

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56201; File No. SR-ISE-2007-45)

August 3, 2007

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to a Quote Mitigation Plan for Competitive Market Makers

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 8, 2007, the International Securities Exchange, LLC (“ISE” or “Exchange”) 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 substantially prepared by the ISE. On August 1, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The ISE proposes, on a one-year pilot basis, a quote mitigation plan for the Exchange’s Competitive Market Makers (“CMMs”). The text of the proposed rule change is available at ISE, the Commission’s Public Reference Room, and [www.iseoptions.com](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 comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

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

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

<sup>3</sup> Amendment No. 1 replaced the original filing in its entirety.

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 a quote mitigation plan for its CMMs on a pilot basis for one (1) year in no more than twenty (20) securities (“Pilot Program Securities”) designated by the Exchange. With the explosion of quotation traffic – exacerbated by the penny pilot – the Exchange continues to seek ways to mitigate the generation of quotations. At least two exchanges have adopted quote mitigation plans that relieve some market makers of the obligation to quote in every series of every class of options in which they are a market maker.<sup>4</sup>

Under ISE’s current rules, a CMM must enter continuous quotations in all the series of at least 60 percent of the options classes for the group or "bin" to which it is appointed, or 60 options classes in the Group, whichever is less. Further, once a CMM enters a quote in an options class to which it is appointed, it must continuously quote in all series of that options class until the close of trading that day. ISE proposes to amend its rule so that a CMM will be required to enter continuous quotations in just 60 percent of the series, rather than in all series, of the options classes overlying the Pilot Program Securities, to which the CMM is appointed. Once a CMM enters a quote in a series, it must continue to quote in that series until the close of trading that day. The Exchange notes that ISE Rule 804(e)(2)(iii), which states that a CMM may be called upon to submit quotes in one or more series of options to which it is appointed in the interest of maintaining fair and orderly markets, shall continue to apply under the proposed pilot program.

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<sup>4</sup> See Phlx Rule 1014(b)(ii)(D)(1); see also Amex Rule 994(c)(iv).

Under the proposal, the Exchange will issue a circular to CMMs identifying the initial Pilot Program Securities. The Exchange notes that the Pilot Program Securities selected by the Exchange are subject to change based on the quoting activity in these securities. The proposed pilot will consist of up to 20 of the most active classes, in terms of the number of quotes generated, that are in the Exchange's Penny Pilot Program.<sup>5</sup> Each time a change takes place in the Pilot Program Securities, the Exchange will issue circulars to notify CMMs of this change and shall provide them with adequate notice in order for them to make any required systems changes.

The Exchange believes the proposed pilot is a good first step towards adopting an internal quote mitigation plan that is beneficial both to the Exchange and its members without adversely affecting the quality of the Exchange's markets.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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, to protect investors and the public interest.

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<sup>5</sup> See Securities Exchange Act Release Nos. 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR-ISE-2006-62); 56151 (July 26, 2007), 72 FR \_\_\_\_\_ (August \_\_\_\_, 2007) (SR-ISE-2007-68).

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

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

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

Written comments on the proposed rule change were neither solicited nor received.

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 Exchange 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 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 No. SR-ISE-2007-45 on the subject line.

Paper Comments:

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

All submissions should refer to File No. SR-ISE-2007-45. 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 at <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 10:00 am and 3:00 pm. 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-2007-45 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).