

*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-CBOE-2006-104 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-CBOE-2006-104. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. 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-CBOE-2006-104 and should be submitted on or before September 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E7-16331 Filed 8-17-07; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56240; File No. SR-ISE-2007-49]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving Proposed Rule Change Relating to Fee Changes on a Retroactive Basis**

August 13, 2007.

**I. Introduction**

On June 15, 2007, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its Schedule of Fees on a retroactive basis. The proposed rule change was published for comment in the **Federal Register** on July 10, 2007.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

**II. Description of the Proposal**

ISE proposes to amend its Schedule of Fees to: (1) Increase the per contract surcharge from \$0.10 per contract to \$0.15 per contract for options on the Russell 1000® Index ("RUI"), the Russell 2000® Index ("RUT"), and the Mini Russell 2000® Index ("RMN"); and (2) refund surcharge fees collected for transactions in options on the iShares Russell 2000® Index Fund ("IWM"), the iShares Russell 2000® Value Index Fund ("IWN"), the iShares Russell 2000® Growth Index Fund ("IWO"), the iShares Russell 1000® Value Index Fund ("IWD") and the iShares Russell 1000® Index Fund ("IWB"), in both cases for the period commencing January 1, 2007 and ending June 15, 2007 (the "Retroactive Period"). The Exchange proposes the surcharge increase to become effective retroactively, as of January 1, 2007.<sup>4</sup>

The Exchange revised its license agreement with the Frank Russell Company ("Russell"), effective January

1, 2007. Pursuant to the revised agreement, the Exchange pays Russell \$0.15 per contract to trade options on RUI, RUT and RMN. The Exchange thus proposes to increase the surcharge fee for options on RUI, RUT and RMN from \$0.10 per contract to \$0.15 per contract retroactive to January 1, 2007 and collect from members the applicable fees due to the Exchange for the Retroactive Period. This surcharge fee will only be charged to Exchange members with respect to non-Public Customer Orders (e.g., ISE Market Maker, non-ISE Market Maker, and Firm Proprietary orders) and shall apply to certain Linkage Orders under a pilot program that is set to expire on July 31, 2008.<sup>5</sup>

Additionally, the Exchange had previously adopted a \$0.10 per contract surcharge in connection with the listing and trading of options on IWM, IWN, IWO, IWD,<sup>6</sup> and IWB.<sup>7</sup> However, pursuant to the revised license agreement with Russell, the Exchange, as of January 1, 2007, no longer pays a license fee to Russell in connection with the listing and trading of options on IWM, IWN, IWO, IWD and IWB. As a result, the Exchange proposes to refund to members the surcharge fee it has collected during the Retroactive Period.

**III. Discussion**

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>8</sup> Specifically, the Commission finds that the proposal is consistent with section 6(b)(4) of the Act,<sup>9</sup> which requires that the rules of a 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. Specifically, the Commission believes that application of the amendments to ISE's Schedule of Fees on a retroactive basis is appropriate

<sup>5</sup> Linkage Orders are defined in ISE Rule 1900(10). Under a pilot program that was recently extended and is now set to expire on July 31, 2008, these fees will also be charged to Principal Acting as Agent Orders and Principal Orders (as defined in ISE Rule 1900(10)(i)-(ii)). See Securities Exchange Act Release No. 56128 (July 24, 2007), 72 FR 42161 (August 1, 2007).

<sup>6</sup> See Securities Exchange Act Release No. 47075 (December 20, 2002), 67 FR 79673 (December 30, 2002) (SR-ISE-2002-29).

<sup>7</sup> See Securities Exchange Act Release No. 47564 (March 24, 2003), 68 FR 15256 (March 28, 2003) (SR-ISE-2003-13).

<sup>8</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 56005 (July 3, 2007), 72 FR 37555.

