contracts and transactions, within the meaning of Section 17(A)(b)(3)(F).

In addition, in ICE Clear Europe’s view, the new Disciplinary Framework provides an appropriately tailored set of cash assessments for Missed Submissions by Clearing Members, in light of the importance of end-of-day price submissions to the Clearing House risk management and settlement procedures. The framework is thus consistent with the requirements of Section 17A(b)(3)(G) of the Act.7 The framework also provides a procedure for notifying Clearing Members of the details of any such assessments for Missed Submissions, and for Clearing Members to dispute and/or seek a waiver of such assessments. In ICE Clear Europe’s view, this aspect of the framework is consistent with the requirements of Section 17A(b)(3)(H) of the Act.8

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

ICE Clear Europe does not believe the proposed rule change would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The enhancements to ICE Clear Europe’s price discovery process apply uniformly to all Clearing Members. As a result, ICE Clear Europe does not believe that the adoption of the policy amendments will adversely affect competition among Clearing Members, or the ability of market participants to clear contracts generally. The Clearing House also does not believe that the amendments will reduce access to clearing CDS contracts generally or limit market participants’ choices for clearing CDS.

The amendments may result in certain additional costs for Clearing Members that are required to enter into Firm Trades as a result of obvious errors in their submissions, or are subject to cash assessments as a result of Missed Submissions. ICE Clear Europe believes that these additional costs are warranted to enhance the integrity of the price submission process, and are in any event generally within the control of the Clearing Member. As a result, ICE Clear Europe does not believe the proposed amendments impose any burden on competition that is inappropriate 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

Written comments relating to the proposed rule change have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

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 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–ICEEU–2015–013 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–ICEEU–2015–013. 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 filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe’s Web site at https://www.theice.com/clear-europe/regulation#rule-filings. 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–ICEEU–2015–013 and should be submitted on or before September 2, 2015.

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

Robert W. Errett, Deputy Secretary.

[FR Doc. 2015–19757 Filed 8–11–15; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; International Securities Exchange, LLC; Order Disapproving a Proposed Rule Change To Modify ISE’s Opening Process

August 6, 2015.

I. Introduction

On November 19, 2014, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange Commission (the “SEC”) or the “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)1 and Rule 19b–4 thereunder,2 a proposed rule change to modify the opening process of the Exchange. The proposed rule change was published for comment in the Federal Register on December 10, 10 U.S.C. 178q–1(b)(3)(H).


As is the case today, under the proposal, if there is executable interest prior to the opening, ISE’s trading system would first calculate a range of prices within which to open the options series (”Boundary Prices”). To determine the Boundary Prices, the trading system would use ISE market makers’ quotes. Specifically, the trading system would use the quotes of ISE’s Primary Market Maker (”PMM”) quotes, or in their absence, the best quotes of ISE’s Competitive Market Makers (“CMMs”) on the corresponding side (PMMs, together with CMMs, ”ISE Market Makers”). If there are no PMM or CMM quotes on the offer side, the lowest minimum trading increment for the option class would be used. If there are no PMM or CMM quotes on the offer side, however, “the options class would not open because in the absence of an offer there would be no limit as to the price at which an opening trade could occur.” Under ISE’s proposal, each iteration of the opening process would widen the Boundary Prices, except for the last iteration which would have no Professional Orders and quotes with the execution price as follows—market orders would be given priority before limit orders and quotes, then limit orders and quotes would be given priority by price. For limit orders and quotes with the same priority, the order with the best price would be executed first. For limit orders and quotes with the same price, priority would be accorded first to Priority Customer Orders over Professional Orders and quotes. Priority Customer Orders with the same limit price would be executed on a random basis while Professional Orders and quotes with the same limit price would be executed pro-rata based on size. If the Boundary Prices were calculated using the ABBO, any remaining Public Customer Orders, but not Non-Customer Orders, that would lock or cross an ABBO would be processed in accordance with Supplementary Material .02 to ISE Rule 1901. According to the Exchange, if after the first iteration there remained unexecuted orders and quotes that would lock or cross each other, the trading system would initiate a second

