proposed rule change (SR–Phlx–2012–40), as modified by Amendment No.1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14534 Filed 6–13–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67166; File No. SR–ISE–2012–48]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Rebates for Certain Complex Orders

June 8, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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 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 ISE is proposing to make a change to its schedule of fees. 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, 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 self-regulatory organization 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 Exchange currently assesses per contract transaction fees and provides rebates to market participants that add or remove liquidity from the Exchange (''maker/taker fees and rebates'') in a number of options classes (the ''Select Symbols'').[3] The Exchange's maker/taker fees and rebates are applicable to regular and complex orders executed in the Select Symbols. The Exchange also currently assesses maker/taker fees and rebates for complex orders in symbols that are in the Penny Pilot program but are not a Select Symbol (''Non-Select Penny Pilot Symbols'') [4] and for complex orders in all symbols that are not in the Penny Pilot Program (''Non-Penny Pilot Symbols'').[5] Maker/taker fees and rebates for complex orders are assessed on the following order-type categories: ISE Market Maker,[6] Market Maker Plus,[7] Firm Proprietary, Customer (Professional),[8] Non-ISE Market Maker,[9] and Priority Customer.[10] The Exchange is proposing to increase certain rebate amounts for complex orders in options on the Select Symbols, the Non-Select Penny Pilot Symbols, the Non-Penny Pilot Symbols and in options on one Select Symbol—SPY—which has a distinct rebate amount.

Specifically, the Exchange now proposes to increase certain rebates associated with complex order volume tiers. In the Select Symbols, the Exchange currently provides a base rebate of $0.32 per contract, per leg, for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book. Additionally, Members can earn a higher rebate amount by achieving certain average daily volume (ADV) thresholds on a month-to-month basis, as follows: If a Member achieves an ADV of 75,000 Priority Customer complex order contracts, the rebate amount for such option contracts is $0.33 per contract per leg; if a Member achieves an ADV of 125,000 Priority Customer complex order contracts, the rebate amount for such option contracts is $0.34 per contract per leg. The Exchange now proposes to adopt a new tier for Priority Customer complex order contracts in the Select Symbols of 250,000 contracts such that if a Member achieves an ADV of 250,000 Priority Customer complex order contracts, the rebate amount for such option contracts shall be $0.345 per contract per leg. The highest rebate amount achieved by a Member for the current calendar month shall apply retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by a Member during such calendar month.

In the Non-Select Penny Pilot Symbols, the Exchange currently provides a base rebate of $0.28 per contract, per leg, for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Options classes subject to maker/taker fees and rebates are identified by their ticker symbol on the Exchange's Schedule of Fees.

[4] *See* Exchange Act Release No. 65724 (November 10, 2011), 76 FR 71413 (November 17, 2011) (SR–ISE–2011–72).

[5] *See* Exchange Act Release Nos. 66084 (January 3, 2012), 77 FR 1103 (January 9, 2012) (SR–ISE–2011–84); 66392 (February 14, 2012), 77 FR 10016 (February 21, 2012) (SR–ISE–2012–06); and 66961 (May 10, 2012), 77 FR 28914 (May 16, 2012) (SR–ISE–2012–38).

[6] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[7] A Market Maker Plus is an ISE Market Maker who is on the National Best Bid or National Best Offer 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months and 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium across all expiration months in order to receive the rebate. The Exchange determines whether a Market Maker qualifies as a Market Maker Plus at the end of each month by looking back at each Market Maker's quoting statistics during that month. A Market Maker's single best and single worst overall quoting days each month, on a per symbol basis, are excluded in calculating whether a Market Maker qualifies for this rebate, if doing so qualifies a Market Maker for the rebate. If at the end of the month, a Market Maker meets the Exchange's stated criteria, the Exchange rebates $0.10 per contract for transactions executed by that Market Maker during that month. The Exchange provides Market Makers a report on a daily basis with quoting statistics so that Market Makers can determine whether or not they are meeting the Exchange's stated criteria.

[8] A Customer (Professional) is a person who is not a broker/dealer and is not a Priority Customer.

[9] A Non-ISE Market Maker, or Far Away Market Maker (''FARMM''), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended (''Exchange Act''), registered in the same options class on another options exchange.

[10] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

Additionally, Members can earn a higher rebate amount on a month-to-month basis, as follows: If a Member achieves an ADV of 75,000 Priority Customer complex order contracts, the rebate amount for such option contracts is $0.30 per contract per leg; if the Member achieves an ADV of 125,000 Priority Customer complex order contracts, the rebate amount for such option contracts is $0.32 per contract per leg. The Exchange now proposes to adopt a new tier for Priority Customer complex order contracts in the Non-Select Penny Pilot Symbols of 250,000 contracts such that if a Member achieves an ADV of 250,000 Priority Customer complex order contracts, the rebate amount for such option contracts shall be $0.325 per contract per leg. The highest rebate amount achieved by a Member for the current calendar month shall apply retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by a Member during such calendar month.

In the Non-Penny Pilot Symbols, the Exchange currently provides a base rebate of $0.57 per contract, per leg, for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book. Additionally, Members can earn a higher rebate amount on a month-to-month basis, as follows: If a Member achieves an ADV of 75,000 Priority Customer complex order contracts, the rebate amount for such option contracts is $0.59 per contract per leg; if the Member achieves an ADV of 125,000 Priority Customer complex order contracts, the rebate amount for such option contracts is $0.61 per contract per leg. The Exchange now proposes to adopt a new tier for Priority Customer complex order contracts in the Non-Penny Pilot Symbols of 250,000 contracts such that if a Member achieves an ADV of 250,000 Priority Customer complex order contracts, the rebate amount for such option contracts shall be $0.615 per contract per leg. The highest rebate amount achieved by a Member for the current calendar month shall apply retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by a Member during such calendar month.

