

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-68318; File No. SR-ISE-2012-90)

November 29, 2012

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding 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 November 21, 2012, the International Securities Exchange, LLC (the “Exchange” or “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 amend its rules to expand the number of expirations available under the Short Term Option Series Program (“STOS Program”), to allow for the Exchange to delist certain series in the STOS that do not have open interest and to expand the number of series in STOS under limited circumstances. 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

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

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

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 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 the proposal is to amend ISE rules to provide for the ability to open up to five consecutive expirations under the Short Term Option Series Program (“STOS Program”) for trading on the Exchange, to allow for the Exchange to delist certain series in the STOS that do not have open interest and to expand the number of series in STOS under limited circumstances when there are no series at least 10% but not more than 30% away from the current price of the underlying security.<sup>3</sup>

This filing is based on filings previously submitted by NYSE Arca, Inc. (“Arca”) and NYSE MKT LLC (“MKT”), which the Commission recently approved.<sup>4</sup>

Currently, the Exchange may select up to 30 currently listed option classes on which STOS options may be opened in the STOS Program and the Exchange may also match any option classes that are selected by other securities exchanges that employ a similar program under their respective rules.<sup>5</sup> For each option class eligible for participation in the STOS

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<sup>3</sup> On July 12, 2005, the Commission approved the STOS Program on a pilot basis. See Securities Exchange Act Release No. 52012 (July 12, 2005), 70 FR 41246 (July 19, 2005) (SR-ISE-2005-17). The STOS Program was made permanent on July 1, 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. 68190 (November 8, 2012) (SR-NYSEArca-2012-95); 68191 (November 8, 2012) (SR-NYSEMKT-2012-42).

<sup>5</sup> See ISE Rule 504, Supplementary Material .02(a).

Program, the Exchange may open up to 30 Short Term Option Series for each expiration date in that class.<sup>6</sup> Under the current rule, STOS options expire the following week.

This proposal seeks to allow the Exchange to open STOS option series for up to five consecutive week expirations. The Exchange intends to add a maximum of five consecutive week expirations under the STOS Program, however it will not add a STOS expiration in the same week that a monthly options series expires or, in the case of Quarterly Option Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class. In other words, the total number of consecutive expirations will be five, including any existing monthly or quarterly expirations.<sup>7</sup> The Exchange notes that the STOS Program has been well-received by market participants, in particular by retail investors.<sup>8</sup> The Exchange believes that the current proposed revision to the STOS Program will permit the Exchange to meet increased customer demand and provide market participants with the ability to hedge in a greater number of option classes and series.

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

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<sup>6</sup> See ISE Rule 504, Supplementary Material .02(c) and (d).

<sup>7</sup> For example, if quarterly options expire week 1 and monthly options expire week 3 from now, the proposal would allow the following expirations: week 1 quarterly, week 2 STOS, week 3 monthly, week 4 STOS, and week 5 STOS. If quarterly options expire week 3 and monthly options expire week 5, the following expirations would be allowed: week 1 STOS, week 2 STOS, week 3 quarterly, week 4 STOS, and week 5 monthly.

<sup>8</sup> Since the STOS Program has been adopted, it has seen rapid acceptance among industry participants as evidenced by the expansion of the number of classes eligible for the STOS Program. See Securities Exchange Act Release No. 66432 (February 21, 2012), 77 FR 11614 (February 27, 2012 (SR-ISE-2012-08)).

In addition, the Exchange is proposing to add new language to Supplementary Material .02 to ISE Rule 504 and Supplementary Material .01 to ISE Rule 2009 to allow the Exchange, in the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security, to delist series with no open interest in both the call and the put series having a: (i) strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration month, so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security. Further, in the event that all existing series have open interest and there are no series at least 10% above or below the current price of the underlying security, the Exchange may list additional series, in excess of the 30 allowed currently under current ISE Rules 504 and 2009, that are at least 10% and not more than 30% above or below the current price of the underlying security. This change is being proposed notwithstanding the current cap of 30 series per class under the STOS Program.

The Exchange believes that it is important to allow investors to roll existing option positions and ensuring that there are always series at least 10% but not more than 30% above or below the current price of the underlying security will allow investors the flexibility they need to roll existing positions.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>10</sup> in particular, in that it is

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<sup>9</sup> 15 U.S.C. 78f (b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms 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 STOS Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions and hedging decisions in a greater number of securities. The Exchange also believes that expanding the STOS Program will provide the investing public and other market participants with 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 expirations.

The Exchange believes that the ability to delist certain series with no open interest in both the call and the put series will benefit investors by devoting the current cap in the number of series to those series that are more closely tailored to the investment decisions and hedging decisions of investors.

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. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to filings recently submitted by Arca and MKT and approved by the Commission. ISE believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform rules regarding the STOS Program.

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>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</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 and permit such exchanges to open up to five consecutive expirations under their respective STOS Programs as well as allow for the exchanges to delist any series in the STOS Programs that do not have open interest and expand the number of series per class permitted in the STOS Programs under limited circumstances.<sup>13</sup>

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</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>13</sup> See supra note 4.

Therefore, the Commission designates the proposal operative upon filing.<sup>14</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-2012-90 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-2012-90. 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

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<sup>14</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).

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-2012-90 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>15</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).