



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75911; File No. SR-ISE-2015-29)

September 14, 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 September 9, 2015, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) 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 Substance of the Proposed Rule Change

The ISE proposes to amend the Schedule of Fees to eliminate the disaster recovery network fee charged to telecommunications vendors that connect to the Exchange’s backup datacenter in New York. 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 Exchange rents cabinet space in its backup datacenter to unaffiliated telecommunications vendors that are responsible for redistributing connectivity to market participants that desire access in order to maintain connectivity to the ISE when the primary datacenter is not operational.³ The disaster recovery network fee assessed to these telecommunications vendors is based on the amount of cabinet space used by each vendor, and is \$2,300 per month for a half-cabinet and \$2,800 per month for a full cabinet. The fee is designed to recover the cost of running the backup datacenter, including space, power, and cooling, and also reflects the value that these telecommunications vendors receive from contracting with market participants that use their services to connect to the backup datacenter.⁴ As the Exchange is in the process of moving its backup datacenter to a new facility that members will be able to connect to directly, the Exchange now proposes to eliminate the fees charged to telecommunications vendors that are connected to the current site. The telecommunications vendors that are connected to the backup datacenter provide access to members that need connectivity, and are expected to keep providing this access while members are gradually transferred over to the new disaster recovery site. With the upcoming changes, however, the

³ For operational reasons, market participants are not permitted to connect directly to the backup datacenter, and must go through a telecommunication vendor.

⁴ Telecommunications vendors contract with interested market participants that access the datacenter through their services for a fee. With this arrangement, the fees that ISE charges telecommunications vendors can be spread across multiple market participants.

telecommunication vendors, who have already paid substantial hardware and other costs in addition to the fees charged by the Exchange, may not be able to recoup fees from sufficient market participants to cover the cost of maintaining their connections during this period. The Exchange therefore believes that it is appropriate to eliminate the disaster recovery network fee at this time, and believes that doing so will allow telecommunications vendors to continue to provide access to the backup datacenter.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and Section 6(b)(4) of the Act,⁶ 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, equitable, and not unfairly discriminatory to eliminate the disaster recovery network fee as the Exchange is in the process of moving its backup datacenter to a new facility. During the period of this move, the Exchange expects that the telecommunications vendors currently connected to the backup datacenter will continue to provide access to interested parties in order to facilitate access to the Exchange in the event the primary datacenter is not operational. As members move their connections over to the new backup facility, however, the telecommunications vendors will be able to provide service to an increasingly narrow field of market participants. Given the expected reduction in the demand for connectivity through the telecommunication vendors, and the substantial hardware and other costs the vendors have already incurred in establishing and maintaining connectivity to the backup datacenter, the Exchange has determined to eliminate the disaster recovery network fee.

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

The Exchange believes that eliminating this fee during the crossover period will facilitate access to the backup datacenter while the Exchange moves over to its new facility by making it economical for the telecommunications vendors to remain connected and to continue to provide connectivity to interested market participants.

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

In accordance with Section 6(b)(8) of the Act,⁷ 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 is eliminating a fee charged to telecommunications vendors connected to the backup datacenter in anticipation of its move to a new facility. This change will facilitate access to the backup datacenter by making it economical for the telecommunications vendors to maintain their connections so that market participants can connect through them until they are moved over to the new backup datacenter, and will not impose any burden on competition.

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 Act⁸ and subparagraph (f)(2) of Rule 19b-4 thereunder,⁹ because it establishes a due, fee, or other charge imposed by ISE.

⁷ 15 U.S.C. 78f(b)(8).

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

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 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 No. SR-ISE-2015-29 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 No. SR-ISE-2015-29. 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

⁹ 17 CFR 240.19b-4(f)(2).

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 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 No. SR-ISE-2015-29 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.¹⁰

Brent J. Fields
Secretary

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¹⁰ 17 CFR 200.30-3(a)(12).