

Required fields are shown with yellow backgrounds and asterisks.

Filing by ISE Mercury, LLC
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

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

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

Proposal to make a number of non-controversial and technical changes to Exchange rules.

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 11/03/2016

By Edward S. Knight

Executive Vice President and General Counsel

edward.knight@nasdaq.com

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 *

Add Remove View

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

Add Remove View

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

Add Remove View

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) ISE Mercury, LLC (“ISE Mercury” or the “Exchange”) proposes to make a number of non-controversial and technical changes to its rules as described in more detail below. The text of the proposed rule change is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Exchange staff approved this rule filing pursuant to delegated authority. This action constitutes the requisite approval under the Exchange’s Certificate of Formation, Operating Agreement and Constitution.

Questions and comments on the proposed rule change may be directed to:

Sun Kim
Assistant General Counsel
International Securities Exchange, LLC
212-897-0238

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

(a) Purpose – The Exchange is proposing to make a number of non-controversial changes and technical corrections to its rules. Specifically, these changes are all to correct typographical errors and delete obsolete rule text.¹ The changes are described in more detail below.

1. No Bid Options / Limit Price

Rule 713(b), which deals with priority of orders, provides that if the lowest offer for any options contract is \$0.05 then no member shall enter a market order to sell that series, and any such market order shall be considered a limit order to sell at a price of \$0.05. This provision is intended to prevent members from submitting market orders to sell in no bid series, which could execute at a price of \$0.00, and to instead convert those orders to limit orders with a limit price equal to the minimum trading increment, i.e.,

¹ See also Securities Exchange Act Release No. 73808 (December 10, 2014), 79 FR 74797 (December 16, 2014) (SR-ISE-2014-54) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Technical Corrections to the International Securities Exchange, LLC (“ISE”) Rules).

\$0.05 for most option classes.² A “no bid” or “zero bid” series refers to an option where the bid price is \$0.00. Series of options quoted no bid are usually deep out-of-the-money series that are perceived as having little if any chance of expiring in-the-money. For options that trade in regular nickel increments, a best offer of \$0.05 corresponds to a best bid of \$0.00, i.e. one minimum trading increment below the offer. However, option series may be no bid with other offer prices as well. For example, an option class would be considered no bid if it is quoted at \$0.00 (bid) - \$0.15 (offer). In order to avoid having these orders execute at a price of \$0.00, the Exchange proposes to clarify that Rule 713(b) applies to all option classes that are quoted no bid, rather than just those option classes that have an offer of \$0.05. Currently, options exchanges have in place a pilot (the “Penny Pilot”) to quote and trade options in one cent increments, lowering the minimum trading increment from \$0.05 in certain symbols. The Exchange therefore proposes to amend Rule 713(b) to clarify that the Exchange will put a limit price equal to the minimum trading increment on market orders to sell a no bid option series. For example, if the deep out-of-the-money SPY December \$230.00 call, which is traded in penny increments, is quoted at \$0.00 (bid) - \$0.03 (offer), a market order to sell would instead be treated as a limit order to sell at a price of \$0.01.

2. Non-displayed Penny Orders and Quotes

The Exchange currently has rules in place that allow members to enter non-displayed orders and quotes in penny increments in designated options with a minimum trading increment greater than one cent (“non-displayed penny orders and quotes”).³ A non-displayed penny order or quote is available for execution at its penny price but is displayed at the closest minimum trading increment that does not violate the limit price.⁴ The Exchange does not offer non-displayed penny orders or quotes and therefore proposes to delete obsolete references to this order type from its rules. First, the Exchange proposes to delete Rule 715(b)(4), which defines non-displayed penny orders. Second, the Exchange proposes to delete language in Rule 804(b)(1) and Rule 805(a) that permits market makers to enter non-displayed penny quotes and orders, respectively. Third, the Exchange proposes to delete language in Supplementary Material .06 to Rule 716 concerning split prices for non-displayed penny orders and quotes entered into the Facilitation and Solicitation Mechanisms. Finally, the Exchange proposes to delete language in Supplementary Material .03 to Rule 717 concerning the execution of non-displayed penny orders that an Electronic Access Member represents as agent against principal orders and orders solicited from other broker dealers.

