



8011-01  
SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-80184; File No. SR-ISEGemini-2017-09)

March 9, 2017

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Schedule of Fees

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 February 27, 2017, ISE Gemini, LLC (“ISE Gemini” 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 Substance of the Proposed Rule Change

The Exchange proposes to amend the Schedule of Fees to (1) eliminate fees and rebates for trades in Calpine Corporation executed on February 27 – 28, 2017, and (2) modify the Exchange’s average daily volume calculation for March 2017.

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.

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

---

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

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

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 proposed rule change is to amend the Schedule of Fees to (1) eliminate fees and rebates for trades in Calpine Corporation ("CPN") executed on February 27 – 28, 2017, and (2) modify the Exchange's average daily volume ("ADV") calculation for March 2017. These changes are both being made in connection with the migration of the Exchange's trading system to the Nasdaq INET technology, which is scheduled to begin on February 27, 2017.

The Exchange will launch its re-platformed INET trading system beginning with a single symbol – CPN – on February 27, 2017. The Exchange proposes to eliminate fees and rebates for trades in options overlying Symbol CPN executed on the INET trading system during the last two trading days of the month, i.e., February 27 – 28, 2017. Because the Exchange is eliminating fees and rebates for trades in this symbol, during this two day period trades in options overlying Symbol CPN will not be counted towards a member's tier for February activity. The proposed change would allow the Exchange to bill February fees solely based on activity traded on the current T7 trading system, and is an inducement for members to trade the first symbol launched on the INET trading system as there would be no transaction fees for doing so.

In addition, the Exchange currently provides volume-based maker rebates to Market Maker<sup>3</sup> and Priority Customer<sup>4</sup> orders in four tiers based on a member's ADV in the following categories: (1) Total Affiliated Member ADV,<sup>5</sup> and (2) Priority Customer Maker ADV,<sup>6</sup> as shown in the table below.<sup>7</sup> In addition, the Exchange charges volume based taker fees to market participants based on achieving these volume thresholds.

<b>Table 1</b>		
<b>Tier</b>	<b>Total Affiliated Member ADV</b>	<b>Priority Customer Maker ADV</b>
<b>Tier 1</b>	0 – 99,999	0 – 19,999
<b>Tier 2</b>	100,000 – 224,999	20,000 – 99,999
<b>Tier 3</b>	225,000 – 349,999	100,000 – 149,999
<b>Tier 4</b>	350,000 or more	150,000 or more

<sup>3</sup> The term Market Maker refers to “Competitive Market Makers” and “Primary Market Makers” collectively.

<sup>4</sup> A Priority Customer is a person or entity that is not a broker/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).

<sup>5</sup> The Total Affiliated Member ADV category includes all volume in all symbols and order types, including both maker and taker volume and volume executed in the PIM, Facilitation, Solicitation, and QCC mechanisms.

<sup>6</sup> The Priority Customer Maker ADV category includes all Priority Customer volume that adds liquidity in all symbols.

<sup>7</sup> All eligible volume from affiliated Members will be aggregated in determining applicable tiers, provided there is at least 75% common ownership between the Members as reflected on each Member's Form BD, Schedule A.

The highest tier threshold attained above applies retroactively in a given month to all eligible traded contracts and applies to all eligible market participants.

Any day that the market is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from the ADV calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.

The Exchange proposes to provide two alternatives for calculation of ADV during the month of March, i.e., the first month where members will be charged for trading activity on the INET trading system. In particular, for March 2017 only, all Qualifying Tier Threshold ADV calculations will be based on the better of (1) the member's full month ADV for the period of March 1 – 31, 2017, or (2) the member's ADV for the period of March 1 – 24, 2017. March 1 – 24, 2017 represents a partial month where, due to the Exchange's rollout of symbols on the INET trading system, the vast majority of volume is expected to trade on the current T7 trading system. On the following trading day, i.e., March 27, 2017, the Exchange intends to ramp up its symbol rollout, resulting in a large volume of trading occurring on the INET trading system.<sup>8</sup> The Exchange believes that the proposed approach to calculating tiers will minimize the impact to members that trade on the Exchange during the symbol rollout as members can achieve their tier either based on the full month or on the part of the month where trading primarily occurred on the current T7 trading system.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>9</sup> in general, and Section 6(b)(4) of the Act,<sup>10</sup> 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.

---

<sup>8</sup> The rollout scheduled for March 27, 2017 contains symbols that account for approximately 35% of the industry volume. Prior to that date, the Exchange expects to be trading symbols that account for between 2% and 3% of industry volume on the INET trading system.

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

The Exchange believes that it is reasonable and equitable to eliminate fees and rebates for CPN during the first two days of trading on the Exchange's re-platformed trading system. Eliminating fees and rebates for CPN during those two days will simplify the Exchange's billing and serve as an inducement for members to trade the first symbol migrated to the INET trading system. Because the Exchange is offering free executions in CPN, volume executed in CPN on February 27 – 28, 2017 will not be counted towards any volume based tiers. The Exchange believes that these two changes will be attractive to members that trade on the new INET trading system. The Exchange also believes that this proposed change is not unfairly discriminatory as it will apply to trades in CPN that are executed by all members. As noted above, CPN was selected for this treatment as it will be the first symbol traded on the INET trading system, and will be the only symbol traded on INET during February.

In addition, the Exchange believes that the proposed changes to the ADV tier calculation for March 2017 is reasonable and equitable as it will give members the opportunity to trade on the INET trading system while, if more favorable to the member, keeping their ADV tier based on the first portion of the month where most trading occurred on T7. The Exchange believes that this change is appropriate given the pending migration of the Exchange's trading system to INET. Come the first trading day of April, i.e., April 3, 2017, the Exchange intends to roll out the remaining symbols on INET,<sup>11</sup> and ADV tiers will once again be based solely on full month volume. The Exchange also believes that this proposed change is not unfairly discriminatory as the alternative means of calculating ADV tiers will be available to all members that trade on the Exchange, and will only be applied if it is better for the member.

---

<sup>11</sup> The Exchange intends to roll out symbols accounting for the remaining 62% to 63% of industry volume on this date.

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

In accordance with Section 6(b)(8) of the Act,<sup>12</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. The proposed changes are intended to ease members' transition to the re-platformed INET trading system and is not designed to have any significant competitive impact. 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

No written comments were either solicited or received.

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,<sup>13</sup> and Rule 19b-4(f)(2)<sup>14</sup> thereunder. 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.

---

<sup>12</sup> 15 U.S.C. 78f(b)(8).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

#### 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 Number SR-ISEGemini-2017-09 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-ISEGemini-2017-09. 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 Commission's Internet website (<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, 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; 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-ISEGemini-2017-09 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Eduardo A. Aleman  
Assistant Secretary

---

<sup>15</sup> 17 CFR 200.30-3(a)(12).



[FR Doc. 2017-05085 Filed: 3/14/2017 8:45 am; Publication Date: 3/15/2017]