

indication of a violation or potential violation of civil or criminal law or regulation.

3. For Congressional Inquiry—To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

4. For Judicial/Administrative Proceedings—To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

5. For National Archives and Records Administration—To disclose information to the National Archives and Records Administration for use in records management inspections.

6. Within OPM for Statistical/ Analytical Studies—By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

7. For Litigation—To disclose information to the Department of Justice or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

- (1) OPM, or any component thereof; or
- (2) Any employee of OPM in his or her official capacity; or
- (3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or
- (4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components; is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

The routine uses listed below are specific to this system of records only:

1. To disclose to program and policy staff at the Office of Personnel Management to compile and analyze

claims utilization data to identify sources of benefit and utilization costs and other information and to formulate health care program changes and enhancements to reduce cost increases, improve outcomes, improve efficiency in program administration and for other purposes.

2. To disclose to researchers and analysts inside and outside the Federal Government for the purpose of conducting research on health care and health insurance trends and topical issues.

**POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records will be maintained in electronic systems.

**RETRIEVABILITY:**

These records are retrieved by a combination of name and social security number of the individual on whom they are maintained.

**SAFEGUARDS:**

OPM restricts access to the records on the databases to employees who have the appropriate clearance and need-to-know to perform their official duties. Computerized records are located in a secured database on a secured system.

**RETENTION AND DISPOSAL:**

We maintain the records for 7 years. Computer records are destroyed by electronic erasure. A records retention schedule is currently being established with NARA.

**SYSTEM MANAGER AND ADDRESS:**

Gary A. Lukowski, Ph.D., Manager, Data Analysis, U. S. Office of Personnel Management, 1900 E Street, NW., Room 7439, Washington, DC 20415.

**NOTIFICATION AND RECORD ACCESS PROCEDURE:**

Individuals wishing to determine whether this system of records contains information about them may do so by writing to the U.S. Office of Personnel Management, FOIA Requester Service Center, 1900 E Street, NW., Room 5415, Washington, DC 20415-7900 or by e-mailing [foia@opm.gov](mailto:foia@opm.gov).

Individuals must furnish the following information for their records to be located:

1. Full name.
2. Date and place of birth.
3. Social Security Number.
4. Signature.
5. Available information regarding the type of information requested.
6. The reason why the individual believes this system contains information about him/her.

7. The address to which the information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297).

**CONTESTING RECORD PROCEDURE:**

Individuals wishing to request amendment of records about them should write to the Office of Personnel Management, ATTN: Gary A. Lukowski, Ph.D., Manager, Data Analysis, Room 7439, Washington, DC 20415, and furnish the following information for their records to be located:

1. Full name.
2. Date and place of birth.
3. Social Security Number.
4. City, state and zip code of their Federal Agency
5. Signature.
6. Precise identification of the information to be amended.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment to records (5 CFR 297).

**RECORD SOURCE CATEGORIES:**

Information in this system of records is obtained from health care providers used by the U. S. Office of Personnel Management to manage the FEHBP and high risk pools.

**SYSTEM EXEMPTIONS:**

None.  
[FR Doc. 2010-24927 Filed 10-4-10; 8:45 am]  
BILLING CODE 6325-46-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63002; File No. SR-ISE-2010-81]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval of Proposed Rule Change Relating to Trading Options on a Reduced Value of the DAX Index, Including Long-Term Options**

September 28, 2010.

**I. Introduction**

On August 3, 2010, the International Securities Exchange, Inc. (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> a proposed rule

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

change to amend its rules to trade options on a reduced value DAX Index. The proposed rule change was published for comment in the **Federal Register** on August 18, 2010.<sup>2</sup> The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

## II. Description

The Exchange proposes to amend certain of its rules to allow the listing and trading of options on the Mini DAX, which represents  $\frac{1}{10}$  of the full value of the DAX Index. In addition to options on the Mini DAX, the Exchange proposes to list long-term options on the Mini DAX (the "Mini DAX LEAPS").<sup>3</sup> Options on the Mini DAX will be A.M. cash-settled and will have European-style exercise provisions.

### *Index Design and Composition*

The DAX Index is a capitalization-weighted index where the weight of any individual component is proportional to its respective share in the total market capitalization of all the components. The DAX Index consists of the 30 most highly liquid and capitalized German stocks ranked by float-adjusted market capitalization.<sup>4</sup> The management board of Deutsche Börse AG ("DBAG") decides whether changes are to be made to the composition of the index on an annual basis in September but also performs quarterly reviews of the components' free float.

