participants' understanding of how the aggregation provisions of the Minor Rule Violation Rule will operate and be applied.

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

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[10]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become effective on January 23, 2013.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[11]

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 email to *rule-comments@sec.gov.* Please include File Number SR–CFE–2013–001 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–CFE–2013–001. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–CFE–2013–001, and should be submitted on or before February 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00875 Filed 1–16–13; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78a *et seq.*

[11] 15 U.S.C. 78s(b)(1).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68631; File No. SR–ISE–2013–03]

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

January 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 3, 2013, 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, II, and III 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 ISE proposes to amend 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 190 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 in all symbols that are not in the Penny Pilot Program ("Non-Penny Pilot Symbols").[5]

[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 Nos. 65724 (November 10, 2011), 76 FR 71413 (November 17, 2011) (SR–ISE–2011–72); 66597 (March 14, 2012), 77 FR 16295 (March 20, 2012) (SR–ISE–2012–17); 66961 (May 10, 2012), 77 FR 28914 (May 16, 2012) (SR–ISE–2012–38); 67628 (August 9, 2012), 77 FR 49049 (August 15, 2012) (SR–ISE–2012–71); and 68034 (October 11, 2012), 77 FR 63911 (October 17, 2012) (SR–ISE–2012–85).

[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

The purpose of this proposed rule change is to amend the list of Select Symbols. Specifically, the Exchange proposes to add the following 39 symbols to the list of Select Symbols: Aetna, Inc. (''AET''), Amgen, Inc. (''AMGN''), Amarin Corp. PLC (''AMRN''), Celgene Corporation (''CELG''), CF Industries Holdings, Inc. (''CF''), Comcast Corporation (''CMCSA''), Costco Wholesale Corporation (''COST''), Cree, Inc. (''CREE''), Electronic Arts, Inc. (''EA''), Express Scripts, Inc. (''ESRX''), Facebook, Inc. (''FB''), Fifth Third Bancorp. (''FITB''), The Gap, Inc. (''GPS''), Groupon, Inc. (''GRPN''), Starwoods Hotels and Resorts (''HOT''), Interoil Corporation (''IOC''), JDS Uniphase Corporation (''JDSU''), Juniper Networks, Inc. (''JNPR''), Knight Capital Group, Inc. (''KCG''), Keycorp. (''KEY''), Lennar Corporation (''LEN''), Eli Lilly & Company (''LLY''), Cheniere Energy, Inc. (''LNG''), LinkedIn Corporation (''LNKD''), Macys, Inc. (''M''), Marathon Oil (''MRO''), Noble Drilling Corporation (''NE''), Annaly Mortgage Management (''NLY''), Occidental Petroleum Corporation (''OXY''), MetroPCS Communications, Inc. (''PCS''), Pulte Group, Inc. (''PHM''), Philip Morris International, Inc. (''PM''), Suntech Power Holdings (''STP''), Seagate Technology (''STX''), Direxion Small Cap Bull 3X (''TNA''), Vringo, Inc. (''VRNG''), Consumer Discretionary Select Sector SPDR Fund (''XLY''), SPDR S&P Metals & Mining ETF (''XME'') and Xerox Corporation (''XRX'') (''Additional Select Symbols'').[6]

With the addition of the Additional Select Symbols to Select Symbols, the fees currently applicable to regular and complex orders in the Select Symbols will now be applied to regular and complex orders in the Additional Select Symbols.

Regular Order Fees and Rebates

The Exchange currently applies transaction fees to regular orders in the Additional Select Symbols, as follows:[7]

➢ for Market Maker [8] orders, a fee of $0.18 per contract [9];

➢ for Market Maker (for orders sent by Electronic Access Members), Firm Proprietary/Broker-Dealer and Professional Customer [10] orders, a fee of $0.20 per contract;

➢ for Non-ISE Market Maker [11] orders, a fee of $0.45 per contract;

➢ for Priority Customer [12] orders, a fee of $0.00 per contract.

The Exchange currently charges a fee of $0.20 per contract to all market participants (except for Market Makers, this fee is currently $0.18 per contract,[13] and for Priority Customers, this fee is $0.00 per contract) for regular Crossing Orders in the Non-Select Symbols (this fee currently applies to the Additional Select Symbols as they are a subset of Non-Select Symbols). The Exchange also currently charges a fee of $0.20 per contract to all market participants (except for Non-ISE Market Makers, this fee is currently $0.45 per contract, and for Market Makers, this fee is $0.18 per contract [14]) for regular Responses to Crossing Orders in the Non-Select Symbols (this fee currently applies to the Additional Select Symbols as they are a subset of Non-Select Symbols).

