

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-66432); File No. SR-ISE-2012-08)

February 21, 2012

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Expand the Short Term Option Series Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on February 8, 2012, 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 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 its rules to expand the Short Term Option Series Program. The text of the proposed rule change is available on the Exchange’s website [www.ise.com](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 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 Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections

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

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

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 proposed rule change is to amend ISE Rules 504 and 2009 to expand the Short Term Option Series Program ("STOS Program").<sup>3</sup> Currently, ISE may select up to 25 currently listed option classes on which short term option series may be opened in the STOS Program. The Exchange proposes to increase this to thirty option classes to participate in the STOS Program. This is a competitive filing and is based on recently approved filings submitted by The NASDAQ Stock Market LLC for the NASDAQ Options Market ("NOM") and NASDAQ OMX PHLX, Inc. ("PHLX").<sup>4</sup>

On November 17, 2011, the Exchange amended the STOS Program by increasing the number of strikes that may be listed per class (from 20 to 30) that participates in the STOS Program, and by increasing the number of classes (from 15 to 25) that are eligible to participate in the STOS.<sup>5</sup> On that same day, NOM and PHLX each increased the number of classes that are eligible to participate in their STOS Programs from 15 classes to 30 classes. As a result, ISE is competitively disadvantaged since it operates a substantially similar STOS Program as NOM and

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<sup>3</sup> The Exchange adopted the STOS Program on a pilot basis in 2005. See Securities Exchange Act Release No. 52012 (July 12, 2005), 70 FR 41246 (July 18, 2005) (SR-ISE-2005-17). The STOS Program was approved on a permanent basis in 2010. See Securities Exchange Act Release No. 62444 (July 2, 2010), 75 FR 39595 (July 9, 2010) (SR-ISE-2010-72).

<sup>4</sup> See Securities Exchange Act Release Nos. 65775 (November 17, 2011), 76 FR 72473 (November 23, 2011) (SR-NASDAQ-2011-138) and 65776 (November 17, 2011), 76 FR 72482 (November 23, 2011) (SR-PHLX-2011-131).

<sup>5</sup> See Securities Exchange Act Release No. 65771 (November 17, 2011), 76 FR 72472 (November 23, 2011) (SR-ISE-2011-60).

PHLX but is limited to selecting only 25 classes that may participate in its STOS Program (whereas PHLX and NOM may each select 30 classes).<sup>6</sup>

The Exchange is not proposing any changes to these additional STOS Program limitations other than to increase from 25 to 30 the number of option classes that may participate in the STOS Program.

ISE notes that the STOS Program has been well-received by market participants, in particular by retail investors. ISE believes a modest increase to the number of classes that may participate in the STOS Program, such as the one proposed in this rule filing, will permit ISE to meet increased customer demand and provide market participants with the ability to hedge in a greater number of option classes.

With regard to the impact of this proposal on system capacity, ISE has analyzed its capacity and represents that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes that participate in the STOS Program.

The proposed increase to the number of classes eligible to participate in the STOS Program is required for competitive purposes as well as to ensure consistency and uniformity among the competing options exchanges that have adopted similar STOS Programs.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934<sup>7</sup> (the “Act”) in general, and furthers the objectives of

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<sup>6</sup> ISE is permitted to list short term options “on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules.” See Supplementary Material .02 to ISE Rule 504, and Supplementary Material .01 to ISE Rule 2009.

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

Section 6(b)(5) of the Act<sup>8</sup>; in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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. The Exchange believes that expanding the current short term options program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions and hedging decisions in greater number of securities. The Exchange believes that expanding the current program would provide the investing public and other market participants increased opportunities because an expanded program would provide market participants additional opportunities to hedge their investment thus allowing these investors to better manage their risk exposure. While the expansion of the STOS Program will generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal remains limited to a fixed number of classes. Further, the Exchange does not believe that the proposed rule change will result in a material proliferation of additional series because the number of series per class remains limited, and the Exchange does not believe that the additional price points will result in fractured liquidity.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not 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) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to those of other exchanges that have been approved by the Commission that permit such exchanges to select up to 30 classes to participate in their respective short term option series programs.<sup>11</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>12</sup>

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of 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.

<sup>11</sup> See supra note 4.

<sup>12</sup> 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).

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.

#### 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-ISE-2012-08 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-ISE-2012-08. 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-2012-08 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>13</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).