

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68906; File No. SR-ISE-2013-13]

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

February 12, 2013.

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 February 4, 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, II, and III 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 ISE proposes to amend it [sic] Schedule of Fees to reflect a change in the ticker symbol of one security subject to maker/taker fees and rebates. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

The Exchange currently assesses per contract transaction fees and provides

rebates to market participants that add or remove liquidity from the Exchange ("maker/taker fees and rebates") in 190 options classes (the "Select Symbols").<sup>3</sup> The Exchange's maker/taker fees and rebates are applicable to regular and complex orders executed in the Select Symbols. The purpose of this proposed rule change is to amend the list of Select Symbols on the Exchange's Schedule of Fees, titled "Rebates and Fees for Adding and Removing Liquidity in Select Symbols." On January 31, 2013, Research in Motion, Limited announced that effective February 4, 2013, the company is changing its ticker symbol from RIMM to BBRY.<sup>4</sup> RIMM is currently a Select Symbol and is subject to the Exchange's maker/taker fees and rebates. With this proposed rule change, the Exchange proposes to replace ticker symbol RIMM with BBRY in the Exchange's list of Select Symbols. The Exchange's maker/taker fees and rebates that were previously applicable to RIMM will now apply to BBRY. The Exchange is not proposing any change to the maker/taker fees and rebates with this proposed rule change.

The Exchange is not proposing any other changes in this filing.

###### 2. Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>6</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that it is reasonable to replace RIMM with BBRY in its list of Select Symbols to continue attracting additional order flow to the Exchange. This proposed rule change does not amend any fees or rebates and simply proposes to reflect a change in Research in Motion, Limited's ticker symbol from RIMM to BBRY. Additionally, with this proposed rule change, the maker/taker fees and rebates previously applicable to RIMM will now apply to BBRY.

The Exchange believes that it is equitable to amend the list of Select Symbols by replacing RIMM with BBRY because the list of Select Symbols applies uniformly to all categories of participants in the same manner. All

market participants who trade the Select Symbols are subject to and will continue to be subject to the applicable maker/taker fees and rebates.

##### 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. The Exchange is not making any competitive change with this proposed rule change. This proposed rule change simply reflects a change in an underlying security's ticker symbol.

##### 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>7</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>8</sup> because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

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

##### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

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

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

<sup>3</sup> Options classes subject to maker/taker fees and rebates are identified by their ticker symbol on the Exchange's Schedule of Fees.

<sup>4</sup> See <http://press.blackberry.com/press/2013/rim-ticker-change-to-take-effect-monday-february-4.html>.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

• Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2013-13 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-2013-13. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2013-13, and should be submitted on or before March 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68905; File No. SR-NASDAQ-2013-023]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules 7014 and 7018

February 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on January 31, 2013, 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 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 is proposing (i) to modify the recently introduced Qualified Market Maker ("QMM") pilot program to increase the incentives for participation provided thereunder; (ii) to replace the Extended Hours Investor Program ("EHIP") with a similar financial incentive program focused both on usage of NASDAQ during pre- and post-market hours and use of NASDAQ's routing facility, to be referred to as the Routable Order Program ("ROP"); and (iii) to modify the securities covered by NASDAQ's recently introduced program of special pricing for certain "Designated Securities."

While changes pursuant to this proposal are effective upon filing, the Exchange will implement the proposed rule changes on February 1, 2013.

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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

##### Qualified Market Maker Program

In November 2012,<sup>3</sup> NASDAQ introduced, on a six-month pilot basis, a market quality incentive program under which a member may be designated as a QMM with respect to one or more of its MPIDs if:

- The member is not assessed any "Excess Order Fee" under Rule 7018 during the month;<sup>4</sup> and
- Through such MPID the member quotes at the national best bid or best offer ("NBBO") at least 25% of the time during regular market hours<sup>5</sup> in an average of at least 1,000 securities during the month.<sup>6</sup>

Thus, to be a QMM, a member must make a significant contribution to market quality by providing liquidity at the NBBO in a large number of stocks for a significant portion of the day. In

<sup>3</sup> Securities Exchange Act Release No. 68209 (November 9, 2012), 77 FR 69519 (November 19, 2012) (SR-NASDAQ-2012-126).

<sup>4</sup> Rule 7018(m). The Excess Order Fee is aimed at reducing inefficient order entry practices that place excessive burdens on the systems of NASDAQ and its members and that may negatively impact the usefulness and life cycle cost of market data. In general, the determination of whether to impose the fee on a particular MPID is made by calculating the ratio between (i) entered orders, weighted by the distance of the order from the NBBO, and (ii) orders that execute in whole or in part. The fee is imposed on MPIDs that have an "Order Entry Ratio" of more than 100.

<sup>5</sup> Defined as 9:30 a.m. through 4:00 p.m., or such shorter period as may be designated by NASDAQ on a day when the securities markets close early (such as the day after Thanksgiving).

<sup>6</sup> A member MPID is considered to be quoting at the NBBO if it has a displayed order at either the national best bid or the national best offer or both the national best bid and offer. On a daily basis, NASDAQ determines the number of securities in which the member satisfied the 25% NBBO requirement. To qualify for QMM designation, the MPID must meet the requirement for an average of 1,000 securities per day over the course of the month. Thus, if a member MPID satisfied the 25% NBBO requirement in 900 securities for half the days in the month, and satisfied the requirement for 1,100 securities for the other days in the month, it would meet the requirement for an average of 1,000 securities. NASDAQ recently filed an amendment with respect to the QMM program to make it clear that if a member seeking to be designated as a QMM terminates the use of one MPID and simultaneously commences use of another MPID during the course of a month, it may aggregate activity on the two MPIDs for purposes of determining its eligibility as a QMM. See SR-NASDAQ-2013-016 (January 30, 2013).

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

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

<sup>9</sup> 17 CFR 200.30-3(a)(12).