

• Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4-566 on the subject line.

#### Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number 4-566. 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 plan that are filed with the Commission, and all written communications relating to the proposed plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the plan also will be available for inspection and copying at the principal offices of BATS, BYX, CBOE, CHX, EDGA, EDGX, FINRA, NASDAQ OMX BX, NASDAQ OMX Phlx, NASDAQ, NSX, NYSE, NYSE Amex, and NYSE Arca. 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 4-566 and should be submitted on or before January 12, 2012.

#### V. Discussion

The Commission finds that the Plan, as proposed to be amended, is consistent with the factors set forth in Section 17(d) of the Act<sup>15</sup> and Rule 17d-2<sup>16</sup> thereunder in that it is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. The Commission continues to believe that the Plan, as amended, should reduce unnecessary regulatory

duplication by allocating regulatory responsibility for the surveillance, investigation, and enforcement of Common Rules to FINRA. Accordingly, the proposed amendment to the Plan promotes efficiency by consolidating these regulatory functions in a single SRO. Under paragraph (c) of Rule 17d-2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The purpose of the amendment is to amend the Plan to reflect that BATS has adopted rules for the qualification, listing, and delisting of companies on BATS. Accordingly, the amendment expands the coverage of Listed Stocks to include an equity security that is listed on BATS. The Commission believes that the amended Plan should become effective without undue delay in order to reflect the expanded coverage to BATS-listed securities.

In addition, the Commission notes that the prior version of this Plan was published for comment, and the Commission did not receive any comments thereon.<sup>17</sup> Finally, the Commission does not believe that the amendment to the Plan raises any new regulatory issues that the Commission has not previously considered.

#### VI. Conclusion

This order gives effect to the amended Plan submitted to the Commission that is contained in File No. 4-566.

*It is therefore ordered*, pursuant to Section 17(d) of the Act,<sup>18</sup> that the Plan, as amended, is hereby approved and declared effective.

*It is further ordered* that the Participating Organizations are relieved of those regulatory responsibilities allocated to FINRA under the amended Plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

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

[FR Doc. 2011-32753 Filed 12-21-11; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65968; File No. SR-ISE-2011-83]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 15, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 2, 2011, International Securities Exchange, LLC (the "Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III 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 Substance of the Proposed Rule Change

The ISE proposes to amend its rules relating to a pilot program to quote and to trade certain options in pennies ("Penny Pilot Program"). The text of the proposed rule change is as follows, with deletions in [brackets] and additions are *underlined*:

##### Rule 710. Minimum Trading Increments

(a) The Board may establish minimum trading increments for options traded on the Exchange. Such changes by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Rule 710 within the meaning of subparagraph (3)(A) of Section 19(b) of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1) If the options contract is trading at less than \$3.00 per option, \$.05; and

(2) If the options contract is trading at \$3.00 per option or higher, \$.10.

(b) Minimum trading increments for dealings in options contracts other than those specified in paragraph (a) may be fixed by the Exchange from time to time for options contracts of a particular series.

(c) Notwithstanding the above, the Exchange may trade in the minimum variation of the primary market in the underlying security.

#### Supplementary Material to Rule 710

.01 Notwithstanding any other provision of this Rule 710, the Exchange will operate

<sup>17</sup> See *supra* note 11.

<sup>18</sup> 15 U.S.C. 78q(d).

<sup>19</sup> 17 CFR 200.30-3(a)(34)

<sup>15</sup> 15 U.S.C. 78q(d).

<sup>16</sup> 17 CFR 240.17d-2

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

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

a pilot program, *scheduled to expire on June 30, 2012*, to permit options classes to be quoted and traded in increments as low as \$.01. The Exchange will specify which options trade in such pilot, and in what increments, in Regulatory Information Circulars filed with the Commission pursuant to Rule 19b-4 under the Exchange Act and distributed to Members.

The Exchange may replace [, on a semi-annual basis,] any penny pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the penny pilot, based on trading activity in the previous six months. The replacement issues may be added to the penny pilot on the second trading day following January 1, 2012 [2011 and July 1, 2011].

.02 No Change.

