

of the rollout schedule.<sup>9</sup> Moreover, the proposed credit would provide specialist firms with a specified reduction in their fixed fees during the transition period, permitting them to budget accordingly.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(4) of the Act<sup>10</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

### *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 establishes or changes a member due, fee or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>12</sup> At any time within 60 days of the filing of such 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.<sup>13</sup>

<sup>9</sup> Certain issues have higher fixed fees relative to other issues. Accordingly, the new trading model rollout schedule has economic consequences for CHX specialist firms, because specialist fixed fees are eliminated entirely once an issue transitions to the CHX new trading model and is no longer traded by a specialist. Absent the credit described in this submission, therefore, a specialist firm likely would request immediate transition of issues with the highest fixed fees to the new trading model, whereas the CHX might prefer to delay transition of such issues until later in the overall new trading model implementation process, in order to better manage the overall implementation plan.

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

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

<sup>13</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on December 21, 2006, the date on which the CHX filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

## 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-CHX-2006-37 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CHX-2006-37. 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. Copies of such filing also will be available for inspection and copying at the principal office 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-2006-37 and should be submitted on or before February 7, 2007.

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

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-536 Filed 1-16-07; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55060; File No. SR-ISE-2006-72]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Special Order Fees

January 8, 2007.

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 1, 2006, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by ISE. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it 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 is proposing to amend its Schedule of Fees to adopt a customer fee for special orders. The text of the proposed rule change is available at ISE, the Commission's Public Reference Room, and <http://www.iseoptions.com>.

#### 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

<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)(iii).

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

<sup>5</sup> The Exchange has asked the Commission to waive the 30-day operative delay required by Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii). See discussion *infra* Section III.

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

The purpose of this proposed rule change is to amend ISE's Schedule of Fees to adopt a customer fee for special orders. The Exchange currently waives transaction fees for customers, except for when those transactions occur in Premium Products.<sup>6</sup> The Exchange has noted an increase in volume in certain customer order transactions, particularly in transactions that result from customer orders that are entered as responses to special order broadcasts. These special order broadcasts are sent to Exchange members when certain types of orders are entered, such as facilitations, solicitations, block orders, and orders entered in the Exchange's Price Improvement Mechanism. Customers, who have access to highly developed trading systems enter orders in response to these special order broadcasts, much like a broker or dealer would. Customers that possess this advanced trading technology are able to quickly receive and process substantial amounts of market-wide and ISE data, thereby allowing them to selectively respond to special order broadcasts.

The advanced trading systems utilized by these customers provide them with the ability to rapidly respond to updates to the special order broadcasts and market-wide data (such as changes to the NBBO and the underlying market) by aggressively submitting orders within the 3 second exposure period. The Exchange thus proposes to charge an execution and comparison fee of \$0.15 and \$0.03 per contract, respectively, for these customer orders to put these customers on more equal footing with ISE members who currently pay a fee for this functionality. The proposed fee will only apply to responses sent by customers during the 3 second exposure period that all special orders are subject to.

The Exchange believes that the proposed fee is necessary to equitably allocate the associated costs amongst ISE market participants that fully utilize the special order broadcasts, a

<sup>6</sup> Premium Products is defined in the Schedule of Fees as the products enumerated therein.

functionality that is available only to ISE members and customers who possess highly developed technology. The development and ongoing maintenance associated with the broadcasts of, and updates to, special orders, is a costly expenditure of ISE resources. ISE believes that the proposed fee is objective in that it is based on the behavior of market participants and the type of orders submitted. As noted above, since the behavior of these public customers is similar to the behavior of an ISE member, it is fair for the Exchange to charge these customers the same fees as those charged to ISE members.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>7</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.<sup>8</sup>

*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 (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> The staff of the SEC revised this language to correct an error in the statutory basis proposed rule change. Telephone Conference between Samir Patel, Assistant General Counsel, ISE, and Ronsha A. Butler, Special Counsel, Division of Market Regulation, Commission, on January 5, 2007.