<sup>4</sup> On June 15, 2007, the Exchange filed a proposed rule change as immediately effective under Section 19(b)(3)(A) of the Exchange Act that: (1) Removes the surcharge fee for IWM, IWN, IWO, IWD and IWB from its Schedule of Fees and (2) raises the surcharge fee from \$.10 per contract to \$.15 per contract for options on RUI, RUT and RMN. See Securities Exchange Act Release No. 55975 (June 28, 2007), 72 FR 37064 (July 6, 2007) (SR-ISE-2007-48).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

and aligns revenue collected from members with license costs charged to ISE under its agreement with Russell.

#### IV. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-ISE-2007-49) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-16258 Filed 8-17-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56250; File No. SR-NSCC-2007-11]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Allow As-Of Fixed Income Trades To Be Processed in the Continuous Net Settlement System

August 14, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 12, 2007, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

NSCC is seeking to modify its procedures to allow as-of fixed income trades to be processed in NSCC's Continuous Net Settlement ("CNS") system.

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

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

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

When NSCC revised and updated CNS in 2004 (referred to as the "CNS Rewrite"), it provided the capability on any settlement day to take in and process transactions due for settlement that day provided the trades are recorded or compared prior to an established cut-off time in the morning.<sup>3</sup> This capability is currently provided for as-of equity transactions but has not yet been expanded to as-of fixed income transactions.<sup>4</sup> Rather, settlement of as-of fixed income corporate debt, municipal, and unit investment trust ("UIT") trades (corporate debt, municipal, and UIT trades are collectively referred to as "CMU" trades) matched on or after their designated settlement date currently occurs on the business day following the day they are compared. Given that settlement risks associated with CMU trades would be reduced if they settled on an accelerated basis in the same manner that as-of equity trades are settled, NSCC is proposing to enhance its fixed income processing to permit same day settlement of as-of fixed income transactions.<sup>5</sup> To accomplish this, NSCC proposes to amend Procedure II (Trade Comparison and Recording Service) so that CNS-eligible as-of CMU trades matched on or after their originally designated settlement date would be processed in CNS on the day they are submitted for comparison so long as they compare prior to the cut-off time established for same day settlement, which currently is 11:30 a.m.<sup>6</sup> As-of trades not eligible for CNS processing will settle on a trade-for-trade basis. Trades that match after the designated cut-off time will continue to be assigned a settlement date on the next business day.

In addition, because these trades are effectively guaranteed upon

<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>3</sup> Securities Exchange Act Release No. 50026 (July 15, 2004), 69 FR 43650 [File No. SR-NSCC-2004-01].

<sup>4</sup> NSCC's systems did not have the capacity for same day settling trades for fixed income transactions in 2004.

<sup>5</sup> The settlement of cash and next day CMU trades which are compared by NSCC will continue to be the responsibility of the parties to the trades.

<sup>6</sup> In addition, references in Procedure VII (CNS Accounting Operation) that currently note that debt securities are not eligible for such accelerated settlement would be removed.

comparison, risk associated with the trades will be mitigated through the existing component of the Clearing Fund formula, as set forth in Procedure XV (Clearing Fund Formula and Other Matters), that is designed to mitigate the risk to NSCC associated with trades that are processed on a settlement cycle shorter than three days. Under this component, activity specified for a shortened settlement cycle is isolated and a charge is calculated.<sup>7</sup>

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>8</sup> and the rules and regulations thereunder applicable to NSCC because it should facilitate the prompt and accurate clearance and settlement of securities by increasing automated trade processing and by expanding the types of trades eligible for CNS netting.

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

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

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

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received. NSCC will notify the Commission of any written comments it receives.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

<sup>7</sup> The component calculates a charge based on the average of a member's charges for the specified activity on the three days with the highest charges calculated for the specified activity over the most recent twenty day period. Securities Exchange Act Release No. 54816 (November 27, 2006), 71 FR 69604 [File No. SR-NSCC-2006-09].

<sup>8</sup> 15 U.S.C. 78q-1.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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