\* \* \* \* \*

## 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 parts of such statements.

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

#### 1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 Exchange Traded Fund ("SPY") and the iShares Russell 2000 Index Fund ("IWM"), is \$0.01 for all quotations in options series that are quoted at less than \$3 per contract and \$0.05 for all quotations in options series that are quoted at \$3 per contract or greater. QQQQ, SPY and IWM are quoted in \$0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31, 2011.<sup>3</sup> The Exchange proposes to extend the time period of the Penny Pilot Program through June 30, 2012, and to provide revised dates for adding replacement issues to the Penny Pilot program. The Exchange proposes that any Penny Pilot Program issues that have been delisted

may be replaced on the second trading day following January 1, 2012. The replacement issues will be selected based on trading activity for the six month period beginning June 1, 2011, and ending November 30, 2011. This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

The Exchange agrees to submit reports to the Commission that will analyze the impact of the Penny Pilot Program on market quality and options systems capacity. These reports will include, but are not limited to: (1) Data and analysis on the number of quotations generated for options included in the report; (2) an assessment of the quotation spreads for the options included in the report; (3) an assessment of the impact of the Penny Pilot Program on the capacity of the ISE's automated systems; (4) data reflecting the size and depth of markets; and (5) any capacity problems or other problems that arose related to the operation of the Penny Pilot Program and how the Exchange addressed them.

#### 2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Exchange Act") for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, 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. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited, and does not intend to solicit, 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: (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) of the Act<sup>4</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>5</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 as required by Rule 19b-4(f)(6).<sup>6</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

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

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2011-83 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-ISE-2011-83. This file number should be included on the subject line if email is used. To help the

<sup>3</sup> See Exchange Act Release No. 63437 (December 6, 2010), 75 FR 77032 (December 10, 2010).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6)(iii).

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

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-ISE-2011-83 and should be submitted on or before January 12, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

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

[FR Doc. 2011-32748 Filed 12-21-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65994; File No. SR-DTC-2011-12]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules Relating to DTC's Deposits Service Guide

December 16, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 14, 2011, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I and II below, which items have been prepared

primarily by DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b-4(f)(4) thereunder so that the proposed rule change was effective upon filing with the Commission.<sup>2</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The purpose of this proposed rule change is to update DTC's Deposits Service Guide in order to streamline the document and to mitigate certain risks associated with certain deposit processes.<sup>3</sup>

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

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>4</sup>

##### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### (1) Purpose

DTC's deposits service allow participants to use a full range of safekeeping and processing services for various types of eligible securities. DTC is now proposing to update its Deposits Service Guide ("Deposits Guide") in order to streamline the document and to mitigate risk associated with certain deposit processes. DTC is also proposing to make some ministerial changes regarding methods of notification, definitions, and communication inputs in order to provide a more precise version of the Deposits Guide.<sup>5</sup>

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii) and 17 CFR 240.19b-4(f)(4).

<sup>3</sup> The text of the proposed rule change is attached as Exhibit 5 to DTC's filing, which is available at [www.dtcc.com/downloads/legal/rule\\_filings/2011/dtc/2011-12.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2011/dtc/2011-12.pdf).

<sup>4</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>5</sup> For example, DTC detailed the PBS functions that participants have the ability to use with the deposit service and made changes to phone numbers and contact information.

Specifically, DTC is proposing to make the following updates to the Deposits Guide:

(a) DTC is proposing to update the procedure associated with the use of Medallion Signature Guarantee stamps as it relates to its Branch Deposit Service in order to document the process that it takes to safeguard the use and storage of such stamps.

(b) DTC is proposing to add a section to the Deposits Guide detailing its Paperless Legal Transfer Program.<sup>6</sup>

(c) DTC is proposing to remove the narrative describing its custody services because such services are fully described in DTC's Custody Service Guide.<sup>7</sup>

###### (2) Statutory Basis

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC because proposed changes to the procedures associated with DTC's deposit service should facilitate the prompt and accurate clearance and settlement of securities transactions by reducing the costs, inefficiencies, and risks associated with the physical safekeeping of securities. In so doing, the proposal should in turn also enhance the use of DTC's existing services.

##### (B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change would impose any burden on competition.

##### (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 DTC. DTC will notify the Commission of any written comments received by DTC.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(4)<sup>9</sup> thereunder because it is a change in an existing service that does not adversely affect the safeguarding of

<sup>6</sup> For more information regarding DTC's Paperless Legal Transfer Program, see Important Notices B#6931 (September 29, 2004), B#7139 (December 1, 2004), and B#9787 (June 21, 2006).

<sup>7</sup> The language DTC is proposing to eliminate from the Deposit Guide continues to be included in the Custody Service Guide.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(4).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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