19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6)<sup>10</sup> thereunder.<sup>11</sup>

A proposed rule change filed under Commission Rule 19b-4(f)(6)<sup>12</sup> normally does not become operative prior to thirty days after the date of filing. The Exchange requests that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii), and designate the proposed rule change to become operative immediately because this proposal is substantially similar to a Boston Options Exchange proposed rule change that was recently approved by the Commission.<sup>13</sup> The Commission hereby grants the request. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the Exchange to allocate reasonable dues, fees, and other charges among its members and other persons using its facilities. For these reasons, the Commission designates the proposed rule change as effective and operative upon filing.<sup>14</sup>

At any time within 60 days of the filing of such 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 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

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> Pursuant to Rule 19b-4(f)(6)(iii), the Exchange has given the Commission 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 on which the Exchange filed the proposed rule change. See 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> See Securities Exchange Act Release No. 54328 (August 16, 2006), 71 FR 49493 (August 23, 2006).

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

No. SR-ISE-2006-72 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-ISE-2006-72. 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. 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 No. SR-ISE-2006-72 and should be submitted on or before February 7, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55061; File No. SR-NASDAQ-2006-061]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the NASDAQ Stock Market LLC To Codify Sponsored Access Rule

January 8, 2007.

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange

Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> The NASDAQ Stock Market LLC ("Nasdaq") is filing 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 Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Nasdaq is filing with the Commission a proposed rule change to update and clarify the requirements for members that provide electronic access to Nasdaq's execution services, and to codify these requirements in Nasdaq's rules.

Nasdaq has designated this proposal as one effecting 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.

Nasdaq has provided the Commission with written notice of its intent to file this 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 pursuant to Section 19(b)(3)<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The proposed rule change will become operative 30 days after the date of the filing.

The text of the proposed rule change is below. The proposed new language is italicized.

\* \* \* \* \*

#### 4611. Nasdaq Market Center Participant Registration

(a)-(c) No change.

(d) *Members may provide sponsored access in accordance with the provisions below:*

(1) *Definition. Sponsored Access is the practice by a member firm ("Sponsoring Member") of providing access to the Nasdaq Execution System ("Nasdaq") on an agency basis to another firm or customer ("Sponsored Firm"). Sponsored access can be of two forms: (a) pass-through access, whereby a Sponsored Firm enters orders that pass through the Sponsoring Member's systems and then into Nasdaq ("Pass-through Sponsored Access"), and (b)*

*direct access, whereby the Sponsored Firm enters orders directly into Nasdaq ("Direct Sponsored Access").*

(2) *Sponsoring Members that provide Sponsored Access to Nasdaq shall be responsible for complying with the obligations in Rule 4611 with respect to any activity conducted by a Sponsored Firm using a market participant identifier ("MPID") assigned to the Sponsoring Member.*

(3) *A Sponsoring Member that provides Direct Sponsored Access to Nasdaq shall execute and file with Nasdaq the Addendum to the Nasdaq Services Agreement for Sponsored Access to Nasdaq ("Sponsored Access Agreement") and any other such agreements as specified by Nasdaq. Sponsored Firms shall also execute and file with Nasdaq a Sponsored Access Agreement and any other such agreements as specified by Nasdaq.*

#### Interpretive Material 4611-1—Sponsored Access

##### (1) Compliance with Nasdaq Supervision and Customer Protection Requirements

*Sponsoring Members have responsibility for the conduct of their Sponsored Firms as if the conduct were their own. Sponsoring Members that provide Sponsored Access, whether Pass-through or Direct, have a continuing obligation to comply with all Nasdaq rules and procedures and the federal securities laws and rules, and must, in accordance with Rule 3010, have supervisory systems and written procedures reasonably designed to achieve compliance with these obligations. For example, Sponsoring Members must have systems and written procedures to supervise the activity of Sponsored Firms, including obligations with respect to the Nasdaq and SEC short sale rules (Rule 3350 and SEC Rule 10a-1 and Regulation SHO), and the requirements articulated in Rule 3370. Further, Sponsoring Members must satisfy their obligations under IM-2110-2 or Rule 6440 to not trade ahead of customers. Similarly, a limit order from a Sponsored Firm is subject to the SEC limit order display rule (Rule 604 under Regulation NMS) and the order must be handled in compliance with the rule. Sponsoring Members also must possess sufficient information about their Sponsored Firms to satisfy the "know your customer" obligation that is embedded in the Nasdaq Conduct Rules.*

##### (2) Compliance With Other Nasdaq Requirements

*(a) Rule 8210. Sponsoring Members are responsible for complying with all*

<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).

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

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