

to list additional expiration months and thus encourages competition without harming investors or the public interest.

#### *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 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 shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

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 should promote competition by allowing the Exchange, without undue delay, to incorporate rules that previously have been adopted by other exchanges and thereby to list and trade option series that are trading on those other options exchanges. Therefore, the Commission designates the proposal operative upon filing.<sup>16</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-2011-63 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-2011-63. 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 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 a.m. and 3 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-2011-63 and should be submitted on or before November 3, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-65503; File No. SR-ISE-2011-60]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by International Securities Exchange, LLC to Expand the Short Term Options Series Program**

October 6, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 23, 2011, the International Securities Exchange, LLC ("ISE" or the "Exchange") 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 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 expand the Short Term Option Series Program. 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, at the Commission's Public Reference Room, and at the Commission's Web site at <http://www.sec.gov>.

#### **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

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 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 Exchange has satisfied this requirement.

<sup>16</sup> 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).

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

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

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

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 this proposed rule change is to amend ISE Rules 504 and 2009 to expand the Short Term Option Series Program ("STOS Program")<sup>3</sup> so that the Exchange may select twenty-five option classes to participate in the STOS Program<sup>4</sup> and list a total of 30 Short Term Option Series ("STOS Options") for each option class that participates in the Exchange's STOS Program.<sup>5</sup>

The STOS Program is codified in Supplementary Material .02 to ISE Rule 504 and Supplementary Material .01 to ISE Rule 2009. These rules state that after an option 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 no more than fifteen option classes that expire on the Friday of the following business week that is a business day. In addition to the fifteen-option class limitation, there is also a limitation that no more than twenty series for each expiration date in those classes that may be opened for trading.<sup>6</sup> Furthermore, the

<sup>3</sup> The Exchange adopted the STOS Program on a pilot basis in 2005. See Securities Exchange Act Release No. 52012 (July 12, 2005), 70 FR 41246 (July 18, 2005) (SR-ISE-2005-17). The STOS Program was approved on a permanent basis in 2010. See Securities Exchange Act Release No. 62444 (July 2, 2010), 75 FR 39595 (July 9, 2010) (SR-ISE-2010-72).

<sup>4</sup> The Exchange previously increased the total number of option classes that may participate in the STOS Program from 5 to fifteen (15). See Securities Exchange Act Release No. 63878 (February 9, 2011), 76 FR 8796 (February 15, 2011) (SR-ISE-2011-08).

<sup>5</sup> The Exchange previously increased the total number of series per STOS Options from 7 to 20 series. See Securities Exchange Act Release No. 62444 (July 2, 2010), 75 FR 39595 (July 9, 2010) (SR-ISE-2010-72).

<sup>6</sup> However, if the Exchange opens less than twenty (20) short term options for a Short Term Option 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 market price of the underlying security moves substantially from the exercise price or prices of the series already opened. Any additional strike prices listed by the Exchange shall be within thirty percent (30%) above or below the current price of the underlying security. The Exchange may also open additional strike prices of Short Term Option Series that are more than 30% above or below the current price of the underlying security provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers (market-makers trading for their own account shall not be considered when determining customer interest

strike price of each short term option has to be fixed with approximately the same number of strike prices being opened above and below the value of the underlying security at about the time that the short term options are initially opened for trading on the Exchange, and with strike prices being within thirty percent (30%) above or below the closing price of the underlying security from the preceding day. The Exchange does not propose any changes to the STOS Program limitations other than to increase from fifteen to twenty-five the number of option classes that may be opened pursuant to the STOS Program and increase from 20 to 30 the number of Weekly Series that may be opened for each class of option selected to participate in the STOS Program.

The principal reason for the proposed expansion to the number of classes is customer demand for adding, or not removing, short term option classes from the STOS Program. In order that the Exchange not exceed the fifteen-option class restriction, from time to time the Exchange has had to discontinue trading one short term option class before it could begin trading other option classes within the STOS Program. This has negatively impacted investors and traders, particularly retail public customers. These same market participants also repeatedly request that the Exchange add additional classes to the STOS Program which the Exchange is unable to do as it has already reached its maximum allotment of 15 classes. The Exchange notes that the STOS Program has been well received by market participants, in particular by retail investors. The Exchange believes a modest increase to the number of classes that may participate in the STOS Program, such as the one proposed herein, will permit the Exchange to meet increased customer demand and provide market participants with the ability to hedge in a greater number of option classes.

The principal reason for the proposed expansion to the number of series is market demand for additional series in STOS Options classes in which the maximum number of series (20) has already been reached. Specifically, the Exchange has observed increased demand for more series when market moving events, such as corporate events and large price swings, have occurred during the life span of an affected STOS Options class. Currently, in order to be

under this provision). Supplementary Material .02(d) to Rule 504 and Supplementary Material .01(d) to Rule 2009.

able to respond to market demand, the Exchange is forced to delete or delist certain series in order to make room for more in demand series.<sup>7</sup> The Exchange finds this method to be problematic for two reasons.

First, the Exchange has received requests to keep series that it intends to delete/delist to make room for more in demand series. While market participants may access other markets for the deleted/delisted series, the Exchange would prefer that market participants trade these series at ISE. Second, this method can lead to competitive disadvantages among exchanges. If one exchange is actively responding to market demand by deleting/delisting and adding series, if another exchange is the last to list the less desirable series with open interest, that exchange is stuck with those series and unable to list the in demand series (because to do so would result in more than 20 series being listed on that exchange). As a result, the maximum number of series per class of options that participate in the STOS Program should be increased to 30 so that exchanges can list the full panoply of series that other exchanges list and which the market demands.

To affect this change, the Exchange is proposing to amend its rules to limit the initial number of series that may be opened for trading to 20 series and to limit the number of additional series that may be opened for trading to 10 series.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the potential additional traffic associated with trading an expanded number of classes and series in the STOS Program.

The Exchange believes that the STOS Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions. The Exchange further believes this proposed rule change will provide investors with additional short term option classes and series for investment, trading, and risk management purposes.

Finally, 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 STOS Program (the

<sup>7</sup> The Exchange deletes series with no open interest and delists series with open interest if those series are open for trading on another exchange.

“Report”). The Report will cover the period from July 2, 2010, the date the Exchange first began to list and trade short term options, through August 31, 2011. The Report will describe the Exchange’s experience with the STOS Program in respect of the option classes included by the Exchange in the STOS Program. The Report will be submitted to the Commission on a confidential basis under separate cover.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934<sup>8</sup> (the “Act”) in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>9</sup> 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 that expanding the current short term options program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions and hedging decisions in greater number of securities. The Exchange believes that expanding the current program would provide the investing public and other market participants increased opportunities because an expanded program would provide market participants additional opportunities to hedge their investment thus allowing these investors to better manage their risk exposure. While the expansion of the STOS Program will generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal remains limited to a fixed number of classes. Further, the Exchange does not believe that the proposed rule change will result in a material proliferation of additional series because it is limited to a fixed number of series per class and the Exchange does not believe that the additional price points will result in fractured liquidity. Moreover, the Exchange believes the proposed rule change would benefit investors by giving them more flexibility to closely tailor their investment decisions in a greater number of securities.

### 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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR–ISE–2011–60 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–2011–60. 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 such 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 publicly available. All submissions should refer to File Number SR–ISE–2011–60 and should be submitted on or before November 3, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65499; File No. SR–ISE–2011–64]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Professional Customer Fees

October 6, 2011.

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 September 26, 2011, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange 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.

<sup>10</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b–4.

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).