

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71209; File No. SR-TOPAZ-2013-20)

December 31, 2013

Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Filing of Proposed Rule Change to More Specifically Address the Number and Size of Counterparties to a Qualified Contingent Cross Order

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 18, 2013, the Topaz Exchange, LLC (d/b/a ISE Gemini) (the "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 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 Exchange is proposing to amend Rule 715 (Types of Orders) to more specifically address the number and size of counterparties to a Qualified Contingent Cross Order ("QCC Order"). The text of the proposed rule change is available on the Exchange's Internet website at <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

---

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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.

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

1. Purpose

The purpose of this proposal is to remove the size restriction on contra-party participation on a QCC Order. This proposal would expand the availability of QCC Orders by permitting multiple contra-parties on a QCC Order, each of which may consist of an order for less than 1,000 contracts; provided however, that the originating QCC Order meets the 1,000 contract minimum (as well as the other requirements of a QCC Order). This change is intended to increase liquidity and, potentially, improve the prices at which QCC Orders get executed, as explained further below.

A QCC Order must be comprised of an originating order to buy or sell at least 1,000 contracts<sup>3</sup> that is identified as being part of a qualified contingent trade,<sup>4</sup> coupled with a contra-side order or orders totaling an equal number of contracts, each of which is at least 1,000 contracts. QCC Orders are automatically executed upon entry provided that the execution (i) is

---

<sup>3</sup> In the case of Mini Options, the minimum size is 10,000 contracts.

<sup>4</sup> 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 contra-parties [sic] 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.

not at the same price as a Priority Customer Order on the Exchange's limit order book and (ii) is at or between the NBBO. QCC Orders will be automatically canceled if they cannot be executed. QCC Orders may only be entered in the regular trading increments applicable to the options class under Rule 710 (Minimum Trading Increments).

The QCC Order type was originally approved on July 26, 2013.<sup>5</sup> The Exchange then amended this rule on December 18, 2013 to specify that a QCC Order could have multiple contra-parties, so long as each contra-party's order is for at least 1,000 contracts.<sup>6</sup>

The Exchange is now proposing to remove the size limit placed on contra-parties to QCC Orders in an effort to increase liquidity and, potentially, improve the prices at which QCC Orders get executed. The ability for market participants to provide liquidity in response to large sized orders is directly proportional to the size and associated risk of the resulting position. As a result, smaller sized trades are often done at a better price than larger sized trades, which convey more risk. The ability to pool together multiple market participants to participate on a trade for any size, as opposed to only allowing market participants to participate for a minimum of 1,000 contracts has a direct and positive impact on the ability of those market participants to provide the best price as they compete to participate against the order without being compelled to provide liquidity with a large minimum quantity. This concept isn't unique to large crosses. It is well understood and observed that any product with multiple market participants providing liquidity offers the tightest and most liquid market and the same applies to the larger orders negotiated away from the exchanges.

---

<sup>5</sup> See Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10-209).

<sup>6</sup> See SR-Topaz-2013-20 [sic].

Allowing several participants to offer liquidity to a QCC Order serves to ensure that that order receives the best possible price available in the market. Restricting interaction to only participants who are willing to trade a minimum of 1,000 contracts simply guarantees an inferior price because a trade will be limited to few liquidity providers who are taking on more risk as opposed to multiple liquidity providers being able to share the overall risk and trade at a better price. For example, a 1,000 contract order in GOOG will receive a better price if two liquidity providers are able to each provide 500 contracts, rather than one of them having to trade the entire 1,000 contracts.

An area of concern has been the protection of smaller orders, which is why the QCC Order is limited to the 1,000 contract minimum. It is important to note that the concern has always been and should continue to be for the originating or unsolicited part of the order, the order that is seeking liquidity and not the professional responders and providers of liquidity. Allowing smaller orders to participate on the other side of QCC Orders not only provides the best price and opportunity for a trade to occur in a tight and liquid market, but ensures that the highest possible number of liquidity providers are able to participate. Limiting participation only to liquidity providers who are willing to participate on the trade for 1,000 contracts conversely could result in an inferior price by shutting out some participants due to the large size and thereby minimizing the opportunity for competition and price improvement. Removing this limitation benefits both sides of a QCC trade by ensuring a trade at the best possible price without favoring larger participants on the solicited side of the trade.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>7</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest by amending the rule text to more clearly defining the QCC Order. Specifically, because the proposal removes the size restriction placed on the contra-sides to a QCC Order, it should increase liquidity and improve the prices at which QCC Orders get executed and, therefore, provide more opportunity to participate in QCC trades, consistent with the key principles behind the QCC Order.

In approving QCC Orders, the Commission has stated that "...qualified contingent trades are of benefit to the market as a whole and a contribution to the efficient functioning of the securities markets and the price discovery process."<sup>8</sup> The Commission "also has recognized that contingent trades can be useful trading tools for investors and other market participants, particularly those who trade the securities of issuers involved in mergers, different classes of shares of the same issuer, convertible securities, and equity derivatives such as options [emphasis added]."<sup>9</sup> In light of these benefits, the Exchange believes that the proposal should improve the usefulness of the QCC Order without raising novel regulatory issues, because the proposal does not impact the fundamental aspects of this order type - it merely permits multiple contra-parties, regardless of size, on one side, while preserving the 1,000 contract minimum on the originating QCC Order.

---

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> QCC Approval Order at text accompanying footnote 115.

<sup>9</sup> QCC Approval Order at Section III.A. citing Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006) (Original QCT Exemption).

Consistent with Section 6(b)(8) of the Act, the Exchange believes that this will be beneficial to participants because allowing multiple parties of any size on one contra-side of a QCC Order should foster competition for filling QCC Orders and thereby result in potentially better prices.

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. In fact, the proposal is intended to relieve a burden on competition, which results from different exchanges interpreting their rules differently. Among the options exchanges, the Exchange believes that the proposal to allow multiple counterparties of at least 1,000 contracts should foster competition for filling the contra-side of a QCC order and thereby result in potentially better prices for such orders.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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](mailto:rule-comments@sec.gov). Please include File Number SR-TOPAZ-2013-20 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-TOPAZ-2013-20. 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-TOPAZ-2013-20 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.<sup>10</sup>

Elizabeth M. Murphy  
Secretary

---

<sup>10</sup> 17 CFR 200.30-3(a)(12).