

19(b)(3)(A)(iii) of the Act.¹¹ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. 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 Number SR-Phlx-2012-137 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-Phlx-2012-137. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2012-137 and should be submitted on or before January 7, 2013.

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

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68398; File No. SR-ISE-2012-93]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase Position and Exercise Limits in EEM Options

December 11, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 28, 2012, the International Securities Exchange, LLC ("ISE" or "Exchange") 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 its rules to increase position and exercise limits for options on the iShares MSCI Emerging Markets Index Fund ("EEM"). 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.

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

ISE proposes to amend Supplementary Material .01 to ISE Rule 412 and Supplementary Material .01 of ISE Rule 414 to increase position and exercise limits, respectively, for EEM options. This filing is based on a filing previously submitted by the Chicago Board Options Exchange ("CBOE"), which the Commission recently approved.³

Position limits for exchange-traded fund ("ETFs") options, such as EEM options, are determined pursuant to Rule 412 and vary according to the number of outstanding shares and trading volume during the most recent six-month trading period of an underlying stock or ETF. The largest in capitalization and most frequently traded stocks and ETFs have an option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; smaller capitalization stocks and ETFs have position limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. The current position limit for EEM options is 250,000 contracts. The purpose of the proposed rule change is to amend Rules 412 and 414 to increase the position and exercise limits for EEM options to 500,000 contracts. There is precedent for establishing position limits for options on actively-traded ETFs and these position limit levels are set forth in Rule 412, Supplementary Material .01.⁴

³ See Securities Exchange Act Release No. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

⁴ Rule 412, Supplementary Material .01, lists exceptions to standard position limits which are: put or call option contracts overlying the PowerShares QQQ Trust ("QQQ"), for which the

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

In support of this proposed rule change, and as noted by the CBOE in its filing, the below trading statistics compare EEM to IWM and SPY. As shown in the table, the average daily

volume in 2011 for EEM was 65 million shares compared to 64.1 million shares for IWM and 213 million shares for SPY. The total shares outstanding for EEM are 922.9 million compared to 192.6 million

shares for IWM and 716.1 million shares for SPY. Further, the fund market cap for EEM is \$41.1 billion compared to \$15.5 billion for IWM and \$98.3 billion for SPY.

ETF	2011 ADV (mil. shares)	2011 ADV (option contracts)	Shares outstanding (mil.)	Fund market cap (\$bil)
EEM	65	280,000	922.9	41.1
IWM	64.1	662,500	192.6	15.5
SPY	213	2,892,000	716.1	98.3

In further support of this proposal, the Exchange represents that EEM still qualifies for the initial listing criteria set forth in Rule 502(h) for ETFs holding non-U.S. component securities.⁵ EEM tracks the performance of the MSCI Emerging Markets Index, which has approximately 800 component securities.⁶ “The MSCI Emerging Markets Index is a free float-adjusted market capitalization index that is designed to measure equity market performance of emerging markets. The MSCI Emerging Markets Index consists of the following 21 emerging market country indices: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Morocco, Peru, Philippines, Poland, Russia, South Africa, Taiwan, Thailand, and Turkey.”⁷ The Exchange represents that more than 50% of the weight of the securities held by EEM are now subject to a comprehensive surveillance agreement (“CSA”).⁸ Additionally, the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any one country that is not subject to a CSA do not represent 20% or more of the weight of the MSCI Emerging Markets Index.⁹ Finally, the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any two countries that are not subject to CSAs do not represent 33% or more of the weight of the MSCI Emerging Markets Index.¹⁰

The Exchange believes that the liquidity in the underlying ETF and the liquidity in EEM options support its

position limit is currently 900,000 contracts on the same side of the market; options overlying the Standard and Poor’s Depository Receipts® Trust (“SPY”), which currently does not have any position limits; options overlying the iShares® Russell 2000® Index Fund (“IWM”), for which the position limit is currently 500,000 contracts on the same side of the market; and options overlying the Diamonds Trust (“DIA”), for which the position limit is currently 300,000 contracts on the same side of the market.

request to increase the position and exercise limits for EEM options. As to the underlying ETF, through October 17, 2012, the year-to-date average daily trading volume for EEM across all exchanges was 49.3 million shares. As to EEM options, the year-to-date average daily trading volume for EEM options across all exchanges was 250,304 contracts. The Exchange believes that increasing position limits for EEM options will lead to a more liquid and competitive market environment for EEM options that will benefit customers interested in this product.

