

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80751; File No. SR-ISE-2017-41)

May 23, 2017

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Opening Process

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 May 10, 2017, Nasdaq ISE, LLC (“ISE” or “Exchange”) 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 the trading hours and Opening Process of Foreign Currency Index options and also amend a reference to All-or-None Orders.

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 this rule change is to amend: (i) the trading hours, including during the Opening Process, of Foreign Currency Index options; and (ii) a specific rule text reference in Rule 701 related to All-or-None Orders.

Foreign Currency Options

ISE Rule 2008, "Trading Sessions," among other things, governs transactions in Foreign Currency Index options. The rule provides that such product may be effected on the Exchange between the hours of 7:30 AM Eastern Time and 4:15 PM Eastern Time. ISE Rule 2210, "Trading Sessions," notes that "[e]xcept as otherwise provided in this Rule [2210] or under unusual conditions as may be determined by an Exchange official or his designee, transactions in foreign currency options may be effected on the Exchange between the hours of 7:30 a.m. and 4:15 p.m. Eastern time, except on the last day of trading during expiration week, in which case trading shall cease at 12.00 p.m. Eastern time."

At this time, the Exchange proposes to amend ISE Rules 2008 and 2010 so that Foreign Currency Index options will start trading at 9:30 AM Eastern Time instead of 7:30 AM Eastern Time. The purpose of this rule change is to conform the start time for the trading of Foreign Currency Options to that of other products.

Likewise, ISE Rule 701, “Opening,” which was recently approved,³ provides that Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 AM Eastern Time, or 7:25 AM Eastern Time for U.S. dollar-settled foreign currency options, will be included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process. The current Opening Process rule states that the submission of Valid Width Quotes and Opening Sweeps for U.S. dollar-settled foreign currency options may begin at 7:25 AM Eastern Time to tie the option Opening Process to quoting in the underlying security⁴; it presumes that option quotes submitted before any indicative quotes have been disseminated for the underlying security may not be reliable or intentional. The Exchange proposes to amend ISE Rule 701 so that the Opening Process for foreign currency options would initiate on or after 9:30 AM Eastern Time and the Market Maker Valid Width Quotes and Opening Sweeps would be considered for the Opening Process starting at 9:25 AM Eastern Time for foreign currency options.

All-Or-None Orders

The Exchange also proposes to amend ISE Rule 701 to remove a specific reference to the manner in which All-or-None Orders will be treated in the Opening Process. The Exchange recently filed a proposed rule change to amend All-or-None Orders.⁵ The Exchange amended Rule 715(c) to provide that an All-Or-None Order may only be entered into the System with a

³ See Securities Exchange Act Release No. 80225; (March 13, 2017), 82 FR 14243 (March 17, 2017) (SR-ISE-2017-02) (Order Approving Proposed Rule Change, as Modified by Amendment No. 1, To Amend the Exchange Opening Process).

⁴ The underlying security can also be an index.

⁵ See Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR-ISE-2017-03) (Order Approving Proposed Rule Change, as Modified by Amendment No. 1, to Amend Various Rules in Connection with a System Migration to Nasdaq INET Technology).

time-in-force designation of Immediate-Or-Cancel⁶ Order in connection with the Exchange's technology migration to INET. At the time that SR-ISE-2017-02 was filed, All-or-None Orders were not restricted and could trade as a limit or market order to be executed in its entirety or not at all. With this amendment, an All-Or-None Order would not persist in the Order Book and would therefore be treated the same as any other Immediate or Cancel Order. The carve out specified in Rule 701(j)(6)(i) is unnecessary since an All-or-None Order would be executed immediately or cancel similar to other orders which trade in the same manner. The Exchange believes removing this reference will eliminate confusion.

Implementation

Both SR-ISE-2017-02 and SR-ISE-2017-03 will be implemented in Q2 2017 in connection with a system migration to INET. The migration will be on a symbol by symbol basis, and the Exchange will issue an alert to Members to provide notification of the symbols that will migrate and the relevant dates. The Exchange proposes these amendments to be operative on the same dates as symbols migrate to INET.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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 for the reasons stated below.

⁶ An Immediate-Or-Cancel Order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

Foreign Currency Options

The Exchange believes that the proposed rule change is consistent with the Act in that it will remove impediments to and perfect the mechanism of a free and open market and a national market system, to initiate the Opening Process for foreign currency options at 9:30 AM Eastern Time and accept Market Maker Valid Width Quotes and Opening Sweeps at 9:25 AM Eastern Time for foreign currency options similar to the manner in which other options trade today. Today, on NASDAQ PHLX, LLC (“Phlx”), foreign currency options trade similar to other options.⁹ The Exchange believes that conforming the Opening Process and trading hours for foreign currency options to that of other options will conform the trading rules so all products would trade during the same session. The Exchange believes trading all options on the same Opening Process schedule promotes just and equitable principles of trade because all options will continue to be available to participants for trading on ISE.

All-or-None Orders

The Exchange believes that it is consistent with the Act to remove an unnecessary and confusing reference to Rule 701 in connection with All-or-None Orders, since these orders will now immediately trade or cancel. The Exchange originally made clear the manner in which All-or-None Orders would trade in the Opening Process because this order type trades differently as compared to other order types. That distinction has become unnecessary because All-or-None Orders trade the same as other Immediate or Cancel Orders. By updating the rule to remove an unnecessary distinction will protect investors and the public interest by clarifying the rule.

⁹ See Phlx Rules 1014 and 1017. On Phlx, the Specialist assigned in a particular U.S. dollar-settled FCO must enter a Valid Width Quote not later than 30 seconds after the announced market opening. Also, on Phlx, the Opening Process for an option series will be conducted within two minutes of market opening in the case of U.S. dollar-settled FCO or such shorter time as determined by the Exchange and disseminated to membership on the Exchange’s web site.

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

The Exchange does not believe that the proposed rule change will impose any undue burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal does not change the intense competition that exists among the options markets for options business including with respect to transacting foreign currency options. In addition, all market participants submitting All-or-None Orders in the Opening Process will receive similar treatment with respect to those orders.

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 Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹² normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹³ permits the Commission to designate a shorter time if such action is consistent with the

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 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 satisfied this requirement.

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

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 Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to implement the proposed rule change in coordination with a symbol by symbol transition to the INET technology in the second quarter of 2017. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.¹⁴

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-2017-41 on the subject line.

¹⁴ 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).

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-2017-41. 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-2017-41 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.¹⁵

Eduardo A. Aleman
Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).