

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57790; File No. SR-ISE-2008-33)

May 6, 2008

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Block, Facilitation and Solicited Order Mechanisms

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 April 30, 2008, 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 and II below, which Items have been prepared substantially by ISE. ISE filed the proposed rule change as a “non-controversial” proposed rule change 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 it effective upon filing with the Commission. 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

ISE proposes to amend Supplementary Material .07 to ISE Rule 716 to make it consistent with the definition of a Block Trade under the Exchange’s Intermarket Option Linkage (“options linkage”) rules. The text of the proposed rule amendment is as follows, with deletions in [brackets] and additions italicized:

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

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

Rule 716. Block Trades

(a) through (e) no change.

Supplementary Material to Rule 716

.01 through .06 no change.

.07 Away Market Prices. Orders of 50 to 499 contracts and orders with a premium value below \$150,000 executed through the Block, [and] Facilitation and Solicited Order Mechanisms will not be executed at a price inferior to the national best bid or offer at the time of execution. Orders of 500 or more contracts with a premium value of at least \$150,000 executed through the Block, Facilitation and Solicited Order Mechanisms will be executed without consideration of any prices that might be available on other exchanges trading the same options contract.

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

In its filing with the Commission, ISE included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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 Exchange's Block and Facilitation Mechanisms under ISE Rule 716 provide a way for members to execute block-sized orders, defined as orders of at least 50 contracts. The Solicited Order Mechanism also allows for the execution of block-sized solicited orders, but is limited to orders of at least 500 contracts. The Exchange's rule for the Block and Facilitation

Mechanisms specify that orders under 500 contracts may not be executed at prices that would trade through the national best bid or offer (“NBBO”) and that orders of 500 contracts or more may be executed in the Block, Facilitation and Solicited Order Mechanisms without consideration of any prices that might be available on other exchanges trading the same options contract.

Under the options linkage rules, Block Trades, which may be executed at prices that are inferior to the NBBO,<sup>5</sup> are defined as orders of at least 500 contracts and a premium value of at least \$150,000.<sup>6</sup> Accordingly, the Exchange proposes to amend Supplementary Material .07 to ISE Rule 716 so that it is consistent with the definition of a Block Trade under the options linkage rules by adding a minimum premium requirement of \$150,000 for orders that may be traded at prices inferior to the NBBO.<sup>7</sup>

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the requirement of Section 6(b)(5) of the Act<sup>9</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just

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<sup>5</sup> ISE Rule 1902(d)(2) provides that the Exchange will not consider there to have been a trade-through if a member executes a Block Trade at a price inferior to the NBBO if such member satisfies all aggrieved parties following the execution of the Block Trade.

<sup>6</sup> ISE Rule 1900(2).

<sup>7</sup> The Solicited Order Mechanism will continue to be limited to orders of at least 500 contracts. Reference to the Solicited Order Mechanism is being added to the first sentence of Supplementary Material .07 because such orders could have a premium value that is less than \$150,000.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the proposal will assure that the execution of orders through the Block, Facilitation and Solicited Order Mechanism is consistent with the requirements of the options linkage rules.

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

ISE 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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

A proposed rule change filed under Rule 19b-4(f)(6) under the Act normally may not become operative prior to 30 days after the date of filing.<sup>12</sup> However, Rule 19b-4(f)(6)(iii)<sup>13</sup>

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

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

<sup>12</sup> In addition, Rule 19b-4(f)(6)(iii) under the Act requires a self-regulatory organization to give the Commission written notice of its intent to file 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. ISE has complied with this requirement.

<sup>13</sup> Id.

permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change seeks to conform the definition of Block Trades to the Exchange's existing options linkage rules.<sup>14</sup> The Commission hereby grants the Exchange's request and designates the proposal as operative upon filing.

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 No. SR-ISE-2008-33 on the subject line.

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<sup>14</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-ISE-2008-33. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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 Number SR-ISE-2008-33 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

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

Florence E. Harmon  
Deputy Secretary

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