### *Index Calculation and Index Maintenance*

Index levels for options on the Mini DAX will be calculated by DBAG or its agent, and disseminated by ISE every 15 seconds during the Exchange's regular trading hours to market information vendors via the Options Price Reporting Authority ("OPRA").<sup>5</sup> The level of the DAX Index reflects the float-adjusted market value of the component stocks relative to a particular base period and is computed by dividing the total

market value of the companies in each index by its respective index divisor.<sup>6</sup>

The DAX Index is calculated using the last traded price of the component securities. If a component security does not open for trading, the price of that security at the close or the index on the previous day is used in the calculation.<sup>7</sup>

The DAX Index is currently updated on a real-time basis from 9 a.m. to 5:45 p.m. (Frankfurt time), which generally corresponds to 3 a.m. to 11:45 a.m. (New York time). The Exchange, or its agent, shall disseminate Mini DAX Index values via OPRA or major market data vendors between 3 a.m. and 11:45 a.m. (New York time). After 11:45 a.m. (New York time), the Exchange, or its agent, shall disseminate a static value of the Mini DAX until the close of trading each day.

The DAX Index is monitored and maintained by DBAG. DBAG makes all necessary adjustments to the indexes to reflect component deletions, share changes, stock splits, stock dividends (other than an ordinary cash dividend), and stock price adjustments due to restructuring, mergers, or spin-offs involving the underlying components.

The DAX Index is subject to a full review and, if necessary, ordinary adjustments are made once a year in September, where all components are screened for eligibility and ranked based on liquidity and market capitalization. Quarterly reviews are also performed in March, June, September and December, where components' free float levels are reviewed and extraordinary adjustments may be made. If a component company is deleted from the DAX Index between reviews as a result of a merger, takeover or other corporate action, the highest ranking company will replace it in the index.

The Exchange has represented that it will monitor the DAX Index on a quarterly basis. The Exchange will notify the staff of the Division of Trading and Markets of the Commission by filing a proposed rule change pursuant to Rule 19b-4 and will cease to list any additional series for trading, if, with respect to the DAX Index: (i) The number of securities in the DAX

Index drops by  $\frac{1}{3}$  or more; (ii) 10% or more of the weight of the DAX Index is represented by component securities having a market value of less than €50 million; (iii) 10% or more of the weight of the DAX Index is represented by component securities trading less than 20,000 shares per day; or (iv) the largest component security accounts for more than 15% of the weight of the DAX Index or the largest five components in the aggregate account for more than 50% of the weight of the DAX Index.

The Exchange will also notify the staff of the Division of Trading and Markets of the Commission immediately in the event DBAG ceases to maintain and calculate the DAX Index, or in the event values of the DAX Index are not disseminated every 15 seconds by a widely available source. In such cases, the Exchange will not list any additional series for trading and will limit all transactions in the options to closing transactions for the purpose of maintaining a fair and orderly market and protecting investors.

### *Contract Specifications*

The Mini DAX is a broad-based index. Options on the Mini DAX are European-style and A.M. cash-settled. The Exchange's standard trading hours for broad-based index options (9:30 a.m. to 4:15 p.m., New York time), as set forth in ISE Rule 2008(a), will apply to the trading of options on the Mini DAX.

The Exchange proposes to list options on the Mini DAX in the three consecutive near-term expiration months, plus up to three successive expiration months in the March cycle. For example, consecutive expirations of January, February, March, plus June, September, and December expirations would be listed.<sup>8</sup>

The Exchange proposes to set minimum strike price intervals for Mini DAX options at 1 point intervals. The minimum tick size for series trading below \$3 shall be \$0.05, and for series trading at or above \$3 shall be \$0.10.

### *Exercise and Settlement Value*

Options on the Mini DAX will expire on the Saturday following the third Friday of the expiration month. Trading in options on the Mini DAX will normally cease at 4:15 p.m. (New York time) on the Thursday preceding an expiration Saturday. The index value for exercise of the Mini DAX options will be calculated by DBAG based on the Xetra intra-day auction prices for each of the component companies. That value is also used as the basis for

<sup>2</sup> See Securities Exchange Act Release No. 62703 (August 12, 2010), 75 FR 51134.

<sup>3</sup> Under ISE Rule 2009(b), "Long-Term Index Options Series," the Exchange may list long-term options that expire from 12 to 60 months from the date of issuance.

<sup>4</sup> Float-adjusted market capitalization (as opposed to an unadjusted methodology) refers to the number of free-float shares available multiplied by the share price. A "free-float" index methodology usually excludes shares held by strategic investors by way of cross ownership, government ownership, private ownership and restricted share ownership.

<sup>5</sup> The Exchange shall also disseminate these values to its members.

<sup>6</sup> A divisor is an arbitrary number chosen at the starting date of an index to fix the index starting value. The divisor is adjusted periodically when capitalization amendments are made to the constituents of the index in order to allow the index value to remain comparable over time. Without a divisor the index value would change when corporate actions took place and would not reflect the true value of an underlying portfolio based upon the index.