² Symbols not included in the Penny Pilot generally trade in \$0.05 increments if the options contract is trading at less than \$3.00 per option, and \$0.10 increments if the options contract is trading at \$3.00 per option or higher. See Rule 710.

³ See Rule 715(b)(4), Rule 804(b)(1) and Rule 805(a).

⁴ See Rule 715(b)(4) and Rule 804(b)(1).

3. Customer Participation Orders

A customer participation order (“CPO”) is an order type that can be used by Public Customers⁵ to participate in the Price Improvement Mechanism (“PIM”).⁶ Upon entry of a Crossing Transaction into the PIM,⁷ a broadcast message is sent to all members, who then have 500 milliseconds to enter orders that indicate the size and price at which they want to participate in the execution (“Improvement Orders”).⁸ The CPO is an instruction to the member to enter an Improvement Order on behalf of a Public Customer. Specifically, a CPO is a limit order on behalf of a Public Customer that, in addition to the limit order price in standard increments, includes a price stated in one cent increments at which the Public Customer wishes to participate in trades executed in the same options series in penny increments through the PIM.⁹ The Exchange does not offer CPOs and therefore proposes to delete obsolete references to this order type from its rules. The Exchange first proposes to delete Rule 715(f), which defines CPOs. Furthermore, the Exchange proposes to remove two references to CPOs in other rules. Specifically, the Exchange proposes to remove references to CPOs in Supplementary Material .06 to Rule 723, which explains when Improvement Orders can be entered with respect to CPOs,¹⁰ and in Rule 723(d), which notes that the agency side of an order entered into the Price Improvement Mechanism may execute against CPOs at the end of the exposure period.

4. Linkage Rules

The Exchange proposes to delete Supplementary Material .04 and .05 to Rule 803, which contains duplicative and obsolete provisions relevant to away market routing.

⁵ The term “Public Customer” means a person or entity that is not a broker or dealer in securities. See Rule 100(a)(38).

⁶ The PIM is a process by which an Electronic Access Member can provide price improvement opportunities for a transaction wherein the Electronic Access Member seeks to facilitate an order it represents as agent, and/or a transaction wherein the Electronic Access Member solicited interest to execute against an order it represents as agent (a “Crossing Transaction”). See Rule 723(a).

⁷ A Crossing Transaction is comprised of the order the Electronic Access Member represents as agent (the “Agency Order”) and a counter-side order for the full size of the Agency Order (the “Counter-Side Order”). The Counter-Side Order may represent interest for the Member’s own account, or interest the Member has solicited from one or more other parties, or a combination of both. See Rule 723(b).

⁸ See Rule 723(c)(1).

⁹ See Rule 715(f).

¹⁰ Although CPOs are no longer available, members will continue to be able to enter Improvement Orders for the account of Public Customers.

In particular, the content of Supplementary Material .04 and .05 to Rule 803 is now contained in Supplementary Material .06 and .07 to Rule 1901¹¹ because linkage handling is performed by unaffiliated broker dealers (i.e., Linkage Handlers) on the Exchange. Therefore as described above, the Exchange proposes to delete this language from Rule 803, which concerns the obligations of market makers.

5. Supplementary Material

The Exchange notes that certain supplementary material is mistakenly labelled as “supplemental” material in the Exchange’s rulebook.¹² In order to achieve consistency with how other rules are labelled, the Exchange proposes to change these to instead refer to “supplementary” material. Finally, the Exchange proposes to make a non-substantive change to Supplementary Material to Rule 803, which concerns the obligations of market makers, by updating the word “To” to lower case.

(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.¹³ In particular, the proposal is consistent with Section 6(b)(5) of the Act¹⁴ 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 Exchange believes it is appropriate to make the proposed technical corrections to its rules so that Exchange members and investors have a clear and accurate understanding of the meaning of the ISE Mercury rules.

1. No Bid Options / Limit Price

The Exchange currently operates a pilot program to permit designated options classes to be quoted and traded in increments as low as one cent. The Exchange is proposing to amend Rule 713(b) to account for the fact that option classes selected for inclusion in the Penny Pilot are permitted to trade in penny increments. For penny classes that are quoted no bid, the Exchange will convert a market order to sell to a limit order with a price of one cent. In addition, the proposed rule change clarifies that Rule

¹¹ See Securities Exchange Act Release No. 73808 (December 10, 2014), 79 FR 74797 (December 16, 2014) (SR-ISE-2014-54) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Technical Corrections to the ISE Rules). Chapter 19 of the Exchange’s rulebook incorporates Chapter 19 of the ISE rulebook by reference.