With this proposed rule change, the Additional Select Symbols will now be subject to the maker/taker fees and rebates applicable to Regular orders in the Select Symbols.[15] The Exchange currently charges the following maker fees and rebates for Select Symbols: (i) for Market Maker, Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders, $0.10 per contract; (ii) for Priority Customer orders, $0.00 per contract; and (iii) for Market Maker Plus [16] orders, a rebate of $0.10 per contract. The Exchange also currently charges the following taker fees for Select Symbols: (i) For Market Maker and Market Maker Plus orders, $0.32 per contract; (ii) for Non-ISE Market Maker orders, $0.36 per contract; (iii) for Firm Proprietary/Broker-Dealer and Professional Customer orders, $0.33 per contract; and iv) for Priority Customer orders, $0.25 per contract.

The Exchange currently charges Market Maker, Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customers a fee of $0.20 per contract ($0.00 per contract for Priority Customers) for regular Crossing Orders in the Select Symbols, and a fee of $0.40 per contract to all market participants for regular Responses to Crossing Orders in the Select Symbols. With this proposed rule change, the fee for regular Crossing Orders in the Additional Select Symbols will remain at $0.20 per contract for most market participants. For Priority Customers, this fee will remain at $0.00 per contract, and for Market Makers, this fee will increase, from $0.18 per contract [17] to $0.20 per contract. With this proposed rule change, the fee for regular Responses to Crossing Orders will increase for most market participants, from $0.20 per contract to $0.40 per contract, with the exception of Non-ISE Market Makers who will now pay a lower fee of $0.40 per contract as opposed to $0.45 per contract.

The Exchange also currently provides a rebate of $0.25 per contract for contracts that are submitted to the Price Improvement Mechanism that do not trade with their contra order in the Select Symbols, and a rebate of $0.15

(February 21, 2012) (SR–ISE–2012–06); 66962 (May 10, 2012), 77 FR 28917 (May 16, 2012) (SR–ISE–2012–35); 67400 (July 11, 2012), 77 FR 42036 (July 17, 2012) (SR–ISE–2012–63); 67628 (August 9, 2012), 77 FR 49049 (August 15, 2012) (SR–ISE–2012–71); and 68034 (October 11, 2012), 77 FR 63911 (October 17, 2012) (SR–ISE–2012–85).

[6] The following 9 of the Additional Select Symbols were added to the Penny Pilot Program on January 3, 2013: AMRN, FB, GRPN, KCG, LNG, LNKD, PCS, TNA and VRNG (''New Penny Pilot Symbols''). The New Penny Pilot Symbols are a subset of the Additional Select Symbols.

[7] Additional Select Symbols are currently subject to the standard transaction fee listed in the table titled Non-Select Symbols. *See* Schedule of Fees, Section I, Regular Order Fees and Rebates.

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

[9] The Exchange provides a volume-based discount to fees to ISE Market Maker contracts for regular orders in Non-Select Symbols. *See* Schedule of Fees, Section IV, C. ISE Market Maker Discount Tiers.

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

[11] 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 registered in the same options class on another options exchange.

[12] 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).

[13] The volume-based discount to fees to ISE Market Maker contracts also applies to regular Crossing Orders. *See supra,* note 9.

[14] The volume-based discount to fees to ISE Market Maker contracts also applies to regular Responses to Crossing Orders. *See supra,* note 9.

[15] *See* Schedule of Fees, Section I, Regular Order Fees and Rebates.

[16] In order to promote and encourage liquidity in the Select Symbols, the Exchange currently offers a $0.10 per contract rebate to Market Makers if the quotes they sent to the Exchange qualify the Market Maker to become a Market Maker Plus. A Market Maker Plus is a 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 for all expiration months in that symbol during the current trading month. A Market Maker's single best and single worst overall quoting days each month, on a per symbol basis, is excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate.

