

*Required fields are shown with yellow backgrounds and asterisks.*

Filing by International Securities Exchange  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

<b>Initial *</b>	<b>Amendment *</b>	<b>Withdrawal</b>	<b>Section 19(b)(2) *</b>	<b>Section 19(b)(3)(A) *</b>	<b>Section 19(b)(3)(B) *</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			<b>Rule</b>		
<b>Pilot</b>	<b>Extension of Time Period for Commission Action *</b>	<b>Date Expires *</b>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

<b>Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010</b>	<b>Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934</b>
<b>Section 806(e)(1) *</b>	<b>Section 806(e)(2) *</b>
<input type="checkbox"/>	<input type="checkbox"/>
	<b>Section 3C(b)(2) *</b>
	<input type="checkbox"/>

<b>Exhibit 2 Sent As Paper Document</b>	<b>Exhibit 3 Sent As Paper Document</b>
<input type="checkbox"/>	<input type="checkbox"/>

**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposal to eliminate the 30% strict cap on the number of PMM memberships that the Board can approve for an ISE member to operate.

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Sun Last Name \* Kim

Title \* Assistant General Counsel

E-mail \* SKim@ise.com

Telephone \* (212) 897-0238 Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date 03/15/2016 Secretary and General Counsel

By Michael Simon

(Name \*)

Persona Not Validated - 1443109051649,

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) The International Securities Exchange, LLC (the “Exchange” or the “ISE”) proposes to eliminate the 30% strict cap on the number of Primary Market Maker (“PMM”) memberships that the ISE’s Board of Directors (the “Board”) can approve for an ISE member to operate. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Board of Directors of the Exchange approved this proposed rule change on February 26, 2016. This action constitutes the requisite approval under the Exchange’s Certificate of Formation, Limited Liability Company Agreement and Constitution.

3. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(a) Purpose – The purpose of the proposal is to eliminate the 30% strict cap on the number of PMM memberships that the Board can approve for an ISE member to operate.<sup>1</sup> ISE Rule 303(b) currently requires the Board show “good cause” to approve any PMM membership that would result in the PMM operating trading privileges associated with more than one PMM membership. The Board may waive the limitations contained in this rule if it determines that good cause has been shown and such action is, in its judgment, in the best interests of the Exchange.<sup>2</sup> The Board is not permitted, however, to grant this approval if the member and its affiliates would, as a result, be approved to exercise trading privileges associated with more than 30% of all outstanding PMM memberships.<sup>3</sup> Section 6.5(b) of ISE’s Third Amended and Restated Limited

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<sup>1</sup> A PMM serves a function similar to that of a specialist on other exchanges. Among other things, a PMM must provide continuous quotations in all assigned options classes. See Rule 804(e)(1); Supplementary Material .01 to Rule 804. There are currently 10 outstanding PMM memberships authorized and issued by the Exchange under its Third Amended and Restated LLC Agreement (the “LLC Agreement”). See LLC Agreement, Section 6.1(a).

<sup>2</sup> When making its determination whether good cause has been shown to waive the limitations contained in this rule, the Board must consider whether an operational, business or regulatory need to exceed the limits has been demonstrated, and in those cases where such a need is demonstrated, the Board must also consider any operational, business or regulatory concerns may be raised if such a waiver were granted. See Supplementary Material .01 to Rule 303.

<sup>3</sup> In 2006, the Commission approved an ISE proposal to increase the maximum number of PMM memberships that an ISE member may operate from two to three PMM

Liability Company Agreement (the “LLC Agreement”) contains the same 30% strict cap as Rule 303(b). This limitation on exercising PMM trading privileges is in addition to ownership and voting limitations in the LLC Agreement and in the Exchange’s rules that prohibit any member from owning (or voting the shares representing) more than 20% of any class of membership.<sup>4</sup>

Due to the continued concentration and specialization in the options market making community, and the decreasing number of market makers available to operate these memberships, the Exchange is proposing to eliminate the 30% cap on the number of PMM memberships that the Board can approve for a member to operate.

