

users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing, and indeed in the fact that the changes here have the effect of lowering the price for NYSE Order Imbalances.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS Trading and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, LavaFlow ECN provides market data to its subscribers at no charge.<sup>26</sup>

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

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

No written comments were solicited or received with respect to the proposed rule change.

### **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>27</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>28</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 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-NYSE-2014-77 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-NYSE-2014-77. 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 NYSE. 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-NYSE-2014-77 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Brent J. Fields,**

*Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-73999; File No. SR-ISE-2014-52]

### **Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval of Proposed Rule Change Regarding the Short Term Option Series Program**

January 6, 2015.

#### **I. Introduction**

On November 6, 2014, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> a proposed rule change to extend the current \$0.50 strike price intervals in non-index options to short term options with strike prices less than \$100. The proposed rule change was published for comment in the **Federal Register** on November 24, 2014.<sup>4</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

#### **II. Description of the Proposed Rule Change**

On any Thursday or Friday that is a business day, the Exchange currently may list short term option series in designated option classes that expire at the close of business on each of the next five Fridays that are business days and

<sup>29</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Securities Exchange Act Release No. 73633 (November 18, 2014), 79 FR 69974 ("Notice").

<sup>27</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>28</sup> 17 CFR 240.19b-4(f)(2).

<sup>26</sup> See *supra* note 24.

are not Fridays in which monthly or quarterly options expire.<sup>5</sup> These short term option series may be listed in strike price intervals of \$0.50, \$1, or \$2.50 depending on the strike price and whether the option trades in dollar increments in the related monthly expiration.<sup>6</sup> Specifically, the Exchange may list short term option series at strike price intervals of \$0.50 or greater where the strike price is less than \$75, or for option classes that trade in one dollar increments in the related non-short term option, \$1 or greater where the strike price is between \$75 and \$150, and \$2.50 or greater where the strike price is above \$150.<sup>7</sup> During the month prior to expiration of an option class that is selected for the Short Term Option Series Program, the strike price intervals for the related non-short term option shall be the same as the strike price intervals for the short term option.<sup>8</sup>

The Exchange also currently operates a \$2.50 Strike Price Program that permits monthly expiration options in classes admitted to the \$2.50 Strike Price Program to trade in \$2.50 intervals where the strike price is greater than \$25 but less than \$50; or between \$50 and \$100 if the strikes are no more than \$10 from the closing price of the underlying stock in its primary market on the preceding day.<sup>9</sup> In certain instances, these strike price parameters conflict with the strike prices allowed for related non-short term options as dollar strikes between \$75 and \$100 otherwise allowed under the Short Term Option Series Program may be within \$0.50 of strikes listed pursuant to the \$2.50 Strike Price Program. As a result, the Exchange has proposed to amend Supplementary Material .12 to Rule 504 to extend the \$0.50 strike price intervals currently allowed for short term options with strike prices less than \$75 to short term options with strike prices less than \$100. With this proposed change, short term options in non-index option classes will trade in: (1) \$0.50 or greater intervals for strike prices less than \$100, or for option classes that trade in one dollar increments in the related non-short term option; (2) \$1 or greater intervals for strike prices that are between \$100 and \$150; and (3) \$2.50 or greater intervals for strike prices above \$150.

With regard to the impact of the proposal on system capacity, the Exchange states that it has analyzed its capacity and represents that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change.<sup>10</sup> In addition, the Exchange states that it believes that its members will not experience a capacity issue as a result of this proposal.<sup>11</sup> Furthermore, the Exchange states that it does not believe the proposed rule change will cause fragmentation of liquidity.<sup>12</sup>

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>13</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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 Commission believes that the proposed change may provide the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in short term options, as well as in related non-short term options, thus allowing them to better manage their risk exposure.

In approving this proposal, the Commission notes that the Exchange has represented that it and OPRA have the necessary systems capacity to handle the potential additional traffic associated with this proposed rule change.<sup>15</sup> The Exchange further stated that it believes its members will not have a capacity issue as a result of the proposal and that it does not believe this expansion will cause fragmentation of liquidity.<sup>16</sup>

<sup>10</sup> See Notice, *supra* note 4, at 69975.

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

<sup>12</sup> *Id.*

<sup>13</sup> In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See Notice, *supra* note 4, at 69975.

<sup>16</sup> *Id.*

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>17</sup> that the proposed rule change (SR-ISE-2014-52) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Brent J. Fields,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73995; File No. SR-NYSEMKT-2014-114]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE MKT Order Imbalances

January 6, 2015.

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 December 23, 2014, NYSE MKT LLC (“NYSE MKT” or the “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 the fees for NYSE MKT Order Imbalances to establish eligibility requirements for redistribution on a managed non-display basis and an access fee for managed non-display data recipients, operative on January 1, 2015. The text of the proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://www.nyse.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

<sup>17</sup> 15 U.S.C. 78f(b)(2).

<sup>18</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>5</sup> See Supplementary Material .02 to ISE Rule 504.

<sup>6</sup> See Supplementary Material .12 to ISE Rule 504.

<sup>7</sup> *Id.*

<sup>8</sup> See Supplementary Material .02(e) to ISE Rule 504.

<sup>9</sup> See ISE Rule 504(g). The term “primary market” is defined in ISE Rule 100(a)(37) as the principal market in which an underlying security is traded.