[17] The volume-based discount to fees to ISE Market Maker contracts also applies. *See supra,* note 9.

per contract for contracts that are submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order in the Select Symbols except when those contracts trade against pre-existing orders and quotes on the Exchange's orderbook. With this proposed rule change, market participants trading in the Additional Select Symbols will now be eligible for rebates that were not previously available for this group of symbols. Specifically, market participants will now receive a rebate of $0.25 per contract for contracts that are submitted to the Price Improvement Mechanism that do not trade with their contra order in the Additional Select Symbols. Further, market participants will now also receive a rebate of $0.15 per contract for contracts that are submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order in the Additional Select Symbols except when those contracts trade against pre-existing orders and quotes on the Exchange's orderbook.

Further, the Exchange currently charges Primary Market Makers (PMMs) a transaction fee of $0.18 per contract [18] in the Additional Select Symbols when they trade report a Priority Customer or Professional Customer order in accordance with their obligation to provide away market price protection. PMMs in Select Symbols do not receive a maker rebate nor pay a taker fee when trade reporting.[19] With this proposed rule change, PMMs in the Additional Select Symbols will also not receive a maker rebate nor pay a taker fee when trade reporting.

Finally, for the New Penny Pilot Symbols (prior to their inclusion to the Penny Pilot Program), the Exchange charged a payment for order flow (PFOF) fee of $0.70 per contract, applicable to Market Makers when trading against Priority Customer orders, and for the remaining Additional Select Symbols, the Exchange currently charges a PFOF fee of $0.25 per contract, applicable to Market Makers when trading against Priority Customer orders. With this proposed rule change, the Exchange will no longer charge a PFOF fee for trading in the Additional Select Symbols.

Complex Order Fees and Rebates

With this proposed rule change, the maker fee for complex orders in the Additional Select Symbols will remain unchanged because the Exchange currently charges the same maker fee for complex orders in the Select Symbols, in the Penny Pilot Symbols and in the Non-Penny Pilot Symbols.[20] Specifically, for Select Symbols, Penny Pilot Symbols and Non-Penny Pilot Symbols, the Exchange currently charges a complex order maker fee of: (i) $0.10 per contract for Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; (ii) $0.20 per contract for Non-ISE Market Maker orders; and (iii) $0.00 per contract for Priority Customer orders.

With this proposed rule change, the maker fee for complex orders in the Additional Select Symbols (except for the New Penny Pilot Symbols) when trading against Priority Customers will remain unchanged because the Exchange currently charges the same maker fee for complex orders in the Select Symbols (excluding SPY) when trading against Priority Customers and in the Non-Select Penny Pilot Symbols when trading against Priority Customers.[21] Specifically, for complex orders in the Select Symbols (excluding SPY) when trading against Priority Customer and for complex orders in the Non-Select Penny Pilot Symbols when trading against Priority Customers, the Exchange currently charges a maker fee of: (i) $0.39 per contract for Market Maker orders; (ii) $0.40 per contract for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.00 per contract for Priority Customer orders. Thus, these fees will remain unchanged.

Prior to their inclusion to the Penny Pilot Program, the New Penny Pilot Symbols, which are a subset of the Additional Select Symbols, were charged a higher maker fee when trading against Priority Customer complex orders. Specifically, for complex orders in the New Penny Pilot Symbols when trading against Priority Customer complex orders, the Exchange charged a maker fee of: (i) $0.82 per contract for Market Maker orders; (ii) $0.84 per contract for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.00 per contract for Priority Customer orders.[22] With this proposed rule change, the New Penny Pilot Symbols will now be subject to the same maker fee as the remaining Additional Select Symbols, as noted above, which is lower (except for Priority Customer orders which fee will remain the same) than those the Exchange charged for the New Penny Pilot Symbols when trading against Priority Customer complex orders.

With this proposed rule change, the taker fee for complex orders in the Additional Select Symbols (except for the New Penny Pilot Symbols) will remain unchanged because the Exchange currently charges the same taker fee for complex orders in the Select Symbols (excluding SPY) and in the Non-Select Penny Pilot Symbols.[23] Specifically, for complex orders in the Select Symbols (excluding SPY) and in the Non-Select Penny Pilot Symbols, the Exchange currently charges a taker fee of: (i) $0.39 per contract for Market Maker orders; (ii) $0.40 per contract for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.00 per contract for Priority Customer orders. Thus, these fees will remain unchanged.

