

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56444; File No. SR-ISE-2007-45)

September 14, 2007

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

On June 8, 2007, the International Securities Exchange, LLC (“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 adopt, on a one-year pilot basis, a quote mitigation plan for the Exchange’s Competitive Market Makers (“CMMs”). On August 1, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on August 9, 2007.³ The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

After careful review of the proposal, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁵ which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 56201 (August 3, 2007), 72 FR 44903.

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

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.

The Exchange is proposing a quote mitigation plan for its CMMs on a pilot basis for one year in no more than twenty securities (“Pilot Program Securities”) to be designated by the Exchange. 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.⁶

The Exchange will issue a circular to CMMs identifying the initial Pilot Program Securities.⁷ The Exchange notes that the Pilot Program Securities selected by the Exchange are subject to change based on the quoting activity in these securities. Each time a change takes place in the Pilot Program Securities, the Exchange will issue circulars to notify CMMs of this

⁶ 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.

⁷ The initial 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. See Securities Exchange Act Release Nos. 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR-ISE-2006-62) and 56151 (July 26, 2007), 72 FR 42452 (August 2, 2007) (SR-ISE-2007-68).

change and shall provide them with adequate notice in order for them to make any required systems changes.

The Commission believes that the proposed rule change, which is intended to alleviate capacity constraints on some market participants' systems without adversely affecting the quality of the Exchange's markets or the timely receipt of quote information, is consistent with the Act. The Commission notes that it has already approved internal quote mitigation strategies on other exchanges that relieve some market makers of the obligation to quote every series of every class to which they are appointed.⁸

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-ISE-2007-45), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

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Deputy Secretary

⁸ See Phlx Rule 1014(b)(ii)(D)(1); see also Amex Rule 994(c)(iv).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).