7 On June 4, 2015, the Commission designated a longer period for Commission action the proposed rule change to August 7, 2015. On January 10, 2015, the Exchange, in a Letter to Brent J. Fields, Secretary, Department of Commerce, Secretary and General Counsel, dated January 13, 2015 (“ISE Letter”).
8 See Letter to Brent J. Fields, Secretary, Commission, from Benjamin Londergan, Head of Options Trading Strategy, Convergex Execution Solutions LLC, dated June 1, 2015 (“Convergex Letter”). In its letter, Convergex stated that it supported the proposal because it believed the ”inherent protections and improved pricing will be of significant benefit to customers and outweigh any perceived advantages of the current single-priced opening process.” See Convergex Letter at 1. The Convergex Letter noted that ISE’s current opening process did not provide away market price protection, but the proposed rule change would introduce an iterative opening process where priority customer orders would be eligible for away market routing under certain circumstances. As a consequence of this change, Convergex believed its customers would “obtain better execution quality in an increasingly fair and orderly market than they enjoy currently under the ISE’s present opening process.”
9 The Exchange also proposes to codify certain existing functionality within the trading system (regarding the procedures to initiate the opening rotation at the Exchange’s opening and reopening after a trading halt) that was not previously described in the Exchange’s rules. A more detailed description of the initiation procedure is available in the Notice. See Notice, supra note 3, at 73355.
10 Pursuant to ISE Rules 100(a)(37A) and 100(a)(37B), a “Priority Customer Order” is an order for the account of a person or entity (i) that is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts.
11 Pursuant to ISE Rule 100(a)(37C), a “Professional Order” is an order that is for the account of a person or entity that is not a Priority Customer.
12 Pursuant to ISE Rules 100(a)(38) and 100(a)(39), a “Public Customer” means a person or entity that is not a broker or dealer in securities and a “Public Customer Order” means an order for the account of a Public Customer.
13 Pursuant to ISE Rule 100(a)(32), a “Non-Customer” means a person or entity that is a broker or dealer in securities.
14 As stated in the Notice, under the Options Order Protection and Locked/Crossed Market Plan (“Options Linkage Plan” or “Linkage Plan”), the Exchange cannot execute orders at a price that is inferior to the national best bid or offer (“NBBO”), absent an applicable exception, nor can the Exchange place an order on its book that would cause the ISE best bid or offer to lock or cross another exchange’s quote. See Notice, supra note 3, at 73356. ISE’s rule requires that, before orders are rejected or routed to an away market, an order that would otherwise lock or cross another exchange’s bid or offer be exposed to all ISE members for up to one second to give the members an opportunity to execute against the order at the NBBO or better. See Supplementary Material .02 to Rule 1901. If after an order is exposed, the order cannot be executed in full on the Exchange at the then-current NBBO or better, and it is the lesser of the full displayed size of the Protected Bid(s) or Protected Offer(s) that are priced better than the ISE’s quote or the balance of the order will be sent to the linkage handler and an additional balance of the order will be executed on the ISE if it is marketable. Any additional balance of the order that is not marketable against the then-current NBBO will be placed on the ISE book. Id.
In the second iteration, the trading system would use either the ISE Market Maker Quotes or the ABBO, whichever was not used in the first iteration, to establish the Boundary Prices. For example, if the ISE Market Maker Quotes were used in the first iteration, the second iteration would use the ABBO and vice versa. If, during the first iteration, there were no ABBO, then the second iteration would not occur, and the trading system would initiate the third iteration as described below.

In the second iteration, the trading system would again determine the execution price at which the maximum number of contracts could trade at or within the widened Boundary Prices. Once the trading system determines the second execution price, orders and quotes would be processed as follows—market orders would be given priority before limit orders and quotes, then limit orders and quotes would be given priority by price. For limit orders and quotes with the same price, priority would be accorded first to Priority Customer Orders over Professional Orders and quotes. Priority Customer Orders with the same limit price would be executed in random order while Professional Orders and quotes with the same limit price would be executed proportionately based on size. Thereafter, any unexecuted Priority Customer Orders that lock or cross the Boundary Prices would be handled by the PMM and any unexecuted Professional Orders and Non-Customer Orders that lock or cross the Boundary Prices would be canceled.

If after the third iteration there remained unexecuted orders and quotes that lock or cross each other, the trading system would initiate the fourth and final iteration. In the fourth iteration, the trading system would not calculate new Boundary Prices. The trading system would simply trade any remaining interest. Thereafter, the trading system would open the options series by disseminating the Exchange’s best bid and offer derived from the remaining orders and quotes.

