

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71296; File No. SR-Topaz-2014-02)

January 14, 2014

Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish a Billing Dispute Practice

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 January 8, 2014, 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 and II 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

Topaz is proposing to amend its Schedule of Fees to establish a billing practice with respect to billing disputes. The text of the proposed rule change is available on the Exchange’s 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 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 its Schedule of Fees to establish a billing practice to prevent members from contesting their bills long after they have been sent an invoice. In accordance with the proposed rule change, members must submit all disputes no later than ninety calendar days after receipt of an Exchange invoice. After ninety calendar days, all fees assessed by the Exchange will be considered final. The Exchange provides members with both daily and monthly fee reports and thus believes members should be aware of any potential billing errors within ninety calendar days of receiving an invoice. Requiring that members dispute an invoice within this time period will encourage them to promptly review their invoices so that any disputed charges can be addressed in a timely manner while the information and data underlying those charges (e.g., applicable fees and order information) is still easily and readily available. This practice will avoid issues that may arise when members do not dispute an invoice in a timely manner, and will conserve Exchange resources that would have to be expended to resolve untimely billing disputes. The Exchange notes that this type of provision is common among many other exchanges, which require that members dispute invoices within as few as sixty days.³ In addition, the Exchange proposes to state that all billing disputes must be submitted to the Exchange in writing,⁴ and must be accompanied by supporting documentation. The Exchange believes that this requirement, which is also similar to requirements of other exchanges,⁵ will further streamline the billing dispute process.

³ See, e.g., Securities Exchange Act Release No. 62661 (August 6, 2010), 75 FR 49544 (August 13, 2010) (SR-Phlx-2010-110).

⁴ The Exchange invoice specifies contact information for billing inquiries.

⁵ See supra note 3.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the “Act”),⁶ in general, and with Section 6(b)(5) of the Act,⁷ in particular, in that it is designed to promote just and equitable principles of trade, 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 Exchange believes the requirement that all billing disputes must be submitted in writing, and with supporting documentation, within ninety calendar days from receipt of the invoice is reasonable in the public interest because the Exchange provides ample tools to properly and swiftly monitor and account for various charges incurred in a given month. Moreover, the proposed billing dispute language, which will lower the Exchange’s administrative burden, is substantially similar to billing dispute language adopted by other exchanges.⁸

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

In accordance with Section 6(b)(8) of the Act,⁹ 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. As stated above, the proposed rule change, which applies equally to all members, is intended to reduce the Exchange’s administrative burden, and is substantially similar to rules adopted by other options exchanges.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

⁸ See supra note 3.

⁹ 15 U.S.C. 78f(b)(8).

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹²

A proposed rule change filed under Rule 19b-4(f)(6)¹³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁴ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange states that waiver of the operative

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange’s 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 of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

delay is consistent with the protection of investors and the public interest because it will permit the Exchange to establish an administrative billing practice consistent with current billing practices employed by other options exchanges. The Exchange also notes that the regular 30-day operative period is not necessary as, under the terms of the proposed rule change, members will have ninety calendar days from the receipt of their next invoice to dispute their bills. Based on the Exchange representations above, the Commission waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.¹⁵

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁶ of the Act 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

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78s(b)(2)(B).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Topaz-2014-02 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.

All submissions should refer to File Number SR-Topaz-2014-02. 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-2014-02 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.¹⁷

Kevin M. O'Neill
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).