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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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 under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change 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 Number SR–NYSEArca–2013–19 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–NYSEArca–2013–19. 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 20549–1090, 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 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–NYSEArca–2013–19, and should be submitted on or before April 8, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06108 Filed 3–15–13; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69114; File No. SR–ISE–2013–18]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To Address Order Handling Under the Options Order Protection and Locked/Crossed Market Plan, the Authority of the Exchange To Cancel Orders When a Technical or Systems Issue Occurs, and To Describe the Operation of Linkage Handler Error Accounts

March 12, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 6, 2013, the International Securities Exchange, LLC (the ''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to address: (i) Order handling under the Options Order Protection and Locked/Crossed Market Plan; (ii) the authority of the Exchange to cancel orders (or release routing-related orders) when a technical or systems issue occurs; and (iii) describe the operation of Linkage Handler, as that term is defined below, error account(s), which may be used to liquidate unmatched executions that may occur in the provision of the Exchange's routing service. The text of the proposed rule change is available on the Exchange's Web site *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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

1. Purpose

Under the Options Order Protection and Locked/Crossed Market Plan, the ISE cannot execute orders at a price that is inferior to the national best bid or offer (''NBBO''), nor can the Exchange place an order on its book that would cause the ISE best bid or offer to lock or cross another exchange's quote.[4] In compliance with this requirement, incoming orders are not automatically executed at prices inferior to another exchange's Protected Bid or Protected Offer [5] nor placed on the limit order book if they would lock or cross an away market. Non-Customer Orders (*i.e.,* orders for the account of a broker or dealer) [6] are rejected in these

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] ISE Rules 1901 and 1902.

[5] ISE Rule 1900(o).

[6] ISE Rule 100(a)(28).

circumstances, while Public Customer Orders (*i.e.,* orders for the account of a person that is not a broker-dealer) [7] are handled by the Primary Market Maker.[8] The Primary Market Maker has the responsibility of either executing the Public Customer Order at a price that at least matches the NBBO or obtaining better prices from the away market(s) by sending one or more intermarket sweep orders (''ISOs'') on the Public Customer's behalf.[9] Non-Customer Orders and Public Customer Orders are exposed to all ISE Members for up to one second to give them an opportunity to execute orders at the NBBO price or better before orders are rejected (in the case of Non-Customer Orders) or before the Primary Market Maker sends ISOs to other exchanges (in the case of Public Customer Orders).[10]

The Exchange proposes to amend its rules to remove the requirement that Primary Market Makers handle Public Customer Orders in the circumstances described above,[11] and to instead provide a centralized process for sending ISOs to other exchanges on behalf of Public Customer Orders. Under the proposal, the Exchange will contract with one or more unaffiliated brokers to route orders to other exchanges when necessary to comply with the linkage rules (''Linkage Handlers'').[12] Specifically, in circumstances where marketable Public Customer Orders are received when the ISE is not at the NBBO or orders are received that would lock or cross another market, they will be exposed to ISE Members for up to one second as they are currently.[13] However, any unexecuted balance of a Public Customer Order will be handled by a Linkage Handler instead of the Primary Market Maker. Specifically, if after a Public Customer Order is exposed, the order cannot be executed in full on the Exchange at the then-current NBBO or better, and it is marketable, the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than the ISE's quote or the balance of the order will be sent to the Linkage Handler and any additional balance of the order will be executed on the ISE if it is marketable. Any additional balance of the order that is not marketable against the then-current NBBO will be placed on the ISE book.

The Exchange proposes to adopt new Rule 1903 (Order Routing to Other Exchanges), which would govern the Exchange's process for routing ISOs to other markets.[14] As discussed above, the Exchange intends to contract with one or more Linkage Handlers that are not affiliated with the Exchange to route ISOs to other exchanges. Any such contract will restrict the use of any confidential and proprietary information that the Linkage Handler receives to legitimate business purposes necessary for routing orders at the direction of the Exchange. Routing services would be available to Members only and are optional. Members that do not want orders routed can use the Do Not Route designation to avoid routing.

