

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-68314; File No. SR-ISE-2012-75)

November 28, 2012

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Available a New Market Data Offering

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 November 15, 2012, the International Securities Exchange, LLC (the "Exchange" or the "ISE") 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 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 make available, through its member MEB Options LLC ("MEB"), a new market data offering referred to as "Spread Crawler." The text of the proposed rule change is available on the Exchange's Web site [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

---

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

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

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, Proposed Rule Change

1. Purpose

The Exchange proposes to make available, through MEB, a new market data offering referred to as “Spread Crawler,” which will serialize spread book data produced by certain U.S. options exchanges and provide electronic alerts based on end-user defined filters (the “Service”).

Spread Crawler, which was developed by MEB, listens to a streaming data feed from all of the U.S. options exchanges that broadcast open complex option orders (i.e. ISE, CBOE, C2, AMEX, ARCA, and PHLX) together with their instrument definition (i.e. option legs) over various multi-cast channels in a FIX format. Spread Crawler then serializes this enormous amount of data and turns each record back into a formal structure so it contains details of both sides of the order (i.e. bid and/or offer), as well as the instrument definition. In addition to actual order detail, this structure would contain the current option and underlying stock National Best Bid or Offer (“NBBO”), together with a calculated theoretical value based on the midpoint of the NBBO (“Order Object”). The Order Object is then run through MEB’s filtering technology which applies filtering rules to each record based on a registered end-user input (i.e. custom-set parameters for particular symbols or industry sectors, minimum/maximum sizes, edge and specific expirations, etc.) to determine which registered end-user(s), if any, would be interested in seeing this order. These filtering rules are contained in a relational database and are maintained by the registered end-user through the Spread Crawler website where they can add or update individual parameters in real-time. From the matching list of registered end-users, Spread

Crawler then creates and transmits individual alerts that outline details of the order in an electronic format selected by the registered end-user (i.e. email, instant messaging, etc.).

The Exchange has entered into an agreement with MEB to offer Spread Crawler to both ISE members and non-ISE members on a subscription basis. Under the Agreement, MEB will operate and maintain the Service and the Exchange will provide certain marketing, first line technical support, accounting and contract administration services for Spread Crawler. In exchange for the provision of such services, the Exchange will receive a percentage of the total monthly subscription fees received by MEB from parties who have subscribed to the Service.

While Spread Crawler will be provided exclusively through the Exchange to both ISE members and non-ISE members, the Exchange represents that it would enter into a similar arrangement for a similar market data offering with any third party, including another ISE member, on the same terms and conditions as the arrangement with MEB, should any such third party request to do so. Furthermore, because MEB does not rely solely on the ISE complex option orders data feed to provide the Service and instead utilizes a general aggregation of data from all of the U.S. options exchanges that broadcast open complex option orders, any third party (regardless of whether it is an ISE-member or non-ISE member) may develop and/or establish a similar market data offering, with or without ISE's participation, and increase the competitive landscape for such market data offerings. In addition, the Exchange confirms that: (i) MEB has not (and will not) receive any preferential treatment as a result of being a ISE member which acts as a service provider to other ISE members and non-ISE members pursuant to this arrangement; (ii) MEB will not have any special, different, or preferential access to the Exchange's data as a result of this arrangement; and (iii) ISE, in the context of being one of the marketplaces at which complex option orders may be executed as a result of the Service, will not

receive any preferential treatment or informational advantage over any other exchange or marketplace at which complex option orders may be executed with respect to the way the Exchange is represented as part of the Service, or any resulting alerts transmitted by the Service to a subscriber.

The Exchange believes the Service provides valuable information that can help users make informed investment decisions. The Exchange will make Spread Crawler available to both ISE members and non-ISE members on a subscription basis later this year and will submit a separate proposal to establish fees for this market data offering. ISE expects to launch the Service, through MEB, during the fourth quarter of 2012.

## 2. Statutory Basis

The Exchange believe that the proposed rule change is consistent with the provisions of Section 6 of the Act<sup>3</sup>, in general, and with Section 6(b)(5) of the Act,<sup>4</sup> in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers.

The proposed rule change would allow the Exchange, through MEB, to offer a new market data service on a voluntary and non-discriminatory basis. Specifically, the Exchange believes that the Service is: (i) voluntary on the part of the Exchange, which is not required to

---

<sup>3</sup> 15 U.S.C. 78f.

<sup>4</sup> 15 U.S.C. 78f(b)(5).

offer the Service and the subscription to the Service is not necessary to execute complex orders on the Exchange; (ii) voluntary on the part of prospective subscribers who are not required to use the Service and it is not necessary to subscribe to such Service in order to execute complex orders on the Exchange; and (iii) non-discriminatory as the Service is made available on a subscription basis to both ISE members and non-ISE members as a “one-size fits all” offering in which all subscribers, regardless of whether each such subscriber is an ISE member or non-ISE member, are subject to the same terms and conditions, receive the same level of service (i.e. there are no differing or advanced/upgraded levels of service or other ability to receive the data contained in the Service faster or differently than other subscribers), and receive alerts based on each user’s input.

By offering the Service through an exchange environment in partnership with MEB, the Exchange believes that it will be promoting just and equitable principles of trade, fostering cooperation and coordination with persons engaged in regulating and processing information with respect to, and facilitating transactions in securities, and removing impediments to and perfecting the mechanism of a free and open market and national market system by: (i) increasing the transparency associated with this product by converting it into an exchange-offered product versus a broker-dealer offered product through the wider dissemination and distribution of useful proprietary data; (ii) clarifying the non-discriminatory availability of such proprietary data to market participants; (iii) increasing availability as the data will be made available to a broader range of market participants (i.e. by offering exchange-wide distribution, this will significantly enhance the current distribution of this product as it is now currently only distributed by a single broker-dealer); and (iv) providing to subscribers of the Service, both ISE members and non-ISE members, a mechanism for managing the complexity of analyzing real-

time complex order book data from multiple exchanges with high efficiency which will allow them to make more efficient trading decisions. As such, through this proposed rule change, the Exchange is making a voluntary decision to make this data available in order to improve market quality, to attract order flow, and to increase the transparency and the availability of certain proprietary market data.

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

ISE does not believe that this proposed rule change will 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

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)<sup>5</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>6</sup>

---

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(6).

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>7</sup> However, Rule 19b-4(f)(6)(iii)<sup>8</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that it may offer the Service immediately. The Exchange believes that a waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange, through MEB, to bring an existing product that is currently offered in the marketplace as a non-exchange-offered product to market as an exchange-offered product in an exchange environment which will: (i) improve market quality through the wider dissemination and distribution of useful proprietary data and also by clarifying the non-discriminatory availability of such proprietary data to market participants; (ii) increase transparency by bringing the Service to an exchange environment which will allow the data to be made available to a broader range of market participants; (iii) allow users of the Service, both ISE members and non-ISE members, to manage the complexity of analyzing real-time spread book data from multiple exchanges with high efficiency and allow them to make more efficient trading decisions; and (iv) help attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions. Allowing the Exchange to bring the Service to the market without delay would provide market participants with the potential benefits of the Service as soon as possible. The

---

<sup>7</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. ISE has satisfied this requirement.

<sup>8</sup> Id.

Commission believes that waiver of the operative delay is consistent with investor protection and the public interest. Therefore, the Commission is hereby waiving the 30-day operative delay.<sup>9</sup>

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-2012-75 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.

All submissions should refer to File Number SR-ISE-2012-75. 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

---

<sup>9</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).

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-2012-75 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>

Kevin M. O'Neill  
Deputy Secretary

---

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