Finally, for SPY, the Exchange currently provides a base rebate of $0.33 per contract, per leg, for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book. Additionally, Members can earn a higher rebate amount on a month-to-month basis, as follows: If a Member achieves an ADV of 75,000 Priority Customer complex order contracts, the rebate amount for such option contracts is $0.34 per contract per leg; if the Member achieves an ADV of 125,000 Priority Customer complex order contracts, the rebate amount for such option contracts is $0.35 per contract per leg. The Exchange now proposes to adopt a new tier for Priority Customer complex order contracts in SPY of 250,000 contracts such that if a Member achieves an ADV of 250,000 Priority Customer complex order contracts, the rebate amount for such option contracts shall be $0.355 per contract per leg. The highest rebate amount achieved by a Member for the current calendar month shall apply retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by a Member during such calendar month.

The Exchange is not proposing any other changes in this filing.

2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Exchange Act [11] in general, and furthers the objectives of Section 6(b)(4) of the Exchange Act [12] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using its facilities. The impact of the proposal upon the net fees paid by a particular market participant will depend on a number of variables, most important of which will be its propensity to interact with and respond to certain types of orders.

The Exchange believes that it is reasonable and equitable to provide rebates for Priority Customer complex orders when these orders trade with Non-Priority Customer complex orders in the complex order book because paying a rebate would continue to attract additional order flow to the Exchange and create liquidity in the symbols that are subject to the rebate, which the Exchange believes ultimately will benefit all market participants who trade on ISE. The Exchange has already established a volume-based incentive program, and is now merely proposing to adopt an additional tier to that program. The Exchange believes that the proposed rebates are competitive with rebates provided by other exchanges and are therefore reasonable and equitably allocated to those members that direct orders to the Exchange rather than to a competing exchange.

The complex order pricing employed by the Exchange has proven to be an effective pricing mechanism and attractive to Exchange participants and their customers. The Exchange believes that increasing its complex order rebates will attract additional complex order business.

The Exchange further believes that the Exchange's maker/taker fees and rebates are not unfairly discriminatory because those structures are consistent with fee structures that exist today at other options exchanges. Additionally, the Exchange believes that the proposed rebates are fair, equitable and not unfairly discriminatory because the proposed rebates are consistent with price differentiation that exists today at other option exchanges. The Exchange operates in a highly competitive market in which market participants can readily direct order flow to another exchange if they deem rebate levels at a particular exchange to be low. With this proposed rebate change, the Exchange believes it remains an attractive venue for market participants to trade complex orders.

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 Exchange 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act.[13] At any time within 60 days of the filing of such 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 Exchange Act. If the

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

Commission takes such action, the Commission shall institute proceedings 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 Exchange 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 email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2012–48 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–2012–48. This file number should be included on the subject line if email 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 10:00 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–2012–48 and should be submitted on or before July 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14531 Filed 6–13–12; 8:45 am]

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[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67167; File No. SR–ISE–2012–47]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Fees

June 8, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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 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 ISE is proposing to change the treatment of certain orders executed in the Exchange's Facilitation and Solicited Order Mechanisms. 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, 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 self-regulatory organization 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

In 2010, the Exchange began assessing per contract transaction fees and rebates to market participants that add or remove liquidity from the Exchange (''maker/taker fees and rebates'')[3] in a number of options classes (the ''Select Symbols'').[4] The Exchange's maker/taker fees and rebates are applicable to regular and complex orders executed in the Select Symbols. The Exchange subsequently adopted maker/taker fees and rebates for complex orders in symbols that are in the Penny Pilot program but are not a Select Symbol (''Non-Select Penny Pilot Symbols'')[5] and then adopted maker/taker fees and rebates for complex orders in all symbols that are not in the Penny Pilot Program (''Non-Penny Pilot Symbols'').[6]

Pursuant to Commission approval, the Exchange will soon introduce a new order type called ''Add Liquidity Order'' or ''ALO.''[7] ALOs are limit orders that will only be executed as a ''maker'' on the Exchange. An ALO allows market participants to specify that they only seek to provide liquidity, thus avoiding taker fees. Currently, when a Facilitation or Solicitation order interacts with pre-existing orders and quotes, the pre-existing order or quote is treated as taker of liquidity and the Facilitation or Solicitation order that interacts with the pre-existing order or quote is provided with a rebate.[8] The Exchange believes that all pre-existing orders and quotes in the Select Symbols, the Non-Select Penny Pilot Symbols and the Non-Penny Pilot Symbols should be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 61869 (April 7, 2010), 75 FR 19449 (April 14, 2010) (SR–ISE–2010–25).

[4] The Select Symbols are identified by their ticker symbol on the Exchange's Schedule of Fees.

[5] *See* Exchange Act Release No. 65724 (November 10, 2011), 76 FR 71413 (November 17, 2011) (SR–ISE–2011–72).

[6] *See* Exchange Act Release Nos. 66084 (January 3, 2012), 77 FR 1103 (January 9, 2012) (SR–ISE–2011–84); and 66392 (February 14, 2012), 77 FR 10016 (February 21, 2012) (SR–ISE–2012–06).

[7] *See* Exchange Act Release No. 66617 (March 19, 2012), 77 FR 17102 (March 23, 2012) (SR–ISE–2012–20). The Exchange expects to launch ALO on June 4, 2012.

[8] Currently, the Exchange provides a rebate of $0.15 to contracts that do not trade with the contra order in the Facilitation Mechanism and Solicited Order Mechanism. This rebate currently applies to the Select Symbols and to Non-Select Penny Pilot Symbols and does not apply to Non-Penny Pilot Symbols.