¹² See “Supplemental” Material to Rules 717 and 809. See also reference in Rule 721(a)(3) to “Supplemental” Material .01 to Rule 717.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

713(b) applies to all series with a bid of \$0.00, and not just those series that also have an offer of \$0.05. The proposed rule change is necessary to account for options trading in multiple trading increments, including under the Penny Pilot, and will ensure that market orders to sell are not inadvertently executed at a price of zero. The Exchange believes that these changes more accurately reflect the intent of Rule 713(b), as described above, and will eliminate investor confusion with respect to the operation of this rule by more accurately describing the functionality provided by the Exchange.

2. Non-Displayed Penny Orders and Quotes / Customer Participation Orders

As explained above, the Exchange does not offer non-displayed penny orders and quotes or customer participation orders, and thus proposes to remove obsolete definitions and other outdated references to these order types. The Exchange believes that these changes will eliminate investor confusion regarding order types available for trading on ISE Mercury to the benefit of members and investors.

3. Linkage Rules

The proposed changes to the linkage rules are non-substantive and intended to reduce investor confusion. As explained above, the Exchange is deleting duplicative and obsolete rule text from Chapter 8 of its rulebook because linkage handling is handled by Linkage Handlers. Therefore, the Exchange believes that these rules are more appropriately located in Chapter 19 of the Exchange's rulebook, which incorporates by reference Chapter 19 of the ISE rulebook.

4. Supplementary Material

The proposed change to label supplementary material correctly is non-substantive and is intended to achieve consistency in how these rules are labelled to the benefit of members and investors.

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

In accordance with Section 6(b)(8) of the Act,¹⁵ 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 rule change makes technical, non-substantive amendments to the Exchange's rules in order to eliminate investor confusion, and is not designed to have any competitive impact.

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.

¹⁵

15 U.S.C. 78f(b)(8).

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,¹⁶ and Rule 19b-4(f)(6)¹⁷ 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.

For the reasons described below, the Exchange believes that the proposed rule change qualifies as a “non-controversial” rule change. The proposed rule change is consistent with the public interest and the protection of investors, and will not impose any significant burden on competition, as it makes technical amendments to the Exchange’s rules in order to eliminate investor confusion, including by making appropriate corrections to the Exchange’s rules for no bid options, eliminating order types not available on the Exchange, relocating certain linkage handling rules, and re-labelling “supplemental” material as “supplementary material.”

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 the rule change makes non-substantive, technical, changes to the Exchange’s rules. The Exchange believes that these changes should take effect on filing as they increase clarity of ISE Mercury rules to the benefit of members and investors that trade on the Exchange.

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

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(6).

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

All of the proposed rule changes are based on the rules of the International Securities Exchange, LLC.¹⁸

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.

¹⁸ See Securities Exchange Act Release No. 73808 (December 10, 2014), 79 FR 74797 (December 16, 2014) (SR-ISE-2014-54).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. _____ ; File No. SR-ISEMercury-2016-20)

November __, 2016

Self-Regulatory Organizations; ISE Mercury, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Non-Controversial and Technical Changes to Exchange Rules

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 November 3, 2016, ISE Mercury, LLC (“ISE Mercury” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 Exchange proposes to make a number of non-controversial and technical changes to its rules as described in more detail below.

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

¹ 15 U.S.C. 78s(b)(1).

² 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 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 is proposing to make a number of non-controversial changes and technical corrections to its rules. Specifically, these changes are all to correct typographical errors and delete obsolete rule text.³ The changes are described in more detail below.

1. No Bid Options / Limit Price

Rule 713(b), which deals with priority of orders, provides that if the lowest offer for any options contract is \$0.05 then no member shall enter a market order to sell that series, and any such market order shall be considered a limit order to sell at a price of \$0.05. This provision is intended to prevent members from submitting market orders to sell in no bid series, which could execute at a price of \$0.00, and to instead convert those orders to limit orders with a limit price equal to the minimum trading increment, i.e.,

³ See also Securities Exchange Act Release No. 73808 (December 10, 2014), 79 FR 74797 (December 16, 2014) (SR-ISE-2014-54) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Technical Corrections to the International Securities Exchange, LLC ("ISE") Rules).