The rule also provides that: (1) The Exchange shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and the Linkage Handler or any other entity, including any affiliate of the Linkage Handler, and, if the Linkage Handler or any of its affiliates engages in any other business activities other than providing routing services to the Exchange, between the segment of the Linkage Handler or affiliate that provides the other business activities and the segment of the Linkage Handler that provides the routing services; (2) the Exchange will provide its routing services in compliance with the provisions of the Act and the rules thereunder, including, but not limited to, the requirements in Section 6(b)(4) and (5) of the Act that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; (3) the Exchange will determine the logic that provides when, how, and where orders are routed away to other exchanges; [15] (4) the Linkage Handler cannot change the terms of an order or the routing instructions, nor does the Linkage Handler have any discretion about where to route an order; and (5) any bid or offer entered on the Exchange routed to another exchange via a Linkage Handler that results in an execution shall be binding on the Member that entered such bid/offer.

Proposed Supplementary Material .01 to Rule 1903 states that the rule does not prohibit a Linkage Handler from designating a preferred market-maker (or equivalent market participant) at the other exchange to which an outbound ISO is being routed.[16] This proposed provision has no impact on customer orders, which receive the same level of order protection and trade at the best market prices regardless of whether the Linkage Handler designates a preferred market-maker recipient at the destination exchange. The Exchange will still be making the sole determination as to which exchange an order will be routed, as well as when and how the order will be routed. Additionally, Linkage Handlers are prohibited from changing the terms of an order or the Exchange's routing

[7] ISE Rule 100(a)(39).

[8] ISE Rule 714(a).

[9] ISE Rule 803(c)(2).

[10] Supplementary Material .02 to Rule 803.

[11] The Exchange proposes to eliminate Rule 803(c)(1)–(3) and Supplementary Material .02 to Rule 803, which addresses PMMs obligations in handling Public Customer Orders.

[12] The ISE will seek competitive bids to perform the Linkage Handler responsibilities.

[13] The exposure process currently is described in Supplementary Material .02 to Rule 803 (Obligations of Market Makers). Since Primary Market Makers will no longer be responsible for handling the orders, the Exchange proposes to move the current text of Supplementary Material .02 to Rule 803 (Obligations of Market Makers) to Supplementary Material .02 to Rule 1901 (Order Protection). Pursuant to the current process, during the exposure period, Exchange Members may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option. If at the end of the exposure period, the order is executable at the then-current NBBO and the ISE is not at the then-current NBBO, responses that equal or better the NBBO are executed in price priority, and at the same price, allocated pro-rata based on size (*i.e.,* the percentage of the total number of contracts available at the same price that is represented by the size of a Member's response). If during the exposure period, the order becomes executable on the ISE at the prevailing NBBO, the exposure period is terminated, and the order is executed against orders and quotes on the book and responses received during the exposure period. Such interest is executed in price priority. At the same price, Priority Customer Orders are executed first in time priority and then all other interest (orders, quotes and responses) is allocated pro-rata based on size. If during the exposure period the Exchange receives an unrelated order on the opposite side of the market from the exposed order that could trade against the exposed order at the prevailing NBBO price, the exposure period is terminated and the orders are executed. A pattern or practice of submitting unrelated orders that cause an exposure period to conclude early is deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 400 and other Exchange Rules.

[14] ISE proposed rule 1903 is substantially similar to the Chicago Board Options Exchange (''CBOE'') Rule 6.14B (Order Routing to Other Exchanges), except that ISE is not proposing to adopt a similar provision to subsection (c) of CBOE Rule 6.14B because ISE is not approved to be a designated examining authority and ISE is proposing to add .02 of the Supplementary Material to Rule 1903. As discussed in more detail below, .02 of the Supplementary Material to Rule 1903 has been added to address how orders will be handled when there are no operable Linkage Handlers. *See* Securities Exchange Act Release Nos. 60557 (August 20, 2009), 74 FR 43196 (August 26, 2009) (SR–CBOE–2009–040).

