

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-67545; File No. SR-ISE-2012-65)

July 31, 2012

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Reformat the Schedule of Fees

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 July 25, 2012, the International Securities Exchange, LLC (the “ISE” or the “Exchange”) filed with the Securities and Exchange Commission (“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 is proposing to relocate various fees within the Schedule of Fees in order to group fees with other similar types of fees and adopt a Table of Contents for the Schedule of Fees. The text of the proposed rule change is available on the Exchange’s website (<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 proposed rule change is to relocate various fees within the Exchange's Schedule of Fees to group fees so that the Exchange's fees may be easily located within the fee schedule. The Exchange also proposes to adopt a Table of Contents so that the Exchange's fees are easily located within the Schedule of Fees. The Exchange is not proposing any substantive changes, but rather proposes to merely rearrange text within the Schedule of Fees. The only substantive change the Exchange proposes to make is the adoption of a Preface wherein the Exchange proposes to adopt definitions of market participants, certain order types, and provide a list of symbols for certain defined groups of securities. The information proposed in the Preface already appears in one form or another on the Exchange's current Schedule of Fees.

Specifically, the Exchange proposes to adopt a Table of Contents and therein, adopt Sections I through IX. Proposed Section I contains a table for Regular Order Fees and Rebates; Proposed Section II contains a table for Complex Order Fees and Rebates; Proposed Section III contains FX Options Fees and Rebates; Proposed Section IV contains Other Options Fees and

Rebates;<sup>3</sup> Proposed Section V contains Trading Application Software fees;<sup>4</sup> Proposed Section VI contains Access Service fees;<sup>5</sup> Proposed Section VII contains Legal & Regulatory fees;<sup>6</sup> Proposed Section VIII contains Market Data fees;<sup>7</sup> and Proposed Section IX contains Other Services fees.<sup>8</sup>

This proposed rule change also proposes to adopt a Preface which contains a list of defined terms that are used by the Exchange in assessing its fees for market participants to use as guidance in determining the Exchange's fees and rebates. Specifically, the Exchange proposes to adopt the following terms and definitions in the proposed Preface:

---

<sup>3</sup> Other Options Fees and Rebates include the QCC and Solicitation Rebate, Index License Surcharge, Market Maker Tiers, Payment for Order Flow, PMM Linkage Credit, Route-Out Fees, Credit for Responses to Flash Orders, Firm Fee Cap, Inactive PMM Fee and Cancellation Fee. The Exchange notes that by adopting the proposed headings, the Exchange is simply proposing to make its Schedule of Fees more transparent and easier to navigate. As such, the Exchange believes that changes such as the adoption of the term PMM Linkage Credit, which is currently identified on the Exchange's Schedule of Fees as Intermarket Sweep Order Credit, are not substantive changes and are simply name changes to allow market participants to understand the Exchange's fees and credits with greater ease.

<sup>4</sup> Trading Application Software fees include Installation fees, Software License and Maintenance fees and FIX Session/API Session fees.

<sup>5</sup> Access Service fees include Access Fees, Network Fees and Telco Line Charges.

<sup>6</sup> Legal & Regulatory fees include Application Fee, Administrative Fee, Options Regulatory Fee and Regulatory Fee.

<sup>7</sup> Market Data fees include fees for the following market data offerings: ISE Open/Close Trade Profile End of Day, ISE Open/Close Trade Profile Intraday, ISE Open/Close Trade Profile End of Day and ISE Open/Close Trade Profile Intraday, Enhanced Sentiment Market Data, Historical Data, Real-time Depth of Market Raw Data Feed, ISE Order Feed, ISE Top Quote Feed, ISE Spread Feed and ISE Implied Volatility and Greeks Feed.

<sup>8</sup> Other Services fees include Training, Testing, Third Party Developers and Disaster Recovery Testing & Relocation Services fees.

- 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 ISE Rule 100(a)(37A).<sup>9</sup>
- A “Professional Customer” is a person or entity that is not a broker/dealer and is not a Priority Customer.
- 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.
- A “Firm Proprietary” order is an order submitted by a member for its own proprietary account.
- A “Broker-Dealer” order is an order submitted by a member for a non-member broker-dealer’ account.<sup>10</sup>
- A “Flash Order” is a Priority or Professional Customer order that is exposed at the National Best Bid or Offer by the Exchange to all members for execution, as provided under Supplementary Material .02 to ISE Rule 803.

---

<sup>9</sup> Prior to adopting the term “Priority Customer,” retail customers were identified on the Exchange’s Schedule of Fees, and in some cases, are still identified on the Exchange’s Schedule of Fees, by the term “public customers.” With this proposed rule change, public customers will now be identified as Priority Customers. The Exchange is not proposing any substantive change and is simply making a name change for the purpose of identifying this category of market participant consistently throughout the Schedule of Fees.

<sup>10</sup> The term “Broker-Dealer” does not currently appear in the Exchange’s Schedule of Fees. Broker-Dealer orders are currently charged the same fees as Firm Proprietary orders. However, in recognizing that Firm Proprietary orders and Broker-Dealer orders are not always synonymous, the Exchange proposes to adopt the term “Broker-Dealer” as a distinct order type.

