SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74525; File No. SR-ISE-2015-09)

March 18, 2015

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 March 12, 2015, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "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 Substance of the Proposed Rule Change

The ISE proposes to amend the Schedule of Fees as described in more detail below. 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 proposes to amend the Schedule of Fees to (1) provide more favorable Priority Customer[3] complex order rebates, (2) charge all legs for complex Crossing Orders,[4] (3) apply Foreign Exchange ("FX") Option fees and rebates to complex orders in FX Option Symbols,[5] including Early Adopter FX Option Symbols,[6] and (4) eliminate the Market Maker Plus[7] large size rebate for BAC, SPY, and IWM. Each of the proposed changes is described in more detail below.

1. Priority Customer Complex Order Rebates

The Exchange currently provides volume-based tiered rebates for Priority Customer complex orders when these orders trade with non-Priority Customer orders in the complex order book, or trade with quotes and orders on the regular order book. These complex order rebates are

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3 A "Priority Customer" is 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), as defined in Rule 100(a)(37A).

4 A "Crossing Order" is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism ("PIM") or submitted as a Qualified Contingent Cross ("QCC") order. For purposes of the fee schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

5 "FX Option Symbols" are options overlying AUM, GBP, EUU and NDO.

6 "Early Adopter FX Option Symbols" are options overlying NZD, PZO, SKA, BRB, AUX, BPX, CDD, EUI, YUK and SFC.

7 A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer at least 80% of the time for series trading between \$0.03 and \$3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to \$100) and between \$0.10 and \$3.00 (for options whose underlying stock's previous trading day's last sale price was greater than \$100) in premium in each of the front two expiration months. A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for the Market Maker Plus rebate, if doing so will qualify a Market Maker for the rebate.

provided to members based on the member's average daily volume ("ADV") in Priority Customer complex orders in six volume tiers as follows: 0 to 29,999 contracts (Tier 1), 30,000 to 74,999 contracts (Tier 2), 75,000 to 124,999 contracts (Tier 3), 125,000 to 224,999 contracts (Tier 4), 225,000 to 299,999 contracts (Tier 5), and 300,000 or more contracts (Tier 6).[8] The Exchange now proposes to decrease the volume requirements necessary for achieving higher Priority Customer complex order rebates. The proposed ADV thresholds are as follows: 0 to 29,999 contracts (Tier 1), 30,000 to 59,999 contracts (Tier 2), 60,000 to 99,999 contracts (Tier 3), 100,000 to 149,999 contracts (Tier 4), 150,000 to 199,999 contracts (Tier 5), and 200,000 or more contracts (Tier 6).

In addition, the Exchange proposes to increase the rebates provided for Priority Customer complex orders. Currently, Priority Customer complex orders receive a rebate of $0.30 per contract in Select Symbols[9] and $0.63 per contract in Non-Select Symbols[10] for Tier 1, $0.35 per contract in Select Symbols and $0.71 per contract in Non-Select Symbols for Tier 2, $0.39 per contract in Select Symbols and $0.75 per contract in Non-Select Symbols for Tier 3, $0.41 per contract in Select Symbols and $0.80 per contract in Non-Select Symbols for Tier 4, $0.43 per contract in Select Symbols and $0.82 per contract in Non-Select Symbols for Tier 5, and $0.45

8 The rebate for the highest tier volume achieved is applied retroactively to all Priority Customer Complex volume once the threshold has been reached. For purposes of determining Priority Customer Complex ADV, any day that the complex order book is not open for the entire trading day may be excluded from such calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.

9 "Select Symbols" are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

10 "Non-Select Symbols" are options overlying all symbols excluding Select Symbols.

per contract in Select Symbols and $0.83 per contract in Non-Select Symbols for Tier 6.[11] The Exchange now proposes to increase the rebate in Select Symbols to $0.40 per contract for Tier 3, $0.43 per contract for Tier 4, $0.45 per contract for Tier 5, and $0.46 per contact for Tier 6. For Non-Select Symbols the rebate will be increased to $0.78 per contract for Tier 3. Other rebate amounts will remain unchanged from their current levels.

2. Fee for Complex Crossing Orders

The Exchange charges Market Maker,[12] Non-ISE Market Maker,[13] Firm Proprietary[14]/Broker-Dealer,[15] and Professional Customer[16] orders a fee for complex Crossing Orders of $0.20 per contract. This fee applies to complex Crossing Orders except for PIM orders of 100 or fewer contracts (which are subject to a separate fee) and is charged for all legs for PIM orders and for the largest leg only for all other Crossing Orders. The Exchange now proposes to charge for all legs for all Crossing Orders, including QCC orders and orders entered into the PIM, Facilitation, Block and Solicited Order Mechanisms. Firm Proprietary and Non-ISE Market

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[11] These rebates are provided per contract per leg if the order trades with non-Priority Customer orders in the complex order book, or trades with quotes and orders on the regular order book.

[12] The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See Rule 100(a)(25).