[15] The Exchange notes that this provision would not prohibit a Linkage Handler from complying with its obligations under Rule 15c3–5.

[16] Proposed Supplementary Material .01 to Rule 1903 is identical to CBOE Interpretations and Policies .01 to Rule 6.14B. *See* Securities Exchange Act Release No. 68010 (October 9, 2012), 77 FR 63399 (October 16, 2012)) (SR–CBOE–2012–096).

instructions and still have no discretion about to which exchange the order will be routed. This provision merely provides that a Linkage Handler may indicate which market-maker at the away exchange may trade against the routed order in accordance with the order terms and the Exchange's routing instructions. In other words, if a Linkage Handler preferences a customer order that is to be routed to another exchange, the order is not handled any differently by the Linkage Handler than if the Linkage Handler did not preference the order.[17] Further, the order is executed at the same exchange and at the same price and in accordance with the same order terms as it would if the Linkage Handler did not preference the order. Therefore, the proposed rule does not disadvantage customers in any way.

The Exchange proposes to adopt Supplementary Material .02 to Rule 1903 to address how the Exchange will handle orders in the event that there are no operable Linkage Handlers to provide routing services. In such circumstance, the Exchange will cancel orders that, if processed by the Exchange, would violate Rules 1901 (prohibition on trade-throughs) or 1902 (prohibition on locked and crossed markets).

The Exchange is also proposing to adopt Rule 1904 (Order Cancelation/Release) to address the authority of the Exchange to cancel orders (or release routing-related orders) when a technical or systems issue occurs.[18] Specifically, paragraph (a) of the proposed rule would expressly authorize the Exchange to cancel orders as it deems to be necessary to maintain fair and orderly markets if a technical or systems issue occurs at the Exchange,[19] the Linkage Handler, or another exchange to which an Exchange order has been routed. Paragraph (a) would also provide that a Linkage Handler may only cancel orders being routed to another exchange based on the Exchange's standing or specific instructions or as otherwise provided in the Exchange rules.[20] Paragraph (a) would also provide that the Exchange shall provide notice of the cancelation of the Members' original order to affected Members as soon as practicable.

Paragraph (b) of the proposed rule provides that the Exchange may also determine to release orders being held on the Exchange awaiting an away exchange execution as it deems to be necessary to maintain fair and orderly markets if a technical or systems issue occurs at the Exchange, a Linkage Handler, or another exchange to which an order has been routed (the process for ''releasing'' orders is illustrated in more detail below).[21]

The examples set forth below describe some of the circumstances in which the Exchange may decide to cancel (or release) orders.

Example 1: If a Linkage Handler or another exchange experiences a technical or systems issue that results in the Exchange or Linkage Handler not receiving responses to IOC orders sent to the other exchange, and that issue is not resolved in a timely manner, then the Exchange may seek to cancel the routed orders affected by the issue.[22] For instance, if a Linkage Handler experiences a connectivity issue affecting the manner in which it sends and receives order messages to or from another exchange, it may be unable to receive timely execution or cancelation reports from the other exchange, and the Exchange may consequently seek to cancel the affected routed orders (*e.g.,* by calling the Linkage Hander and instructing the Linkage Handler to attempt to cancel the orders) or perhaps the Linkage Handler may initiate the cancelation of the affected routed orders pursuant to a standing or specific instruction from the Exchange. In these circumstances, the Exchange would also attempt to release the initial orders submitted by the Members.[23]

Example 2: If the Linkage Handler experiences a technical issue, which causes it to lose connection to the Exchange and is unable to re-connect then the Exchange will release the initial order being held by the Exchange. The Exchange would also attempt to cancel the routed order in these circumstances.[24]

Example 3: If the Exchange experiences a systems issue, the Exchange may take steps to cancel and/or release all outstanding orders affected by the issue (which may include orders that may or may not be subject to routing services). The Exchange would also attempt to cancel any routed orders

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[17] The Exchange notes that orders that may be routed to other exchanges under Rule 1903 are all immediate-or-cancel (''IOC''). Therefore, routed orders would not be subject to any automated price improvement mechanisms that may exist under the other exchanges' rules.