As the number of market makers decreases, the Exchange is concerned that there may not be a sufficient number of members qualified to be PMMs if the Exchange retains the current 30% cap (thus limiting a member to operating 3 PMM memberships). The options markets are highly competitive, and each exchange actively seeks to attract order flow by disseminating tight and liquid markets and by providing a high level of customer satisfaction. Ensuring that the Exchange has high quality PMMs is critical in this competitive battle.

The Exchange believes that the proposed approach is consistent with treatment on other markets that do not have strict market maker concentration limits, and will enable the Board to approve members to operate multiple PMM memberships after the Board determines that good cause has been shown and if doing so would be in the best interest of the Exchange.

The Commission has previously approved rule changes that eliminated mandatory caps on the number of issues that may be allocated to market makers on other markets, such as on Pacific Exchange, Inc. (“PCX”) (n/k/a “NYSE Arca”), where the Commission approved a rule change by PCX to eliminate its Lead Market Maker (“LMM”) concentration limit of 15% of the issues traded on the PCX options floor.<sup>5</sup> There, the Commission noted that PCX’s concentration limits served the purpose of minimizing the disturbance to a fair and orderly market that may otherwise result from the failure of an LMM. However, the Commission also noted that other exchanges did not impose specified mandatory limits on the number of options that may be allocated to specialists, citing to the rules of the Chicago Board Options Exchange (“CBOE”).<sup>6</sup> In addition, the

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memberships. See Securities Exchange Act Release No. 53271 (February 10, 2006), 71 FR 8625 (February 17, 2006) (SR-ISE-2005-46) (Approval Order).

<sup>4</sup> See LLC Agreement, Section 6.5(a); Supplementary Material .02 to Rule 303. The Exchange is not proposing any changes to the ownership and voting limitations.

<sup>5</sup> See Securities Exchange Act Release Nos. 47795 (May 5, 2003), 68 FR 25074 (May 9, 2003) (Notice); 48029 (June 13, 2003), 68 FR 37187 (June 23, 2003) (SR-PCX-2002-25) (Approval Order).

<sup>6</sup> See CBOE Rule 8.84 (Rule 8.84 does not impose a mandatory cap on the number of issues that may be allocated to a Designated Primary Market-Maker (“DPM”).

Commission has previously granted registration to new exchanges that do not have similar concentration limits.<sup>7</sup>

The Exchange recognizes that increasing the number of PMM memberships a member can operate could raise issues regarding concentration of market making expertise. In this regard, the proposed rule change is only an enabling rule. With the proposed change, the Board will still be required to show good cause to approve any member to operate more than one PMM membership, and could consider the number of memberships already by the member in determining whether or not there is good cause shown. Thus, the Board will need to weigh each potential application on its own merits, balancing the potential benefits of allowing a member to exercise more than one PMM membership against any potential concentration concerns. The Board would not be prohibited under the rules and under the LLC Agreement, however, from approving PMMs to operate more than a specified percentage of outstanding memberships.

(b) Basis – The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>8</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act,<sup>9</sup> because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The options industry continues to experience a consolidation and decrease in the number of market makers and therefore, the Exchange is proposing a rule change that would eliminate the 30% PMM cap and would allow the Board the flexibility to approve or deny each potential PMM application based upon its determination of whether good cause had been shown and if doing so would be in the best interest of the Exchange. Also as noted above, the Commission has previously approved rule changes eliminating mandatory caps on the number of issues that may be allocated to market makers on other markets, and has granted registration to new exchanges that do not have similar concentration limits. The Exchange therefore believes that the proposed rule change is designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system. Furthermore, this proposed rule change would not amend the current prohibitions in the LLC Agreement and in the Exchange's rules against a member owning or voting more than 20% of any class of membership. Thus, the only way a member could operate more than 30% of all outstanding PMM memberships would be to lease such membership, with the lease providing that the lessor retains all voting rights.<sup>10</sup>

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<sup>7</sup> See MIAAX Options Exchange (“MIAAX”) Rules.

