

mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. More specifically, the Exchange believes that, because the proposed rule change will permit the Corporation to consider a broader range of experienced and knowledgeable individuals to serve as directors of the Corporation while also preserving the principle that effective boards of directors exercise independent judgment in carrying out their responsibilities, it will thereby contribute to perfecting the mechanism of a free and open market and a national market system and is also consistent with the protection of investors and the public interest.

#### *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 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*

No written comments were solicited or received with respect to the proposed rule change.

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

Within 35 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 90 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 the 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 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-NYSE-2009-60 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2009-60. 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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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-NYSE-2009-60 and should be submitted on or before August 6, 2009.

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

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. E9-16857 Filed 7-15-09; 8:45 am]

**BILLING CODE 8010-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-60274; File No. SR-ISE-2009-48]

#### **Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Foreign Currency Options Closing Settlement Values**

July 9, 2009.

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> notice is hereby given that on July 2, 2009, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 its rules regarding Foreign Currency Options ("FX Options").<sup>3</sup> The text of the proposed rule amendment is as follows, with deletions in [brackets] and additions *italicized*:

#### **Rule 2212. Foreign Currency Options Closing Settlement Value**

(a) The closing settlement value for *foreign currency options* shall be *determined by using the WM/Reuters Intraday Spot rate* [day's announced Noon Buying Rate, as determined by the Federal Reserve Bank of New York,] on the last trading day during expiration week. [If the Noon Buying Rate is not announced by 5 p.m. Eastern time, the closing settlement value will be the most recently announced Noon Buying Rate, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. In the event the Noon Buying Rate is not published for an underlying currency, the Exchange will apply the WM/Reuters Closing Spot rate to determine the closing settlement value. If the Federal Reserve Bank of New York determines to publish a Noon

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

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

<sup>3</sup> ISE began trading FX options on April 17, 2007 pursuant to Commission approval. See Securities Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR-ISE-2006-59) (the "FX Options Filing").

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

Buying Rate in the future for a currency for which it currently does not publish such rate, the Exchange will apply the Noon Buying Rate in place of the WM/Reuters Composite Spot rate to determine the closing settlement value for such currency.]

(b) No Change.

(c) The closing settlement value[, whether based on the Noon Buying Rate or the WM/Reuters Closing Spot rate,] will also be modified using the applicable modifier, i.e., 1, 10 or 100, that is used in calculating the respective modified exchange rate, and will be posted by the Exchange on its Web site.

\* \* \* \* \*

## 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 self-regulatory organization 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 self-regulatory organization 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

ISE proposes to amend its rules regarding FX Options. Currently, ISE's rule for determining closing settlement value for FX Options states that the closing settlement value shall be the day's announced "Noon Buying Rate," as determined by the Federal Reserve Bank of New York ("FRBNY"), on the last trading day during expiration week. If the Noon Buying Rate is not announced by 5 p.m. Eastern time, the closing settlement value will be the most recently announced Noon Buying Rate, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. ISE's experience with the Noon Buying Rate indicates that the FRBNY is becoming increasingly unreliable in the timeliness of its publication of the Noon Buying Rate. On at least one occasion earlier this year, the FRBNY delayed publication of the Noon Buying Rate. As a result, ISE resorted to the WM/Reuters Closing Spot rate, as permitted under current rules, to determine the closing

settlement value for expiring FX Options.<sup>4</sup>

ISE recently entered into an agreement with The World Markets Company, PLC ("WM"), publisher of a number of foreign currency reference rates, pursuant to which WM will provide ISE with the WM/Reuters Intraday Spot rate. The calculation methodology of the Intraday Spot rate is the same as that used for the Closing Spot rate. The only difference between the two rates is the time and frequency at which they are calculated. The Closing Spot rate is calculated at 16:00 UK time while the Intraday Spot rates are calculated every hour. Going forward, instead of using the Noon Buying Rate, the Exchange intends to use the WM/Reuters Intraday Spot rate, as of 12 p.m., New York time, to determine closing settlement value for all the currency pairs approved in the FX Options Filing. As noted above, the WM/Reuters Intraday Spot rate is calculated every hour, from Monday 7 a.m. Sydney time (Sunday 5 p.m. New York time) to Friday 10 p.m. UK time (Friday 5 p.m. New York time). Those times are also known as the 'fix' times. WM/Reuters typically publishes its rates 15 minutes after the fix time. The Reuters System is the primary source of spot foreign exchange rates used in the calculation of the WM/Reuters Intraday Spot rate. WM/Reuters, however, may use alternative sources such as a country's Central Bank or rates from EBS, which is another major FX venue and market data service provider for 156 currencies, including all of the currencies approved by the FX Options Filing.

