

market participants and does not impose a burden on competition.

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

The Exchange neither solicited nor received comments on the proposed rule change.

**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 up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2013-027 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-CBOE-2013-027. 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 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-CBOE-2013-027, and should be submitted on or before April 11, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-69148; File No. SR-ISE-2013-20]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Limit Up/Limit Down**

March 15, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 4, 2013, 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 proposing changes to its rules in light of the implementation of limit-up/

limit-down procedures for securities that underlie options traded on the ISE. 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 the Statutory Basis for, the Proposed Rule Change*

1. Purpose

On May 31, 2012, the Commission approved the Plan to Address Extraordinary Market Volatility (the "Plan"),<sup>3</sup> which establishes procedures to address extraordinary volatility in NMS Stocks. The procedures provide for market-wide limit up-limit down requirements that prevent trades in individual NMS Stocks from occurring outside of specified Price Bands. These limit up-limit down requirements are coupled with Trading Pauses to accommodate more fundamental price moves. The Plan procedures are designed, among other things, to protect investors and promote fair and orderly markets.<sup>4</sup>

ISE is not a participant in the Plan because it does not trade NMS Stocks. However, the ISE trades options contracts overlying NMS Stocks. Because options pricing models are highly dependent on the price of the underlying security and the ability of options traders to effect hedging transactions in the underlying security, the implementation of the Plan will impact the trading of options classes traded on the Exchange. Specifically, under the Plan, upper and lower price bands will be calculated based on a reference price for each NMS Stock.<sup>5</sup>

<sup>3</sup> Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4-631) ("Plan Approval Order").

<sup>4</sup> *Id.* at 33511 (Preamble to the Plan).

<sup>5</sup> The reference price equals the arithmetic mean price of eligible reported transactions for the NMS

<sup>28</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.

When one side of the market for an individual security is outside the applicable price band, the national best bid or national best offer will be disseminated with a flag identifying it as non-executable (i.e., a “Straddle State”). When the other side of the market reaches the applicable price band, such national best bid or offer will be disseminated with a flag identifying it as a Limit State Quotation.<sup>6</sup> If trading for a security does not exit a Limit State within 15 seconds, a Trading Pause will be declared by the Primary Listing Exchange.<sup>7</sup> The Trading Pause will last at least five minutes<sup>8</sup> and will end when the Primary Listing Exchange disseminates a Reopening Price.<sup>9</sup>

When the national best bid (offer) for a security underlying an options class is non-executable, the ability for options market participants purchase (sell) shares of the underlying security and the price at which they may be able to purchase (sell) shares will become uncertain, as there will be a lack of transparency regarding the availability of liquidity for the security.<sup>10</sup> This uncertainty will be factored into the options pricing models of market professionals, such as options market makers, which will likely result in wider spreads and less liquidity at the

best bid and offer for the options class. In light of these unusual market conditions, when the national best bid or offer for a security underlying an options class traded on the Exchange is non-executable or when the underlying security is in a Limit State, the Exchange proposes to reject incoming and pending orders that do not have a limit price. This proposed change is consistent with the views of the Securities Industry and Financial Markets Association’s (“SIFMA”) Listed Options Trading Committee.<sup>11</sup> The Exchange believes that all of the options exchanges are considering similar rule changes so that there will be a uniform approach across the exchanges.<sup>12</sup>

Specifically, the Exchange proposes to automatically reject all incoming orders that do not contain a limit price to protect them from being executed at prices that may be vastly inferior to the prices available immediately prior to or following a Limit State or Straddle State. Such un-priced orders include market orders and stop orders, which become market orders when the stop price is elected.<sup>13</sup> The Exchange will also cancel any unexecuted market orders and unexecuted stop orders.<sup>14</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>15</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>16</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* (recommending that the options exchanges and the Commission work together to assemble a uniform set of rules).

<sup>13</sup> ISE Rule 715(e).

<sup>14</sup> Cancelling such orders is consistent with the views expressed by SIFMA. SIFMA Letter, *supra* note 10. Market orders may be unexecuted at the time that a Limit State or Straddle State is initiated for a number of reasons, such as they are being handled by the Primary Market Maker (*see* ISE Rule 803(c)), they are being exposed (*see* ISE Rule 716(c), ISE Rule 722(iii); and ISE Rule 803, Supplementary Material .02)), or they have been directed to a market maker (*see* ISE Rule 811). The Exchange will not reject pending transactions in the Exchange’s Facilitation, Solicited Order, Crossing Order or Price Improvement Mechanisms, as all such transactions are initiated with a limit price. ISE Rule 716(d) (Facilitation Mechanism); ISE Rule 716(e) (Solicited Order Mechanism); Rule 721 (Crossing Orders); and Rule 723 (Price Improvement Mechanism). Allowing such transactions during a Limit State or Straddle State is consistent with the views expressed by SIFMA. SIFMA Letter, *supra* note 10.