<sup>8</sup> 15 U.S.C. 78f(b).

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

<sup>10</sup> See ISE Second A&R Constitution, Section 12.4; Supplementary Material .02 to Rule 303.

#### 4. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>11</sup> 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. To the contrary, the Exchange believes that the proposed rule change will increase competition among market makers to be approved as a PMM on the Exchange, thus allowing the Exchange to choose the most qualified PMM that will provide the Exchange with strong market making capabilities. Also as noted above, other markets do not have comparable mandatory caps or concentration limits, so eliminating the 30% PMM cap will bring the Exchange's rules in line with its competitors.

#### 5. 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.

#### 6. Extension of Time Period for Commission Action

Not Applicable.

#### 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A) of the Act,<sup>12</sup> and Rule 19b-4(f)(6)<sup>13</sup> thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange believes that this proposed rule change, which eliminates the 30% strict cap on the number of PMM memberships that the Board can approve for an ISE member to operate, will not impose any significant burden on competition, or significantly affect the protection of investors or the public interest, and therefore qualifies as "non-controversial" under Rule 19b-4(f)(6).

The Exchange believes that this approach is consistent with treatment on other markets that do not have strict market maker concentration limits, and will enable the Board to approve members to operate multiple PMM memberships after the Board

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<sup>11</sup> 15 U.S.C. 78f(b)(8).

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

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

determines that good cause has been shown and if doing so would be in the best interest of the Exchange.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the regular operative delay. Waiver of the operative delay is consistent with the protection of investors and the public interest because other markets do not have comparable restrictions, so eliminating the 30% cap without the standard operative delay will immediately bring the Exchange's rules in line with its competitors.

Furthermore, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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.

8. Proposed Rule change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is based, in part, on the rules of PCX, CBOE, and MIAX.<sup>14</sup>

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advanced Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Publication in the Federal Register.

Exhibit 5 – Text of the proposed rule change.

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<sup>14</sup> See notes 5, 6, and 7 *supra*.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-ISE-2016-07)

[Date]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Eliminate the Strict Concentration Limits on Primary Market Makers

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 March 15, 2016 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

ISE proposes to eliminate the 30% strict cap on the number of Primary Market Maker ("PMM") memberships that the ISE's Board of Directors (the "Board") can approve for an ISE member to operate. The text of the proposed rule change is available on the Exchange's website at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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 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

The purpose of the proposal is to eliminate the 30% strict cap on the number of PMM memberships that the Board can approve for an ISE member to operate.<sup>3</sup> ISE Rule 303(b) currently requires the Board show “good cause” to approve any PMM membership that would result in the PMM operating trading privileges associated with more than one PMM membership. The Board may waive the limitations contained in this rule if it determines that good cause has been shown and such action is, in its judgment, in the best interests of the Exchange.<sup>4</sup> The Board is not permitted, however, to grant this

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<sup>3</sup> A PMM serves a function similar to that of a specialist on other exchanges. Among other things, a PMM must provide continuous quotations in all assigned options classes. See Rule 804(e)(1); Supplementary Material .01 to Rule 804. There are currently 10 outstanding PMM memberships authorized and issued by the Exchange under its Third Amended and Restated LLC Agreement (the “LLC Agreement”). See LLC Agreement, Section 6.1(a).

<sup>4</sup> When making its determination whether good cause has been shown to waive the limitations contained in this rule, the Board must consider whether an operational, business or regulatory need to exceed the limits has been demonstrated, and in those cases where such a need is demonstrated, the Board must also consider any operational, business or regulatory concerns may be raised if such a waiver were granted. See Supplementary Material .01 to Rule 303.

approval if the member and its affiliates would, as a result, be approved to exercise trading privileges associated with more than 30% of all outstanding PMM memberships.<sup>5</sup> Section 6.5(b) of ISE's Third Amended and Restated Limited Liability Company Agreement (the "LLC Agreement") contains the same 30% strict cap as Rule 303(b). This limitation on exercising PMM trading privileges is in addition to ownership and voting limitations in the LLC Agreement and in the Exchange's rules that prohibit any member from owning (or voting the shares representing) more than 20% of any class of membership.<sup>6</sup>

Due to the continued concentration and specialization in the options market making community, and the decreasing number of market makers available to operate these memberships, the Exchange is proposing to eliminate the 30% cap on the number of PMM memberships that the Board can approve for a member to operate.

