

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67602; File No. SR-ISE-2012-52)

August 6, 2012

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval of Proposed Rule Change to Allow Competitive Market Makers to Use Their Membership Points to Enter Multiple Quotes in an Options Class

I. Introduction

On June 6, 2012, International Securities Exchange, LLC (“Exchange” or “ISE”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to allow Competitive Market Makers (“CMMs”) to use their membership points to enter multiple quotes in an options class. The proposed rule change was published for comment in the Federal Register on June 25, 2012.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange’s structure of CMM appointments allows market makers flexibility in choosing the options classes to which they are appointed.⁴ On a quarterly basis, the Exchange assigns point values to options classes based on their percentage of overall industry volume (not including exclusively traded index options).⁵ A CMM is allowed to seek appointments to options classes that total twenty points for the first CMM trading right owned or leased by a

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 67216 (June 19, 2012), 77 FR 37944.

⁴ See Securities Exchange Act Release Nos. 65534 (October 12, 2011), 76 FR 64417 (October 18, 2011)(SR-ISE-2011-58); and 65100 (Aug. 11, 2011), 76 FR 51075 (Aug. 17, 2011)

⁵ See ISE Rule 802(c)(1).

member, and ten points for each subsequent CMM trading right owned or leased by the same member.⁶

The Exchange proposes to adopt .03 of the Supplementary Material to Rule 802 (Appointment of Market Makers) to allow CMMs to seek appointment to options classes in which it or an affiliated market maker holds a CMM or Primary Market Maker appointment. Thus, the proposed rule would allow CMMs to use their membership points to enter multiple quotes in an options class, provided that such Member has sufficient CMM points for each such appointment. The Exchange states that the quoting requirements for CMMs would be applicable to each set of quotes that the CMM enters, and CMMs will not be permitted to aggregate multiple quotes in an options class in order to meet the quoting requirements under ISE rules.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁸ which requires, among other things, that the rules of a national securities exchange be 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 of a free and open market and a national market system and, in general, to protect investors and the public interest.

⁶ CMMs can select the options classes to which they seek appointment, but the Exchange retains the authority to make such appointments and to remove appointments from CMMs based on their performance. See ISE Rule 802(d).

⁷ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(5).

The proposal allows CMMs to seek appointment to options classes in which it or an affiliated market maker holds a CMM or Primary Market Maker appointment. The Commission believes that the proposal is consistent with the Act. The Commission notes that the proposal should allow CMMs more flexibility in using their membership points. The proposal may also promote competition by increasing the number of competitive quotes in options classes traded on the Exchange. Moreover, the Commission notes that according to the ISE, each set of CMM quotes will have independent quoting obligations, and thus CMMs cannot aggregate multiple quotes in an options class to meet its quoting requirements under the ISE rules. The Exchange will run surveillance on each set of quotes for compliance with the quoting obligations of market makers, ISE Rules, and the Exchange Act.⁹

⁹ See Telephone conversation between Katherine Simmons (“Katherine Simmons”), Deputy General Counsel, ISE, and John C. Roeser, Assistant Director, and David A. Garcia, Attorney-Advisor, Division of Trading and Markets (“Division”), Commission, on June 21, 2012; Telephone conversation between Katherine Simmons and Susie Cho, Special Counsel, Division, Commission, on July 23, 2012.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-ISE-2012-52), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

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Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).