

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>10</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the proposed rule change seeks to reduce investor confusion and to simplify the provisions of the \$1 Strike Price Interval Program.

### 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.

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

No written comments were either solicited or received.

## 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>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</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. The proposed rule change is substantially similar to \$1 Strike Price Program rules in place at other exchanges, so the Commission's action will allow the Exchange to implement these changes without undue delay. Therefore, the Commission designates the proposal operative upon filing.<sup>14</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-BX-2011-074 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-BX-2011-074. 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 a.m. and 3 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 publicly available. All submissions should refer to File Number SR-BX-2011-074 and should be submitted on or before December 14, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65771; File No. SR-ISE-2011-60]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval of Proposed Rule to Expand the Short Term Options Series Program

November 17, 2011.

## I. Introduction

On September 23, 2011, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to expand the Short Term Options Series Program ("STOS Program"). The proposed rule change was published for comment in the **Federal Register** on October 13, 2011.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

The proposed rule change seeks to amend ISE Rules 504 and 2009 to

<sup>15</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>3</sup> Securities Exchange Act Release No. 65503 (October 6, 2011), 76 FR 63691 ("Notice").

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</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>14</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).

expand the STOS Program<sup>4</sup> so that the Exchange may select up to 25 option classes to participate in the STOS Program<sup>5</sup> and list up to 30 Short Term Option Series (“STOS Options”) for each option class that participates in the Exchange’s STOS Program.<sup>6</sup> Currently, the Exchange may open no more than 15 option classes and no more than 20 series for each expiration date in those classes.<sup>7</sup> The Exchange proposed no other changes to the STOS Program.

In the Notice, the Exchange stated that the principal reason for the proposed expansion is customer demand for adding, or not removing, classes from the STOS Program. Specifically, ISE cited an increased demand for more series when market-moving events, such as corporate events and large price swings, have occurred during the life span of an affected STOS class. Currently, if the maximum number of series has been reached, the Exchange must delete or delist certain series in order to make room for more in-demand series.

### III. Discussion

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

<sup>4</sup> The Exchange adopted the STOS Program on a pilot basis in 2005. See Securities Exchange Act Release No. 52012 (July 12, 2005), 70 FR 41246 (July 18, 2005) (SR-ISE-2005-17). The STOS Program was approved on a permanent basis in 2010. See Securities Exchange Act Release No. 62444 (July 2, 2010), 75 FR 39595 (July 9, 2010) (SR-ISE-2010-72).

<sup>5</sup> The Exchange previously increased the total number of option classes that may participate in the STOS Program from five to 15. See Securities Exchange Act Release No. 63878 (February 9, 2011), 76 FR 8796 (February 15, 2011) (SR-ISE-2011-08).

<sup>6</sup> The Exchange previously increased the number of permissible series per STOS class from seven to 20 series. See Securities Exchange Act Release No. 62444 (July 2, 2010), 75 FR 39595 (July 9, 2010) (SR-ISE-2010-72).

<sup>7</sup> However, if the Exchange opens less than 20 series for an expiration date, additional series may be opened with that expiration date when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened. Any additional series listed by the Exchange shall have strike prices within 30% above or below the current price of the underlying security. The Exchange may also open additional series of Short Term Option Series with strike prices more than 30% above or below the current price of the underlying security if demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-makers trading for their own account shall not be considered when determining customer interest under this provision. See Supplementary Material .02(d) to Rule 504 and Supplementary Material .01(d) to Rule 2009.

exchange.<sup>8</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>9</sup> which requires, among other things, that the rules of a national securities exchange be 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 Commission believes that the proposal strikes a reasonable balance between the Exchange’s desire to offer a wider array of products and the need to avoid unnecessary proliferation of options series.

In approving this proposal, the Commission notes that the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes and series in the STOS Program. The Commission expects the Exchange to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange’s, OPRA’s, and vendors’ automated systems.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-ISE-2011-60) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Kevin M. O’Neill,**

*Deputy Secretary.*

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<sup>8</sup> In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65775; File No. SR-NASDAQ-2011-138]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change Expanding the Short Term Option Series Program

November 17, 2011.

#### I. Introduction

On September 28, 2011, The NASDAQ Stock Market LLC (“NASDAQ”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to expand the Short Term Option Program (“Program”) to allow the NASDAQ Options Market (“NOM” or “Exchange”) to: (1) Select up to 30 option classes on which Short Term Option Series (“STO Series”) may be listed; and (2) allow the Exchange to open Short Term Option Series that are opened by other securities exchanges in option classes selected by such exchanges under their respective short term option rules. The proposed rule change was published for comment in the **Federal Register** on October 17, 2011.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

NASDAQ proposed to amend Chapter IV, Section 6 and Chapter XIV, Section 11 of the Short Term Option Series Program (“STO Program” or “Program”) to: (1) Increase from 15 to 30 the number of option classes on which STO Series may be opened; and (2) allow the Exchange to open STO Series that are opened by other securities exchanges (the “STO Exchanges”) in option classes selected by such exchanges under their respective short term option rules.

In the Notice, the Exchange stated that the principal reason for the proposed expansion is market demand for additional STO classes and series. NASDAQ stated that the Exchange has had to turn away STO customers because it could not list, or had to delist, STO Series or could not open adequate STO Series because of restrictions in the STO Program.

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

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

<sup>3</sup> Securities Exchange Act Release No. 65528 (October 11, 2011), 76 FR 64142 (“Notice”).