

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63531; File No. SR-ISE-2010-109)

December 10, 2010

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Fee Waiver

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 30, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") 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 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 is proposing to amend its Schedule of Fees regarding its Competitive Market Maker ("CMM") Inactivity Fee. The text of the proposed rule change is available on the Exchange's website (<http://www.ise.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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-

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Schedule of Fees regarding its CMM Inactivity Fee. ISE currently charges the owner³ of a CMM membership an Inactivity Fee of \$25,000 a month per trading right if the owner does not (i) itself operate the CMM membership, (ii) lease the CMM Trading Right to another member which operates the CMM membership, or (iii) avail itself to one of the exemptions specifically authorized in the Notes to the CMM Inactivity Fee on the Schedule of Fees. Pursuant to ISE Rules, however, a CMM Member may not operate more than 10 CMM Trading Rights.⁴ A CMM that has more than 10 trading rights must lease the additional trading rights or else be subject to the CMM Inactivity Fee.

The Exchange has developed an enhanced technology trading platform and will migrate from its current trading system to the new trading system over time (the “Transition Period”). The Exchange believes that during the Transition Period it would be impractical for a firm to become a new market maker on the Exchange due to the level of financial and technical resources that a new market maker would be required to commit. As a result, CMMs who are actively seeking to lease their trading rights during

³ The Note to the CMM Inactivity Fee on the Schedule of Fees provides that the fee applies to the owner of the CMM membership, unless the inactive CMM membership is subject to a lease that was approved by the Exchange prior to the effective date of the fee, in which case the fee would apply to the lessee.

⁴ See ISE Rule 303(b).

the Transition Period are unlikely to find a firm that would be willing to commit such resources. Therefore, ISE proposes to waive its current CMM Inactivity Fee until the new trading system has been completely rolled out.⁵ This proposed fee waiver would only apply to trading rights in excess of the 10 trading rights that a CMM is permitted to operate provided that CMM Member owns more than 10 trading rights.

2. Basis

The basis under the Securities Exchange Act of 1934 (the "Exchange Act") for this proposed rule change is the requirement under Section 6(b)(4)⁶ that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the proposed fee waiver is simply a recognition of the fact that it would be impractical for a new firm to become a member of the Exchange during the Transition Period, and thus, serves to effectively maintain low fees during this time.

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

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.

⁵ The Exchange has been working with its members to assure a smooth transition to the new trading platform and will continue to do so up to the launch of the new technology and during the Transition Period.

⁶ 15 U.S.C. 78f(b)(4).

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.⁷ At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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. Please include File No. SR-ISE-2010-109 on the subject line.

Paper comments:

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

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-ISE-2010-109. 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 Commissions Internet website (<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 website viewing and printing 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 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-2010-109 and should be submitted by
[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.⁸

Florence E. Harmon
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).