

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62444; File No. SR-ISE-2010-72)

July 2, 2010

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the International Securities Exchange, LLC to Expand and Permanently Establish Its Short Term Option Series Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that, on July 1, 2010, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 to amend its rules to regarding the Short Term Option Series Program. The text of the proposed rule change is available on the Exchange’s Web site www.ise.com, at the principal office of the Exchange, on the Commission’s Web site at www.sec.gov, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 12, 2005, the Commission approved the Short Term Option Series Program (the "Program") on a pilot basis that allows ISE to list and trade Short Term Option Series.⁵ The Program was subsequently extended⁶ and the current Program is set to expire on July 12, 2010.⁷ The Commission has also approved permanent establishment of the Program in 2009 on behalf of the Chicago Board Options Exchange ("CBOE").⁸ Thereafter, CBOE amended its rules to permit opening Short Term Options Series not just on Friday but also on Thursday.⁹

The Purpose of this proposed rule change is to amend ISE rules to 1) make the Program permanent, 2) increase to twenty the number of series the Exchange may open for each

⁵ See Securities Exchange Act Release No. 52012 (July 12, 2005), 70 FR 41246 (July 18, 2005).

⁶ See Securities Exchange Act Release Nos. 54117 (July 12, 2006), 71 FR 40564 (July 17, 2006); 56047 (July 11, 2007), 72 FR 39106 (July 17, 2007); and 58020 (June 25, 2008), 73 FR 38000 (July 2, 2008).

⁷ See Securities Exchange Act Release No. 60281 (July 10, 2009), 74 FR 34811 (July 17, 2009).

⁸ See Securities Exchange Act Release No. 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009).

⁹ See Securities Exchange Act Release No. 62170 (May 25, 2010), 75 FR 30889 (June 2, 2010).

expiration date in a class, and 3) permit the Exchange to open a Short Term Options Series for trading on any Thursday or Friday. The Exchange's proposal is based on the short term options program currently in place at the CBOE.¹⁰ The Exchange also proposes to make non-substantive changes to reorganize the rule text related to the Program so that applicable terms are located within a single section. These non-substantive changes do not change the substance of the Program.

Under the terms of the Program currently in place, after an option class has been approved for listing and trading on the Exchange, ISE may open for trading on any Friday that is a business day ("Short Term Option Opening Date") series of options on that class that expire on the next Friday that is a business day ("Short Term Option Expiration Date"). If the Exchange is not open for business on a Friday, the Short Term Option Opening Date is the first business day immediately prior to that Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date is the first business day immediately prior to that Friday. Further, the Exchange can select up to five options classes on which Short Term Option Series may be opened on any Short Term Option Series Opening Date. The Exchange is also allowed to list Short Term Option Series on any option class that is selected by other securities exchanges that employ a similar program under their respective rules. Further, for each option class eligible for participation in the Program, the Exchange may open up to five Short Term Option Series for each expiration date in that class. The strike price of each Short Term Option Series is fixed at a price per share, with at least two strikes prices above and two strike prices below the value of the underlying security at about the time that Short Term Option Series is opened for trading on the Exchange.

¹⁰ See CBOE Rules 5.5 and 24.9.

As noted above, pursuant to Commission approval, CBOE has made its short term options program permanent. On the basis of the CBOE's approval, the Exchange proposes to also make permanent its short term options series program.

Additionally, the Exchange also proposes to amend its rules such that after an options class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on that class that expire on the Friday of the following business week that is a business day. If the Exchange is not open for business on the respective Thursday or Friday, the Exchange may open for a Short Term Option Series for trading on the business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on the Friday of the following week, the Short Term Option Series will expire on the business day immediately prior to that Friday.

Finally, the Exchange proposes to modify the terms of the Program to provide that up to twenty (as opposed to five) Short Term Option Series may be opened for each expiration date. The strike price of each Short Term Option Series will be fixed at a price per share, with approximately the same number of strike prices above and below the value of the underlying security or calculated index at about the time that the Short Term Option Series is opened. If the Exchange opens less than twenty Short Term Option Series for a given expiration date, additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the current value of the underlying security or index moves substantially from the exercise price or prices of the series already opened. In any event, the total number of series for a given expiration date will not exceed twenty series. The Exchange believes this increase in the number of series would provide investors with greater flexibility in the trading of Short Term Option Series by allowing

investors to establish options positions that are better tailored to meet their investment objectives. ISE also believes that allowing for the increased number of series would allow the Exchange to better maintain an orderly market, meet customer demand and respond to scenarios when the market price of the underlying moves substantially from the exercise price or prices of the series already opened.

The Exchange believes that Short Term Option Series provides investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. The Exchange also believes providing the flexibility to list as many as twenty series for each expiration date and to list all Short Term Option Series on any Thursday or Friday will help the Exchange to institute its Program more effectively without causing investor confusion.

The Commission has requested, and the Exchange has agreed for the purposes of this filing, to submit one report to the Commission providing an analysis of the Exchange's Program ("Program Report").¹¹ The Program Report will cover the period from the date the Exchange first begins to list a short term option series class through the first quarter of 2011, and will describe the experience of the Exchange with respect to the options classes included by the Exchange in its Program.¹² The Program Report will be submitted no later than May 1, 2011, under separate cover and will seek confidential treatment under the Freedom of Information Act.

¹¹ The Commission made a similar request in a recent filing by NASDAQ OMX PHLX, Inc. to establish a short term option series program at that exchange. See Securities Exchange Act Release No. 62296 (June 15, 2010), 75 FR 35115 (June 21, 2010).

¹² The Program Report would include the following: (1) data and written analysis on the open interest and trading volume in the classes for which Short Term Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Program; (3) an assessment of the impact of the Program on the capacity of the Exchange, OPRA, and market data vendors (to the extent data from market data vendors

Finally, the Exchange represents that it has the necessary systems capacity to support the listing of Short Term Options Series under the Program.

2. Statutory Basis

The Exchange believes that Short Term Option Series increases the variety of listed options available to investors and provides investors with a valuable tool to manage risk exposure, minimize capital outlays and be more responsive to the timing of events affecting the securities that underlie options contracts. For these reasons, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, serve 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. Further, the Exchange believes that permanent approval of the Program will result in an ongoing benefit to investors in carrying out their investment objectives.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

is available); (4) any capacity problems or other problems that arose during the operation of the Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Program.

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 Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴ 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6)(iii) thereunder.¹⁶

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) 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 Commission has waived the five-day pre-filing requirement in this case.

exchange that was approved by the Commission.¹⁷ Therefore, the Commission designates the proposal operative upon filing.¹⁸

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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. Please include File Number SR-ISE-2010-72 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-ISE-2010-72. 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

¹⁷ See Securities Exchange Act Release No. 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009) (SR-CBOE-2009-018).

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

comments on the Commission's Internet Web site (<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 Web site 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-ISE-2010-72 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.¹⁹

Elizabeth M. Murphy
Secretary

¹⁹ 17 CFR 200.30-3(a)(12).