Prior to their inclusion to the Penny Pilot Program, the New Penny Pilot Symbols, which are a subset of the Additional Select Symbols, were charged a higher taker fee for trading complex orders. Specifically, for complex orders in the New Penny Pilot Symbols, the Exchange charged a taker fee of: (i) $0.82 per contract for Market Maker orders; (ii) $0.84 per contract for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.00 per contract for Priority Customer orders.[24] With this proposed rule change, the New Penny Pilot Symbols will now be subject to the same taker fee as the remaining Additional Select Symbols, as noted above, which is lower (except for Priority Customer orders which fee will remain the same) than

[18] The volume-based discount to fees to ISE Market Maker contracts also applies. *See supra,* note 9.

[19] *See* Schedule of Fees, Section I, Regular Order Fees and Rebates, footnote 9.

[20] The New Penny Pilot Symbols were subject to the fee listed in the Column titled Maker Fee for Non-Penny Pilot Symbols. The remaining Additional Select Symbols are currently subject to the fee listed in the column titled Maker Fee for Select Symbols and Penny Pilot Symbols. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[21] The New Penny Pilot Symbols were subject to the fee listed in the Column titled Maker Fee for Non-Penny Pilot Symbols when trading against Priority Customer. The remaining Additional Select Symbols are currently subject to the fee listed in the column titled Maker Fee for Non-Select Penny Pilot Symbols when trading against Priority Customer. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[22] The per contract fees noted reflect changes proposed by the Exchange in an earlier filing. *See* SR–ISE–2013–01.

[23] The New Penny Pilot Symbols were subject to the fee listed in the Column titled Taker Fee for Non-Penny Pilot Symbols. The remaining Additional Select Symbols are currently subject to the fee listed in the column titled Taker Fee for Non-Select Penny Pilot Symbols. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[24] The per contract fees noted reflect changes proposed by the Exchange in an earlier filing. *See* SR–ISE–2013–01.

those the Exchange charged for the New Penny Pilot Symbols.

With this proposed rule change, the Fee for Crossing Orders when trading complex orders in the Additional Select Symbols will remain unchanged because the Exchange currently charges $0.20 per contract (for largest leg only) for complex Crossing Orders in all symbols, except for Priority Customers who are currently charged $0.00 per contract.

With this proposed rule change, the Fee for Responses to Crossing Orders when trading complex orders in the Additional Select Symbols will remain unchanged (except for the New Penny Pilot Symbols) because the Exchange currently charges $0.40 per contract for Responses to Crossing Orders when trading complex orders in the Select Symbols and in the Penny Pilot Symbols. The Fee for Responses to Crossing Orders when trading complex orders in the New Penny Pilot Symbols will, however, decrease because the Exchange currently charges $0.82 per contract for Market Maker orders and $0.84 per contract for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders.[25] The New Penny Pilot Symbols, which are a subset of the Additional Select Symbols, will now be charged $0.40 per contract for Market Maker, Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders.[26]

With this proposed rule change, the rebate levels payable for Priority Customer complex orders in the Additional Select Symbols (except for the New Penny Pilot Symbols) will increase because the rebate levels payable for Priority Customer complex orders in the Select Symbols are higher than the rebate levels currently payable for Priority Customer complex orders in Non-Select Penny Pilot Symbols, as described below.

For the Additional Select Symbols (except for the New Penny Pilot Symbols), 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.[27] Additionally, Members who achieve a certain level of average daily volume (ADV) of executed Priority Customer complex order contracts across all symbols during a calendar month are provided a rebate of $0.35 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.37 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.38 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.39 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts.[28] The highest rebate amount achieved by the Member for the current calendar month applies retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by the Member during such calendar month.

For Select Symbols (excluding SPY), the Exchange currently provides a base rebate of $0.34 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 who achieve a certain level of average daily volume (ADV) of executed Priority Customer complex order contracts across all symbols during a calendar month are provided a rebate of $0.37 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.38 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.39 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.40 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts.[29] The highest rebate amount achieved by the Member for the current calendar month applies retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by the Member during such calendar month.

With this proposed rule change, the increased rebate levels currently payable for Priority Customer complex orders in Select Symbols will now apply to Priority Customer complex orders in the Additional Select Symbols.