Under the Exchange’s proposal, the options reporting requirement for EEM would continue unabated. Thus, the Exchange would still require that each Member that maintains a position in EEM options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information would include, but would not be limited to, the option position, whether such position is hedged and, if so, a description of the hedge, and the collateral used to carry the position, if applicable. Exchange Market Makers would continue to be exempt from this reporting requirement, as Market Maker information can be accessed through the Exchange’s market surveillance systems. In addition, the general reporting requirement for customer accounts that maintain an aggregate position of 200 or more option contracts would remain at this level for EEM options.¹¹

As the anniversary of listed options trading approaches its fortieth year, the Exchange believes that the existing surveillance procedures and reporting

requirements at ISE, other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity. In addition, routine oversight inspections of the Exchange’s regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange’s market surveillance is conducted. These procedures utilize daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both options and underlying stocks.¹²

Furthermore, large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G.¹³ Options positions are part of any reportable positions and, thus, cannot be legally hidden. Moreover, the Exchange’s requirement that Members file reports with the Exchange for any customer who held aggregate large long or short positions of any single class for the previous day will continue to serve as an important part of the Exchange’s surveillance efforts.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a Member or its customer may try to maintain an inordinately large unhedged position in an option, particularly on EEM. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a Member must maintain for a large position held by it or by its customer.¹⁴

⁵ The Exchange notes that the initial listing criteria for options on ETFs that hold non-U.S. component securities are more stringent than the maintenance listing criteria for those same ETF options. See Rule 502(h) and Rule 503(h).

⁶ See http://us.ishares.com/product_info/fund/overview/EEM.htm and http://www.msci.com/products/indices/licensing/msci_emerging_markets/. Identification of the specific securities in EEM and their individual concentrations can be accessed at: http://us.ishares.com/product_info/fund/holdings/EEM.htm.

⁷ See <http://www.msci.com/products/indices/tools/index.html#EM>.

⁸ See ISE Rule 502(h)(B)(1).

⁹ See ISE Rule 502(h)(B)(2).

¹⁰ See ISE Rule 502(h)(B)(3).

¹¹ See ISE Rule 415(a).

¹² These procedures have been effective for the surveillance of EEM options trading and will continue to be employed.

¹³ 17 CFR 240.13d-1.

¹⁴ See ISE Rule 1202.

In addition, the Commission's net capital rule, Rule 15c3-1¹⁵ under the Securities Exchange Act of 1934 (the "Act"), imposes a capital charge on members to the extent of any margin deficiency resulting from the higher margin requirement.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Act in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁶ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

Specifically, the proposed rule change will benefit large market makers (which generally have the greatest potential and actual ability to provide liquidity and depth in the product), as well as retail traders, investors, and public customers, by providing them with a more effective trading and hedging vehicle. In addition, the Exchange believes that the structure of EEM options and the considerable liquidity of the market for EEM options diminish the opportunity to manipulate this product and disrupt the underlying market that a lower position limit may protect against. The Exchange also believes that the proposed rule change will benefit a greater number of market participants who are ISE Members and members of other exchanges. This is because EEM is a multiply-listed options class and currently there is not a uniform and consistent position and exercise limits regime across all of the exchanges that list EEM options. The proposed filing will benefit market participants because it will ensure consistency and uniformity among the competing options exchanges as to the position and exercise limits for a multiply listed options class.

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

This 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. In this regard and as indicated above, the Exchange notes that the rule change is being proposed

as a competitive response to a CBOE filing. ISE believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform position limits for a multiply-listed options class.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and Rule 19b-4(f)(6) thereunder.¹⁸

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that it can increase the position and exercise limits for EEM options immediately, which will result in consistency and uniformity among the competing options exchanges as to the position and exercise limits for EEM options. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.¹⁹ The Commission notes

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

the proposal is substantively identical to a proposal that was recently approved by the Commission, and does not raise any new regulatory issues.²⁰ For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-ISE-2012-93 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-ISE-2012-93. 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.,

²⁰ See Securities Exchange Act Release No. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

¹⁵ 17 CFR 240.15c3-1.

¹⁶ 15 U.S.C. 78f(b)(5).

Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR-ISE-2012-93* and should be submitted on or before January 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-30268 Filed 12-14-12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68400; File No. SR-NASDAQ-2012-136]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees for SOX, OSX and HGX

December 11, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹, and Rule 19b-4² thereunder, notice is hereby given that on November 30, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") 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 NASDAQ. 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

NASDAQ proposes to modify Chapter XV, entitled "Options Pricing," at Section 2 governing pricing for NASDAQ members using the NASDAQ Options Market ("NOM"), NASDAQ's facility for executing and routing standardized equity and index options. Specifically, NOM proposes to increase fees for options overlying the PHLX Semiconductor SectorSM (SOXSM),

PHLX Housing SectorTM (HGXSM) and PHLX Oil Service SectorSM (OSXSM).

