

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-74804; File No. SR-ISE-2015-15)

April 24, 2015

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend 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 April 10, 2015, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange 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 proposes to amend the Schedule of Fees as described in more detail below. The text of the proposed rule change is available on the Exchange’s web site (<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 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.

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

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

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 the Schedule of Fees as described in more detail below.

1. Market Maker Fees & Tier Discounts

The Exchange charges a taker fee for regular orders in Select Symbols<sup>3</sup> that is \$0.42 per contract for Market Maker<sup>4</sup> orders, including Market Maker Plus<sup>5</sup> orders, \$0.45 per contract for Non-ISE Market Maker,<sup>6</sup> Firm Proprietary<sup>7</sup> / Broker-Dealer,<sup>8</sup> and Professional Customer<sup>9</sup>

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<sup>3</sup> “Select Symbols” are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

<sup>4</sup> The term “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively. See ISE Rule 100(a)(25).

<sup>5</sup> A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer at least 80% of the time for series trading between \$0.03 and \$3.00 (for options whose underlying stock’s previous trading day’s last sale price was less than or equal to \$100) and between \$0.10 and \$3.00 (for options whose underlying stock’s previous trading day’s last sale price was greater than \$100) in premium in each of the front two expiration months. A Market Maker’s single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate.

<sup>6</sup> 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.

<sup>7</sup> A “Firm Proprietary” order is an order submitted by a member for its own proprietary account.

<sup>8</sup> A “Broker-Dealer” order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

<sup>9</sup> A “Professional Customer” is a person or entity that is not a broker/dealer and is not a Priority Customer.

orders, and \$0.30 per contract for Priority Customer<sup>10</sup> orders. The Exchange now proposes to increase this taker fee to \$0.44 per contract for Market Maker orders, including Market Maker Plus orders.

The Exchange also charges Market Makers a maker/taker fee and a fee for Crossing Orders<sup>11</sup> that is \$0.22 per contract for regular orders in Non-Select Symbols<sup>12</sup> as well as regular and complex orders in Foreign Currency (“FX”) Option Symbols.<sup>13</sup> In addition, Market Makers that execute a monthly volume of 250,000 contracts or more are entitled to a discounted rate of \$0.15 per contract (together, “Market Maker Discount Tiers”). The Exchange now proposes to increase these fees. In particular, applicable Market Maker orders will now be charged a fee of \$0.25 per contract, subject to a discounted rate of \$0.20 per contract for Market Makers that meet the volume threshold described above.

## 2. Fees for Firm Proprietary / Broker-Dealer, Non-ISE Market Maker, & Professional Customer Orders

The Exchange also charges a maker/taker fee for regular orders in Non-Select Symbols as well as regular and complex orders in FX Option Symbols that is \$0.30 per contract for Firm Proprietary / Broker-Dealer, and Professional Customer orders, and \$0.45 per contract for Non-ISE Market Maker orders. The Exchange now proposes to increase fees for each of these market participants to \$0.50 per contract.

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<sup>10</sup> 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>11</sup> The fee for Crossing Orders applies to Crossing Orders other than PIM orders of 100 or fewer contracts, which are billed separately.

<sup>12</sup> “Non-Select Symbols” are options overlying all symbols excluding Select Symbols.

<sup>13</sup> Fees in FX options do not apply to Early Adopter Market Makers. Market Maker orders sent by an Electronic Access Member (“EAM”) are charged separately.

### 3. Complex Order Maker Fees

The Exchange charges a maker fee for complex orders in Non-Select Symbols that is \$0.10 per contract for Market Maker, Firm Proprietary / Broker-Dealer, and Professional Customer orders, and \$0.20 per contract for Non-ISE Market Maker orders, in each case when trading against other non-Priority Customer orders. The Exchange now proposes to increase this maker fee to \$0.20 per contract for Market Maker, Firm Proprietary / Broker-Dealer, and Professional Customer orders, in line with the current fees charged for Non-ISE Market Maker orders.

The Exchange also charges a uniform maker fee of \$0.43 per contract for non-Priority Customer orders that trade against Priority Customer orders in Complex Quoting Symbols,<sup>14</sup> i.e., symbols in which Market Makers can enter quotes in the complex order book. In addition, Market Makers receive a discount of \$0.02 per contract in Complex Quoting Symbols when trading against Priority Customer orders preferenced to them in the complex order book. The Exchange now proposes to eliminate these special fees applicable to Complex Quoting Symbols. As such, Non-Priority Customer orders in Complex Quoting Symbols will now be charged applicable maker fee for Select Symbols when trading against Priority Customer orders. This fee is \$0.44 per contract for Non-ISE Market Maker, Firm Proprietary / Broker-Dealer and Professional Customer orders, and \$0.43 per contract (subject to a preference discount) for Market Maker orders.

### 4. Fee for Responses to Crossing Orders

The Exchange charges all market participants a fee for responses to Crossing Orders that is \$0.45 per contract for regular and complex orders in Select Symbols and FX Option

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<sup>14</sup> The Complex Quoting Symbols are AA, ABX, EFA, GLD, MSFT, MU, NVDA, VXX, VZ, WFC, XLB and XOP.

