

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81991; File No. SR-ISE-2017-96)

October 31, 2017

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 1614

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 October 27, 2017, Nasdaq ISE, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1614, entitled “Imposition of Fines for Minor Rule Violations,” to make a non-substantive, clarifying change to the rule. [sic]

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 Exchange is proposing to amend Rule 1614, entitled “Imposition of Fines for Minor Rule Violations,” to make a non-substantive, clarifying change to the rule.³ [sic] Rule 1614(d)(2) currently sets forth the fine schedule for the failure to file annual Financial and Operational Combined Uniform Single (“FOCUS”) Reports on Form X-17A-5 in accordance with Rule 17a-10⁴ under the Act. The existing schedule in the Rule does not clearly reflect how a FOCUS Report that is received on the ninetieth day would be handled for purposes of assessing a fine. The Exchange therefore proposes to clarify in Rule 1614(d)(2) that FOCUS Reports received by the Exchange over ninety calendar days late will subject the member to formal disciplinary action. As such, the Exchange is proposing to change the reference to “90 or more” days in the sanction schedule to “over 90” days.

2. Statutory Basis

The Exchange is proposing to amend Rule 1614, entitled “Imposition of Fines for Minor Rule Violations,” to make a non-substantive, clarifying change to the rule.⁵ [sic] Rule 1614(d)(2)

³ The Exchange notes that Chapter 16 of the ISE Rulebook, including Rule 1614, is incorporated by reference into the rulebooks of Nasdaq GEMX (“GEMX”) and Nasdaq MRX (“MRX”). As such, the amendment to ISE Rule 1614 as proposed herein will also impact GEMX and MRX Rules 1614.

⁴ 17 CFR 240.17a-10.

⁵ The Exchange notes that Chapter 16 of the ISE Rulebook, including Rule 1614, is incorporated by reference into the rulebooks of Nasdaq GEMX (“GEMX”) and Nasdaq MRX (“MRX”). As such, the amendment to ISE Rule 1614 as proposed herein will also impact GEMX and MRX Rules 1614.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the Exchange’s proposal is a non-substantive, technical amendment to Rule 1614(d)(2), and is merely intended to add further clarification to the Exchange’s rules and alleviate potential confusion.

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

⁶ 17 CFR 240.17a-10.

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁹ 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. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Clarification of how a FOCUS Report will be handled for purposes of assessing a fine that is 90 calendar days late will reduce confusion caused by the ambiguity of the Rule as written before the Exchange filed this proposed rule change. The Commission believes no purpose is served in delaying such clarification. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.¹⁰

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,

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 240.19b-4(f)(6)(iii).

¹⁰ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2017-96 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-2017-96. 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.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2017-96, 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.¹¹

Eduardo A. Aleman
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(12).