

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 inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal offices of the CHX. 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-CHX-2005-15 and should be submitted on or before June 28, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51769; File No. SR-ISE-2005-22]

### Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend Until June 5, 2006, a Pilot Program for Listing Options on Selected Stocks Trading Below \$20 at One-Point Intervals

May 31, 2005.

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 May 10, 2005, the International Securities Exchange, Inc. ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the

proposed rule change as described in Items I and II below, which Items have been prepared by the ISE. The ISE filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 Supplementary Material .01 to ISE Rule 504, "Series of Options Contracts Open for Tracing," to extend until June 5, 2006, its pilot program for listing options series on selected stocks trading below \$20 at one-point intervals ("Pilot Program"). The text of the proposed rule change is available on the ISE's Web site (<http://www.iseoptions.com>), at the ISE's principal office, 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 ISE 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 ISE 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

On June 16, 2003, the Commission approved the ISE's Pilot Program, which allows the ISE to list series with \$1 strike price intervals on equity option classes that overlie up to five individual stocks, provided that the strike prices are \$20 or less, but not less than \$3, subject to the terms of the Pilot Program.<sup>6</sup> Although the ISE may select only up to five individual stocks to be

included in the Pilot Program, the ISE is also permitted to list options on other individual stocks at \$1 strike price intervals if other options exchanges listed those series pursuant to their respective rules. The ISE selected the following five options classes to participate in the Pilot Program: AMR Corp. [AMR], Clapine Corp. [CPN], EMC Corp. [EMC], El Paso Corp. [EP], and Sun Microsystems Inc. [SUNW]. The Pilot Program, after being extended on two prior occasions,<sup>7</sup> is set to expire on June 5, 2005.<sup>8</sup> The ISE believes the Pilot Program has been successful. Thus, the ISE proposes to extend the Pilot Program until June 5, 2006. In support of this proposed rule change, and as required by the Pilot Program Approval Order and the Pilot Extension Notices, the Exchange is submitting to the Commission a report (the "Pilot Program Report"), attached as Exhibit 3 to the proposal, that details the Exchange's experience with the Pilot Program. Specifically, the Pilot Program Report contains data and written analysis regarding the five options classes included in the Pilot Program for the period between May 1, 2004, and February 28, 2005.

The Exchange believes there is sufficient investor interest and demand to extend the Pilot Program for another year. The Exchange continues to believe that the Pilot Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals.

###### 2. Statutory Basis

The ISE believes the proposed rule change is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>9</sup> Specifically, the ISE believes the proposed rule change is consistent with the requirements under Section 6(b)(5) of the Act that the rules of a national securities exchange be designed to

<sup>7</sup> See Securities Exchange Act Release Nos. 49827 (June 8, 2004), 69 FR 33966 (June 17, 2004) (notice of filing and immediate effectiveness of File No. SR-ISE-2004-21) (extending the \$1 Strike Pilot Program until August 5, 2004); and 50060 (July 22, 2004), 69 FR 45864 (July 30, 2004) (notice of filing and immediate effectiveness of File No. SR-ISE-2004-26) (extending the \$1 Strike Pilot Program until June 5, 2005) (collectively, the "Pilot Extension Notices").

<sup>8</sup> See Securities Exchange Act Release No. 50060, *supra* note 7.

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

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

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

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

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

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

<sup>5</sup> The ISE has asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay. See Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> See Securities Exchange Act Release No. 48033 (June 13, 2003), 68 FR 37036 (June 20, 2003) (order approving File No. SR-ISE-2003-17) ("Pilot Program Approval Order").

promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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. The ISE believes that extension of the Pilot Program until June 5, 2006, will result in a continuing benefit to investors by allowing them to more closely tailor their investment decisions, and will allow the ISE to further study investor interest in \$1 strike price intervals.

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

The ISE believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in the 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 ISE has not solicited, and does not intend to solicit, comments on this proposed rule change. The ISE has not received any unsolicited written comments from members or other interested persons.

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

The ISE has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>11</sup> Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide

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 of the proposed rule change, or such shorter time as designated by the Commission. The ISE has asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay to prevent a lapse in the operation of the Pilot Program.

The Commission waives the five-day pre-filing notice requirement. In addition, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Pilot Program to continue without interruption through June 5, 2006.<sup>12</sup> For this reason, the Commission designates that the proposal become operative on June 5, 2005.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>13</sup> As set forth in the Commission's initial approval of the Pilot Program, if the ISE proposes to: (1) extend the Pilot Program; (2) expand the number of options eligible for inclusion in the Pilot Program; or (3) seek permanent approval of the Pilot Program, it must submit a Pilot Program report to the Commission along with the filing of its proposal to extend, expand, or seek permanent approval of the Pilot Program. The ISE must file any such proposal and the Pilot Program report with the Commission at least 60 days prior to the expiration of the Pilot Program. The Pilot Program report must cover the entire time the Pilot Program was in effect and must include: (1) data and written analysis on the open interest and trading volume for options (at all strike price intervals) selected for the Pilot Program; (2) delisted options series (for all strike price intervals) for all options selected for the Pilot Program; (3) an assessment of the appropriateness of \$1 strike price intervals for the options the ISE selected for the Pilot Program; (4) an assessment of the impact of the Pilot Program on the capacity of the ISE's, the Options Price Reporting Authority's, and vendors' automated systems; (5) any capacity problems or other problems that arose during the operation of the Pilot Program and how the ISE addressed them; (6) any complaints that the ISE received during the operation of the Pilot Program and how the ISE addressed them; and (7) any additional information that would help to assess the operation of the Pilot Program. See Pilot Program Approval Order, *supra* note 6.

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 No. SR-ISE-2005-22 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File No. SR-ISE-2005-22. 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 inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. 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-2005-22 and should be submitted on or before June 28, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).