As the number of market makers decreases, the Exchange is concerned that there may not be a sufficient number of members qualified to be PMMs if the Exchange retains the current 30% cap (thus limiting a member to operating three PMM memberships). The options markets are highly competitive, and each exchange actively seeks to attract order flow by disseminating tight and liquid markets and by providing a high level of customer satisfaction. Ensuring that the Exchange has high quality PMMs is critical in this competitive battle.

The Exchange believes that the proposed approach is consistent with treatment on other markets that do not have strict market maker concentration limits, and will enable

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<sup>5</sup> In 2006, the Commission approved an ISE proposal to increase the maximum number of PMM memberships that an ISE member may operate from two to three PMM memberships. See Securities Exchange Act Release No. 53271 (February 10, 2006), 71 FR 8625 (February 17, 2006) (SR-ISE-2005-46) (Approval Order).

the Board to approve members to operate multiple PMM memberships after the Board determines that good cause has been shown and if doing so would be in the best interest of the Exchange.

The Commission has previously approved rule changes that eliminated mandatory caps on the number of issues that may be allocated to market makers on other markets, such as on Pacific Exchange, Inc. (“PCX”) (n/k/a “NYSE Arca”), where the Commission approved a rule change by PCX to eliminate its Lead Market Maker (“LMM”) concentration limit of 15% of the issues traded on the PCX options floor.<sup>7</sup> There, the Commission noted that PCX’s concentration limits served the purpose of minimizing the disturbance to a fair and orderly market that may otherwise result from the failure of an LMM. However, the Commission also noted that other exchanges did not impose specified mandatory limits on the number of options that may be allocated to specialists, citing to the rules of the Chicago Board Options Exchange (“CBOE”).<sup>8</sup> In addition, the Commission has previously granted registration to new exchanges that do not have similar concentration limits.<sup>9</sup>

The Exchange recognizes that increasing the number of PMM memberships a member can operate could raise issues regarding concentration of market making expertise. In this regard, the proposed rule change is only an enabling rule. With the proposed change, the Board will still be required to show good cause to approve any member to operate more than one PMM membership, and could consider the number of

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<sup>6</sup> See LLC Agreement, Section 6.5(a); Supplementary Material .02 to Rule 303. The Exchange is not proposing any changes to the ownership and voting limitations.

<sup>7</sup> See Securities Exchange Act Release Nos. 47795 (May 5, 2003), 68 FR 25074 (May 9, 2003) (Notice); 48029 (June 13, 2003), 68 FR 37187 (June 23, 2003) (SR-PCX-2002-25) (Approval Order).

<sup>8</sup> See CBOE Rule 8.84 (Rule 8.84 does not impose a mandatory cap on the number of issues that may be allocated to a Designated Primary Market-Maker (“DPM”).

memberships already by the member in determining whether or not there is good cause shown. Thus, the Board will need to weigh each potential application on its own merits, balancing the potential benefits of allowing a member to exercise more than one PMM membership against any potential concentration concerns. The Board would not be prohibited under the rules and under the LLC Agreement, however, from approving PMMs to operate more than a specified percentage of outstanding memberships.

## 2. Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>10</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act,<sup>11</sup> because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The options industry continues to experience a consolidation and decrease in the number of market makers and therefore, the Exchange is proposing a rule change that would eliminate the 30% PMM cap and would allow the Board the flexibility to approve or deny each potential PMM application based upon its determination of whether good cause had been shown and if doing so would be in the best interest of the Exchange. Also as noted above, the Commission has previously approved rule changes eliminating mandatory caps on the number of issues that may be allocated to market makers on other markets, and has granted registration to new exchanges that do not have similar

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<sup>9</sup> See MIAX Options Exchange (“MIAX”) Rules.

