Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

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

Secretary & General Counsel

04/01/2016

Date

(Title *)

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 04/01/2016

Secretary & General Counsel

(Title *)

By Michael Simon

(Persona Not Validated - 1436897254872,

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.
**Form 19b-4 Information**

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**

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**

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**

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**

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**

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**

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**

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 amend its Schedule of Fees as described below. The text of the rule amendment is attached as Exhibit 5.

   (b) Inapplicable.

   (c) Inapplicable.

2. **Procedures of the Self-Regulatory Organization**

   The Exchange staff approved this proposed rule change pursuant to authority delegated to it by the Exchange’s Board of Directors. This action constitutes the requisite approval under the Exchange’s Certificate of Formation, Operating 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 this proposed rule change is to amend the Schedule of Fees to modify the Regular Order Fee for Responses to Crossing Orders in Select\(^1\) and Non-Select Symbols and Fee for Non-Select Symbols.

   The Exchange proposes the following two fee changes. First, the Exchange proposes to change the Fee for Responses to Crossing Orders in Select and Non-Select Symbols for all members from $0.47 per contract to $0.50 per contract. Next, the Exchange proposes to change the Fees in Non-Select Symbols charged to Non-ISE Market Maker (“FarMM”),\(^2\) Firm Proprietary\(^3\) / Broker-Dealer,\(^4\) and Professional Customer\(^5\) from $0.50 per contract to $0.72 per contract.

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\(^{1}\) “Select Symbols” are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

\(^{2}\) A Non-ISE Mercury Market Maker, or Far Away Market Maker (“FARMM”), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended (“Exchange Act”), registered in the same options class on another options exchange.

\(^{3}\) A Firm Proprietary order is an order submitted by a member for its own proprietary account.

\(^{4}\) A Broker-Dealer order is an order submitted by a member for a non-member broker-dealer account.

\(^{5}\) A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.
(b) **Basis** – The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,\(^6\) in general, and Section 6(b)(4) of the Act,\(^7\) in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed fee increases are reasonable and equitable as the proposed fees are set at levels that the Exchange believes will continue to be attractive to market participants that trade on ISE. Moreover, the proposed fees are competitive with fees charged by other options exchanges and remain attractive to members for this reason. For example, ISE’s proposed Fee for Responses to Crossing Orders in Select Symbols is the same as ISE Mercury’s Fee for Responses to Crossing Orders (excluding Market Makers) in Penny Symbols.\(^8\) Further, ISE’s proposed Fee for Responses to Crossing Orders in Non-Select Symbols is less than ISE Mercury’s Fee for Responses to Crossing Orders (excluding Market Makers) in Non-Penny Symbols.\(^9\) Additionally, the Regular Order Non-Select Symbol Fee of $0.72 is less than the Electronic, Non-Penny Classes fee of $0.75 charged by the Chicago Board Options Exchange.\(^10\)

The Exchange also notes that the proposed Fees for Responses to Crossing Orders are not unfairly discriminatory because they apply equally to all members. Additionally, the Exchange further notes that for the Non-Select Symbol Fee, Priority Customers will continue to be charged no fee, while other market participants will continue to pay a fee. The Exchange does not believe that this is unfairly discriminatory as a Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers. With respect to Market Maker orders, the Exchange believes that it is reasonable and equitable to keep their fees the same because Market Makers are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

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\(^8\) See ISE Mercury Fee Schedule, Regular Order Fees and Rebates, Table 2 at http://www.ise.com/assets/mercury/documents/OptionsExchange/legal/fee/Mercury_Fee_Schedule.pdf.

\(^9\) Id.

\(^10\) See CBOE Fee Schedule, Equity Options Rate Table, Transaction Fee Per Contract at http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf.
4. Self-Regulatory Organization’s Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, 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. The Exchange believes that the proposed fees remain competitive with fees charged by other options exchanges as discussed above. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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)(ii) of the Act, the Exchange has designated this proposal as establishing or changing a due, fee or other charge imposed on any person, whether or not the person is a member of a self-regulatory organization, which renders the proposed rule change effective upon filing.