[13] A "Non-ISE Market Maker" is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[14] A "Firm Proprietary" order is an order submitted by a member for its own proprietary account.

[15] A "Broker-Dealer" order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

[16] A "Professional Customer" is a person or entity that is not a broker/dealer and is not a Priority Customer.

Maker contracts traded will remain subject to the Crossing Fee Cap, as provided in Section IV.H.[17]

3. Complex FX Option Fees and Rebates

ISE charges fees and provides rebates for orders in FX Option Symbols, including Early Adopter FX Option Symbols, executed on the Exchange. While the Schedule of Fees has separate fees and rebates in Section III applicable to simple orders in FX option classes, the complex order fees and rebates for Non-Select Symbols in Section II currently apply to complex orders in these symbols. The Exchange now proposes to apply the FX option fees and rebates in Section III to all trades executed in FX option classes, including both simple and complex orders. The proposed fees, which already apply to simple orders in FX option classes, are briefly described below.

Maker/Taker Fees and Rebates: Currently, non-Priority Customer complex orders in FX option classes are charged a fee for removing liquidity that ranges from $0.85 per contract for Market Maker orders to $0.87 per contract for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders. The same rates similarly apply when these market participants provide liquidity to Priority Customer orders. Otherwise, the applicable maker fee is $0.10 per contract for Market Maker, Firm Proprietary/Broker-Dealer, and Professional Customer orders and $0.20 per contract for Non-ISE Market Maker orders. Priority Customer complex orders are not currently charged a fee for adding or removing liquidity in FX option classes. Instead, these orders are eligible for a tiered volume based rebate of $0.63 per contract to

17 The Exchange notes that the relevant citation to the Crossing Fee Cap currently refers mistakenly to Section VI, which was renumbered Section IV in connection with the delisting of Mini Options on ISE, and also uses a previous name "Firm Fee Cap". The Exchange proposes to update this section and make corresponding changes to other outdated references to the Crossing Fee Cap, as well as to Market Maker Discount Tiers, which are both now located in Section IV.

$0.83 per contract when trading with non-Priority Customer orders in the complex order book, or trading with quotes and orders on the regular order book. With the proposed change, members will pay a fee, regardless of adding or removing liquidity, of $0.22 per contract for Market Maker orders (subject to tier discounts),[18] $0.20 for Market Maker orders sent by an Electronic Access Member ("EAM"), $0.45 per contract for Non-ISE Market Maker orders, $0.30 per contract for Firm Proprietary/Broker-Dealer and Professional Customer orders, and $0.40 per contract for Priority Customer orders. Early Adopter Market Makers participate in a revenue sharing arrangement as described in footnote 2 to Section III, and will not be liable for FX option fees.

Fee for Crossing Orders: Currently, non-Priority Customer complex orders in FX option classes are charged a fee for Crossing Orders of $0.20 per contract, or $0.03 to $0.05 per contract for PIM orders of 100 or fewer contracts. With the proposed change, the fee for Crossing Orders in FX option classes will be $0.22 per contract for Market Maker orders (subject to tier discounts),[19] $0.20 per contract for Market Maker orders sent by an EAM, Non-ISE Market Maker orders, Firm Proprietary/Broker-Dealer orders, and Professional Customer orders, and, finally, $0.40 per contract for Priority Customer orders. For PIM orders of 100 or fewer contracts, the proposed fee would be $0.03 to $0.05 per contract for non-Priority Customer orders and $0.40 per contract for Priority Customer orders. Again, Early Adopter Market Makers will not be charged a fee.

Response Fees and Break-Up Rebates: Currently, the fee for responses to complex Crossing Orders in FX option classes is $0.90 per contract for Market Maker orders and $0.95

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18 The Exchange proposes to clarify in Section IV.C., which describes the relevant market maker discount tiers, that both simple and complex orders in FX options classes are now subject to these tiers pursuant to footnote 3 of Section III.

19 See id.

per contract for all other market participants. Non-Market Maker orders also receive a PIM break-up rebate of $0.80 per contract. With the proposed change, all market participants, except for Early Adopter Market Makers, will pay a fee for responses to complex Crossing Orders in FX option classes of $0.45 per contract. In addition, non-Market Maker complex orders in these symbols will be eligible for a PIM break-up rebate of $0.15 per contract.

4. Market Maker Plus Large Size Rebate for BAC, SPY, and IWM

In order to promote and encourage liquidity in Select Symbols, the Exchange currently offers Market Makers who meet the quoting requirements for Market Maker Plus enhanced rebates for adding liquidity in those symbols. In May 2014, the Exchange introduced a new Market Maker Plus rebate for members that meet specified quotation size requirements on a trade by trade basis in three actively traded Select Symbols: BAC, SPY, and IWM.[20] In particular, Market Makers who qualify as Market Maker Plus in BAC, SPY, and IWM currently earn a rebate of $0.25 per contract if at the time of the trade their displayed quantity, in the traded series, is at least 1,000 contracts. The Exchange now proposes to eliminate this Market Maker Plus large size rebate.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[21] in general, and Section 6(b)(4) of the Act,[22] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

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[20] See Securities Exchange Act Release No. 72163 (May 14, 2014), 79 FR 28985 (May 20, 2014) (SR-ISE-2014-27).