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed amendment to be operative on December 3, 2012.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaq.cchwallstreet.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. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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

NASDAQ proposes to amend certain fees in Chapter XV, Section 2. Specifically, the Exchange proposes to increase the Fees for Adding and Removing Liquidity in SOX, HGX and OSX. These products are only listed on NOM and NASDAQ OMX PHLX LLC ("Phlx").³ Phlx recently filed an immediately effective rule change to amend its fees for Singly Listed Options, which include SOX, HGX and OSX, effective December 3, 2012.⁴ NASDAQ proposes to make corresponding changes to fees for SOX, HGX and OSX effective as of December 3, 2012.

The Exchange currently assesses Customers a Fee for Adding Liquidity and a Fee for Removing Liquidity in SOX, HGX and OSX of \$0.35 per contract. This fee will remain unchanged. The Exchange assesses Professionals, Firms and Non-NOM Market Makers a Fee for Adding Liquidity and a Fee for Removing Liquidity in SOX, HGX and OSX of \$0.45 per contract. The Exchange is proposing to increase these fees to \$0.60 per contract. Finally, the Exchange currently assesses NOM Market Makers a \$0.35 per contract Fee for Adding Liquidity and a Fee for Removing Liquidity in SOX, HGX and OSX. The

Exchange proposes to increase this fee to \$0.40 per contract. The Exchange is not proposing to amend other pricing in Chapter XV, Section 2.

2. Statutory Basis

NASDAQ believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act⁶ 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 increasing the Fees for Adding and Removing Liquidity in SOX, HGX and OSX is reasonable because the Exchange proposes to assess the same fees which were recently increased by Phlx for SOX, HGX and OSX.⁷ Also, the proposed fees are within the range of similar fees assessed at other exchanges.⁸ The Exchange has previously distinguished other index products from the Non-Penny Pilot Options fees and rebates.⁹ The Exchange

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ Despite the fact that SOX, HGX and OSX are Multiply Listed (listed on Phlx and NOM), Phlx assesses its market participants the fees for Singly Listed Options to transact index options in SOX, HGX and OSX. See Securities Exchange Act Release No. 66668 (March 28, 2012), 77 FR 20090 (April 3, 2012) (SR-Phlx-2012-35). See also Section III of Phlx's Pricing Schedule. Accordingly, Phlx recently filed an immediately effective rule change to amend its fees as of December 3, 2012 to assess the following fees to transact index options in SOX, HGX and OSX: Customers \$0.35 per contract, Professionals \$0.60 per contract, Firms \$0.60 per contract, Market Makers \$0.40 per contract, and Broker-Dealers \$0.60 per contract. Non-NOM Market Makers are registered market makers on another options market that append the market maker designation to orders routed to NOM. This is the equivalent of a Broker-Dealer on Phlx. While Phlx does not assess both a Fee for Adding Liquidity and Fee for Removing Liquidity, it assesses each side of the transaction the options transaction charge.

⁸ Chicago Board Options Exchange, Incorporated ("CBOE") assesses an \$0.80 per contract fee to Customers, Broker-Dealers, Non-Trading Permit Holder Market Makers and Professional and Voluntary Professional market participants for SPX Range Options (SRO) transactions, a proprietary index, in addition to a surcharge fee. SPX refers to options on the Standard & Poor's 500 Index. See CBOE's Fees Schedule. In addition, NOM assesses Non-Penny Pilot Fees for Removing Liquidity ranging from \$0.82 to \$0.89 per contract depending on the market participant. See Chapter XV, Section 2 of NOM's Rules. Phlx also assesses a Broker-Dealer an electronic options transaction charge (non-Penny Pilot) of \$0.60 per contract for transactions in Multiply Listed Options. See Section II of the Exchange's Pricing Schedule. While Phlx does not assess both a Fee for Adding Liquidity and Fee for Removing Liquidity, it assesses each side of the transaction the options transaction charge.

⁹ See Securities Exchange Act Release No. 67837 (September 12, 2012), 77 FR 57614, 77 FR 57614

Continued

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Phlx's Pricing Schedule at Section III.

⁴ See SR-Phlx-2012-135 (not yet published).