

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72204; File No. SR-ISE-2014-12)

May 21, 2014

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 1614

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that, on May 8, 2014, 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, II, and III below, which items have been prepared by the Exchange. The Exchange has filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 ISE Rule 1614 (Imposition of Fines for Minor Rule Violations) to incorporate violations of ISE Rules 803 (Obligations of Market Makers) and 804 (Market Maker Quotations) into the Minor Rule Violation Plan ("MRVP") and to delete obsolete rule text. The text of the proposed rule change is available on the Exchange's web site www.ise.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 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 proposed rule change is to amend ISE Rule 1614 to: (1) separate violations of the quotation spread parameters from one violation into two: one for pre-opening quotation spread parameters and one for post-opening quotation parameters, as set forth in ISE Rule 803 (Obligations of Market Makers); (2) incorporate violations for failing to meet the Exchange's continuous quoting obligations, as set forth in ISE Rule 804 (Market Maker Quotations); and (3) to delete obsolete rule text.

The Exchange believes most of these violations are inadvertent and technical in nature. Processing these routine violations under the MRVP would decrease the administrative burden of regulatory and enforcement staff, as well as, that of the Business Conduct Committee. In addition, staff would be able to more expeditiously process routine violations under the MRVP.

Quote Spread Obligations (Rule 803). The MRVP currently combines pre-opening and post-opening quote spreads into one MRVP violation and defines an instance as one quote violation. Under the current plan, if a member has over forty (40) instances of quote spread violations, the matter must be handled outside of the MRVP and a formal action must be

brought. Given these limitations, the Exchange has never been able to use the MRVP for quote spread violations since Members average millions of quotes per day. Therefore, the Exchange is now proposing to split the quote spread violations into two categories. One category would apply to pre-opening quote spread violations, and one category would apply to post-opening quote spread violations. Additionally, we are proposing to change the application of the MRVP from applying to each “instance” of a quote spread violation to each “offense.” For purposes of the MRVP, an “offense” will apply to any given month within a 24-month rolling period.

Given the proposal to split the quote spread violations into two categories, e.g. pre-opening quote spreads and post-opening quote spreads, the Exchange is proposing to move violations of Rule 805(b)(1)(i), which addresses order spreads, from Rule 1614(d)(5) to both 1614(d)(6)(a) and 1614(d)(6)(b). This proposed change ensures that violations of both quote spreads and order spreads that occur either pre-open or post-open will be aggregated for the purposes of determining the number violations under the MRVP.

Continuous Quote Obligations (Rule 804). The Exchange is proposing to add violations of the continuous quotation rule to the MRVP. These are routine types of violations and the added flexibility of including these matters in the MRVP will help streamline our surveillance and enforcement program.

For violations of Rule 1614(d)(6)(a) and (b) and proposed 1614(d)(11) the Exchange is proposing to consider violations that occur in any given month within a 24-month rolling period as an “offense.” The Exchange is also proposing to change the applicability of the MRVP for violations of Rule 1614(d)(6)(a) and (b) from violations occurring within one calendar year to violations that occur within a rolling twenty-four month period. Since the Exchange is proposing to aggregate the violations that occur within a month and sanction the violations as a single

offense, the Exchange believes it is appropriate to consider offenses that have occurred within the past twenty-four month rolling period, as opposed to a calendar year, to determine the amount to fine a firm and when to proceed with formal disciplinary action.

The Exchange is proposing that the first offense would result in a letter of caution, the second offense would result in a \$1,000 fine, the third offense would result in a \$2,500 fine, the fourth offense would result in a \$5,000 fine and a fifth offense would result in formal disciplinary action. With respect to violations of Rule 1614(d)(6)(a) and (b), the Exchange is proposing to change the fine amounts to those discussed above from a letter of caution for the first 1 to 10 violations, \$200 fine for 11 to 20 violations, \$400 fine for 21 to 30 violations, \$800 fine for 31 to 40 violations and formal disciplinary actions for more than 40 violations. The Exchange believes it is appropriate to charge a higher fine amount because the Exchange is aggregating violations that occur in a month and sanction the violations as a single offense. Given that the Exchange believes that the proposed fine amounts are appropriate for violations of quote spread parameters (proposed Rule 1614(d)(6)(a) and (b)), the Exchange also believes that these same fine amounts should apply to violations of the continuous quote spread parameters (proposed Rule 1614(d)(11)).