\$0.05 for most option classes.⁴ A “no bid” or “zero bid” series refers to an option where the bid price is \$0.00. Series of options quoted no bid are usually deep out-of-the-money series that are perceived as having little if any chance of expiring in-the-money. For options that trade in regular nickel increments, a best offer of \$0.05 corresponds to a best bid of \$0.00, i.e. one minimum trading increment below the offer. However, option series may be no bid with other offer prices as well. For example, an option class would be considered no bid if it is quoted at \$0.00 (bid) - \$0.15 (offer). In order to avoid having these orders execute at a price of \$0.00, the Exchange proposes to clarify that Rule 713(b) applies to all option classes that are quoted no bid, rather than just those option classes that have an offer of \$0.05. Currently, options exchanges have in place a pilot (the “Penny Pilot”) to quote and trade options in one cent increments, lowering the minimum trading increment from \$0.05 in certain symbols. The Exchange therefore proposes to amend Rule 713(b) to clarify that the Exchange will put a limit price equal to the minimum trading increment on market orders to sell a no bid option series. For example, if the deep out-of-the-money SPY December \$230.00 call, which is traded in penny increments, is quoted at \$0.00 (bid) - \$0.03 (offer), a market order to sell would instead be treated as a limit order to sell at a price of \$0.01.

2. Non-displayed Penny Orders and Quotes

The Exchange currently has rules in place that allow members to enter non-displayed orders and quotes in penny increments in designated options with a minimum

⁴ Symbols not included in the Penny Pilot generally trade in \$0.05 increments if the options contract is trading at less than \$3.00 per option, and \$0.10 increments if the options contract is trading at \$3.00 per option or higher. See Rule 710.

trading increment greater than one cent (“non-displayed penny orders and quotes”).⁵ A non-displayed penny order or quote is available for execution at its penny price but is displayed at the closest minimum trading increment that does not violate the limit price.⁶ The Exchange does not offer non-displayed penny orders or quotes and therefore proposes to delete obsolete references to this order type from its rules. First, the Exchange proposes to delete Rule 715(b)(4), which defines non-displayed penny orders. Second, the Exchange proposes to delete language in Rule 804(b)(1) and Rule 805(a) that permits market makers to enter non-displayed penny quotes and orders, respectively. Third, the Exchange proposes to delete language in Supplementary Material .06 to Rule 716 concerning split prices for non-displayed penny orders and quotes entered into the Facilitation and Solicitation Mechanisms. Finally, the Exchange proposes to delete language in Supplementary Material .03 to Rule 717 concerning the execution of non-displayed penny orders that an Electronic Access Member represents as agent against principal orders and orders solicited from other broker dealers.

3. Customer Participation Orders

A customer participation order (“CPO”) is an order type that can be used by Public Customers⁷ to participate in the Price Improvement Mechanism (“PIM”).⁸ Upon

⁵ See Rule 715(b)(4), Rule 804(b)(1) and Rule 805(a).

⁶ See Rule 715(b)(4) and Rule 804(b)(1).

⁷ The term “Public Customer” means a person or entity that is not a broker or dealer in securities. See Rule 100(a)(38).

⁸ The PIM is a process by which an Electronic Access Member can provide price improvement opportunities for a transaction wherein the Electronic Access Member seeks to facilitate an order it represents as agent, and/or a transaction wherein the Electronic Access Member solicited interest to execute against an order it represents as agent (a “Crossing Transaction”). See Rule 723(a).

entry of a Crossing Transaction into the PIM,⁹ a broadcast message is sent to all members, who then have 500 milliseconds to enter orders that indicate the size and price at which they want to participate in the execution (“Improvement Orders”).¹⁰ The CPO is an instruction to the member to enter an Improvement Order on behalf of a Public Customer. Specifically, a CPO is a limit order on behalf of a Public Customer that, in addition to the limit order price in standard increments, includes a price stated in one cent increments at which the Public Customer wishes to participate in trades executed in the same options series in penny increments through the PIM.¹¹ The Exchange does not offer CPOs and therefore proposes to delete obsolete references to this order type from its rules. The Exchange first proposes to delete Rule 715(f), which defines CPOs. Furthermore, the Exchange proposes to remove two references to CPOs in other rules. Specifically, the Exchange proposes to remove references to CPOs in Supplementary Material .06 to Rule 723, which explains when Improvement Orders can be entered with respect to CPOs,¹² and in Rule 723(d), which notes that the agency side of an order entered into the Price Improvement Mechanism may execute against CPOs at the end of the exposure period.

