



8011-01p
SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-74505; File No. SR-ISEGemini-2015-06]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Schedule of Fees
March 13, 2015.

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 March 2, 2015, ISE Gemini, LLC (the “Exchange” or “ISE Gemini”) filed with the Securities and Exchange Commission (the “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 the Substance of the Proposed Rule Change

ISE Gemini 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 Internet website at <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

¹ 15 U.S.C. 78s(b)(1).

² 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, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Schedule of Fees to increase Priority Customer³ rebates in Penny Symbols⁴ and SPY as well as related fees for non-Priority Customer orders trading against Priority Customer orders in these symbols.

Currently, Priority Customer orders that add liquidity on ISE Gemini are provided a maker rebate in Penny Symbols and SPY of \$0.25 per contract for Tier 1,⁵ \$0.40 per contract for Tier 2, \$0.46 per contract for Tier 3, \$0.48 per contract for Tier 4, and \$0.50 per contract for Tier 5. In order to incentivize members to bring their Priority Customer orders to ISE Gemini, the Exchange now proposes to provide higher maker rebates to members that achieve Tier 3 or higher. In particular, the Exchange proposes to increase the Priority Customer rebate in Penny Symbols and SPY to \$0.48 per contract for Tier 3, \$0.50 per contract for Tier 4, and \$0.52 per contract for Tier 5.

Market Maker,⁶ Non-ISE Gemini Market Maker,⁷ Firm Proprietary⁸ / Broker-Dealer,⁹ and Professional Customer¹⁰ (i.e. non-Priority Customer) orders currently pay a taker fee of

³ 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 Rule 100(a)(37A).

⁴ "Penny Symbols" are options overlying all symbols listed on ISE Gemini that are in the Penny Pilot Program.

⁵ This rebate is \$0.32 per contract for members that execute a Priority Customer Maker ADV of 5,000 to 19,999 contracts in a given month.

⁶ The term Market Maker refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See Rule 100(a)(25).

\$0.49 per contract, subject to a discount to \$0.48 per contract for Market Makers that achieve the highest tier. In connection with the increased Priority Customer rebates described above, the Exchange further proposes to charge non-Priority Customer orders a taker fee of \$0.50 per contract when trading against a Priority Customer order.¹¹

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹² in general, and Section 6(b)(4) of the Act,¹³ 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.

The Exchange believes that it is reasonable and equitable to increase the rebates offered to Priority Customer orders in Penny Symbols and SPY, as the proposed change is designed to attract additional Priority Customer volume to the Exchange. The Exchange already provides enhanced rebates for Priority Customer orders, and believes that further increasing the rebates will incentivize members to send additional Priority Customer order flow to ISE Gemini, creating additional liquidity to the benefit of all members that trade on the Exchange. The

⁷ A “Non-ISE Gemini 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.

⁸ A “Firm Proprietary” order is an order submitted by a member for its own proprietary account.

⁹ A “Broker-Dealer” order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

¹⁰ A “Professional Customer” is a person or entity that is not a broker/dealer and is not a Priority Customer.

¹¹ The Exchange notes that there will be no Tier 5 Market Maker discount when trading against a Priority Customer.

¹² 15 U.S.C. 78f.

¹³ 15 U.S.C. 78f(b)(4).

Exchange further believes that it is reasonable and equitable to increase the fee charged to non-Priority Customers that trade against a Priority Customer order as this change is designed to offset the enhanced rebates offered to incentivize the other side of the trade. As explained above, the Exchange believes that all members will benefit from the additional liquidity created by the higher Priority Customer rebates. Furthermore, the proposed taker fee for non-Priority Customer orders trading against a Priority Customer is within the range of fees charged by other options exchanges, including the BOX Options Exchange (“BOX”), which charges as much as \$0.59 per contract for non-customer orders in penny pilot symbols that trade against a public customer.¹⁴

In addition, while the Exchange is increasing Priority Customer rebates as well as corresponding fees for non-Priority Customers trading against Priority Customer orders, the Exchange does not believe that these proposed changes are unfairly discriminatory. As has historically been the case, Priority Customer orders remain entitled to more favorable fees and rebates than other market participants in order to encourage this order flow. A Priority Customer is by definition not a broker or 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). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers.

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

In accordance with Section 6(b)(8) of the Act,¹⁵ 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 proposed changes to

¹⁴ See BOX Fee Schedule, Section 1, Exchange Fees, A. Non-Auction Transactions.

¹⁵ 15 U.S.C. 78f(b)(8).

fees and rebates in Penny Symbols and SPY are designed to attract additional order flow to the Exchange. 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,¹⁶ and subparagraph (f)(2) of Rule 19b-4 thereunder,¹⁷ because it establishes a due, fee, or other charge imposed by ISE Gemini.

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 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

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷ 17 CFR 240.19b-4(f)(2).

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:

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-2015-06 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-ISEGemini-2015-06. 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, D.C. 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 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-2015-06, 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.¹⁸

Brent J. Fields,
Secretary.

[FR Doc. 2015-06263 Filed: 3/18/2015 08:45 am; Publication Date: 3/19/2015]

¹⁸ 17 CFR 200.30-3(a)(12).