[18] Proposed Rule 1904 is nearly identical to CBOE Rule 6.6A (Order Cancellation/Release). ISE's proposed Rule 1904 differs from CBOE Rule 6.6A in two regards: (1) ISE's proposed (a) clarifies that the Exchange will provide notice of cancelation of the Member's original order; and (2) ISE does not propose to adopt a corresponding paragraph (c) to CBOE's 6.6A(c) as such paragraph has no applicability to ISE's system. *See* Securities and Exchange Act Release No. 68585 (January 4, 2013), 78 FR 2308 (January 10, 2013)(SR–CBOE–2012–108).

[19] To confirm, the authority to cancel orders to maintain fair and orderly markets under proposed Rule 1904 would apply to any technical or systems issue at the Exchange and would include any orders at the Exchange (*i.e.,* the authority to cancel orders would apply to any orders that are subject to the Exchange's routing service and any orders that are not subject to the Exchange's routing service). By comparison, the routing service error account provisions under proposed Rule 1905 (discussed below) would apply to original and corresponding orders that are subject to the Exchange routing service.

[20] As discussed above, the Exchange will use non-affiliated Linkage Handlers to provide the routing services. These Linkage Handlers are also not facilities of the Exchange. For all routing services, the Exchange determines the logic that provides when, how and where orders are routed away to other exchanges. The Linkage Handler receives the routing instructions from the Exchange to route orders to other exchanges and to report executions back to the Exchange. The Linkage Handler cannot change the terms of an order or the routing instructions, nor does the Linkage Handler have any discretion about where to route an order. *See* proposed Rule 1903(c), (d) and (e). Under paragraph (a) to proposed Rule 1904, the decision to take action with respect to orders affected by a technical or systems issue shall be made by the Exchange. Depending on where those orders are located, a Linkage Handler would be permitted to initiate a cancelation of an order(s) pursuant to the Exchange's standing or specific instructions or as otherwise provided in Exchange Rules (*e.g.,* the Exchange's standing instruction might provide, among other things, that the Linkage Handler could initiate the cancelation of orders if the Linkage Handler is experiencing technical or systems issues routing orders to an away exchange).

[21] A determination by the Exchange to cancel or release orders may not cause the Exchange to declare self-help against another exchange pursuant to rule 1901(b)(1)(i). If the Exchange determines to cancel or release orders, as applicable, under proposed Rule 1904, but does not declare self-help against that other exchange, the Exchange would continue to be subject to the trade-through requirements of Rule 1901 with respect to that Exchange.

[22] In a normal situation, (*i.e.,* one in which a technical or systems issue does not exist), the Exchange should receive an immediate response back from the Linkage Handler reporting any executions or cancelations from the other exchange, and would then pass the resulting fill or cancelation onto the Member. If, after submitting an order for which a corresponding order has been routed to another exchange, a Member sends an instruction to cancel the original order, the cancelation is held by the Exchange until a response is received from the Linkage Handler on the corresponding order. For instance, if the other exchange executes the corresponding order, the execution would be passed onto the Member and the cancelation instruction on the Member's original order would be disregarded.

[23] Once an initial order is released, any cancelation that a Member submitted to the Exchange on the initial order during such a situation would be honored. If a Member did not submit a cancelation to the Exchange, however, that initial order would remain ''live'' and thus be eligible for execution or posting on the Exchange, and the Exchange would not treat any execution of the initial order or any subsequent routed order related to that initial order as an error (unless, of course, the order was itself subject to another technical or systems issue).

