

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68491; File No. SR-ISE-2012-101]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend ISE Rule 504(f) To Permit the Exchange To List Additional Strike Prices Until the Close of Trading on the Second Business Day Prior to Monthly Expiration in Unusual Market Conditions

December 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 19, 2012, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend ISE Rule 504(f) to permit the Exchange to list additional strike prices until the close of trading on the second business day prior to monthly expiration. The text of the proposed rule change is available on the Exchange's Web site [www.ise.com](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

ISE proposes to amend ISE Rule 504(f) to permit the Exchange to list additional strike prices until the close of trading on the second business day prior to monthly expiration. This is a competitive filing that is based on proposals recently approved by NYSE MKT LLC ("MKT")<sup>3</sup> and NYSE Arca, Inc. ("Arca").<sup>4</sup>

ISE Rule 504 currently permits the Exchange to open additional series of options on individual stocks and exchange-traded funds (ETFs) until the beginning of the month in which the option expires or until five business days prior to expiration if unusual market conditions exist.<sup>5</sup> Options market participants generally prefer to focus their trading in strike prices that immediately surround the price of the underlying security. However, if the price of the underlying stock moves significantly, there may be a market need for additional strike prices to adequately account for market participants risk management needs in a stock. In these situations, the Exchange has the ability to add additional series at strike prices that are better tailored to the risk management needs of market participants.<sup>6</sup> The Exchange may make the determination to open additional series for trading when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when certain price movements take place in the underlying market.<sup>7</sup> If the market need occurs prior to five business days prior to expiration, then the market participants may have access to an option contract that is more tailored to the movement in the underlying stock.<sup>8</sup> However, if the market need to manage risk due to unusual market conditions comes to light anytime from five to two days prior to expiration, then market participants are left without a contract that is tailored to manage their risk.<sup>9</sup>

<sup>3</sup> See Securities Exchange Act Release No. 68460 (December 18, 2012) (SR-NYSEMKT-2012-41).

<sup>4</sup> See Securities Exchange Act Release No. 68461 (December 18, 2012) (SR-NYSEARCA-2012-94).

<sup>5</sup> See ISE Rule 504(f). 'Until the fifth business day prior' generally means up through the end of the day on the Friday of the week prior to expiration week.

<sup>6</sup> See ISE Rule 504.

<sup>7</sup> See ISE Rule 504(c).

<sup>8</sup> *Id.*

<sup>9</sup> While these situations are relatively rare, the Exchange represents that approximately two times a month there is a legitimate need to add additional strikes closer to expiration than the five business

The Exchange proposes to permit the listing of additional strikes until the close of trading on the second business day prior to expiration in unusual market conditions. Since expiration of the monthly contract is on a Saturday, the close of trading on the second business day will typically fall on a Thursday. However, in the cases where Friday is a holiday during which the Exchange is closed, the close of trading on the second business day will occur on a Wednesday. The Exchange will continue to make the determination to open additional series for trading when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when certain price movements take place in the underlying market. The proposed change will provide an additional four days to the Exchange to gauge market impact of the underlying stock and to react to any market conditions that would render additional series prior to expiration beneficial to market participants. The Exchange believes that the impact on the market from the proposed change will be very minimal to market participants, however it will be extremely beneficial in that minority of situations where unusual market conditions dictate immediately prior to expiration. The proposal would simply allow participants to adjust their risk exposure in narrow situations when an unusual market event occurred on trading days 2, 3, 4, 5 prior to expiration.

This proposal does not raise any capacity concerns on the Exchange, because the changes have no material difference in impact from the current rules. The Exchange notes the proposed change allows for new strikes that would otherwise be permitted to add under existing rules either on the fifth day prior or immediately after expiration.<sup>10</sup> A strike which opens two days prior to expiration will have minimal impact on quoting, as it adds two series out of hundreds of thousands, and only for a small number of days.<sup>11</sup> Thus, any additional strikes that may be added under the proposed change

day limitation permits, due to it being necessary to maintain an orderly market, to meet customer demand, or when certain price movements take place in the underlying market.

<sup>10</sup> Any new strikes added under this proposal would be added in a manner consistent with the range limitations described in ISE Rule 504A.

<sup>11</sup> In the case of a multi-stock event where multiple stocks may be subject to unusual market conditions, a strike which opens two days prior to expiration will also have minimal impact on quoting, as it adds two series per stock out of hundreds of thousands, and only for a small number of days.

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

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

would have no measurable effect on systems capacity.

## 2. Basis

The Exchange believes that the proposed rule change is consistent with the Securities Exchange Act of 1934<sup>12</sup> (the "Act") in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>13</sup> 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.

The Exchange believes that providing an additional four days to the Exchange to gauge market impact and to react to any market conditions prior to expiration beneficial will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions and hedging decisions prior to expiration. The Exchange also believes that the additional four days will provide the investing public and other market participants with additional opportunities to hedge their investment thus allowing these investors to better manage their risk exposure with additional in the money series. While the four additional days may generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal remains limited to the narrow situations when an unusual market event occurred on trading days 2, 3, 4, 5 prior to expiration.

### *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 filings submitted by MKT and Arca that were recently approved by the Commission.<sup>14</sup> ISE believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform rules regarding the listing of strike prices.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See *supra*, notes 3 and 4.

### *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 does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to those of other exchanges that have been approved by the Commission and would permit the Exchange to list additional strike prices until the close of trading on the second business day prior to monthly expiration in unusual market conditions.<sup>17</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>18</sup>

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

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 satisfied this requirement.

<sup>17</sup> See *supra* notes 3 and 4.

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 No. SR-ISE-2012-101 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-ISE-2012-101. 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 Commissions Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between 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 ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2012-101 and should be submitted by January 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

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

[FR Doc. 2012-31123 Filed 12-26-12; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>19</sup> 17 CFR 200.30-3(a)(12).