WM/Reuters has two main methods for calculating its Intraday Spot rate. The methodology used depends on whether a currency is determined by WM/Reuters to be a "trade currency" or a "non-trade currency."<sup>5</sup> WM/Reuters applies a unique methodology for each category. Intraday Spot rates for "non-trade currencies" are determined primarily by using data from Reuters.

<sup>4</sup> Pursuant to the FX Options Filing, the Exchange has the ability to use the WM/Reuters Closing Spot rate for six currencies to determine their closing settlement value because the FRBNY does not publish a Noon Buying Rate for these currencies. Those six currencies are the Czech koruna, the Hungarian forint, the Israeli shekel, the Korean won, the Polish zloty and the Russian ruble.

<sup>5</sup> The Australian dollar, British pound, Canadian dollar, Czech koruna, Danish krone, euro, Japanese yen, New Zealand dollar, Norwegian krone, Singapore dollar, South African rand, Swedish krona, and Swiss franc are all considered by WM/Reuters to be "trade currencies," while all others are considered "non-trade currencies." All of the "trade currencies" have been approved for trading by the Exchange except the Danish krone and the Singapore dollar. See *supra* note 1.

This methodology involves taking snapshots of quoted bids and offers for each currency at 15-second intervals over a two minute period. The median is then calculated independently for each currency's bid and offer. The midpoint of that median bid and offer becomes the final value.

Intraday Spot rates for "trade currencies" are determined primarily by using data from both Reuters and EBS. This methodology involves taking snapshots of actual traded rates every second for a period of 30 seconds before the fix to 30 seconds after the fix. Trades are identified as a bid or offer and a spread is applied to calculate the opposite bid or offer. The spread applied is determined by the spread between buy and sell orders captured at the same time. The median is then independently calculated for each currency's bid and offer, resulting in a midpoint trade rate. The midpoint of that median bid and offer becomes the final value.

ISE proposes to amend its rules by replacing all references to the FRBNY's Noon Buying Rate with WM/Reuters Intraday Spot rate. This proposed rule change will allow the Exchange to adopt an industry-recognized vendor for foreign currency rates and do so without causing any disruption in the calculation of the closing settlement value for FX Options.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act's<sup>7</sup> requirements that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In particular, the proposed rule change will allow the Exchange to adopt an industry-recognized value to determine the closing settlement value for FX Options traded on the Exchange.

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

The proposed rule change does not impose any burden on competition that

<sup>6</sup> 15 U.S.C. 78f(b).

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

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 unsolicited written comments from members or other interested parties.

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

This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, 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. The Exchange provided 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 the proposed rule change as required by Rule 19b-4(f)(6).<sup>8</sup> For the foregoing reasons, the Exchange believes the proposed rule filing qualifies for expedited approval as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 of the Act.

The Exchange believes the proposed rule change is non-controversial in that it will allow the Exchange to adopt an industry-recognized value to determine the closing settlement value for FX Options traded on the Exchange. The Exchange also believes that the proposed rule change does not raise any new, unique or substantive issues, and is beneficial for competitive purposes and to promote a free and open market for the benefit of investors.

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 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-ISE-2009-48 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2009-48. 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, on official business days between the hours of 10 a.m. and 3 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-ISE-2009-48 and should be submitted on or before August 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

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**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-60265; File No. SR-NASDAQ-2009-058]

**Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Modify Port Fees**

July 8, 2009.

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 June 24, 2009, The NASDAQ Stock Market LLC ("NASDAQ") 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 NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

NASDAQ proposes to modify fees charged to members and non-members for ports used to enter orders into NASDAQ systems. The text of the proposed rule change is available from the principal office of NASDAQ and from the Commission, and is also available at <http://www.cchwallstreet.com/nasdaq>. NASDAQ will implement the proposed rule change on the first day of the month immediately following Commission approval (or on the date of approval, if on the first business day of a month).

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

In its filing with the Commission, NASDAQ 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. NASDAQ has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

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

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 200.30-3(a)(12).