

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62815; File No. SR-ISE-2010-86]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rules 413 and 2006

September 1, 2010.

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 August 23, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "SEC" or the "Commission") the proposed rule change as described in Items I, II, and III 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 Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 ISE Rules 413 (Exemptions from Position Limits) and 2006 (Exemptions from Position Limits) to enable Exchange members to rely on position limit exemptions granted by other options exchanges. 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, on the Commission's Web site at <http://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 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

The purpose of the proposed rule change is to amend ISE Rules 413 and 2006 to enable Exchange members to rely on position limit exemptions granted by other options exchanges under specified circumstances. This proposed rule change is based on similar rules of The NASDAQ Stock Market LLC ("Nasdaq"), NASDAQ OMX PHLX ("Phlx") and NYSE Arca.<sup>5</sup>

ISE Rule 413 governs position limit exemptions for equity options and ISE Rule 2006 governs position limit exemptions for index options. These rules include a number of position limit exemptions available to Exchange members. Rules 413 and 2006, however, do not have a provision that recognizes position limit exemptions that are granted to Exchange members by other option exchanges, as provided for in NOM, Phlx and NYSE Arca rules. In light of the desirability to have similar position limit standards, the Exchange proposes to add a similar an exemption to both Rule 413 and Rule 2006.

Specifically, the Exchange proposes to add a new subsection to both ISE Rule 413 and Rule 2006 to address position limit exemptions granted by other options exchanges. This proposed addition will provide that an Exchange member may rely upon any valid exemption from applicable position limits that has been granted by another options exchange for any options contract traded on ISE, provided that such Exchange member provides the Exchange either with a copy of any written exemption issued by another options exchange or with a written description of any exemption issued by another options exchange that is not in writing, where such description contains sufficient detail for Exchange to verify the validity of that exemption with the issuing options exchange. In addition, such Exchange member must fulfill all conditions precedent for such exemption and comply at all times with the requirements of such exemption with respect to trading on the Exchange.

The Exchange notes that position limits tend to be similar across options exchanges, which is desirable in light of cross option exchange membership(s)

and multiple listing and trading of similar product(s) on different exchanges. Because Exchange members frequently have membership and/or trading privileges on other options exchanges, it is important that ad hoc position limit exemptions granted by other options exchanges ("exemption grants") are available to Exchange members to the extent that such exemption grants are reduced to writing and verifiable by the Exchange.

These new proposed rules do not give the Exchange the ability to alter the scope of these exemptions but only to recognize the exemption so that the position limit process would be the same across the exchanges.

For example, an Exchange member may go to another options exchange of which it is a member, such as the NYSE Arca or NOM to request a position limit exemption (exemption grant) for option contracts in the SPDRs (SPY). The other exchange provides the exemption grant until expiration in the same month to this particular firm for this particular issue (SPY). Should the same Exchange member want to trade SPY on the ISE to the extent of the exemption grant, the Exchange's proposed rule change would allow it to do so, but only to the extent that the firm provides the Exchange with a copy of the written exemption grant provided by the issuing exchange or, if the exemption is not in writing, to the extent that said Exchange member provides the Exchange with sufficient detail for Exchange regulatory staff to be able to verify the validity of the exemption grant with the issuing options exchange.<sup>6</sup>

The Exchange believes that by adding uniformity and predictability to the position limit process, the proposed rule change should be beneficial to the Exchange members, and their customers. Moreover, the proposed rule change should promote competition by allowing trades across options exchanges that are similar in respect of position limits.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of

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

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

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

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

<sup>5</sup> See Rules of the Nasdaq Options Market ("NOM") Chapter III, Section 8 and Chapter XIV, Section 8; Phlx 1001 and 1001A; and NYSE Arca 5.17 and 6.8.

<sup>6</sup> Additionally, the Exchange member would have to fulfill all conditions precedent for such exemption grant and comply with the requirements of such exemption with respect to trading on the Exchange.

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

<sup>8</sup> 15 U.S.C. 78f (b)(5).

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, by allowing the Exchange to have uniform position limit procedures.

#### *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 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: (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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>11</sup> However, Rule 19b-4(f)(6)(iii)<sup>12</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing, thereby giving the Exchange a position limit process that can recognize exemptions granted by other exchanges. The Commission believes that waiving the 30-day operative delay is consistent

with the protection of investors and the public interest because such waiver will afford Exchange members the benefit of the proposal—the ability to rely on exemptions granted by other exchanges, when appropriately documented—without unnecessary delay. For this reason, the Commission designates the proposed rule change as operative under upon filing.<sup>13</sup>

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-ISE-2010-86 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-2010-86. 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 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the ISE. 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-2010-86 and should be submitted on or before September 30, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62825; File No. SR-NYSEAmex-2010-90]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC To Amend the Exchange Price List**

September 1, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on August 30, 2010, NYSE Amex LLC ("NYSE Amex" or the "Exchange") filed with the Securities and Exchange Commission (the "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**

The Exchange proposes to amend its 2010 Price List for equities to modify the fees it charges for all market at-the-close ("MOC") and limit at-the-close ("LOC") orders executed in the Exchange's closing transaction. For

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

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

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission 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 of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>12</sup> *Id.*

<sup>13</sup> For the 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).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.