[24] It is possible that attempts to cancel the routed orders may not succeed. If the Exchange receives an execution report on the order that that had been routed to an away exchange, then the unmatched execution would be considered an ''error position'' under proposed Rule 1905.

related to the Members' initial orders, if applicable, in these circumstances.[25]

Proposed Rule 1905 would provide that each Linkage Handler shall maintain, in the name of the Linkage Handler, one or more accounts for the purpose of liquidating unmatched trade positions that may occur in connection with the away exchange routing service provided under Rule 1903 (''error positions'').[26]

Paragraph (a) of the proposed rule would provide that errors to which the rule would apply include any action or omission by the Exchange, a Linkage Handler, or another exchange to which an Exchange order has been routed, either of which result in an unmatched trade position due to the execution of an original or corresponding order that is subject to the away market routing service and for which there is no corresponding order to pair with the execution (each a ''routing error''). Such routing errors would include, without limitation, positions resulting from determinations by the Exchange to cancel or release an order pursuant to proposed Rule 1904 (as described above).

Paragraph (b) of the proposed rule would provide that each Linkage Handler will utilize its own error account to liquidate error positions. The Exchange believes it is reasonable and appropriate to address routing errors through the error account of a Linkage Handler in the manner proposed because, among other reasons, it is the executing broker associated with these transactions.

From a Member perspective, there would be no impact resulting from the decision to use the Linkage Handler's error account to liquidate the error position in these circumstances. A Linkage Handler utilizing its own account to liquidate error positions, shall liquidate the error positions as soon as practicable. The Linkage Handler could determine to liquidate the position itself or have a third party broker-dealer liquidate the position on the Linkage Handler's behalf.

Paragraph (c)(i) also provides that the Linkage Handlers establish and enforce policies and procedures reasonably designed to (1) adequately restrict the flow confidential and proprietary information associated with the liquidation of the error position in accordance with Rule 1903,[27] and (2) prevent the use of information associated with other orders subject to the routing services when making determinations regarding the liquidation of error positions. In addition, paragraph (c)(ii) provides that the Linkage Handler shall make and keep records associated with the liquidation of such Linkage Handler error positions and shall maintain such records in accordance with Rule 17a–4 under the Act.[28]

Paragraph (d) requires that the Exchange make and keep records to document all determinations to treat positions as error positions under this Rule and maintain such records in accordance with Rule 17a–1 under the Act.

Examples of such error positions due to a routing error may include, without limitation, the following:

Example 4: Error positions may result from routed orders that the Exchange or a Linkage Handler attempts to cancel but that are executed before the other exchange receives the cancellation message or that are executed because the other exchange is unable to process the cancellation message. Using the situation described in Example 1 above, assume the Exchange seeks to release the initial orders being held by the Exchange because it is not receiving timely execution or cancellation reports from another exchange. In such a situation, although the Exchange would attempt to direct the Linkage Handler to cancel the routed corresponding orders, the Linkage Handler may still receive executions from the other exchange after connectivity is restored, which would not then be allocated to the Member because of the earlier decision to release the affected initial orders. Instead, the Linkage Handler would post the positions into its account and resolve the positions in the manner described above.

Example 5: Error positions may result from an order processing issue at another exchange. For instance, if another exchange experienced a systems problem that affects its order processing, it may transmit back a message purporting to cancel a routed order, but then subsequently submit an execution of that same order for clearance and settlement. In such a situation, the Exchange would not then allocate the execution to the Member because of the earlier cancellation message from the other exchange. Instead, the Linkage Handler would post the positions into its account and resolve the positions in the manner described above.

Example 6: Error positions may result if a Linkage Handler receives an execution report from another exchange but does not receive clearing instructions for the execution from the other exchange. For instance, assume that a Member sends the Exchange an order to buy 10 ABC option contracts, which causes the Linkage Handler to send an order to another exchange that is subsequently executed, cleared and closed out by that other exchange, and the execution is ultimately communicated back to the Member. On the next trading day (T+1), if the other exchange does not provide clearing instructions for that execution, the Linkage Handler would still be responsible for settling that Member's purchase and therefore would be left with open positions.[29] Instead, the Linkage Handler would post the positions into its account and resolve the positions in the manner described above.