⁹ A Crossing Transaction is comprised of the order the Electronic Access Member represents as agent (the “Agency Order”) and a counter-side order for the full size of the Agency Order (the “Counter-Side Order”). The Counter-Side Order may represent interest for the Member’s own account, or interest the Member has solicited from one or more other parties, or a combination of both. See Rule 723(b).

¹⁰ See Rule 723(c)(1).

¹¹ See Rule 715(f).

¹² Although CPOs are no longer available, members will continue to be able to enter Improvement Orders for the account of Public Customers.

4. Linkage Rules

The Exchange proposes to delete Supplementary Material .04 and .05 to Rule 803, which contains duplicative and obsolete provisions relevant to away market routing. In particular, the content of Supplementary Material .04 and .05 to Rule 803 is now contained in Supplementary Material .06 and .07 to Rule 1901¹³ because linkage handling is performed by unaffiliated broker dealers (i.e., Linkage Handlers) on the Exchange. Therefore as described above, the Exchange proposes to delete this language from Rule 803, which concerns the obligations of market makers.

5. Supplementary Material

The Exchange notes that certain supplementary material is mistakenly labelled as “supplemental” material in the Exchange’s rulebook.¹⁴ In order to achieve consistency with how other rules are labelled, the Exchange proposes to change these to instead refer to “supplementary” material. Finally, the Exchange proposes to make a non-substantive change to Supplementary Material to Rule 803, which concerns the obligations of market makers, by updating the word “To” to lower case.

2. Statutory 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

¹³ See Securities Exchange Act Release No. 73808 (December 10, 2014), 79 FR 74797 (December 16, 2014) (SR-ISE-2014-54) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Technical Corrections to the ISE Rules). Chapter 19 of the Exchange’s rulebook incorporates Chapter 19 of the ISE rulebook by reference.

¹⁴ See “Supplemental” Material to Rules 717 and 809. See also reference in Rule 721(a)(3) to “Supplemental” Material .01 to Rule 717.

the Act.¹⁵ In particular, the proposal is consistent with Section 6(b)(5) of the Act¹⁶ 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 Exchange believes it is appropriate to make the proposed technical corrections to its rules so that Exchange members and investors have a clear and accurate understanding of the meaning of the ISE Mercury rules.

1. No Bid Options / Limit Price

The Exchange currently operates a pilot program to permit designated options classes to be quoted and traded in increments as low as one cent. The Exchange is proposing to amend Rule 713(b) to account for the fact that option classes selected for inclusion in the Penny Pilot are permitted to trade in penny increments. For penny classes that are quoted no bid, the Exchange will convert a market order to sell to a limit order with a price of one cent. In addition, the proposed rule change clarifies that Rule 713(b) applies to all series with a bid of \$0.00, and not just those series that also have an offer of \$0.05. The proposed rule change is necessary to account for options trading in multiple trading increments, including under the Penny Pilot, and will ensure that market orders to sell are not inadvertently executed at a price of zero. The Exchange believes that these changes more accurately reflect the intent of Rule 713(b), as described above, and will eliminate investor confusion with respect to the operation of this rule by more accurately describing the functionality provided by the Exchange.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

2. Non-Displayed Penny Orders and Quotes / Customer Participation Orders

As explained above, the Exchange does not offer non-displayed penny orders and quotes or customer participation orders, and thus proposes to remove obsolete definitions and other outdated references to these order types. The Exchange believes that these changes will eliminate investor confusion regarding order types available for trading on ISE Mercury to the benefit of members and investors.

3. Linkage Rules

The proposed changes to the linkage rules are non-substantive and intended to reduce investor confusion. As explained above, the Exchange is deleting duplicative and obsolete rule text from Chapter 8 of its rulebook because linkage handling is handled by Linkage Handlers. Therefore, the Exchange believes that these rules are more appropriately located in Chapter 19 of the Exchange's rulebook, which incorporates by reference Chapter 19 of the ISE rulebook.

