

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81971; File No. SR-ISE-2017-94]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Optional Kill Switch Protection

October 27, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 18, 2017, Nasdaq ISE, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to memorialize an optional Kill Switch protection.³ The Kill Switch allows Members to cancel open orders and prevent new order submission.

The text of the proposed rule change is available on the Exchange’s Web site at 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 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 Exchange proposes to memorialize its Kill Switch risk protection which is applicable to all Members at ISE Rule 711(d). The Kill Switch allows Members to cancel open orders and prevent new order submission. This feature provides Members with a powerful risk management tool for immediate control of their order activity.

The Kill Switch is an optional tool that enables Members to initiate a message(s)⁴ [sic] to the trading system (“System”) to promptly cancel orders and restrict entry of new orders until re-entry has been enabled. Members may submit a request to the System to cancel orders for that Member. Members may not remove orders by symbol using the Kill Switch. The System will send an automated message to the Member when a Kill Switch request has been processed by the Exchange’s System.⁵

The Member must send a message to the Exchange to request the cancellation of all orders for the Member. The Member is unable to enter additional orders until re-entry has been enabled pursuant to subsection (d)(2) of Rule 711.

Proposed subsection (d)(2) stipulates that after orders are cancelled by the Member utilizing the Kill Switch, the Member is unable to enter additional orders until the Member has made a request to the Exchange and Exchange staff has set a re-entry indicator to enable re-entry.⁶ Once enabled for re-entry, the System will send a Re-entry Notification Message to the Member. The applicable Clearing Member for that Member also is notified of the re-entry into the System after orders are cancelled as a result of the Kill Switch, provided the Clearing Member has requested to receive such notification.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁷ in general, and furthers the

objectives of Section 6(b)(5) of the Act⁸ in particular, in that it is designed 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, by memorializing a risk protection available to Exchange Members. This risk feature promotes policy goals of the Commission which has encouraged execution venues, exchange and non-exchange alike, to offer risk protection tools and other mechanisms to decrease risk and increase stability. The Exchange believes that memorializing this feature will provide Members with specific information on cancelling orders.

The individual firm benefits of enhanced risk protections flow downstream to counter-parties both at the Exchange and at other options exchanges, thereby increasing systemic protections as well. This risk feature allows Members to enter orders without fear of inadvertent exposure to excessive risk, which in turn benefits investors through increased liquidity for the execution of their orders, thereby protecting investors and the public interest. By memorializing the features in this rule change, Members are aware of the impact of utilizing this risk tool.

This optional risk tool as noted above is offered to all Members. The Exchange further represents that its proposal operates consistently with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS and that the functionality is not mandatory. Specifically, any interest that is executable against a Member’s orders that are received⁹ by the Exchange, prior to the time the Kill Switch is processed by the System, will automatically execute at the price up to the Member’s size prior to the removal of orders from the System as a result of the Kill Switch. The Kill Switch message is accepted by the System in the order of receipt in the queue and is processed in that order so that interest that is already accepted into the System is processed prior to the Kill Switch message.

With respect to providing information regarding the cancellation of orders as a result of the Kill Switch to the Clearing Member, each Member that transacts through a Clearing Member on the Exchange accepts financial responsibility for all Exchange transactions made by the Member on

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Today, this feature is offered to Members. ISE transitioned from its legacy trading system to INET, the current technology, in 2017. While ISE offered this feature on its legacy system, the feature was not codified in the ISE Rulebook. At this time, the Exchange is codifying the Kill Switch feature to reflect the functionality.

⁴ Members are able to send a message to the Exchange to initiate the Kill Switch or they may contact the Exchange directly. A message to remove orders may be sent through FIX, OTTO or Precise.

⁵ Opening Sweep Orders will also be cancelled. Consistent with current auction functionality, PIM auction orders and responses will not be cancelled. See ISE Rule 723. Other auctions orders and responses would cancel. Quotes are unaffected.

⁶ The Member must directly and verbally contact the Exchange to request the re-set.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ The time of receipt for an order is the time such message is processed by the Exchange Order Book.

whose behalf the Clearing Member agrees to clear.¹⁰ The Exchange believes that because Clearing Members guarantee all transactions on behalf of a Member, and therefore bear the risk associated with those transactions, it is appropriate for Clearing Members to have knowledge of the utilization by the member [sic] of the Kill Switch, should the Clearing Member request such notification.

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. The proposal does not impose an undue burden on intra-market competition because all Members may avail themselves of the Kill Switch. The Kill Switch functionality is optional. The proposed rule change protects Members in the event the Member is suffering from a systems issue or from the occurrence of unusual or unexpected market activity that would require them to withdraw from the market in order to protect investors. Utilizing this Kill Switch will permit the Member to protect itself from inadvertent exposure to excessive risk. Reducing such risk will enable Members to enter orders without fear of inadvertent exposure to excessive risk, which in turn will benefit investors through increased liquidity for the execution of their orders. Such increased liquidity benefits investors because they receive better prices and because it lowers volatility in the options market. For these reasons, the Exchange does not believe this proposal imposes an undue burden on inter-market competition because other exchanges offer the same functionality, which is being memorialized herein.

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: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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)(iii) of the Act¹¹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹²

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal is similar to the rules of other options exchanges and the Exchange's proposal does not raise any new or novel issues. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.¹⁴

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.

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-ISE-2017-94 on the subject line.

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2017-94. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2017-94, and should be submitted on or before November 24, 2017.

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

Eduardo A. Aleman,

Assistant Secretary.

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¹⁰ See ISE Rule 808(b).

¹⁵ 17 CFR 200.30-3(a)(12).