With this proposed rule change, the rebate levels payable for Priority Customer complex orders in the New Penny Pilot Symbols will, however, decrease because the these symbols will now be subject to much lower maker and taker fees and thus receive lower rebates, as described below.

For the New Penny Pilot Symbols (prior to their inclusion to the Penny Pilot Program), the Exchange provided a base rebate of $0.66 per contract, per leg, for Priority Customer complex orders when these orders traded with non-Priority Customer complex orders in the complex order book.[30] Additionally, Members who achieve a certain level of average daily volume (ADV) of executed Priority Customer complex order contracts across all symbols during a calendar month are provided a rebate of $0.72 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.75 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.77 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.78 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts.[31] The highest rebate amount achieved by the Member for the current calendar month applies retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by the Member during such calendar month.

For Select Symbols (excluding SPY), the Exchange currently provides a base rebate of $0.34 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 who achieve a certain level of average daily volume (ADV) of executed Priority Customer complex order contracts across all symbols during a

[25] *Id.*

[26] The New Penny Pilot Symbols were subject to the fee listed in the Column titled Fee for Responses to Crossing Orders for non-Penny Pilot Symbols. The remaining Additional Select Symbols are currently subject to the fee listed in the column titled Fee for Responses to Crossing Orders for Select Symbols and Penny Pilot Symbols. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[27] Additional Select Symbols (except for the New Penny Pilot Symbols) are currently subject to the rebate listed in the column titled Rebate for non-Select Penny Pilot Symbols. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[28] The per contract rebates noted reflect changes proposed by the Exchange in an earlier filing. *See* SR–ISE–2013–01.

[29] *Id.*

[30] The New Penny Pilot Symbols were subject to the rebate listed in the column titled Rebate for non-Select non-Penny Pilot Symbols. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[31] The per contract rebates noted reflect changes proposed by the Exchange in an earlier filing. *See* SR–ISE–2013–01.

calendar month are provided a rebate of $0.37 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.38 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.39 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.40 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts.[32] The highest rebate amount achieved by the Member for the current calendar month applies retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by the Member during such calendar month. With this proposed rule change, the lower rebate levels currently payable for Priority Customer complex orders in the Select Symbols will now apply to Priority Customer complex orders in the New Penny Pilot Symbols.

Further, the Exchange currently provides a base rebate of $0.06 per contract, per leg, for Priority Customer complex orders in all symbols traded on the Exchange (excluding SPY) when these orders trade against quotes or orders in the regular orderbook. Additionally, Members who achieve a certain level of average daily volume (ADV) of executed Priority Customer complex order contracts across all symbols during a calendar month are provided a rebate of $0.08 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.09 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.10 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.11 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts.[33] The highest rebate amount achieved by the Member for the current calendar month applies retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by the Member during such calendar month. This rebate is currently applicable to the Additional Select Symbols and with this proposed rule change, will continue to apply at the current rates.

Additionally, the Exchange currently provides Market Makers with a discount when trading against Priority Customer orders that are preferenced to them.[34] This discount is applicable when Market Makers add or remove liquidity in, among other symbols, Select Symbols, Non-Select Penny Pilot Symbols and Non-Penny Pilot Symbols. The Additional Select Symbols are currently a part of the Non-Select Penny Pilot Symbols and Non-Penny Pilot Symbols and therefore the discount which currently applies to these symbols will continue to apply to these symbols when they become Select Symbols.

Further, the Exchange currently provides a $0.20 per contract fee credit to PMMs for execution of Priority Customer orders in the Non-Select Symbols—for classes in which it serves as a PMM—that send an Intermarket Sweep Order to other exchanges. This credit is applied regardless of the transaction fee charged by a destination market. For PMMs in the Select Symbols, this credit is equal to the fee charged by the destination market. With this proposed rule change, PMMs in the Additional Select Symbols will now be provided with a credit that that is equal to the fee charged by the destination market.

The Exchange also currently provides a $0.20 per contract credit for responses to flash orders in the Non-Select Symbols when trading against Professional Customers. For Select Symbols, the per contract fee credit for responses to flash orders is (i) $0.10 per contract when trading against Priority Customers; (ii) $0.12 per contract when trading against Preferenced Priority Customers; and (iii) $0.10 per contract when trading against Professional Customers. Market participants trading in the Additional Select Symbols will now be provided the rebate at levels that are currently in place for Select Symbols, as described above.

