cooperation by harmonizing requirements across self-regulatory organizations. The Exchange also believes that including this rule will reinforce the importance of and ensure that Members are aware of these requirements.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposal enhances cooperation among markets and other trading venues to promote fair and orderly markets and to protect the interests of the public and of investors. Specifically, by aligning the Exchange's customer protection rules with those of FINRA and other exchanges,[10] the proposed rule change will reduce the complexity of the customer order protection rules for those Members that are also subject to the customer order protection rules of FINRA and other exchanges. As a result, the proposed rule will help assure the protection of customer orders without imposing undue regulatory costs on industry participants.

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

The Exchange has neither solicited nor received written 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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the 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*. Please include File Number SR–BYX–2013–036 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–BYX–2013–036. 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–BYX–2013–036, and should be submitted on or before November 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24656 Filed 10–21–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70657; File No. SR–ISE–2013–51]

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

October 10, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on September 30, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange 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 Substance of the Proposed Rule Change

The ISE proposes to amend its Schedule of Fees to permit ISE to exclude from its average daily volume calculations any trading day on which the Exchange is closed for trading due to early closing or a market-wide trading halt, and to correct a reference to ISE rules in the ''Flash Order'' definition. 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

[10] *See, e.g.,* Securities Exchange Act Release No. 64418 (May 6, 2011), 76 FR 27735 (May 12, 2011) (SR–CHX–2011–08) (notice of filing and immediate effectiveness of proposed rule change of Chicago Stock Exchange, Inc. to adopt customer order protection language consistent with FINRA Rule 5320); Securities Exchange Act Release No. 65165 (August 18, 2011), 76 FR 53009 (August 24, 2011) (SR–NYSEAmex–2011–059) (notice of filing and immediate effectiveness of proposed rule change of NYSE Amex LLC (now known as NYSE MKT LLC) to adopt customer order protection language that is substantially the same as FINRA Rule 5320); and Securities Exchange Act Release No. 65166 (August 18, 2011), 76 FR 53012 (August 24, 2011) (SR–NYSEArca–2011–057) (notice of filing and immediate effectiveness of proposed rule change of NYSE Arca, Inc. to adopt customer order protection language that is substantially the same as FINRA Rule 5320).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 is proposing to permit ISE to exclude from its average daily volume (''ADV'') calculations any trading day on which the Exchange is closed for trading due to a market-wide trading halt, and to correct a reference to ISE rules in the ''Flash Order'' definition.

The Exchange currently provides volume-based tiered rebates for Priority Customer complex orders when these orders trade with non-Priority Customer orders in the complex order book,[3] or trade with quotes and orders on the regular order book.[4] These complex order rebates are provided to members in six tiers in both Standard and Mini Options based on the Member's ADV in Priority Customer complex contracts.

The Exchange is proposing to modify its Schedule of Fees to permit the Exchange to exclude from its ADV calculation, when determining applicable rebate tiers, any day that the market is not open for the entire trading day. This would allow the Exchange to exclude days where the Exchange declares a trading halt in all securities or honors a market-wide trading halt declared by another market.[5] For example, this would have allowed the Exchange to exclude August 22, 2013 when trading was halted in Nasdaq-listed securities for three hours across all exchanges.[6] The Exchange will provide a notice, and post it on the Exchange's Web site, to inform Members of any day that is to be excluded from its ADV calculations in connection with this proposed rule change. The Exchange is not proposing any changes to the level of rebates currently being provided on the Exchange, or to the ADV thresholds required to achieve each rebate tier.

If the Exchange did not have the ability to exclude aberrant low volume days when calculating ADV for the month, as a result of the decreased trading volume, the numerator for the calculation (*e.g.,* trading volume) would be correspondingly lower, but the denominator for the threshold calculations (*e.g.,* the number of trading days) would not be decreased. This could result in an unintended cost increase. Absent the authority to exclude days that the market is not open for the entire trading day, Members will experience an effective decrease in rebates. The artificially low volumes of trading on such days could reduce the trading activity of Members both daily and monthly. Accordingly, excluding such days from the monthly calculation will diminish the likelihood of an effective increase in the cost of trading on the Exchange, a result that is unintended and undesirable to the Exchange and its Members.

