

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57021; File No. SR-ISE-2007-116)

December 20 2007

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Open the Exchange's Equity Trading Platform at 9:00 a.m.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 14, 2007, the International Securities Exchange, LLC ("Exchange" or "ISE") 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 Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change 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

The Exchange proposes to amend its rules to allow the Exchange to open the ISE Stock Exchange at 9:00 a.m. without regard to whether the primary market in a particular security is open and to make other associated changes to its rules. The text of the proposed rule change is available at ISE's principal office, the Commission's Public Reference Room, and www.ise.com.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 Exchange 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 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 proposes to establish a Pre-Market Session for the trading of equity securities. The proposed Pre-Market Session will start at 9:00 a.m. and conclude when a security is opened for trading according the existing procedures contained in ISE Rule 2106. Under Rule 2106, the Exchange currently opens securities for trading on the ISE Stock Exchange following the first trade on the primary market for New York Stock Exchange ("NYSE") and American Stock Exchange ("Amex") listed securities, and following the first reported national best bid and offer ("NBBO") for Nasdaq and NYSE Arca listed securities. Generally, this means that the ISE Stock Exchange opens Nasdaq and NYSE Arca securities at 9:30 a.m. and opens NYSE and Amex securities after the first trade in a security, which occurs at or after 9:30 a.m. The proposed Pre-Market Session would not change the way in which the ISE Stock Exchange currently opens its regular trading session.⁵

⁵ The Exchange will continue to accept orders for the regulatory trading session beginning at 7:00 a.m., and will continue to perform the current midpoint opening transaction for such orders received prior to the opening. When the primary market is either the NYSE or the Amex, the opening trade will continue to be executed at the midpoint of the first reported NBBO subsequent to a reported trade on the primary market after 9:30 a.m.

The Exchange proposes to add a Pre-Opening Order to accommodate trading in the Pre-Market Session. A Pre-Opening Order is an order that is eligible for execution during Pre-Market Session trading. Unexecuted Pre-Opening Orders will become Day Orders upon commencement of the Regular Market Session. Equity EAMs that submit orders to the Pre-Market Session on behalf of non-members will be required to disclose the risks of participating in the Pre-Market Session to their customers, including the risk of: (1) lower liquidity;⁶ (2) higher volatility;⁷ (3) changing prices;⁸ (4) unlinked markets;⁹ (5) news announcements;¹⁰ (6) wider spreads,¹¹ and (7) lack of calculation or dissemination of underlying index value or intra-day indicative value (“IIV”).¹²

When the primary market is Nasdaq or NYSE Arca, the opening trade will continue to be executed at the midpoint of the first reported NBBO after 9:30 a.m.

⁶ There may be lower liquidity in Pre-Market hours trading as compared to regular market hours. As a result, an order may only be partially executed, or not at all.

⁷ There may be greater volatility in Pre-Market hours trading than in regular market hours. As a result, an order may only be partially executed, or not at all, or the price received may be an inferior price in Pre-Market hours trading compared to what would have been received during regular markets hours.

⁸ The prices of securities traded during Pre-Market hours may not reflect the prices either at the end of regular market hours, or upon the opening of the next morning. As a result, an order may receive an inferior price in Pre-Market hours trading compared to what would have been received during regular markets hours.

⁹ The prices displayed on a particular Pre-Market hours system may not reflect the prices in other concurrently operating Pre-Market hours trading systems dealing in the same securities. Accordingly, an order may receive an inferior price in one Pre-Market hours trading system compared to the price the order would have received in another Pre-Market hours trading system.

¹⁰ In Pre-Market hours trading, news announcements may occur during trading, and if combined with lower liquidity and higher volatility, may cause an exaggerated and unsustainable effect on the price of a security.

¹¹ Lower liquidity and higher volatility in Pre-Market hours trading may result in wider than normal spreads for a particular security.

¹² Since the underlying index value and/or IIV of a derivative security may not be calculated or widely disseminated during the Pre-Market hours, an investor who is unable

Under the proposal, the Pre-Market Session would operate the same as in the regular trading session, except that there would be no intermarket price protection for executions in the Pre-Market Session until 9:30 a.m. Because trading that occurs in the Pre-Market Session after 9:30 a.m. and until the security is opened in the regular market session will be subject to the requirements of Regulation NMS, starting at 9:30 a.m. the Pre-Market Session will protect incoming Pre-Opening Orders from trading through Protected Quotations¹³ on other markets. Similarly, Regulation NMS will prohibit other markets from trading through ISE's quotes starting at 9:30 a.m. To accommodate the needs of these other markets to comply with Regulation NMS, we will execute incoming orders marked as intermarket sweep orders and orders marked as immediate-or-cancel in the Pre-Market Session starting at 9:30 a.m. even though they may not be marked as Pre-Opening Orders.

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is found in Section 6(b)(5),¹⁴ in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposal will provide an opportunity for investors to begin trading equity securities before the primary market opens with proper disclosure of the risks involved in doing so.

to calculate implied values for such products during Pre-Market hours may be at a disadvantage to market professionals.

¹³ See ISE Rule 2100(c)(16).

¹⁴ 15 U.S.C. 78f(b)(5).

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

The Exchange believes that 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 unsolicited written comments from members or other interested parties.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act¹⁵ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁶ Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹⁷

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

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ Rule 19b-4(f)(6) also requires the Exchange to give 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 of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing requirement.

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. Please include File No. SR-ISE-2007-116 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 Number SR-ISE-2007-116. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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-2007-116 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.¹⁸

Florence E. Harmon
Deputy Secretary

¹⁸ 17 CFR 200.30-3(a)(12).