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

As discussed above, when an underlying security enters a Limit State or Straddle State, the best bid and offer in the options class is likely to widen considerably, and the liquidity available at those prices may be greatly reduced. In such circumstances, orders entered without a price could receive executions at prices that are vastly inferior to the market price just prior to the initiation of the Limit State or Straddle State and vastly inferior to the market price following the conclusion of the Limit State or Straddle State. Given that these states may be resolved very quickly, the Exchange believes that rejecting un-price orders will protect investors from receiving poor executions and provide a more fair and orderly market.

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

The Exchange does not believe that the proposal will have any impact on competition, and that it is likely that all of the other options exchanges will adopt similar order protection rules.<sup>17</sup>

### 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 written comments from members or other interested parties on this proposed rule change, however, the Exchange received a written request to adopt the rule changes contained in the proposal.<sup>18</sup>

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>19</sup> and Rule 19b-4(f)(6) thereunder.<sup>20</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of

<sup>17</sup> SIFMA Letter, *supra* note 10.

<sup>18</sup> *Id.*

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>20</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) 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.

Stock over the immediately preceding five-minute period. *See* Section I(T) of the Plan.

<sup>6</sup> *See* Section I(D) of the Plan. The Limit State will end when the entire size of all Limit State Quotations are executed or cancelled.

<sup>7</sup> *See* Section VII(A) of the Plan. The Primary Listing Exchange is the market on which an NMS Stock is listed. If an NMS Stock is listed on more than one market, the Primary Listing Exchange is the market on which the security has been listed the longest. *See* Section I(O) of the Plan. A trading pause may also be declared when the national best bid (offer) is below (above) the lower (upper) price band and the security is not in a Limit State, and trading in that security deviates from normal trading characteristics. *See* Section VII(A)(2) of the Plan.

<sup>8</sup> A Trading Pause may last longer than 5 minutes if, for example, the Primary Market declares a Regulatory Halt, or if there is a significant order imbalance. *See* Section VII(B) of the Plan. If the Primary Listing Exchange does not report a Reopening Price within ten minutes after the declaration of a trading Pause and has not declared a Regulatory Halt, all trading centers may begin trading the security. *Id.*

<sup>9</sup> The Reopening Price is the price of a transaction that reopens trading on the Primary Listing Exchange following a Trading Pause or a Regulatory Halt, or, if the Primary Listing Exchange reopens with quotations, the midpoint of those quotations. The Exchange notes that under ISE Rule 702(c), trading on the Exchange is halted whenever trading in the underlying security has been paused by the primary listing market. Accordingly, the Exchange need not adopt any rule changes to address this aspect of the Plan.

<sup>10</sup> *See* Letter to Boris Ilyevsky, Managing Director, ISE, from Thomas Price, Managing Director, Securities Industry and Financial Markets Association, dated October 4, 2012 (“SIFMA Letter”). A copy of the letter is provided in Exhibit 2 to this filing.

investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

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) of the Act<sup>21</sup> 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](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2013-20 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 No. SR-ISE-2013-20. 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 No. SR-ISE-2013-20 and should be submitted on or before April 11, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

Kevin M. O'Neill,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69151; File No. SR-NASDAQ-2013-033]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Pre-Market Hours of the Exchange to 4:00 a.m. EST

March 15, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 5, 2013, The NASDAQ Stock Market LLC ("NASDAQ" 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

NASDAQ proposes to extend the pre-market hours of the Exchange to 4:00 a.m. EST, from the current opening time of 7:00 a.m. EST.

#### 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 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

*Background.* NASDAQ's equities trading day is divided into three sessions: (1) The pre-market session which runs from 7:00 a.m. to 9:29:59 a.m.; (2) the regular session which runs from 9:30 a.m. to 4:00 p.m.; and (3) the post-market session which runs from 4:00:00:01 p.m. to 8:00 p.m. The vast majority of trading occurs during the regular session; over 91 percent of average daily trading volume in NASDAQ-listed equities is executed during the regular session. Nonetheless, the pre-market and post-market sessions provide critical price formation and trading opportunities for a small group of equities market participants. For those equities and market participants, the presence of a transparent, liquid, and efficient market during the pre-market or post-market session is vital to public investors, and to the firms themselves.

The NYSE Arca Exchange is currently the only U.S. equities exchange that operates a pre-market trading session for equities beginning at 4:00 a.m. Increasingly, the trading period between 4:00 a.m. and 7:00 a.m. provides a significant opportunity for certain investors and traders. A meaningful percentage of total daily trading volume in NASDAQ-listed securities is reported as executed before 7:00 a.m., especially for individual stocks that experience material news or other trading events overnight. Additionally, NASDAQ understands from its members that an increasing number of limit orders are entered into the NYSE Arca system before 7:00 a.m. and execute after 7:00 a.m. While it is difficult to quantify the total number of orders and shares in this category based on available trade reporting limitations, NASDAQ believes

<sup>22</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.

<sup>21</sup> 15 U.S.C. 78s(b)(2)(B).