With this proposed rule change, the Exchange expects to attract additional order flow of regular and complex orders in the Additional Select Symbols. The Exchange's maker/taker fees and rebates have been effective in attracting order flow of regular and complex orders in the Select Symbols and increasing its market share in these symbols. The Exchange believes that applying its maker/taker fees and rebates to the Additional Select Symbols will result in the Exchange increasing its market share for regular and complex orders in these symbols.

With this proposed rule change, the maker and taker fees and the Fee for Responses to Crossing Orders for the New Penny Pilot Symbols will decrease because these symbols will now be charged the fees currently in place for Select Symbols, which are considerably lower. While the fees for the New Penny Pilot Symbols will decrease, the rebates payable for Priority Customer complex orders in these symbols will also correspondingly decrease. Further, Market Makers will now be eligible for the Market Maker Plus rebate, which was previously not applicable to the Additional Select Symbols. This proposed rule change does not propose any change to the maker and taker fees for complex orders in the Additional Select Symbols (except the New Penny Pilot Symbols, as noted above) as those fees remain unchanged. The rebate levels payable for Priority Customer complex orders in the Additional Select Symbols will increase compared to the current rebate levels for this group of symbols, except as noted above, for the New Penny Pilot Symbols, whose rebate levels will decrease.

Since the rate changes to the Schedule of Fees pursuant to this proposal will be effective upon filing, for the transactions occurring in January 2013 prior to the effective date of this filing, members will be assessed the rates in effect immediately prior to those proposed by this filing. For transactions occurring in January 2013 on and after the effective date of this filing, members will be assessed the rates proposed by this filing.

2. Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Act[35] in general, and furthers the objectives of Section 6(b)(4) of the Act[36] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that it is reasonable to add the Additional Select Symbols to the current list of Select Symbols. The Exchange believes that applying the fees and rebates applicable to Select Symbols to the Additional Select Symbols will attract additional order flow to the Exchange. Select Symbol pricing has proven beneficial for the Exchange and its participants and the Exchange believes that moving

[32] *Id.*

[33] *Id.*

[34] The Exchange has submitted a separate filing to increase the discount from $0.02 per contract to $0.05 per contract. *See* SR–ISE–2013–02.

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(4).

the Additional Select Symbols to Select Symbols pricing would enhance liquidity and participation in those symbols.

The Exchange believes that it is equitable and not unfairly discriminatory to amend its list of Select Symbols to add the Additional Select Symbols because the fees and rebates for Select Symbols would apply uniformly to all categories of participants in the same manner. All market participants who trade options in the Select Symbols would be uniformly subject to the fees and rebates applicable to those symbols.

The Exchange believes the proposed rule change is reasonable and equitable because it generally lowers the maker fees applicable to market participants (and considerably lowers the maker fees for the New Penny Pilot Symbols) and believes that the lower maker fees will attract additional maker liquidity and size to the Exchange in the Additional Select Symbols. Additionally, while this proposed rule change proposes to increase the taker fees applicable to market participants (except for the New Penny Pilot Symbols, whose taker fees will become considerably lower), the Exchange believes the benefits of better market quality will outweigh the taker fee increases based on the Exchange's experience with trading in the Select Symbols. Further, the Exchange believes this proposed rule change is reasonable and equitable because it will result in market participants receiving higher rebates for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book as the current rebate payable for these orders in Select Symbols is higher than the current rebate payable for these orders in Additional Select Symbols. The Exchange notes, however, that the rebates payable to the New Penny Pilot Symbols will be decreased to correspond with the lower maker and taker fees these symbols will now be subject to.

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 already provides these rebates, and is now merely proposing to adjust the rebate amounts applicable to the Additional Select Symbols. With this proposed rule change, Market Makers will also now be eligible to receive the Market Maker Plus rebate which was not previously applicable to the Additional Select Symbols. 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 Exchange believes that it is reasonable and equitable to provide a discount to Market Makers on preferenced orders as an incentive for them to quote in the complex order book. ISE notes that with this proposed rule change, the Exchange will continue to maintain the differential that was previously in place for the Additional Select Symbols.

