

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80106; File No. SR-ISEGemini-2017-07)

February 24, 2017

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Cancel and Replace Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 24, 2017, ISE Gemini, LLC (“ISE Gemini” or “Exchange”) 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 define the manner in which cancel and replace orders will be handled with the transition of the Exchange’s technology migration to INET.

The text of the proposed rule change is available on the Exchange’s website at 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 in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item IV below. The Exchange 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 Exchange is proposing to amend Supplementary Material .02 to Rule 715 to memorialize the manner in which the trading system will handle cancel and replace orders in connection with the Exchange's technology migration to INET.

By way of background with respect to cancel and replace orders, a Member has the option of either sending in a cancel order and then separately sending in a new order which serves as a replacement of the original order (two separate messages) or sending a single cancel and replace order in one message ("Cancel and Replace Order"). Sending in a cancel order and then separately sending in a new order will not retain the priority of the original order on the current ISE Gemini system and on the INET system.

Today, ISE Gemini does not treat all Cancel and Replace Orders as new orders. For example, a Cancel and Replace Order which reduced the size of the original order from 600 to 300 contracts would not be treated as a new order. A new order would be subject to price or other reasonability checks,³ which this order today on ISE Gemini would not be subject to as a result of decreasing the size of the order. This order would continue to retain its time priority in the system.

With the migration to INET, a Cancel and Replace Order will result in the original order

³ Price or other reasonability checks consider the current market at the time of the Cancel and Replace Order.

being cancelled, provided the original order was not already filled partially or in its entirety.⁴ A Cancel and Replace Order which reduced the size of the original order from 600 to 300 contracts would be treated as a new order and receive a price or other reasonability check on INET. This order would also retain its time priority in INET. With INET all Cancel and Replace Orders would receive price or other reasonability checks as a result of being viewed as new orders as compared to the manner in which these orders are treated on ISE Gemini today. Both in ISE Gemini today and in the INET system, the replacement order will retain time [sic] the priority of the cancelled order, if the order posts to the Order Book,⁵ provided the price is not amended, the size is not increased⁶ or in the case of Reserve Orders, size is not changed.⁷ The manner in which ISE Gemini treats priority with respect to Cancel and Replace Orders is not changing, but simply being memorialized. With respect to Reserve Orders, any change in size will result in the original order becoming a new order and receiving a new timestamp, which impacts priority.

Implementation

The Exchange intends to begin implementation of the proposed rule change in Q1 2017. The migration will be on a symbol by symbol basis, and the Exchange will issue an alert to members in the form of an Options Trader Alert to provide notification of the symbols that will migrate and the relevant dates.

⁴ For example, in both the current ISE Gemini system and INET, the original order is automatically canceled or reduced by the number of contracts that were executed depending on the volume of the original order that was filled.

⁵ During an exposure period a Cancel and Replace Order will retain priority if the order posts to the Order Book, provided price is not changed, size is not increased or, for a Reserve Order, size is not changed.

⁶ Decrementing the volume will not result in a change in priority, as is the case today with ISE Gemini.

⁷ A Reserve Order is a limit order that contains both a displayed portion and a non-displayed portion. See ISE Gemini Rule 715(g).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁹ in particular, in that it is designed 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. The Exchange believes that its proposal to memorialize the manner in which Cancel and Replace Orders will be handled by the trading system with the transition to INET will add transparency to the rules.

Specifically, with respect to Cancel and Replace Orders the Exchange believes that it is consistent with the Act to treat such orders as new orders which will be subject to price or other reasonability checks. The Exchange believes that conducting price or other reasonability checks for all Cancel and Replace Orders will protect investors and the public interest by validating the order against the current market conditions prior to proceeding with the request to modify the order. The manner in which ISE Gemini treats priority with respect to Cancel and Replace Orders is not changing. The ISE Gemini system currently assigns a new priority to the order when the price is changed, size is increased or the size of a reserve order is changed. Hence, the priority of the original order would continue to not be retained in the same manner with respect to the original order. The Exchange believes that allowing Cancel and Replace Orders, where the size is reduced, to retain the priority of the original order is consistent with the manner in which the Exchange treats partially executed orders, which similarly apply the priority of the executed portion of the order to the remaining portion of the order. Other exchanges today

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

permit an order to retain priority if only the size was decremented.¹⁰ The Exchange believes that permitting size to decrement and allowing the order to retain priority is consistent with the Act because the reduced change in size does not impact the terms of the order materially. The reduced size of the order would have priority on the Order Book with the original order.

The Exchange believes that it is consistent with the Act to treat Reserve Orders differently than other order types by giving these orders a new priority if size is amended in any way, including a decrement in size, with a Cancel and Replace Order because unlike other order types, Reserve Orders have both a displayed and non-displayed portion. The Exchange believes that any change to the original order should be treated as a new order because the size of a Reserve Order is specifically defined as part of that order type. A Member must specify the displayed and total volume, a portion of which is non-displayed, when the order type is entered into the system. Treating this order type as a new order if size is amended is consistent with the Act because the terms of the original order would modify the total size of the order, including potentially displayed and non-displayed portions which the Exchange believes should result in a new order as it changes a material portion of the order.

The Exchange believes that memorializing the Cancel and Replace Order handling will add transparency and specificity to the Rules thereby protecting investors and the public interest by reducing the potential for investor confusion.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe conducting price or other reasonability checks for all Cancel and

¹⁰ See NASDAQ PHLX, LLC Rule 1080(b)(i)(A).

Replace Orders imposes an undue burden on competition because all Cancel and Replace Orders will uniformly be subject to this additional protection based on the current market conditions. Permitting all market participants to reduce their exposure without penalty does not impose an undue burden competition, rather it promotes competition by allowing participants the ability to change their orders in a changing market, provided the order was not already filled. The Exchange believes that not permitting Reserve Orders to retain priority if size is amended does not create an undue burden on competition because all Members will be treated in a uniform manner with respect to Cancel and Replace Order handling.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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)(iii) of the Act¹¹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹²

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹³ normally does

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6). 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. The Exchange has satisfied this requirement.

¹³ 17 CFR 240.19b-4(f)(6).

not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁴ 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 asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as subjecting modified orders to price or other reasonability checks may help protect investors and the public interest by validating such orders against current market conditions. The Commission also notes that the Exchange is not otherwise changing how its system handles modified orders. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.¹⁵

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

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:

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-ISEGemini-2017-07 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-ISEGemini-2017-07. 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-ISEGemini-2017-07 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.¹⁶

Robert W. Errett
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).