

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50778; File No. SR-ISE-2004-35)

December 1, 2004

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange, Inc., Relating to an Ethernet Connection Fee

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 29, 2004, the International Securities Exchange, Inc. (the “Exchange” or the “ISE”) 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 by the ISE. 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 to adopt a fee for an Ethernet connection. The text of the proposed rule change is available at the Commission and the ISE.

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 ISE 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-regulatory organization has prepared

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Schedule of Fees to establish a fee for members to access the ISE via an Ethernet connection. The Ethernet connection is a new method by which members can access the ISE's trading system. This connection will carry the same information (such as quotation and trade information) as other forms of connection (such as T-1 and T-3 point-to-point connections), and does not require any changes to the Exchange's surveillance or communications rules. The Exchange believes that there is no change to, or impact on, the Exchange's market structure as a result of the Ethernet connection.

An Ethernet connection enables users to acquire bandwidth in megabit increments. The Exchange proposes to add a new fee to our Network Fees establishing a charge of \$25 per month per megabit for this connection. Members may buy connection speeds of between one and 15 megabits. While members may have Ethernet connections at faster speeds, the ISE currently will limit any connection to the Exchange to a maximum of 15 megabits. The Exchange believes that the \$25 per month per megabit fee is intended to cover ISE's costs on its end in providing Ethernet access to its members.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,³ in general and Section 6(b)(4) of the Act,⁴ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the Exchange believes that the Ethernet connection fee would facilitate a new form of connectivity to the Exchange.

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

The Exchange does not believe that the proposed rule change will 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 with respect to the proposed rule change.

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 Act⁵ and Rule 19b-4(f)(2) thereunder because it concerns a fee imposed by the Exchange.⁶ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).

⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

⁶ 17 CFR 240.19b-4(f)(2).

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.

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-2004-35 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-ISE-2004-35. 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. 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-2004-35 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.⁷

Margaret H. McFarland
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).