

**SECURITIES AND EXCHANGE COMMISSION**  
**(Release No. 34-53608; File No. SR-ISE-2006-17)**

**April 6, 2006**

**Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees on the Russell 1000 Index**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 3, 2006, the International Securities Exchange, Inc. (“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 by the ISE. The ISE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the ISE under Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</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 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 waive the surcharge for transactions in options on the Russell 1000 Index until September 29, 2006. The text of the proposed rule change is available on the ISE’s Web site ([http://www.iseoptions.com/legal/proposed\\_rule\\_changes.asp](http://www.iseoptions.com/legal/proposed_rule_changes.asp)), at the principal office of the ISE, and at the Commission’s Public Reference Room.

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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> 15 U.S.C. 78s(b)(3)(A)(ii).

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

## **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 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 purpose of this proposed rule change is to waive the surcharge for transactions in options on the Russell 1000 Index (“RUI”) until September 29, 2006. Options on RUI were previously approved for trading by the Commission.<sup>5</sup> Pursuant to a license agreement entered into by the Exchange with the Frank Russell Company (“Russell”), the Exchange currently charges a ten (10) cent surcharge per contract for trading options on RUI.<sup>6</sup> However, in order to promote trading in options on RUI, the Exchange is proposing to waive all surcharges on RUI for the 2<sup>nd</sup> and 3<sup>rd</sup> quarters of 2006 (the “promotional period”).

Due to competitive pressures, the Exchange does not charge Public Customer Orders<sup>7</sup> this surcharge fee. The surcharge fee is charged only to Exchange members with respect to non-

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<sup>5</sup> See Securities Exchange Act Release No. 51619 (April 27, 2005), 70 FR 22947 (May 3, 2005) (Order approving the trading of options on various Russell Indexes, including RUI).

<sup>6</sup> See Securities Exchange Act Release No. 51858 (June 16, 2005), 70 FR 36218 (June 22, 2005) (Notice of filing and immediate effectiveness of fees on various Russell Indexes, including RUI).

<sup>7</sup> Public Customer Order is defined in ISE Rule 100(a)(33) as an order for the account of a Public Customer. Public Customer is defined in ISE Rule 100(a)(32) as a person that is not a broker or dealer in securities.

Public Customer Orders (e.g., Market Maker and Firm Proprietary orders). Accordingly, during the promotional period, the Exchange proposes to waive the surcharge fee on all non-Public Customer Orders and, for a pilot period that is set to expire on July 31, 2006, on all Linkage Orders.<sup>8</sup> The Exchange's normal transaction fees, i.e., an execution fee and a comparison fee, in options on RUI shall continue to apply during the promotional period.<sup>9</sup>

## **2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>10</sup> which requires that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

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

The Exchange believes that 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)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(2)<sup>12</sup> thereunder because it changes a fee imposed by the Exchange. At

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<sup>8</sup> See ISE Rules 1900(10) and 1901.

<sup>9</sup> The Exchange represents that these fees are charged only to Exchange members.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 19b-4(f)(2).

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 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](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2006-17 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2006-17. 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-2006-17 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 Market Regulation, pursuant to delegated authority.<sup>13</sup>

Nancy M. Morris  
Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).