



8011-01
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80009; File No. SR-ISE-2016-31)

February 10, 2017

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving Proposed Rule Change to Amend the Supplementary Material to ISE Rule 1901

I. Introduction

On December 22, 2016, the International Securities Exchange, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the Supplementary Material to ISE Rule 1901. The proposed rule change was published in the Federal Register on December 30, 2016.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend the Supplementary Material to ISE Rule 1901, titled “Order Protection”, in connection with a system migration to Nasdaq INET technology.⁴

Pursuant to Supplementary Material .02 to ISE Rule 1901, when the automatic execution of an incoming order would result in an impermissible trade-through, the Exchange exposes such

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 79686 (December 23, 2016), 81 FR 96532 (“Notice”).

⁴ The proposed rule change is being made in connection with the Exchange, ISE Gemini, LLC and ISE Mercury, LLC’s technology migration to a Nasdaq, Inc. (“Nasdaq”) supported architecture called INET which is utilized on The NASDAQ Options Market LLC, NASDAQ PHLX LLC (“Phlx”), and NASDAQ BX, Inc. (collectively, “Nasdaq Exchanges”). See id.

order at the current NBBO to all Exchange members for a time period not to exceed one second.⁵ Currently, when a trading halt is triggered during this exposure period, the Exchange terminates the exposure and executes eligible interest.⁶ The Exchange now proposes to amend Supplementary Material .02 to ISE Rule 1901 to provide that if a trading halt is initiated during the exposure period, the exposure period will terminate without execution.⁷

The Exchange states that it intends to begin implementation of the proposed rule change in tandem with its technology migration to Nasdaq INET architecture which will occur on a symbol by symbol basis.⁸ The proposed rule change, however, does not impact ISE alone. Because ISE Gemini, LLC (“ISE Gemini”) and ISE Mercury, LLC (“ISE Mercury”) incorporate by reference Chapter 19 (Order Protection; Locked and Crossed Markets) of ISE rulebook, the proposed rule change also impacts ISE Gemini and ISE Mercury.⁹ Moreover, ISE, ISE Gemini, and ISE Mercury will migrate to INET on different dates during 2017. Accordingly, the Exchange proposes to amend ISE Rule 1901 to state that the amended rule text will be implemented on a symbol by symbol basis for ISE Gemini in the first quarter, for ISE in the

⁵ During the exposure period, Exchange Members may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option. See Supplementary Material .02 to ISE Rule 1901.

⁶ See Notice, supra note 3, at 96533.

⁷ The Exchange represents that the proposed treatment of trading halts is based on Phlx Rule 1047(c), which provides that in the event the exchange halts trading, all trading in the affected option shall be halted. See Notice, supra note 3, at 96533. The Exchange states that this is interpreted to restrict executions after a halt unless there is a specific rule specifying that such trades should take place. See id.

⁸ See id.

⁹ See ISE Gemini, LLC Rules, Chapter 19 (Intermarket Linkage); ISE Mercury, LLC Rules, Chapter 19 (Intermarket Linkage).

second quarter, and for ISE Mercury in the third quarter, of 2017, and that the specific dates will be announced in a separate notice.¹⁰

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹¹ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹² which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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 Commission believes that the proposed rule change is consistent with the Act because, in the event of a trading halt, terminating the exposure period without execution provides certainty to market participants with respect to how their interest will be handled.¹³ The Commission also notes that the Exchange's proposal to provide clarity regarding when the rule change will be implemented for ISE, ISE Gemini, and ISE Mercury should help reduce potential confusion regarding the operation of the rule.

For these reasons, the Commission believes that the proposed rule change is consistent with the Act.

¹⁰ See Notice, supra note 3, at 96533.

¹¹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78f(b)(5).

¹³ See Notice, supra note 3, at 96533.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-ISE-2016-31), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Eduardo A. Aleman
Assistant Secretary

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