4. Supplementary Material

The proposed change to label supplementary material correctly is non-substantive and is intended to achieve consistency in how these rules are labelled to the benefit of members and investors.

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

In accordance with Section 6(b)(8) of the Act,¹⁷ 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.

¹⁷ 15 U.S.C. 78f(b)(8).

The proposed rule change makes technical, non-substantive amendments to the Exchange's rules in order to eliminate investor confusion, and is not designed to have any competitive impact.

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 Act¹⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁹

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.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 17 CFR 240.19b-4(f)(6). In addition, 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.

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 Number SR-ISEMercury-2016-20 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-ISEMercury-2016-20. 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 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, 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-ISEMercury-2016-20 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.²⁰

Robert W. Errett
Deputy Secretary

²⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

**ISE MERCURY, LLC
RULES**

* * *

Rule 713. Priority of Quotes and Orders

(a) No change.

(b) *Priority on the Exchange*. The highest bid and lowest offer shall have priority on the Exchange.

[(1)] In the case where the [lowest offer] bid price for any options contract is [\$.05] \$0.00, [no Member shall enter] a market order to sell that series[.

(2) Wherever this condition occurs, any such market order] shall be considered a limit order to sell at a price [of \$.05] equal to the minimum trading increment as defined in Rule 710.

(c) – (f) No change.

* * *

Rule 715. Types of Orders

(a) No change.

(b) *Limit Orders*. A limit order is an order to buy or sell a stated number of options contracts at a specified price or better.

(1) – (3) No change.

(4) [*Non-displayed Penny Orders*. A non-displayed penny order is a limit order that specifies a one-cent price increment in a security that has a minimum trading increment pursuant to Rule 710 that is larger than one-cent. Non-displayed penny orders shall be available for execution at the stated limit price, but shall only be displayed to market participants and the public at the minimum trading increment for the security. The displayed price of a non-displayed penny order will be the closest minimum trading increment that does not violate the limit price. The Exchange shall designate which qualifying securities shall be eligible for non-displayed penny orders.] Reserved.

(5) – (6) No change.

(c) – (e) No change.

(f) [*Customer Participation Orders*. A Customer Participation Order (“CPO”) is a limit order on behalf of a Public Customer that, in addition to the limit order price in standard increments according to Rule 710, includes a price stated in one-cent increments (the “Participation Interest”) at which the Public Customer wishes to participate in trades executed in the same options series in penny increments through the Price Improvement Mechanism pursuant to Rule 723. The Participation Interest price must be higher than the limit order price in the case of a CPO to buy, and lower than the limit order price in the case of a CPO to sell. The size of the order will be automatically decremented when the Public Customer participates in the execution of an order at the Participation Interest price.] Reserved.

(g) – (s) No change.

* * *

Supplementary Material to Rule 716

.01 - .05 No change.

.06 **Split Prices.** Orders and Responses may be entered into the Facilitation and Solicitation Mechanisms and receive executions at the mid-price between the standard minimum trading increments for the options series (“Split Prices”). This means that orders and Responses for options with a minimum increment of 5 cents may be entered into the Facilitation and Solicitation Mechanisms and receive executions in 2.5 cent increments (e.g., \$1.025, \$1.05, \$1.075, etc.), and that orders and Responses for options with a minimum increment of 10 cents may be entered into the Facilitation and Solicitation Mechanism and receive executions at 5 cent increments (e.g., \$4.05, \$4.10, \$4.15, etc.). Orders and quotes in the market that receive the benefit of the facilitation price under paragraph (d) may also receive executions at Split Prices. [Non-displayed penny orders and quotes will otherwise be executed only at the regular trading increment for the security (e.g., if the displayed market is \$2.00 by \$2.05 and there is a hidden penny order to buy at 2.03, the hidden penny order will participate in the execution algorithms applied by the Facilitation and Solicited Order Mechanisms at the split price of \$2.025; and if the hidden penny price in this example is \$2.02, the hidden penny order will participate in the execution algorithms at the regular trading increment of \$2.00).]

.07 – .09 No Change.

* * *

[Supplemental] Supplementary Material to Rule 717

.01 – .02 No change.

