

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55704; File No. SR-ISE-2007-25)

May 3, 2007

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Fee Changes

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 17, 2007, 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, II, and III below, which Items have been prepared substantially by the Exchange. On May 2, 2007, the ISE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> ISE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by ISE under Section 19(b)(3)(A)(ii) of the Act<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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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> Amendment No. 1 makes clarifications to the purpose section of the proposed rule change and technical formatting corrections to the Schedule of Fees contained in Exhibit 5.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

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 to establish fees for transactions in options on a new category of Premium Products.<sup>6</sup> The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and [www.iseoptions.com](http://www.iseoptions.com).

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. 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 is proposing to amend its Schedule of Fees to establish fees for transactions in options on a new category of Premium Products, foreign currency options, referred to in the Exchange’s Schedule of Fees as FX options.<sup>7</sup> The Exchange began trading in FX options on April 17, 2007. All of the applicable execution fees covered by this filing are identical to fees charged by the Exchange for all other Premium Products. Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for all transactions in FX

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<sup>6</sup> “Premium Products” is defined in the Schedule of Fees as the products enumerated therein.

<sup>7</sup> See Securities Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR-ISE-2006-59) (order approving the listing and trading of foreign currency options).

options.<sup>8</sup> The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.<sup>9</sup> The amount of the execution fee and comparison fee for products covered by this filing shall be \$0.15 and \$0.03 per contract, respectively, for all Public Customer Orders<sup>10</sup> and Firm Proprietary orders. Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be \$0.16 and \$0.03 per contract, respectively. Since FX options are not multiply-listed, the Payment for Order Flow fee shall not apply.

In addition to the execution fees noted above, the Exchange also proposes to charge ISE market makers a monthly access fee of \$500 for the right to quote in FX options. In order to promote trading in FX options, the Exchange proposes to waive, through October 17, 2007: (1) all transaction fees applicable to members and (2) the monthly access fee applicable to ISE market makers. As a further incentive for market makers to quote in FX options, the Exchange proposes to waive one API for each class of market maker in FX options. For example, a firm that is both a primary market maker (“PMM”) and a competitive market maker (“CMM”) in FX options (“FXPMM” and “FXCMM,” respectively) will receive a waiver of two APIs, one for quoting as a FXPMM and one for quoting as a FXCMM.

Finally, FX options are an options product and, as such, are subject to certain other fees that are currently on the Schedule of Fees. These fees include the minimum PMM fee and the

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<sup>8</sup> These fees will be charged only to Exchange members.

<sup>9</sup> The execution fee is currently between \$.21 and \$.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently \$.03 per contract side.

<sup>10</sup> “Public Customer Order” is defined in Exchange Rule 100(a)(39) as an order for the account of a Public Customer. “Public Customer” is defined in Exchange Rule 100(a)(38) as a person that is not a broker or dealer in securities.

Inactivity fee applicable to both PMMs and CMMs. In order to promote trading in FX options, ISE proposes to exclude FXPMMs and FXCMMs from being subject to these fees.

The Exchange believes that the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6(b) of the Act<sup>11</sup> in general, and Section 6(b)(4) of the Act<sup>12</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among exchange members and other persons using exchange facilities.

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

The Exchange believes that the proposed rule change will 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 the proposed rule change. The exchange has not received any unsolicited written comments from its members or other interested parties.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>13</sup> and Rule 19b-4(f)(2)<sup>14</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the

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<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

filing of such 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.<sup>15</sup>

#### 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 Number SR-ISE-2007-25 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-2007-25. 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

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<sup>15</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, the Commission considers the period to commence on May 2, 2007, the date on which the Exchange filed Amendment No. 1.

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. 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-2007-25 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).