III. Discussion and Commission Findings

Under Section 19(b)(2)(C) of the Act, the Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations issued thereunder that are applicable to such organization. The Commission shall disapprove a proposed rule change if it does not make such a finding. Rule 700(b)(3) of the Commission’s Rules of Practice state that the “burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change” and that a “mere assertion that the proposed rule change is consistent with those requirements . . . is not sufficient.”

After careful consideration, the Commission does not find 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. In particular, the Commission does not find that the proposed rule change is consistent with Section 6(b)(5) of the Act, which, among other things, requires 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 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. For reasons more fully discussed below, because the Commission cannot find that the Exchange’s proposed iterative opening process would comply with Section 5 of the Options Linkage Plan, the Commission does not find that the proposed rule change is consistent with the Act and, in particular, with Section 6(b)(5) of the Act.

On July 30, 2009, pursuant to Section 11A(a)(3)(B) of the Act and Rule 608 thereunder, the Commission approved, as a national market system

See 17 CFR 201.700(b)(3). “The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding. Any failure of a self-regulatory organization to provide the information elicited by Form 19b-4 may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder that are applicable to the self-regulatory organization.”

See 17 CFR 201.700(b)(5).


The Commission notes that ISE Rule 1901 incorporates Section 5 of the Options Linkage Plan by incorporating as rules of ISE the provisions of Section 5. Accordingly, because the Commission cannot find the Exchange’s proposal consistent with Section 5 of the Options Linkage Plan, the Commission also notes that the Exchange’s proposal may not be consistent with its own rule.


See 17 CFR 242.608.

See Options Linkage Plan Approval Order, supra note 32. Section 11A(a)(3)(B) of the Act authorizes the Commission “by rule or order, to authorize or require self-regulatory organizations to act jointly or with respect to matters as to which they share authority under this title in planning, developing, operating, or regulating a national market system (or a subsystem thereof) or one or more facilities.” The Commission’s approval of a national market system plan is conditioned upon a finding that the proposed plan is “necessary or appropriate in the public interest, for the protection of investors.”

Continued
Classes that do not fall within a Participant’s market in Eligible OptionsClasses that do not fall within an Participant’s market in Eligible Options Classes that do not fall within an exception set forth in [Section 5(b) of the Options Linkage Plan]. Among other exceptions, the Options Linkage Plan exempts from the trade-through prohibition transactions that ‘‘traded through a Protected Quotation being disseminated by an Eligible Exchange during a trading rotation’’ [the ‘‘trading rotation exception’’]. According to the Exchange, with respect to the operation of the second, third, and fourth iterations of its proposed opening process, it is relying on the trading rotation exception.

Specifically, if the second iteration utilizes the ISE Market Maker Quotes, to the extent the iteration results in any trade-throughs, the Exchange represents that ‘‘such trade-throughs are permissible pursuant to Section 5(b)(ii) of the Linkage Plan, the Trading Rotation exception, which permits a participant exchange to trade through a Protected Quotation disseminated by an Eligible Exchange during a trading rotation.’’ Likewise, the Exchange states that any trade-throughs during the third and fourth iterations are also permissible under the Linkage Plan because Section 5(b)(ii) ‘‘permits a participant exchange to trade through a Protected Quotation disseminated by an Eligible Exchange during a trading rotation.’’

In the Order Instituting Proceedings, the Commission noted that it intended to further assess whether the Exchange’s proposed iterative opening process complies with the Options Linkage Plan and the statutory requirements applicable to a national securities exchange under the Act. The Commission invited interested persons to submit written views with respect to these concerns. As mentioned above, ISE submitted a letter in response to the Order Instituting Proceedings providing additional justification for its proposal. In its letter, ISE argues that, unlike the trade-through exception for equities under Regulation NMS, the Options Linkage Plan does not state that the trade-through exception for opening transactions is limited to ‘‘single price auctions.’’ Further, ISE argues that its proposal is consistent with the plain language of Section 5(b)(ii) because, although the Linkage Plan does not define the term ‘‘trading rotation,’’ at the inception of the Plan, ‘‘that term already had a meaningful and well understood securities law definition.’’ ISE cites to Rule 600(a)(79) of Regulation NMS, which defines ‘‘trading rotation’’ to mean ‘‘with respect to an options class, the time period on a national securities exchange during which . . . [o]pening, re-opening, or closing transactions in options series in such options class are not yet completed; and . . . [c]ontinuous trading has not yet commenced or has not yet ended for the day in options series in such options class.’’ ISE also suggests that if its proposal is inconsistent with the Linkage Plan, then other options exchanges would have negatively commented on it. ISE states that ‘‘it is highly suggestive that none of our competitors submitted any contrary interpretation of the Linkage Plan.’’