Symbols,<sup>15</sup> as well as regular orders in Non-Select Symbols. The Exchange now proposes to increase this response fee to \$0.47 per contract. The Exchange is not proposing any changes to the response fees for complex orders in Non-Select Symbols, which will continue to be charged at a rate of \$0.90 per contract for Market Maker orders, and \$0.95 per contract for all other market participants.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>16</sup> in general, and Section 6(b)(4) of the Act,<sup>17</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

### 1. Market Maker Fees & Tier Discounts

The Exchange believes that it is reasonable and equitable to increase Market Maker fees (including applicable Market Maker Discount Tiers) as the proposed fees are designed to continue to be attractive to Market Makers that trade on ISE, and are within the range of fees charged by other options exchanges. Furthermore, the Exchange notes that while it is increasing Market Maker fees, Market Makers will continue to be charged fees that are generally lower than the fees applicable to other market participants, except for Priority Customers. The Exchange does not believe that it is unfairly discriminatory to provide lower fees to Market Maker orders as Market Makers are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

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<sup>15</sup> The Exchange notes that Early Adopter Market Makers in FX option classes are not charged a fee for responses to Crossing Orders. The Exchange is not proposing any changes to response fees for Early Adopter Market Makers.

<sup>16</sup> 15 U.S.C. 78f.

<sup>17</sup> 15 U.S.C. 78f(b)(4).

## 2. Fees for Firm Proprietary / Broker-Dealer, Non-ISE Market Maker, & Professional Customer Orders

The Exchange believes that it is reasonable and equitable to increase the fees charged to Firm Proprietary / Broker-Dealer, Non-ISE Market Maker, and Professional Customer orders as the proposed fees are designed to be attractive to market participants that choose to bring order flow to the ISE, and remain well within the range of fees charged by some of the Exchange's competitors. Furthermore, the Exchange does not believe that the proposed fees are unfairly discriminatory as the fees would apply to equally to Non-ISE Market Maker, Firm Proprietary / Broker-Dealer, and Professional Customer orders. In connection with this proposed change, the Exchange notes that fees charged to Market Maker orders are also increasing (see above) but will remain lower than the fees described here for Firm Proprietary / Broker-Dealer, Non-ISE Market Maker, and Professional Customer orders. The Exchange does not believe that this is unfairly discriminatory for the reasons already discussed.

## 3. Complex Order Maker Fees

The Exchange believes that the proposed change to increase complex order maker fees is reasonable and equitable as the proposed fees are set at levels that the Exchange believes will continue be attractive to market participants that provide liquidity in complex orders, and are within the range of fees charged by other options exchanges. Moreover, with the proposed change, Market Maker, Firm Proprietary / Broker-Dealer, and Professional Customer complex orders in Non-Select Symbols will now be charged the same maker fee as is currently applicable to Non-ISE Market Maker complex orders. As the proposed fees will be applied equally to all market participants that trade complex orders in these symbols, the Exchange further believes that this proposed change is not unfairly discriminatory. In addition, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to eliminate special fees for Complex

Quoting Symbols, as the Exchange believes that these fee discounts are no longer needed to attract liquidity in these symbols. Furthermore, the Exchange believes that it is not unfairly discriminatory to eliminate this distinction for Complex Quoting Symbols, as members will now be charged the standard maker fee for all complex orders in Select Symbols, including the Complex Quoting Symbols.

#### 4. Fee for Responses to Crossing Orders

The Exchange believes that the proposed fees for responses to Crossing Orders, which are being increased slightly, are appropriate to attract price improvement for Crossing Orders submitted to ISE, and therefore qualify as reasonable and equitable. In this regard, the Exchange notes that other options exchanges charge various fees for responses to Crossing Orders, and the fees proposed here are within the range of fees charged by these competitor markets. Additionally, the Exchange believes that the proposed response fees are not unfairly discriminatory as the Exchange will continue to charge a uniform response fee that is applicable to all market participants that respond to Crossing Orders in affected symbols. As is the case today, responses to Crossing Orders will be charged a higher fee than contra-side orders submitted as part of a crossing transaction. The Exchange continues to believe that this is reasonable, equitable, and not unfairly discriminatory as contra-side orders guarantee the agency order, and are subject to market risk during the time period that the agency order is exposed to other market participants for potential price improvement. Finally, the Exchange notes that it will continue to charge a higher fee for responses to complex Crossing Orders in Non-Select symbols, which reflects the higher fees and rebates generally applicable to complex orders in these symbols.

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

In accordance with Section 6(b)(8) of the Act,<sup>18</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed fees and rebates are competitive with fees and rebates offered to orders executed on other options exchanges. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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>19</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>20</sup> because it establishes a due, fee, or other charge imposed by ISE.

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

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<sup>18</sup> 15 U.S.C. 78f(b)(8).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>20</sup> 17 CFR 240.19b-4(f)(2).

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 proposal 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 No. SR-ISE-2015-15 on the subject line.

##### Paper Comments:

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

All submissions should refer to File No. SR-ISE-2015-15. 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 changes 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 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 No. SR-ISE-2015-15 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>21</sup>

Brent J. Fields  
Secretary

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<sup>21</sup> 17 CFR 200.30-3(a)(12).