

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71229; File No. SR-Topaz-2013-18)

January 2, 2014

Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Non-Controversial Changes to its Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on December 23, 2013, the Topaz Exchange, LLC (d/b/a ISE Gemini)(the “Exchange” or “Topaz”) filed with the Securities and Exchange Commission (“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 Exchange proposes a number of non-controversial and technical changes to its rules. Examples of such corrections include updating Topaz rule number citations and cross references, correcting typographical errors and deleting obsolete rule text. 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 self-regulatory organization 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 Item IV below. The self-regulatory organization has prepared summaries, set

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 make a number of non-controversial changes and technical corrections to its rules. Examples of such corrections include updating rule number citations and cross-references, correcting typographical errors, and deleting obsolete rule text. Following is a narrative description of each of the corrections:

- Topaz Rule 701 (Trading Rotations) is being amended to make a non-substantive change to correct a typographical error in paragraph (b)(2) and to remove the first sentence in paragraph (c), which states that trading in options will close 2 minutes after the primary market on which the underlying stock trades closes for trading. This reference to a 4:02 p.m. closing was imported from the International Securities Exchange (“ISE”) rule book, but should have been removed when the hours of trading on the ISE were amended,<sup>3</sup> but was inadvertently overlooked.
- Topaz Rule 705 (Limitation of Liability) is being amended to change a non-substantive word to update the sentence structure of paragraph (a).
- Topaz Rule 715 (Types of Orders) is being amended to add the defined terms of “Day Order” and “Good-Till-Cancelled Order (GTC Order).” The addition of these two order types qualify for non-controversial treatment as there is nothing new or novel

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<sup>3</sup> See Securities Exchange Act Release No. 53248 (February 7, 2006), 71 FR 8015 (February 15, 2006) (SR-ISE-2005-58).

with respect to these types of orders. Additionally, the Chicago Board Options Exchange has identical order types.<sup>4</sup>

- Topaz Rules 803(c) is being amended to remove underlining that does not belong. Topaz Rules 803, 810 and 811 are being amended to remove cross-references to Rule 803(c)(2) and replace them with the correct cross-references, where applicable. These cross-references were imported from the ISE rule book, which were inadvertently missed when paragraph 803(c)(2) was deleted from the ISE rules.<sup>5</sup>
- Topaz Rule 804 (d)(3) is being deleted as this provision is obsolete and no longer applicable, but was imported from the ISE rule book and (e)(2)(ii) is being amended to delete rule text that was incorrectly imported from the ISE rule book.<sup>6</sup>

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>7</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes it is appropriate to make these technical corrections to its rules so that Exchange members and investors have a clear and accurate understanding of the meaning of the Exchange's rules. By removing obsolete rule text, the Exchange is eliminating any potential for confusion about how its systems operate.

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<sup>4</sup> See CBOE Rule 43.2(5) and (7).

<sup>5</sup> See Securities Exchange Act Release No. 69396 (April 18, 2013), 78 FR 24273 (April 24, 2013) (SR-ISE-2013-18).

<sup>6</sup> See Securities Exchange Act Release No. 69175 (March 19, 2013), 78 FR 17988 (March 25, 2013) (SR-ISE-2013-17).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

By updating cross-references in its rules, the Exchange is eliminating any inaccuracies. The addition of a Day Order and a GTC Order qualifies for non-controversial treatment as there is nothing new or novel with respect to these order types. Day Orders and GTC Orders merely address the time-in-force of an order and are standard, generic orders. In addition, CBOE has both of these order types in its rules.<sup>8</sup> The Exchange further believes that the proposed rule change is not unfairly discriminatory because it treats all market participants equally and will not have an adverse impact on any market participant.

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

Most of the proposed rule changes are non-substantive corrections to the Exchange's rules and therefore do not implicate the competition analysis. The change proposing to adopt two new order types is non-controversial as they already exist on another exchange and merely address the time-in-force of an order, and will therefore not impact competition because these order types already exist. The proposed rule changes will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such

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<sup>8</sup> See note 4.

shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)<sup>9</sup> of the Act and Rule 19b-4(f)(6)<sup>10</sup> thereunder. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change.

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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-Topaz-2013-18 on the subject line.

##### Paper Comments:

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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR. 240.19b-4(f)(6).

All submissions should refer to File Number SR-Topaz-2013-18. 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-Topaz-2013-18 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.<sup>11</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).