- A “Regular Order” is an order that consists of only a single option series and is not submitted with a stock leg.
- A “Complex Order” is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, as provided in ISE Rule 722, as well as Stock-Option Orders and SSF-Option Orders.
- 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 order. For purposes of this Fee Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.<sup>11</sup>
- “Responses to Crossing Order” is any contra-side interest submitted after the commencement of an auction in the Exchange’s Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or PIM.<sup>12</sup>
- “Select Symbols” are options overlying QQQ, C, BAC, SPY, IWM, XLF, GE, JPM, INTC, RIMM, T, VZ, UNG, FCX, CSCO, DIA, AMZN, X, AA, AIG, AXP, BBY, CAT, CHK, DNDN, EEM, EFA, EWZ, F, FAS, FAZ, FSLR, GDX, GLD, IYR, MGM, MS,

---

<sup>11</sup> Crossing Order fees currently appear in the column titled Facilitation, Solicited Order, Price Improvement and Block Order Mechanisms and Qualified Contingent Cross orders on pages 17, 21 and 23 of the Exchange’s current Schedule of Fees. A Crossing Order is currently identified on the Exchange’s Schedule of Fees as a Special Order. With this proposed rule change, Special Orders will now be identified as Crossing Orders. The Exchange is not proposing any substantive change and is simply making a name change for the purpose of identifying these orders consistently throughout the Schedule of Fees.

<sup>12</sup> Responses to Crossing Order fees currently appears as footnote 8 on page 18 and in the column titled Responses to Special Orders on pages 21 and 23 of the Exchange’s current Schedule of Fees. A Response to Crossing Order is currently identified on the Exchange’s Schedule of Fees as a Response to Special Order. With this proposed rule change, Responses to Special Orders will now be identified as Responses to Crossing Orders. The Exchange is not proposing any substantive change and is simply making a name change for the purpose of identifying these orders consistently throughout the Schedule of Fees.

MSFT, MU, PBR, PG, POT, RIG, SDS, SLV, XLE, XOM, ABX, BMY, BP, COP, DELL, FXI, HAL, IBM, KO, LVS, MCD, MO, MON, NOK, ORCL, PFE, QCOM, S, SLB, SNDK, TBT, USO, V, VALE, WFT, XLI, XRT, YHOO, AKAM, AMD, APC, BA, BRCM, GG, HPQ, LCC, NEM, NFLX, NVDA, QID, SSO, TEVA, TLT, TZA, UAL, WFC, XLB, SIRI, SBUX, VVUS, MSI, AAPL, BIDU, and VXX.

- “Special Non-Select Penny Pilot Symbols” are options overlying BTU, CLF, CRM, CVX, DE, EBAY, FDX, GLW, GM, GMCR, GS, HD, LULU, MCP, MMR, MOS, MRK, SHLD, SINA, SLW, UPS, USB, WYNN, XHB, XLK.
- “Non-Select Symbols” are options overlying all symbols excluding Select Symbols and Special Non-Select Penny Pilot Symbols.
- “FX Option Symbols” are options overlying AUM, GBP, EUU and NDO.
- “Early Adopter FX Option Symbols” are options overlying NZD, PZO, SKA, BRB, AUX, BPX, CDD, EUI, YUK and SFC.<sup>13</sup>
- “Singly Listed Symbols” are options overlying DMA, FUM, HSX, OOG, BYT, HVY, RUF, JLO, SIN, RND, HHO, PMP, POW, TNY, WMX, IXZ, UKX, NXTQ, FXO, QQEW, PLTM, SMDD, and FIW.<sup>14</sup>

---

<sup>13</sup> These ten (10) FX options are currently identified on the Exchange’s Schedule of Fees as symbols traded pursuant to an incentive plan known as the FX Options Incentive Plan. With this proposed rule change, these ten (10) FX options will now be known as Early Adopter FX Option Symbols. The Exchange is not proposing any substantive change and is simply making a name change for the purpose of identifying this group of FX options consistently throughout the Schedule of Fees.

<sup>14</sup> The Exchange notes that DMA, FUM, HSX, OOG, BYT, HVY, RUF, JLO, SIN, RND, HHO, PMP, POW, TNY, WMX, IXZ, UKX and NXTQ are currently identified on the Exchange’s Schedule of Fees as Singly Listed Indexes, while FBT, FXO, QQEW, CU, PLTM, SDOW, UDOW, SMDD, UMDD, SRTY, URTY, FIW and CQQQ are currently identified on the Exchange’s Schedule of Fees as Singly Listed ETFs. However, eight (8) of the Singly Listed ETFs are now listed on at least one other exchange; therefore, ISE proposes to remove these products from its list of Singly Listed Symbols. The eight (8)

The goal of this proposed rule change is to reformat the current fee schedule by bringing the Exchange's transaction fees and rebates to the front of the proposed Schedule of Fees and to present these fees and rebates in a more cohesive table as opposed to presenting these fees and rebates in multiple tables, as is currently the case. The Exchange believes the proposed reformatted Schedule of Fees will allow market participants to more easily ascertain and locate fees that are applicable to them.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Securities and Exchange Act of 1934 (the "Exchange Act")<sup>15</sup> in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act<sup>16</sup> 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, by organizing its Rules in such a way as to make them easy to locate by grouping transaction fees with other transaction fees and creating sections for categories that, in some cases, already exist on the Exchange's Schedule of Fees, to provide market participants an ability to view fees, which may be applicable to them, in one section or subsection of the Schedule of Fees. The Exchange believes that adopting a Table of Contents will provide greater clarity to the Schedule of Fees and allow market participants to readily locate fees within the Schedule of Fees.

---

products are FBT, CU, SDOQ, UDOW, UMDD, SRTY, URTY and CQQQ. With this proposed rule change, all of Singly Listed Indexes and Singly Listed ETFs will collectively be identified as Singly Listed Symbols. The Exchange is not proposing any substantive change and is simply adopting the term Singly Listed Symbol to include all singly listed products.

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

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 Exchange Act.

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.<sup>17</sup> 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.

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

---

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2012-65 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-2012-65. 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-2012-65 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>18</sup>

Kevin M. O'Neill  
Deputy Secretary

---

<sup>18</sup> 17 CFR 200.30-3(a)(12).