<sup>7</sup> The DAX Index is published daily and is available real-time on ThomsonReuters, Bloomberg, and other market information systems which disseminate information on a real time basis.

<sup>8</sup> See Rule ISE 2009(a)(3).

settlement of DAX Index futures and options contracts traded on Eurex.

The intra-day auction occurs between 1 p.m. and 1:05 p.m. (German time) on the third Friday of the expiration month, which generally corresponds to 7 a.m. to 7:05 a.m. (New York time). Therefore, because trading in the expiring contract months will normally cease on a Thursday at 4:15 p.m. (New York time), the index value for exercise will be determined the day after trading has ceased, *i.e.*, during the Friday afternoon Xetra trading session, or generally by 7:05 a.m. (New York time). If no price is established for a component company during the Xetra intraday auction, then the next available price is used. If no price is available by the end of the Xetra trading session then the last price available is used for calculation. When the auction is finished, the index values are disseminated as the settlement values. The settlement values are widely disseminated through major market data vendors including ThomsonReuters and Bloomberg.

If the Frankfurt Stock Exchange is closed on the Friday before expiration, but the ISE remains open, then the last trading day for expiring Mini DAX options will be moved earlier to Wednesday as if the ISE had had a Friday holiday. The settlement index value used for exercise will be calculated during Xetra's intra-day auction on Thursday morning.

#### *Position Limits*

For options on the Mini DAX, the Exchange proposes to establish aggregate position limits at 250,000 contracts on the same side of the market, provided no more than 150,000 of such contracts are in the nearest expiration month series. Additionally, under ISE Rule 2006, an index option hedge exemption for public customers may be available which may expand the position limit up to an additional 750,000 contracts.<sup>9</sup> Furthermore, proprietary accounts of members may receive an exemption of up to 500,000 contracts for the purpose of facilitating public customer orders.<sup>10</sup>

#### *Exchange Rules Applicable*

Exchange rules that are applicable to the trading of options on broad-based indexes will also apply to the trading of Mini DAX options.<sup>11</sup> Specifically, the trading of Mini DAX options will be

subject to, among others, Exchange rules governing margin requirements and trading halt procedures for index options.

The Exchange proposes to apply broad-based index margin requirements for the purchase and sale of options on the Mini DAX. Accordingly, purchases of put or call options with nine months or less until expiration must be paid for in full. Writers of uncovered put or call options must deposit/maintain 100% of the option proceeds, plus 15% of the aggregate contract value (current index level  $\times$  \$100), less any out-of-the-money amount, subject to a minimum of the option proceeds plus 10% of the aggregate contract value for call options and a minimum of the option proceeds plus 10% of the aggregate exercise price amount for put options.

The trading of options on the Mini DAX shall be subject to the same rules that presently govern the trading of Exchange index options, including sales practice rules, margin requirements, trading rules, and position and exercise limits. In addition, long-term option series having up to sixty months to expiration may be traded.<sup>12</sup> The trading of long-term Mini DAX options shall also be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements, and trading rules.

Chapter Six of the Exchange's rules is designed to protect public customer trading and shall apply to the trading of options on the Mini DAX. Specifically, ISE Rules 608(a) and (b) prohibit Members from accepting a customer order to purchase or write an option unless such customer's account has been approved in writing by a designated Options Principal of the Member.<sup>13</sup> Additionally, ISE's Rule 610 regarding suitability is designed to ensure that options are only sold to customers capable of evaluating and bearing the risks associated with trading in this instrument. Further, ISE Rule 611 permits members to exercise discretionary power with respect to trading options in a customer's account only if the Member has received prior written authorization from the customer and the account had been accepted in writing by a designated Options Principal. ISE Rule 611 also requires designated Options Principals or Representatives of a Member to approve and initial each discretionary order on

the day the discretionary order is entered. Finally, ISE Rule 609, Supervision of Accounts, Rule 612, Confirmation to Customers, and ISE Rule 616, Delivery of Current Options Disclosure Documents and Prospectus, will also apply to trading in of options on the Mini DAX.

#### *Capacity*

The Exchange has represented that it has the necessary systems capacity to support new options series that will result from the introduction of options on the Mini DAX, including LEAPS.

#### *Surveillance*

The Exchange has represented that it has an adequate surveillance program in place for options traded on the Mini DAX. Index products and their respective symbols are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. Further, both ISE and the Frankfurt Stock Exchange, operated by DBAG, are members of the Intermarket Surveillance Group ("ISG"). Through its membership in the ISG, ISE may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG.

### **III. Discussion**

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.<sup>14</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>15</sup> 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 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.

As a national securities exchange, the ISE is required, under Section 6(b)(1) of the Act,<sup>16</sup> to enforce compliance by its members, and persons associated with its members, with the provisions of the Act, Commission rules and regulations thereunder, and its own rules. In addition, brokers that trade Mini DAX options will also be subject to best

<sup>9</sup> The same limits that apply to position limits shall apply to exercise limits for these products.

