

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55247; File No. SR-ISE-2007-03)

February 6, 2007

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Complex Order Fee Waiver

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 1, 2007, the International Securities Exchange, LLC (“ISE” or “Exchange”) submitted to the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by ISE. ISE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders it 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 Exchange is proposing to amend its Schedule of Fees to adopt a waiver for customer fees for certain Complex Orders.

The text of the proposed rule change is available on ISE’s Web site at <http://www.ise.com>, at the principal office of ISE, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 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, 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. 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 amend ISE's Schedule of Fees to adopt a waiver of customer fees for certain Complex Orders.⁵ The Commission recently approved an Exchange proposed fee for customers that transact in Complex Orders, i.e., customer orders that interact with Complex Orders resident on the complex order book thereby taking liquidity from the complex order book.⁶ The Exchange now proposes to waive this fee for the first 15,000 contracts transacted in a month by a member on behalf of its customers. This fee will apply once a member transacts more than 15,000 contracts in a month (whether on behalf of one or more than one of its customers) that take liquidity from the complex order book. As an example, a member who collectively transacts 17,500 contracts on behalf of its customers in a month will be assessed the complex order fee on 2,500 contracts, not on the entire 17,500 contracts.

In the filing that adopted this fee, the Exchange stated its belief that the proposed fee is objective in that it is based on the behavior of market participants and the type of orders

⁵ Complex Orders are defined in ISE Rule 722(a).

⁶ See Exchange Act Release No. 34-54751 (November 14, 2006), 71 FR 67667 (November 22, 2006).

submitted. Since the behavior of these customers is similar to the behavior of a broker dealer, it is fair for the Exchange to charge for these customer orders the same fees as those charged for broker dealer orders. The Exchange believes that adopting a waiver for the first 15,000 contracts that a member transacts on behalf of its customers in a month is reasonable in that it furthers the Exchange's goal of deterring customers from acting as broker-dealers. The Exchange believes that customer orders that inadvertently interact with Complex Orders resident on the complex order book will never exceed 15,000 contracts in a month while customer orders of a member that intentionally engage in the business of taking liquidity from the complex order book are likely to exceed 15,000 contracts in a month.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act⁷ that an exchange have an equitable allocation of reasonable dues, fees and other charges among exchange members and other persons using its facilities.

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 written comments from members or other interested parties.

⁷ 15 U.S.C. 78f(b)(4).

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)(ii) of the Act⁸ and Rule 19b-4(f)(2) thereunder,⁹ because it establishes or changes a due, fee, or other charge imposed by the self-regulatory organization.

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 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-2007-03 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-2007-03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

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-2007-03 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.¹⁰

Florence E. Harmon
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).