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

The proposed rule change is not based on the rules of another self-regulatory organization.

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.
Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE proposes to amend the Schedule of Fees as described in more detail below.

The text of the proposed rule change is available on the Exchange’s Internet website at http://www.ise.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

1. **Purpose**

   The purpose of this proposed rule change is to amend the Schedule of Fees to modify the Regular Order Fee for Responses to Crossing Orders in Select\(^3\) and Non-Select Symbols and Fee for Non-Select Symbols.

   The Exchange proposes the following two fee changes. First, the Exchange proposes to change the Fee for Responses to Crossing Orders in Select and Non-Select Symbols for all members from $0.47 per contract to $0.50 per contract. Next, the Exchange proposes to change the Fees in Non-Select Symbols charged to Non-ISE Market Maker (“FarMM”),\(^4\) Firm Proprietary\(^5\) / Broker-Dealer,\(^6\) and Professional Customer\(^7\) from $0.50 per contract to $0.72 per contract.


\(^3\) “Select Symbols” are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

\(^4\) A Non-ISE Mercury Market Maker, or Far Away Market Maker (“FARMM”), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended (“Exchange Act”), registered in the same options class on another options exchange.

\(^5\) A Firm Proprietary order is an order submitted by a member for its own proprietary account.

\(^6\) A Broker-Dealer order is an order submitted by a member for a non-member broker-dealer account.

\(^7\) A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.
2. **Basis**

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,\(^8\) in general, and Section 6(b)(4) of the Act,\(^9\) in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed fee increases are reasonable and equitable as the proposed fees are set at levels that the Exchange believes will continue to be attractive to market participants that trade on ISE. Moreover, the proposed fees are competitive with fees charged by other options exchanges and remain attractive to members for this reason. For example, ISE’s proposed Fee for Responses to Crossing Orders in Select Symbols is the same as ISE Mercury’s Fee for Responses to Crossing Orders (excluding Market Makers) in Penny Symbols.\(^{10}\) Further, ISE’s proposed Fee for Responses to Crossing Orders in Non-Select Symbols is less than ISE Mercury’s Fee for Responses to Crossing Orders (excluding Market Makers) in Non-Penny Symbols.\(^{11}\) Additionally, the Regular Order Non-Select Symbol Fee of $0.72 is less than the Electronic, Non-Penny Classes fee of $0.75 charged by the Chicago Board Options Exchange.\(^{12}\)

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\(^{10}\) See ISE Mercury Fee Schedule, Regular Order Fees and Rebates, Table 2 at http://www.ise.com/assets/mercury/documents/OptionsExchange/legal/fee/Mercury_Fee_Schedule.pdf.

\(^{11}\) Id.

\(^{12}\) See CBOE Fee Schedule, Equity Options Rate Table, Transaction Fee Per Contract at http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf.
The Exchange also notes that the proposed Fees for Responses to Crossing Orders are not unfairly discriminatory because they apply equally to all members. Additionally, the Exchange further notes that for the Non-Select Symbol Fee, Priority Customers will continue to be charged no fee, while other market participants will continue to pay a fee. The Exchange does not believe that this is unfairly discriminatory as a Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers. With respect to Market Maker orders, the Exchange believes that it is reasonable and equitable to keep their fees the same because Market Makers are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

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

In accordance with Section 6(b)(8) of the Act, 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. The Exchange believes that the proposed fees remain competitive with fees charged by other options exchanges as discussed above. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For

the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act, and subparagraph (f)(2) of Rule 19b-4 thereunder, because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

• Use the Commission's Internet comment form
  
  http://www.sec.gov/rules/sro.shtml; or

• Send an E-mail to rule-comments@sec.gov. Please include File No. SR-ISE-2016-09 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-ISE-2016-09. 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 inspection and copying 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 Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2016-09 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.\textsuperscript{16}