<sup>10</sup> See ISE Rule 413(c).

<sup>11</sup> See ISE Rules 2000 through 2012.

<sup>12</sup> See Rule 2009(b)(1). The Exchange is not listing reduced value LEAPS on the Mini DAX pursuant to Rule 2009(b)(2).

<sup>13</sup> Pursuant to ISE Rule 602, Representatives of a Member may solicit or accept customer orders for FCOs.

<sup>14</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation.

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

<sup>16</sup> 15 U.S.C. 78f(b)(1).

execution obligations and FINRA rules.<sup>17</sup> Applicable exchange rules also require that customers receive appropriate disclosure before trading Mini DAX options.<sup>18</sup> Furthermore, brokers opening accounts and recommending options transactions must comply with relevant customer suitability standards.<sup>19</sup>

The trading of options on the Mini DAX will be subject to the same rules that currently govern the trading of Exchange index options, as will the trading of long-term Mini DAX options. The Commission believes that the listing rules proposed by ISE are consistent with the Act. One point strike price intervals for Mini DAX options should provide investors with flexibility in the trading of Mini DAX options and further the public interest by allowing investors to establish positions that are better tailored to meet their investment objectives. The listing of options on a reduced value should provide an opportunity for investors to hedge, or speculate on, the market risk associated with the stocks comprising the DAX Index, and with the reduction in the value of the DAX Index, investors will be able to use this trading vehicle while extending a smaller outlay of capital. This may attract additional investors, and, in turn, create a more active and liquid trading environment.

The Commission notes that index levels for options on the Mini DAX will be calculated by DBAG, or its agent, and updated on a real time basis, and will be disseminated by ISE at 15-second intervals to market information vendors via OPRA.

The Commission believes that the Exchange's proposed position and exercise limits for Mini DAX Options are appropriate and consistent with the Act. The Commission also notes that ISE has represented that it has an adequate surveillance program to monitor trading of Mini DAX Options and intends to apply its existing surveillance program to support the trading for these options.

Finally, the Commission believes that the proposal strikes a reasonable balance between the Exchange's desire to offer a wider array of products with the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes. In approving the proposed rule change, the Commission has relied on the Exchange's representation that it has the necessary systems capacity to support

the new options series that will be listed under this proposal. This approval order is conditioned on ISE's adherence to this representation. The Commission expects the Exchange to continue to monitor for options with little or no open interest and trading activity and to act promptly to delist such options. In addition, the Commission expects that ISE will monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>20</sup> that the proposed rule change (SR-ISE-2010-81) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

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

[FR Doc. 2010-24882 Filed 10-4-10; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63005; File No. SR-NSCC-2010-10]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify Its Rules & Procedures Regarding Its Alternative Investment Product Service

September 29, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 20, 2010, the National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4) thereunder<sup>3</sup> so that the proposal was effective upon filing with the Commission. 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 proposed rule change amends NSCC's rules to clarify that an Alternative Investment Product ("AIP") Service prospective member is not required to designate a settling bank in order to become an AIP member.

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

In its filing with the Commission, NSCC 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. NSCC 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. AIP Service

In 2007, NSCC filed a rule change with the Commission that established the AIP Service, which is a processing platform for alternative investment products such as hedge funds, fund of hedge funds, commodities pools, managed futures, and real estate investment trusts.<sup>4</sup> The AIP Service provides for settlement of related payments ("AIP Payments") such as subscriptions and redemptions, activity, distributions, and commissions for AIPs. The AIP Service also supports communication of information and settlement of AIP Payments between the AIP Manufacturer<sup>5</sup> and the AIP Distributor<sup>6</sup> to facilitate processing of subscriptions and purchases, tenders and redemptions, dividends and distributions, commissions and fees, positions reporting, product information, account maintenance, automated transmission of imaged

<sup>4</sup> Securities and Exchange Act Release No. 57813 (May 12, 2008), 73 FR 28539 (May 16, 2008).

<sup>5</sup> NSCC Rule 53 defines an AIP Manufacturer as an AIP Member acting on behalf of or under authority of the sponsor, general partner, or any other party responsible for the creation or manufacturing of an Eligible AIP Product.

<sup>6</sup> NSCC Rule 53 defines an AIP Distributor as an AIP Member acting on behalf of or under authority of a customer or other investor in an Eligible AIP Product, or otherwise as the contra-side to an AIP Manufacturer in a transaction (including information processing) with an AIP Manufacturer.

<sup>17</sup> See NASD Rule 2320.

<sup>18</sup> See ISE Rule 616.

<sup>19</sup> See ISE Rule 610. See also ISE Rulebook Chapter Six for rules designed to protect public customer trading that shall apply to the trading of options on the Mini DAX.

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>21</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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