Example 7: Error positions may result from a technical or systems issue that causes orders to be executed in the name of a Linkage Handler in connection with its routing services function that are not related to any corresponding initial orders of Members. As a result, the Exchange would not be able to assign any positions resulting from such an issue to Members. Instead, the Linkage Handler would post the positions into its account and resolve the positions in the manner described above.

In each of the circumstances described above, the Exchange and its Linkage Handler may not learn about an error position until T+1. For instance, the Exchange and its Linkage Handler may not learn about an error position until either (i) during the clearing process when a routing destination has submitted to The Options Clearing Corporation (''OCC'') a transaction for clearance and settlement for which the

[25] It is possible that attempts to cancel the routed orders may not succeed. If the Exchange receives an execution report on the order that had been routed to an away exchange, then the unmatched execution would be considered an ''error position'' under proposed Rule 1905.

[26] Proposed Rule 1905 is nearly identical to CBOE Rule 6.14C, however ISE's proposed rule differs in that the Exchange is not itself proposing to have an error account. *See* Securities and Exchange Act Release No. 68585 (January 4, 2013), 78 FR 2308 (January 10, 2013) (SR–CBOE–2012–108).

[27] Rule 1903(b) provides that the Exchange shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and the Linkage Handler, and any other entity, including any affiliate of the Linkage Handler, and, if the Linkage Handler or any of its affiliates engages in any other business activities other than providing routing services to the Exchange, between the segment of the Linkage Handler or affiliate that provides the other business activities and the segment of the Linkage Handler that provides the routing services.

[28] 17 CFR 240.17a–4.

[29] To the extent that a loss is incurred in covering the position, the Linkage Handler (on behalf of the Exchange or itself) may submit a reimbursement claim to that other exchange.

Exchange/Linkage Handler never received an execution confirmation, or (ii) when another exchange does not recognize a transaction submitted by a Linkage Handler to OCC for clearance and settlement. Moreover, the affected Members' trade may not be nullified absent express authority under Exchange Rules.[30] As such, the Exchange believes that use of a Linkage Handler error account to liquidate the error positions that may occur in these circumstances is reasonable and appropriate in these circumstances.

Because a Linkage Handler will be performing an Exchange function on a contractual basis, at the direction of the Exchange, for clarity, the Exchange proposes to explicitly exclude Linkage Handlers from the limits on compensation contained in Rule 705(d). Liability matters will be handled on a contractual basis as they are with other vendors of services to the Exchange.

To assure system stability, the Exchange will transition options classes from the current process to the new proposed process using Linkage Handlers over a period of time. The Exchange anticipates that this transition period would not last more than two months. The Exchange will notify Members via Information Circular as products are transitioned to the Linkage Handlers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Act and rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[31] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5),[32] requirements that the rules of an exchange be 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.

In accordance with Section 6(b)(5) of the Act,[33] the Exchange is proposing to retain the current process of exposing orders for price improvement, while providing a process that assures orders are handled in compliance with the Linkage rules. By removing the requirement that Primary Market Makers handle Public Customer Orders and instead providing a centralized process for sending ISOs, the proposed rule change helps remove impediments to and perfect the mechanism for a free and open market and a national market system. Additionally, because the proposed rule change provides customer order protection and facilitates trading at away exchanges so that customer orders trade at the best market prices, the proposed rule change protects investors and the public interest.

The proposed rule change also protects investors and the public interest because it clearly states in the rules how customer orders will be handled, which provides transparency to Members regarding the routing of their orders to away exchanges. As proposed, customer orders will still trade in compliance with the Exchange's routing instructions in accordance with the Options Order Protection and Locked/Crossed Market Plan, thereby ensuring that the rules of the Exchange are designed to promote just and equitable principles of trade, consistent with the Act.