.03 [The requirements of paragraphs (d) and (e) above apply, as well, to non-displayed penny orders entered on the Exchange. For the purposes of these paragraphs, agency orders priced in penny increments are deemed “exposed” and member proprietary orders priced in penny increments are deemed bids or offers.] Reserved.

.04 - .06 No change.

* * *

Rule 721. Crossing Orders

(a) Customer Cross Orders are automatically executed upon entry provided that the execution is at or between the best bid and offer on the Exchange and (i) is not at the same price as a Priority Customer Order on the Exchange’s limit order book and (ii) will not trade through the NBBO.

(1) – (2) No change.

(3) [Supplemental] Supplementary Material .01 to Rule 717 applies to the entry and execution of Customer Cross Orders.

(b) No change.

* * *

Rule 723. Price Improvement Mechanism for Crossing Transactions

(a) – (c) No Change.

(d) Execution. At the end of the exposure period the Agency Order will be executed in full at the best prices available, taking into consideration orders and quotes in the Exchange market, Improvement Orders, [Customer Participation Orders (see Supplementary Material .06 below)] and the Counter-Side Order. The Agency Order will receive executions at multiple price levels if there is insufficient size to execute the entire order at the best price.

(1) – (4) No change.

Supplementary Material to Rule 723

.01 – .05 No change.

.06 Pursuant to Rule 723(c)(2), Electronic Access Members may enter Improvement Orders for the account of Public Customers. [Without limiting the foregoing, Electronic Access Members may enter Improvement Orders with respect to CPOs (as defined in Rule 715(f)). An Improvement Order can be entered with respect to a CPO if: (1) the limit order price of the CPO is equal to the best bid or offer on the Exchange at the time the PIM is initiated; and (2) the CPO is on the same side of the

market as the Counter-Side Order. The Improvement Order must be entered for the existing size of the limit order up to the size of the Agency Order and for the price of the Participation Interest.]

.07 – .10 No change.

* * *

Supplementary Material [T]to Rule 803

.01 – .03 No change.

[.04 In addressing Public Customer Orders that are not automatically executed because there is a displayed bid or offer on another exchange trading the same options contract that is better than the best bid or offer on the Exchange pursuant to paragraph (c)(2) of this Rule, the Exchange will act in compliance with these Rules and with the provisions of the Exchange Act and the rules thereunder, including, but not limited to, the requirements in Section (6)(b)(4) and (5) of the Exchange Act that the rules of national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.]

[.05 All orders entered on the Exchange and routed to another exchange via an ISO pursuant to paragraph (c)(2) of this Rule that result in an execution shall be binding on the member that entered such orders.]

Rule 804. Market Maker Quotations

(a) No change.

(b) *Price and Size Associated with Quotes.* A market maker's bid and offer for a series of options contracts shall state a price accompanied by the number of contracts at that price the market maker is willing to buy or sell upon receipt of an order or upon interaction with a quotation entered by another market maker on the Exchange.

(1) *Price.* The price of market maker quotes shall be in the minimum trading increments applicable to the security under Rule 710[; provided that, with respect to any security designated by the Exchange as available for non-displayed penny orders under Rule 715(b)(4), market maker quotes may be in one-cent increments. In such designated securities, quotes entered in one-cent increments will be firm as provided in paragraph (d) below, but shall only be displayed to market participants and the public at the minimum trading increment for the security. The displayed price of such quotes will be the closest minimum trading increment that is higher for offers and the closest minimum trading increment that is lower for bids].

(2) No change.

(c) – (h) No change.

* * *

Rule 805. Market Maker Orders

(a) *Options Classes to Which Appointed.* Market makers may not place principal orders to buy or sell options in the options classes to which they are appointed under Rule 802, other than opening only orders, immediate-or-cancel orders, market orders, fill-or-kill orders, sweep orders, and block-size orders executed through the Block Order Mechanism pursuant to Rule 716(c)[, and non-displayed penny orders (in securities designated by the Exchange pursuant to Rule 715(b)(4))]. Competitive Market Makers shall comply with the provisions of Rule 804(e)(2)(iii) upon the entry of such orders if they were not previously quoting in the series.

(b) No change.

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[Supplemental] Supplementary Material to Rule 809

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