Secretary

\textsuperscript{16} 17 CFR 200.30-3(a)(12).
**Exhibit 5 - Text of the Proposed Rule Change**

*Underlining indicates additions; [Brackets] indicate deletion*

I. **Regular Order Fees and Rebates**

<table>
<thead>
<tr>
<th>Market Participant</th>
<th>Maker Rebate / Fee</th>
<th>Taker Fee</th>
<th>Fee for Crossing Orders$^{(1)(2)}$</th>
<th>Fee for PIM Orders of 100 or Fewer Contracts$^{(1)(2)(12)(13)}$</th>
<th>Fee for Responses to Crossing Orders</th>
<th>PIM Break-up Rebate$^{(3)}$</th>
<th>Facilitation and Solicitation Break-up Rebate$^{(4)}$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1 Market Maker Plus$^{(5)}$</td>
<td>$(0.10)^{(10)}$</td>
<td>$0.44$</td>
<td>$0.20$</td>
<td>$0.05$</td>
<td>$(0.4750)$</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Tier 2 Market Maker Plus$^{(5)}$</td>
<td>$(0.18)^{(10)}$</td>
<td>$0.44$</td>
<td>$0.20$</td>
<td>$0.05$</td>
<td>$(0.4750)$</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Tier 3 Market Maker Plus$^{(5)}$</td>
<td>$(0.22)^{(10)}$</td>
<td>$0.44$</td>
<td>$0.20$</td>
<td>$0.05$</td>
<td>$(0.4750)$</td>
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<td>N/A</td>
</tr>
<tr>
<td>Market Maker$^{(9)}$</td>
<td>$0.10$</td>
<td>$0.44$</td>
<td>$0.20$</td>
<td>$0.05$</td>
<td>$(0.4750)$</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Non-ISE Market Maker (FarMM)</td>
<td>$0.10$</td>
<td>$0.45$</td>
<td>$0.20$</td>
<td>$0.05$</td>
<td>$(0.4750)$</td>
<td>$(0.35)$</td>
<td>$(0.15)$</td>
</tr>
<tr>
<td>Firm Proprietary / Broker-Dealer</td>
<td>$0.10$</td>
<td>$0.45$</td>
<td>$0.20$</td>
<td>$0.05$</td>
<td>$(0.4750)$</td>
<td>$(0.35)$</td>
<td>$(0.15)$</td>
</tr>
<tr>
<td>Professional Customer</td>
<td>$0.10$</td>
<td>$0.45$</td>
<td>$0.20$</td>
<td>$0.05$</td>
<td>$(0.4750)$</td>
<td>$(0.35)$</td>
<td>$(0.15)$</td>
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<tr>
<td>Priority Customer</td>
<td>$0.00$</td>
<td>$0.30^{(7)}$</td>
<td>$0.00$</td>
<td>$0.00$</td>
<td>$(0.4750)$</td>
<td>$(0.35)$</td>
<td>$(0.15)$</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Market Participant</th>
<th>Fee $^{(6)}$</th>
<th>Fee for Crossing Orders$^{(1)(2)}$</th>
<th>Fee for PIM Orders of 100 or Fewer Contracts$^{(1)(2)(12)(13)}$</th>
<th>Fee for Responses to Crossing Orders</th>
<th>PIM Break-up Rebate$^{(3)}$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market Maker</td>
<td>$0.25$</td>
<td>$0.25$</td>
<td>$0.05$</td>
<td>$(0.4750)$</td>
<td>N/A</td>
</tr>
<tr>
<td>Market Maker (for orders sent by Electronic Access Members)</td>
<td>$0.20$</td>
<td>$0.20$</td>
<td>$0.05$</td>
<td>$(0.4750)$</td>
<td>N/A</td>
</tr>
<tr>
<td>Non-ISE Market Maker (FarMM)</td>
<td>$0.50$</td>
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