The Exchange intends to contract with one or more Linkage Handlers that are not affiliated with the Exchange to route ISOs to other exchanges. In connection with this, and consistent with the Act, the proposed rule will require that the Exchange establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and the Linkage Handler or any other entity, including any affiliate of the Linkage Handler, and, if the Linkage Handler or any of its affiliates engages in any other business activities other than providing routing services to the Exchange, between the segment of the Linkage Handler or affiliate that provides the other business activities and the segment of the Linkage Handler that provides the routing services. Additionally, the proposed rule requires the Exchange to provide its Routing Services in compliance with the provisions of the Act and the rules thereunder, including, but not limited to, the requirements in Section 6(b)(4) and (5) of the Act that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposed rule change is in keeping with the principles of the Act since the Exchange's ability to cancel and release orders during a technical or systems issue and to allow Linkage Handlers' to maintain an error account facilitates the smooth and efficient operation of the market. Specifically, the Exchange believes that allowing the Exchange to cancel and release orders during a technical or systems issue (and permitting its Linkage Handlers to cancel orders pursuant to standing or specific instructions or as otherwise permitted under Exchange Rules) would allow the Exchange to maintain fair and orderly markets. Moreover, the Exchange believes that allowing a Linkage Handler to assume error positions in its own account(s) to liquidate those positions subject to the conditions set forth in proposed Rule 1905 would be the least disruptive means to address these errors. Overall, the proposed new rule is designed to ensure full trade certainty to market participants and to avoid disrupting the clearance and settlement process. The proposed new rule is also designed to provide a consistent methodology for handling error positions in a manner that does not discriminate among Members. The proposed new rule is also consistent with Section 6 of the Act insofar as it would require the Linkage Handlers to establish controls to restrict the flow of any confidential information associated with the liquidation of error positions. The proposed new rule also requires the Exchange to make and keep records documenting all determinations to treat positions as error positions and further requires the Exchange to maintain such records in accordance with Rule 17a–1 under the Act.

Because a Linkage Handler will be performing an Exchange function on a contractual basis and the routing is performed at the instruction of the Exchange, the Exchange proposes to explicitly exclude Linkage Handlers from the limits on compensation contained in Rule 705(d) so that the Linkage Handler's liabilities can be handled on a contractual basis, as they are with other vendors of services to the Exchange. This proposed change is consistent with Section 6(b)(5) of the Act[34] as it will ensure that the contractual terms agreed to will not be prohibited under Exchange rules, thereby allowing the Exchange to effect this routing arrangement which is designed 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.

[30] *See, e.g.,* Rule 720.

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(5).

[33] *Id.*

[34] *Id.*

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, but rather should facilitate the ability of the Exchange to ensure compliance with the Options Order Protection and Locked/Crossed Market Plan and, thereby, encourage more robust competition. Providing the Exchange with the ability to cancel/release orders when a when a technical or systems issue occurs will allow the Exchange to run a fair and orderly market, thereby enhancing competition as the Exchange will be able to address technical or systems issues in an orderly fashion. Providing the Exchange with the authority to liquidate unmatched executions that may occur in the provision of the Exchange's routing service does not impose a burden on competition, but rather should encourage competition as market participants will have certainty that any errors that occur will be handled efficiently.

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 self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the 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 email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2013–18 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–2013–18. 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 a.m. and 3 p.m. Copies of the filing will also 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–2013–18 and should be submitted on or before April 8, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06158 Filed 3–15–13; 8:45 am]

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[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69123; File No. SR–ISE–2013–21]

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

March 12, 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 March 11, 2013, 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 Exchange proposes to amend it Schedule of Fees with respect to regulatory fees related to the Central Registration Depository ("Web CRD"), which are collected by the Financial Industry Regulatory Authority ("FINRA"). The text of the proposed rule change is available on the Exchange's Web site *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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

[2] 17 CFR 240.19b–4.