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

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

concentration limits. The Exchange therefore believes that the proposed rule change is designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system. Furthermore, this proposed rule change would not amend the current prohibitions in the LLC Agreement and in the Exchange's rules against a member owning or voting more than 20% of any class of membership. Thus, the only way a member could operate more than 30% of all outstanding PMM memberships would be to lease such membership, with the lease providing that the lessor retains all voting rights.<sup>12</sup>

B. Self-Regulatory Organization's

Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>13</sup> 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. To the contrary, the Exchange believes that the proposed rule change will increase competition among market makers to be approved as a PMM on the Exchange, thus allowing the Exchange to choose the most qualified PMM that will provide the Exchange with strong market making capabilities. Also as noted above, other markets do not have comparable mandatory caps or concentration limits, so eliminating the 30% PMM cap will bring the Exchange's rules in line with its competitors.

C. Self-Regulatory Organization's Statement on

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<sup>12</sup> See ISE Second A&R Constitution, Section 12.4; Supplementary Material .02 to Rule 303.

<sup>13</sup> 15 U.S.C. 78f(b)(8).

Comments on the Proposed Rule Change  
Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

The Exchange provided the Commission with written notice of its 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 the proposed rule change, or such shorter time as designated by the Commission, as required by Rule 19b-4(f)(6).

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 change should be approved or disapproved.

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

#### 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 E-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2016-07 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2016-07. This file number should be included on the subject line if e-mail 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 Commissions 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 website viewing and printing in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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-2016-07 and should be submitted by [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).

Exhibit 5-A

Text of the Proposed Rule Change

Underlining indicates additions; [brackets] indicate deletions.

\* \* \*

**Rule 303. Approval to Operate Multiple Memberships**

(a) An applicant to become a Member or an approved Member may seek approval to exercise trading privileges associated with more than one Membership in the form and manner prescribed by the Exchange.

(b) An applicant or approved Member will be denied approval with respect to a particular Membership if (together with any of its affiliates) approval would result in the applicant or approved Member being approved to exercise the trading privileges associated with more than one (1) Primary Market Maker Membership or more than ten (10) Competitive Market Maker Memberships. This requirement may be waived by the Board for good cause shown, but in no event shall the Board waive this requirement if such waiver would result in the applicant or approved Member (together with any of its affiliates) being approved to exercise trading privileges associated with [more than 30% of the outstanding Primary Market Maker Memberships or] more than 20% of the outstanding Competitive Market Maker Memberships.

***Supplementary Material to Rule 303***

.01 When making its determination whether good cause has been shown to waive the limitations contained in Rule 303(b), the Board will consider whether an operational, business or regulatory need to exceed the limits has been demonstrated. In those cases where such a need is demonstrated, the Board also will consider any operational, business or regulatory concerns that might be raised if such a waiver were granted. The Board only will waive such limitations when, in its judgment, such action is in the best interest of the Exchange.

.02 In approving any Primary Market Maker to exercise the trading privileges associated with more than 20% of the outstanding Primary Market Maker Memberships, the Board will not approve any arrangement in which such Primary Market Maker would gain ownership or voting rights in excess of those permitted under the Exchange's LLC Agreement or Constitution.

\* \* \*

Exhibit 5-B  
Text of the Proposed Rule Change  
Underlining indicates additions; [brackets] indicate deletions.

THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY  
AGREEMENT

OF

INTERNATIONAL SECURITIES EXCHANGE, LLC

\* \* \*

**Section 6.5. Concentration/Voting Limits on Exchange Rights.**

\* \* \*

(b) An Exchange Member (as defined in the Constitution), together with any affiliate, may not be approved to exercise the trading rights associated with [more than thirty percent (30%) of the PMM Rights, nor] more than twenty percent (20%) of the CMM Rights. The Company may establish further limitations relating to the Company's approval of an Exchange Member's ability to effect Exchange Transactions, as such term is defined in the Constitution.

\* \* \*