

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60208; File No. SR-ISE-2009-39)

July 1, 2009

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

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 June 24, 2009, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III 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 the fees for its PrecISE Trade® order entry terminals. The text of the proposed rule change is available on the Exchange's Web site (<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 – The purpose of this proposed rule change is to amend the ISE’s fee schedule for its proprietary PrecISE Trade® order entry terminals. "PrecISE" is the Exchange’s internally-developed proprietary order-routing terminal used by Electronic Access Members (“EAM”) to send order flow to ISE. ISE currently charges a monthly fee of \$300 per user per month for the first 10 users; for all subsequent users, ISE charges \$50 per user per month.³ ISE recently upgraded PrecISE, enhancing it with certain new functionalities that, among other things, provide users with “Greek” calculations and the use of Attributable Orders.⁴ Certain other user-requested enhancements have also been built into the new version. In order for ISE to cover the costs of building out the enhanced version, we propose to increase the fee for the first 10 users to \$350 per month and for all subsequent users, \$100 per month.

ISE also proposes to change the method for calculating this fee. Currently, EAMs are billed based on the number of maximum concurrent logins. For example, if an EAM uses five logins over the course of a month but only three logins were used simultaneously at any point during the month, that member is charged for just those three logins. The Exchange now proposes to charge EAMs for the total number of logins used

³ See Securities Exchange Act Release No. 55960 (June 26, 2007), 72 FR 36531 (July 3, 2007) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to PrecISE Fees).

⁴ Attributable Order is a market or limit order in which an EAM can choose to disclose their member ID. See Securities Exchange Act Release No. 58701 (October 1, 2008), 73 FR 59007 (October 8, 2008) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a New Order Type) (SR-ISE-2008-74).

during the month. Using the same example, EAMs will now be charged for all five logins that they used over the course of the month. This proposed fee change will be operative on July 1, 2009.

(2) Basis – The basis under the Securities Exchange Act of 1934 (the “Exchange Act”) [sic] for this proposed rule change is the requirement under Section 6(b)(4) 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, these fees will enable the Exchange to cover its costs for providing an enhanced version of its front-end trading system.

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.

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) [sic] of the Act⁵ and Rule 19b-4(f)(2)⁶ thereunder. At any time within 60 days of the 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

⁵ 15 U.S.C. 78s(b)(3)(A). [sic]

⁶ 17 CFR 19b-4(f)(2). [sic]

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 Number SR-ISE-2009-39 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-ISE-2009-39. 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 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-2009-39 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.⁷

Elizabeth M. Murphy
Secretary

⁷ 17 CFR 200.30-3(a)(12).