As with other violations covered under the Exchange's Minor Rule Violation Plan, any egregious activity may be referred to the Exchange's Business Conduct Committee.

Additionally, the Exchange is proposing to delete the reference to Rule 717(a) and (f) in Rule 1614(d)(5) as those sections were rescinded and to delete the sentence stating that each paragraph of Rule 717 subject to this Rule shall be treated separately for purposes of determining the number of cumulative violations because this Rule now only applies to sections (d) and (e) of Rule 717. Violations of Sections (d) and (e) of Rule 717 will be aggregated for the purposes of

determining the number violations under the MRVP because both sections of the rule address order exposure requirements. The Exchange is also proposing to rescind (d)(4) (Conduct and Decorum Policies) of Rule 1614 as it is inapplicable to ISE's market structure as ISE is an electronic exchange and this provision seems to relate to conduct and decorum on floor-based exchanges.

By promptly imposing a meaningful financial penalty for such violations, the MRVP focuses on correcting conduct before it gives rise to more serious enforcement action. The MRVP provides a reasonable means of addressing rule violations that do not necessarily rise to the level of requiring formal disciplinary proceedings, while also providing a greater flexibility in handling certain violations. Adopting a provision that would allow the Exchange to sanction violators under the MRVP by no means minimizes the importance of compliance with these rules. The Exchange believes that the violation of any of its rules is a serious matter. The addition of a sanction under the MRVP simply serves to add an additional method for disciplining violators of the additional rules. The Exchange will continue to conduct surveillance with due diligence and make its determination, on a case by case basis, whether a violation of these additional rules should be subject to formal disciplinary proceedings.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act⁶ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, and 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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

public interest, allowing the Exchange to have consistency between its Minor Rule Violation Plan and the Minor Rule Violation Plan of other SROs. Many other options exchanges administer violations for their quotation spread rules and continuous quoting rules under their MRVP.⁷ The Exchange believes that the proposed such change furthers the objectives of Section 6(b)(1)⁸ of the Act to enforce compliance by its Members of the Exchange's Rules, Section 6(b)(6)⁹ of the Act to appropriately discipline Members for violations of Exchange Rules, and Section 6(b)(7)¹⁰ of the Act to provide a fair procedure of disciplining Members as the proposal will strengthen its ability to carry out its oversight responsibilities as a self-regulatory organization and reinforce its surveillance and enforcement functions. Processing these routine violations under the MRVP would decrease the administrative burden of regulatory and enforcement staff, as well as, that of the Business Conduct Committee. In addition, staff would be able to more expeditiously process routine violations under the MRVP.

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

Since this rule change is merely allowing the Exchange to process certain rule violations through its MRVP that other exchanges already process through their MRVP, this filing does not implicate the burden analysis.

⁷ See Chicago Board Options Exchange Rule 17.50, C2 Rule 17.50, NYSE Arca Rule 10.12, BATS Exchange Rule 8.15, Nasdaq Options Market rule, Chapter 10, Section 7, Boston Options Exchange Rule 12140 and Miami International Securities Exchange Rule 1014.

⁸ 15 U.S.C. 78f(b)(1).

⁹ 15 U.S.C. 78f(b)(6).

¹⁰ 15 U.S.C. 78f(b)(7).

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)¹¹ of the Act and Rule 19b-4(f)(6)¹² thereunder. The Exchange provided the Commission with written notice of its 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 the proposed rule change.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 C.F.R. 240.19b-4(f)(6).

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. Please include File Number SR-ISE-2014-12 on the subject line.

Paper Comments:

- Send paper comments in triplicate to the Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2014-12. 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-2014-12 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.¹³

Kevin M. O'Neill
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).