The Exchange believes that the proposed changes are non-discriminatory because the proposal simply moves the Additional Select Symbols from one category of fees into another category thereby applying fees currently in effect. Further, the Exchange believes that it is equitable and not unfairly discriminatory to amend its list of Select Symbols to add the Additional Select Symbols to the Select Symbols because the fees applicable to the Select Symbols would apply uniformly to all categories of participants in the same manner. All market participants who trade the Select Symbols would be uniformly subject to the fees and rebates applicable to those symbols.

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

ISE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. This rule change, which proposes to move a group of symbols to an existing category of symbols, does not impose any burden on competition. With this proposed rule change, the Additional Select Symbols will be subject to fees that are already in place on the Exchange and therefore, do not impose any additional burden on competition that is not necessary or appropriate in furthering the purposes of the Act. The Exchange believes that the proposed changes promote competition, as they are designed to allow the Exchange to better compete for order flow and improve the Exchange's competitive position.

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 Act [37] and subparagraph (f)(2) of Rule 19b–4 thereunder,[38] because it establishes a due, fee, or other charge imposed by ISE.

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 Act. If the 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 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 No. SR–ISE–2013–03 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2013–03. 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

[37] 15 U.S.C. 78s(b)(3)(A)(ii).

[38] 17 CFR 240.19b–4(f)(2).

post all comments on the Commissions 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. Copies of such 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–2013–03 and should be submitted by February 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00873 Filed 1–16–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68635; File No. SR–NYSE–2012–54]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval to Proposed Rule Change Amending the Listed Company Manual Section 204.00 To Create a Uniform Method for a Company To Provide Notice to the Exchange When Required Pursuant to Sections 204.06, 204.12, 204.17, 204.21, 204.22, 311.01, 401.02, and 601.00 of the Listed Company Manual, and To Make Conforming Changes

January 11, 2013.

I. Introduction

On November 8, 2012, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Section 204.00 of the Listed Company Manual, which sets forth the required procedures that listed companies must follow to notify the Exchange upon the occurrence of certain events, and to amend related provisions of the Manual to make clear which provisions trigger the reporting procedures set forth in amended Section 204.00. The proposed rule changes were published for comment in the **Federal Register** on November 27, 2012.[3] The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposals

Companies that list their securities on the Exchange are subject to a number of reporting requirements set forth in the Exchange's Listed Company Manual (''Manual''). The Exchange proposes to amend the methods by which listed companies give notice to the Exchange of matters or events where timely notification is essential to the ability of investors to arrange to be holders of a security by a certain date for a distribution or shareholder meeting. These events are: Closing of transfer books; notice of dividend action or action relating to a stock distribution; meetings of shareholders, notice of the fixing of a date for the taking of a record of shareholders or for the closing of transfer books; redemption of listed securities; notice of corporate action which will result in, or which looks toward, either the partial or full call for redemption of a listed security; notice of dates set in connection with the calling of any meeting of shareholders; and notice by transfer agents of the number of shares outstanding at the end of each calendar quarter.

Currently, the Manual contains sections governing the notice that listed companies are required to provide the Exchange in case of each of these events; however, these sections set forth either different or no precise method for providing such notice. The following chart summarizes how these various notification provisions currently are addressed in the Manual.

Section	Current method
204.00 Notice to and Filings with the Exchange (notice in connection with certain actions or events as specified in Sections 204.01 through 204.25).	Notice methods include fax, telephone, telegram, and letter.
204.06 Closing of Transfer Books	No method specified.
204.12 Dividends and Stock Distributions (notice of dividend action or action relating to a stock distribution).	Notice methods include fax, telephone, telegram, and letter.
204.17 Meetings of Shareholders	No method specified.
204.21 Record Date (notice of the fixing of a date for the taking of a record of shareholders or for the closing of transfer books).	Notice methods include fax, telephone, telegram, and letter.
204.22 Redemption of Listed Securities	No method specified.
311.01 Publicity and Notice to the Exchange of Redemption (notice of corporate action which will result in, or which looks toward, either the partial or full call for redemption of a listed security).	Notice methods include fax and telephone.
401.02 Notice to the Exchange (notice of dates set in connection with the calling of any meeting of shareholders, including changes in record date).	Notice methods include telephone and writing or fax.
601.00 Services to be Provided by Transfer Agents and Registrars (notice by transfer agents of the number of shares outstanding at the end of each calendar quarter).	Notice methods include fax and email.

[39] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68276 (November 20, 2012), 77 FR 70868 (November 27, 2012) (''Notice'').