In the ISE Letter, the Exchange also disputes the Commission’s interpretation in the Options Linkage Approval Order that the trade-through exception in Section 5(b)(ii) of the Plan is for a trading rotation that is ‘‘effectively a single price auction to price the option.’’ The Exchange concedes that ‘‘this language is itself copied from identical language submitted in comment letters by ISE and other options exchanges that was intended to be a non-comprehensive description of how our markets have traditionally operated’’ but that ‘‘they did not purport to be a binding legal interpretation of how the Commission should interpret the term ‘trading rotation.’’’

ISE argues, moreover, that the rationale for the Linkage Plan’s trading rotation exception applies equally to single price auctions and iterative openings. Namely, the rationale behind Section 5(b)(ii) was to allow options exchanges to ignore away markets during the opening when ‘‘there are no practical means to include prices on other exchanges.’’ Accordingly, ISE claims that the basis for the Section 5(b)(ii) exception applies to the iterative opening process that it proposes to adopt.

Finally, ISE contends that it would be inappropriate for the Commission to disapprove its proposed rule change because the new process is designed to provide away market protection to Public Customer Orders. According to ISE, if the Commission disapproves the proposed rule change, the Commission’s action would result in less, not more protection for investors.

After thoroughly reviewing the Exchange’s assertions in the Notice and the ISE Letter, including the one comment received, the Commission cannot find that the iterative opening process proposed by the Exchange is consistent with the Options Linkage Plan and therefore with the Act.

See Order Instituting Proceedings, supra note 6, at 13062.

ISE Letter, supra note 7, at 3.

See supra note 8.

See supra note 7, at 3.

See Order Instituting Proceedings, supra note 7, at 3.
Specifically, the Commission cannot provide additional clarification to what the trading rotation exception under Section 5(b)(ii) means. 58 In addition, as noted above, all seven exchanges that jointly proposed the Linkage Plan explicitly represented to the Commission that the trading rotation exception is “similar to an exception available for NMS stocks under Regulation NMS” and is “effectively a single price auction to price the option.” 59 Accordingly, in the absence of any basis in the Options Linkage Plan itself for the Commission to determine otherwise, and in light of prior, explicit representations by the Original Participant Exchanges that the trading rotation exception applies to “a single price auction,” the Commission cannot find that the Exchange’s proposal is consistent with the Linkage Plan and thereby the Act.

The Commission acknowledges that the ISE’s proposed iterative opening process, unlike its current process, would provide greater protection for Public Customer Orders. For the reasons noted above, however, the Commission cannot find that the proposed rule change is consistent with the Options Linkage Plan or Section 6(b)(5) of the Act.

IV. Conclusion

For the foregoing reasons, the Commission does not find that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) of the Act.

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–ISE–2014–24), be, and hereby is, disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.62

Robert W. Errett,
Deputy Secretary.

[FR Doc. 2015–19762 Filed 8–11–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations;
Chicago Stock Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Implement CHX SNAPSM, an Intra-Day and On-Demand Auction Service

August 6, 2015.

On June 23, 2015, the Chicago Stock Exchange, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) 1 and Rule 19b–4 thereunder,2 a proposed rule change to implement CHX SNAPSM, which would be an intra-day and on-demand auction service that would be initiated at the request of market participants seeking to trade securities in bulk. The proposed rule change was published for comment in the Federal Register on June 30, 2015.

Further, the Commission notes that the Linkage Plan refers to a singular “trading rotation” not, as ISE implies, multiple “trading rotations.” 60

See supra note 55.

60 See ISE Letter, supra note 7, at 3. ISE also provides as an exhibit to its response letter data purporting to show trade-throughs from all options exchanges during the first minute of trading on April 29, 2015, and April 30, 2015. According to ISE, the data shows trade-throughs from every exchange, with the total number of contracts trading through being 9,316 on April 29, and 48,269 contracts on April 30. See Exhibit to ISE Letter, supra note 7. The Commission cannot surmise from the data whether the trade-throughs are occurring without an exception or whether the exchanges are not complying with the Linkage Plan or their own rules. The Commission notes that the Options Linkage Plan provides that a participant exchange relies on a trade-through exception, it would be required to establish, maintain, and enforce written policies and procedures reasonably designed to assure compliance with the terms of the exception.