

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54751; File No. SR-ISE-2006-56)

November 14, 2006

Self-Regulatory Organizations; International Securities Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Relating to Customer Fees for Certain Complex Orders

I. Introduction

On September 20, 2006, the International Securities Exchange, Inc. (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to establish execution and comparison fees for customer Complex Orders that take liquidity from the ISE’s complex order book. The ISE filed Amendment No. 1 to the proposal on October 4, 2006.³ The proposed rule change, as amended, was published for comment in the Federal Register on October 13, 2006.⁴ The Commission received no comments regarding the proposal, as amended. This order approves the proposed rule change, as amended.

II. Description of the Proposal

Under its current rules, the ISE generally charges execution and comparison fees

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 revises the text of the ISE’s Schedule of Fees to: (1) explain when an order takes liquidity from the ISE’s complex order book; and (2) clarify that the proposed fee applies solely to Complex Orders that trade with other Complex Orders, and not to Complex Orders that trade with customer orders in the regular order book.

⁴ See Securities Exchange Act Release No. 54571 (October 4, 2006), 71 FR 60593.

of \$.15 and \$.03 per contract, respectively, for Firm Proprietary orders.⁵ The ISE states that it has noted increased volume in certain customer transactions in Complex Orders. According to the ISE, customers that use highly developed trading systems are able to take liquidity quickly from ISE's complex order book.⁶ To place customer orders on a more equal footing with broker-dealer orders, the ISE proposes to amend its Schedule of Fees to adopt execution and comparison fees of \$.15 and \$.03 per contract, respectively, for customer Complex Orders that take liquidity from the ISE's complex order book.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(4) of the Act,⁸ which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. Under its current rules, the ISE generally charges execution and comparison fees of \$.15 and \$.03 per contract,

⁵ For Firm Proprietary Complex Orders, the execution fee is charged only for the leg of the trade with the most contracts.

⁶ Under the ISE's proposal, an order takes liquidity when it interacts with a Complex Order resident on the ISE's complex order book. The ISE determines the liquidity provider and the liquidity taker based on time, *i.e.*, the order that arrives first on the ISE's complex order book is the liquidity provider. The fees established in the proposal apply solely to customer Complex Orders that take liquidity from the ISE's complex order book, but not to customer Complex Orders that trade with orders in the regular order book. Similarly, the fees do not apply to customer orders in the regular order book that trade with Complex Orders.

⁷ In approving this proposed rule change the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(4).

respectively, for Firm Proprietary orders. The proposal establishes execution and comparison fees of \$.15 and \$.03 per contract, respectively, for customer Complex Orders that take liquidity from the ISE's complex order book.⁹ Accordingly, the Commission believes that the proposal provides for the equitable allocation of fees among members and other persons using the ISE's facilities, consistent with Section 6(b)(4) of the Act.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-ISE-2006-56), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris
Secretary

⁹ As with the current execution fee for Firm Proprietary Complex Orders, the execution fee will be charged only for the leg of the trade with the most contracts.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).