

proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CME-2014-43 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-CME-2014-43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of CME and on CME's Web site at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

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-CME-2014-43 and should be submitted on or before December 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73600; File No. SR-ISEGemini-2014-28]

### Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

November 14, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 3, 2014, ISE Gemini, LLC (the "Exchange" or "ISE Gemini") filed with the Securities and Exchange Commission ("SEC" or "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 the Substance of the Proposed Rule Change

ISE Gemini is proposing to amend its Schedule of Fees to introduce a new higher maker rebate for certain Market Maker orders. The text of the proposed rule change is available on the Exchange's Internet Web site at <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 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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees to introduce a new higher maker rebate for certain Market Maker<sup>3</sup> orders. The Exchange's Schedule of Fees has separate tables for fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

Currently, Market Maker orders that add liquidity on ISE Gemini are provided a maker rebate in Penny Symbols<sup>4</sup> and SPY of \$0.30 per contract for Tier 1, \$0.32 per contract for Tier 2, \$0.34 per contract for Tier 3, \$0.37 per contract for Tier 4, and \$0.38 per contract for Tier 5. In Non-Penny Symbols<sup>5</sup> this maker rebate is \$0.40 per contract for Tier 1, \$0.42 per contract for Tier 2, and \$0.44 per contract for Tier 3, \$0.47 per contract for Tier 4, and \$0.49 per contract for Tier 5. In order to incentivize Market Makers to quote more aggressively on ISE Gemini, the Exchange now proposes to provide a higher maker rebate to Tier 2 members that meet an additional average daily volume ("ADV") threshold with respect to Market Maker orders executed in a given month.<sup>6</sup> In particular, Market Makers that achieve Tier 2 and execute an ADV of 100,000 to 124,999 contracts in a given month, including both maker and taker volume, will qualify for a maker rebate of \$0.33 per contract in Penny Symbols and SPY, and \$0.43 per contract in Non-Penny Symbols.

<sup>3</sup> The term Market Maker refers to "Competitive Market Makers" and "Primary Market Makers" collectively. Market Makers orders sent to the Exchange by an Electronic Access Member are assessed fees and rebates at the same level as Market Maker orders. See footnote 2, Schedule of Fees, Section I and II.

<sup>4</sup> "Penny Symbols" are options overlying all symbols listed on ISE Gemini that are in the Penny Pilot Program.

<sup>5</sup> "Non-Penny Symbols" are options overlying all symbols excluding Penny Symbols.

<sup>6</sup> A Tier 2 member is a member that executes a Total Affiliated Member ADV of 50,000 to 124,999 contracts, Priority Customer Maker ADV of 20,000 to 49,999 contracts, or a Total Affiliated Member ADV of 40,000 to 99,999 contracts with a minimum Priority Customer Maker ADV of 15,000 contracts.

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

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

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

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general, and Section 6(b)(4) of the Act,<sup>8</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed fee change is reasonable and equitable as the new maker rebate is designed to attract additional volume from Market Makers that do not qualify for Tier 3 or higher maker rebates. The Exchange believes that providing higher maker rebates for orders executed by Market Makers that have achieved the volume threshold for this new “sub-tier” will attract that order flow to ISE Gemini, and thereby create additional liquidity to the benefit of all market participants who trade on the Exchange. The Exchange further believes that the proposed rule change is not unfairly discriminatory as all Market Makers that achieve the new volume threshold will receive the same maker rebate. The Exchange does not believe that it is unfairly discriminatory to offer this higher rebate only to Market Maker orders as Market Makers are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not. Moreover, the Exchange believes that the proposed fee change will encourage Market Makers to quote more aggressively on the Exchange in order to qualify for the new maker rebate, which will benefit all market participants.

The Exchange notes that it has determined to charge fees and provide rebates in Mini Options at a rate that is 1/10th the rate of fees and rebates the Exchange provides for trading in Standard Options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees and rebates to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees and rebates are reasonable and equitable in light of the fact that Mini Options have a smaller exercise and assignment value, specifically 1/10th that of a standard option contract, and, as such, is providing fees and rebates for Mini Options that are 1/10th of those applicable to Standard Options.

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

In accordance with Section 6(b)(8) of the Act,<sup>9</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed fee change will promote competition as it is designed to allow ISE Gemini to better compete for order flow by offering higher rebates to orders executed by Market Makers that meet the new volume threshold for the new “sub tier.” The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

## 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,<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>11</sup> because it establishes a due, fee, or other charge imposed by ISE Gemini.