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(4).

1. <u>Priority Customer Complex Order Rebates</u>

The Exchange believes that it is reasonable and equitable to decrease the volume requirements necessary to achieve the Priority Customer complex order rebates, and increase the rebate amounts, as these proposed changes are designed to attract additional Priority Customer complex order volume to the Exchange. The Exchange already provides volume-based tiered rebates for Priority Customer complex orders, and believes that increasing the rebates and lowering the associated volume thresholds will incentivize members to send additional order flow to the ISE in order to achieve these rebates for their Priority Customer complex order volume, creating additional liquidity to the benefit of all members that trade complex orders on the Exchange.

The Exchange further believes that it is equitable and not unfairly discriminatory to continue to provide a rebate only for Priority Customer complex orders. A Priority Customer is by definition not a broker or 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). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers.

2. <u>Fee for Complex Crossing Orders</u>

The Exchange believes that it is reasonable and equitable to charge for all legs for all Crossing Orders, including QCC orders and orders entered into the PIM, Facilitation, Block and Solicited Order Mechanisms. While this is a fee increase for members that execute complex Crossing Orders (other than PIM orders), the Exchange believes that this change is warranted as the current practice effectively discounts the fee charged for complex Crossing Orders to zero after the largest leg, effectively subsidizing complex Crossing Orders with numerous legs. The Exchange no longer believes that this subsidy is appropriate, and has therefore chosen to discontinue it for all complex Crossing Orders as it has already done for PIM orders. The Exchange does not believe that this proposed change is unfairly discriminatory as it would apply equally to all market participants that trade complex Crossing Orders on the Exchange.

3. Complex FX Option Fees

The Exchange believes that it is reasonable and equitable to charge the same fees for complex orders in FX Option Symbols and Early Adopter FX Option Symbols as the Exchange currently charges for simple orders in these symbols. The Exchange believes that the current table of FX option fees and rebates in Section III of the Schedule of Fees is appropriate for both simple and complex orders. [23] Charging the same fees across the board in these proprietary products will simplify the Schedule of Fees to the benefit of members and investors. The Exchange does not believe that this proposed change is unfairly discriminatory as members are already assessed fees and rebates for simple orders in FX option classes based on Section III of the Schedule of Fees. The proposed change will merely ensure that these members pay the same fees for complex orders in these symbols as well. For the majority of market participants this means that fees will be lower, and in some cases significantly lower. Certain fees, including, for example, fees charged for Priority Customer orders, however, will be increased with the proposed change. While Priority Customer orders generally receive several benefits for trading on ISE, the Exchange does not believe that it is unfairly discriminatory to reduce some of those benefits here. In this regard, the Exchange notes that the proposed fee for Priority Customer

[23] The Exchange notes that the proposed change to Section IV.C. is intended solely to clarify that market maker discount tiers will be extended to complex orders in FX option classes consistent with the meaning of footnote 3 to Section III.

complex FX option orders is within the range of fees currently charged by some of the Exchange's competitors, including NASDAQ OMX PHLX, LLC ("Phlx").[24] Similarly, the Exchange notes that PIM break-up rebates would be reduced with the proposed rule change. The Exchange believes that this is reasonable, equitable, and not unfairly discriminatory as the proposed break-up rebates are set at a level that the Exchange believes will continue to provide an appropriate incentive for members.

4. Market Maker Plus Large Size Rebate for BAC, SPY, and IWM

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to eliminate the Market Maker Plus large size rebate as the Exchange does not believe that this program has satisfied its intended goals. When ISE introduced this program, the Exchange was hopeful that the higher rebate would encourage Market Makers to post deeper size in these actively traded symbols. After running this program for several months, the Exchange does not believe that the large size rebate has been an effective incentive for Market Makers. The Exchange therefore believes that it is appropriate to discontinue the large size rebate at this time.

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

In accordance with Section 6(b)(8) of the Act,[25] 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. The transaction fee changes amend various fees and rebates and are designed to attract additional order flow to the Exchange. The Exchange believes that the proposed fees and rebates are competitive with fees and rebates offered to orders executed on other options exchanges. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to

[24] See Phlx Pricing Schedule, Section III, Singly Listed Options.

[25] 15 U.S.C. 78f(b)(8).

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 reflect 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[26] and subparagraph (f)(2) of Rule 19b-4 thereunder,[27] 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 Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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[26] 15 U.S.C. 78s(b)(3)(A)(ii).

[27] 17 CFR 240.19b-4(f)(2).

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-2015-09 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-2015-09. 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 office of the ISE. 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-2015-09 and should be submitted by [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Brent J. Fields
Secretary

[28] 17 CFR 200.30-3(a)(12).