock Orders, and can either create similar functionality, or manually communicate the stock component of their qualified contingent trades to a broker-dealer for execution. In addition, QCC with Stock Orders are available to all members either through the Exchange's PrecISE front end or the member's FIX connection.

²⁰ 15 U.S.C. 78f(b)(8).

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

Because the foregoing 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, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act²¹ and subparagraph (f)(6) of Rule 19b-4 thereunder.²²

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)²³ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange requests that the Commission waive the 30-day operative delay. The Exchange states that it currently offers QCC with Stock Order functionality to aid members in their compliance with qualified contingent trade obligations, and for the surveillance benefits that this functionality provides. According to the Exchange, waiving the operative delay will allow the Exchange to update its rules immediately to reflect this functionality, to the benefit of members and other market participants. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and

²¹ 15 U.S.C. 78s(b)(3)(A)(iii).

²² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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 Exchange has met this requirement.

²³ 17 CFR 240.19b-4(f)(6)(iii).

the public interest. The QCC with Stock Order functionality is designed to help ISE members that choose to use the functionality comply with their qualified contingent trade obligations in connection with a QCC Order,²⁴ as well as help the Exchange surveil its members for compliance with the Exchange's rules for QCC Orders. Therefore, the Commission designates the proposed rule change operative upon filing.²⁵

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.

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-2017-12 on the subject line.

²⁴ See supra note 4 and accompanying text.

²⁵ 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).

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-2017-12. 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-2017-12 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.²⁶

Robert W. Errett
Deputy Secretary

²⁶ 17 CFR 200.30-3(a)(12).