The Exchange is also proposing to amend its Schedule of Fees to correct a reference to ISE rules. The preface to the Schedule of Fees currently defines a ''Flash Order'' as 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 803. The Exchange recently modified its linkage rules referenced above, and in the process moved the relevant rule text from Supplementary Material .02 to ISE Rule 803 to Supplementary Material .02 to ISE Rule 1901.[7] The Exchange is therefore modifying the text of its Schedule of Fees to match the correct reference to Supplementary Material .02 to ISE Rule 1901. The Exchange notes that by clarifying this reference it is not making any substantive changes to the definition of a Flash Order, or to the fees and credits applicable to Flash Orders or responses to Flash Orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and Section 6(b)(4) of the Act,[9] 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 it is equitable and reasonable to permit the Exchange to eliminate from the calculation days on which the market is not open the entire trading day because it preserves the Exchange's intent behind adopting volume-based pricing. The proposed change is non-discriminatory because it applies equally to all Members and to all volume tiers.

The Exchange further believes that it is appropriate to correct the outdated reference to ISE rules in the ''Flash Order'' definition so that Exchange members and investors have a clear and accurate understanding of the meaning of the Exchange's rules, which will reduce investor confusion.

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

In accordance with Section 6(b)(8) of the Act,[10] 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. With respect to ADV calculations for rebates, the Exchange notes that there are very few instances where the rule will actually be invoked, and when invoked, the Exchange believes the rule will have little or no impact on trading decisions or execution quality. To the contrary, the Exchange believes that the proposed modification to its ADV calculation is pro-competitive and will result in lower total costs to end users, a positive outcome of competitive markets. Moreover, other options exchanges have adopted rules that are substantially similar to the change in ADV calculation being proposed by the Exchange.[11] With respect to the ''Flash Order'' definition, the Exchange further believes that making a technical correction to an outdated reference here as proposed is non-substantive, and therefore does not implicate the competition analysis. 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 and rebates to remain competitive with other exchanges. For

[3] The Exchange offers a rebate in Standard and Mini Options for Priority Customer complex orders in (i) Select Symbols (excluding SPY), (ii) SPY, and (iii) Non-Select Symbols, when these orders trade with non-Priority Customer orders in the complex order book.

[4] The Exchange offers a rebate in Standard and Mini Options for Priority Customer complex orders that trade with quotes and orders on the regular order book in (i) SPY, and (ii) other symbols excluding SPY.

[5] The Exchange will not be excluding days on which the Exchange closes early for holiday observance from its ADV calculation.

[6] Trading in Nasdaq-listed securities was halted across all markets on August 22, 2013 due to a systems issue experienced by the NASDAQ UTP SIP.

[7] *See* Securities Exchange Act Release No. 69396 (April 18, 2013) 78 FR 24273 (April 24, 2013) (SR–ISE–2013–18).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(8).

[11] *See e.g.* Securities Exchange Act Release No. 70472 (September 23, 2013) (PHLX–2013–93); 70470 (Sept. 23, 2013) (NASDAQ–2013–117).

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 [12] and subparagraph (f)(2) of Rule 19b–4 thereunder,[13] 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
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2013–51 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–2013–51. 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–ISE–2013–51 and should be submitted on or before November 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24654 Filed 10–21–13; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70647; File No. SR–ISE–2013–50]

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

October 9, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on September 30, 2013, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange 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 proposes to amend its Schedule of Fees. 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 is proposing to amend its Schedule of Fees to: (1) decrease the discount applicable to Market Makers [3] when they trade against Priority Customer [4] complex orders that are preferenced to them on the Exchange; (2) increase the fees that it charges for executions of Priority Customer orders in non-Early Adopter Foreign Currency ("FX") Option Symbols to be equal to the fees charged for executions of orders in Early Adopter FX Option Symbols; and (3) increase the fees for Priority Customer orders routed to another exchange for execution.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. *See* ISE Rule 100(a)(25).

[4] A Priority Customer is defined in ISE Rule 100(a)(37A) as 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).