



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75131; File No. SR-ISE-2015-20)

June 9, 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”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 1, 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 to increase the maker fee charged to Market Maker and Non-ISE Market Maker orders in Select Symbols when trading against Priority Customer complex orders that leg in from the complex order book. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 increase the maker fee charged to Market Maker³ and Non-ISE Market Maker⁴ orders in Select Symbols⁵ when trading against Priority Customer⁶ complex orders that leg in from the complex order book. Market Maker orders (other than Market Maker Plus orders)⁷ and Non-ISE Market Maker orders currently pay a maker fee of \$0.10 per contract for regular orders in Select Symbols. This \$0.10 per contract fee similarly applies to all Market Maker orders (including Market Maker Plus orders) and Non-ISE Market

³ The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See Rule 100(a)(25).

⁴ 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.

⁵ "Select Symbols" are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

⁶ 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).

⁷ A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer a specified percentage 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. The specified percentage is at least 80% but lower than 85% of the time for Tier 1, at least 85% but lower than 95% of the time for Tier 2, and at least 95% of the time for Tier 3. 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.

Maker orders when trading against Priority Customer complex orders that leg in from the complex order book pursuant to Rule 715(k). At the same time, the Exchange charges a taker fee to Priority Customer orders entered in the regular order book but provides a rebate to Priority Customer orders entered in the complex order book. The complex order rebates paid to Priority Customer orders, which apply regardless of whether those orders are executed on the complex order book or leg in to the regular order book, range from \$0.30 per contract for the lowest tier to \$0.46 per contract for the highest. To better align the fees charged for executing trades with the rebates paid out by ISE, the Exchange proposes to increase the maker fee for Market Maker (including Market Maker Plus) and Non-ISE Market Maker orders to \$0.30 per contract when trading against Priority Customer orders that leg in from the complex order book.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁸ in general, and Section 6(b)(4) of the Act,⁹ 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 the proposed fee change is reasonable and equitable as it aligns the fees associated with trading against legged-in Priority Customer orders with the rebates paid out by ISE. As explained above, the Exchange offers significant rebates to Priority Customer complex orders. This, combined with the low maker fees charged to regular orders, results a negative rate per contract when Priority Customer complex orders leg in to the regular order book. To reduce these negative economics, the Exchange believes that it is appropriate to increase the fees charged to Market Maker and Non-ISE Market Maker orders that trade against

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(4).

Priority Customer complex orders that leg in from the complex order book. In this regard, the Exchange notes that the proposed maker fees are equivalent to the rebate provided to Priority Customer complex orders that qualify for the lowest tier of rebate, and will therefore help offset those rebates. The proposed fees are also within the range of fees charged by other options exchanges, including, for example, BOX Options Exchange LLC (“BOX”), which charges a fee of \$0.51 per contract for Market Maker orders in penny pilot classes when trading against a Public Customer. The Exchange notes that it is only proposing to increase the applicable maker fees for Market Maker and Non-ISE Market Maker orders, and not for Firm Proprietary¹⁰ / Broker-Dealer¹¹ or Professional Customer¹² orders. The Exchange believes that this is not unfairly discriminatory as Market Makers and Non-ISE Market Makers are responsible for the majority of trading volume that executes against Priority Customer orders that leg in from the complex order book and are sophisticated enough to account for the higher fees that would be charged when trading against such orders.

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

In accordance with Section 6(b)(8) of the Act,¹³ 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 fees are designed to reduce the negative economics associated with orders that leg in from the complex order book, and are not intended to have any competitive impact. While the proposed fee

¹⁰ A “Firm Proprietary” order is an order submitted by a member for its own proprietary account.

¹¹ A “Broker-Dealer” order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

¹² A “Professional Customer” is a person or entity that is not a broker/dealer and is not a Priority Customer.

¹³ 15 U.S.C. 78f(b)(8).

increase only applies to Market Maker and Non-ISE Market Maker orders, the Exchange does not believe that this will have any significant competitive impact as the proposed fees remain modest and are well within the range of fees charged by 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 Act¹⁴ and subparagraph (f)(2) of Rule 19b-4 thereunder,¹⁵ 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 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

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁵ 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-ISE-2015-20 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 Number SR-ISE-2015-20. 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 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 Number SR-ISE-2015-20 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

[FR Doc. 2015-14480 Filed: 6/12/2015 08:45 am; Publication Date: 6/15/2015]

¹⁶ 17 CFR 200.30-3(a)(12).