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.

<sup>7</sup> 15 U.S.C. 78f(b)(8).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

## 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](mailto:rule-comments@sec.gov). Please include File Number SR-ISEGemini-2014-28 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISEGemini-2014-28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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-ISEGemini-2014-28, and should be submitted on or before December 11, 2014.

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(4).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73601; File No. SR-ISE-2014-51]

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

November 14, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 3, 2014, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("SEC" or "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 the Substance of the Proposed Rule Change

The ISE is proposing to (1) eliminate special fees for Singly Listed Symbols, and (2) amend its rules for excluding days from its average daily volume ("ADV") calculations when the market is not open for the entire trading day. 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 proposes to (1) eliminate special fees for Singly Listed Symbols,<sup>3</sup> and (2) amend its rules for excluding days from its ADV calculations when the market is not open for the entire trading day. Each of the proposed changes is described in more detail below. The Exchange's Schedule of Fees has separate fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

##### 1. Singly Listed Symbols

Other than applicable response fees, simple Priority Customer<sup>4</sup> orders in Non-Select symbols<sup>5</sup> executed on the Exchange are generally not charged a transaction fee or fee for Crossing Orders,<sup>6</sup> including a fee for Price Improvement Mechanism ("PIM") orders of fewer than 100 contracts. By contrast, the Exchange charges Priority Customer orders in a special group of Non-Select Symbols that trade solely on the ISE ("Singly Listed Symbols") a fee of \$0.20 per contract for regular and Crossing Orders, including PIM orders of 100 or fewer contracts. The Exchange now proposes to eliminate the special fees for these Singly Listed Symbols, which will now be subject to the same fees as other Priority Customer orders in Non-Select Symbols.

In connection with this change, the Exchange also proposes to remove other references to Singly Listed Symbols, including the definition of Singly Listed

<sup>3</sup> "Singly Listed Symbols" are options overlying FXO, QQEW, PLTM, SMDD and FIW.

<sup>4</sup> A "Priority Customer" is 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), as defined in ISE Rule 100(a)(37A).

<sup>5</sup> "Non-Select Symbols" are options overlying all symbols excluding Select Symbols.

<sup>6</sup> A "Crossing Order" is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (PIM) or submitted as a Qualified Contingent Cross order. For purposes of this Fee Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

Symbols in the Preface to the Schedule of Fees, and certain fee waivers that apply to Singly Listed Symbols as described below. The Exchange has a Payment for Order Flow ("PFOF") fee of \$0.70 per contract, which is paid by Market Makers<sup>7</sup> for each Priority Customer contract executed against the Market Maker in Non-Select Symbols other than Singly Listed Symbols and FX Option Symbols,<sup>8</sup> or for Flash Orders<sup>9</sup> and Complex Orders. In addition, Market Makers making or taking liquidity receive a discount of \$0.02 per contract in Standard Options only when trading against Priority Customer orders preferenced to them in the Complex order book in equity options that are able to be listed and traded on more than one options exchange. This discount similarly does not apply to Singly Listed Symbols and FX Options Symbols, or to option classes designated by the Exchange to receive a guaranteed allocation pursuant to ISE Rule 722(b)(3)(i)(B). As the Exchange is eliminating special fees for Singly Listed Symbols, the five symbols currently designated as Singly Listed Symbols will now be subject to the PFOF program and will be eligible for the Market Maker complex order discount described above.

##### 2. ADV Calculation

The Exchange provides a Market Maker Plus<sup>10</sup> rebate for adding liquidity of \$0.22 per contract instead of the regular \$0.20 per contract for Market Makers that meet the quoting requirements for Market Maker Plus and are affiliated with an Electronic Access Member that executes a total affiliated Priority Customer ADV of 200,000 contracts or more in a calendar month. Similarly, the Exchange charges a discounted Priority Customer taker fee of \$0.25 per contract instead of the

<sup>7</sup> The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See ISE Rule 100(a)(25).

<sup>8</sup> "FX Option Symbols" are options overlying AUM, GBP, EUU and NDO.

<sup>9</sup> A "Flash Order" is an order that is exposed at the National Best Bid or Offer by the Exchange to all members for execution, as provided under Supplementary Material .02 to ISE Rule 1901.

<sup>10</sup> A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer at least 80% of the time for series trading between \$0.03 and \$3.00 (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 \$3.00 (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. A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate.

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

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

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