

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55376; File No. SR-ISE-2007-14)

February 28, 2007

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

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 February 6, 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 and II below, which Items have been substantially prepared by the ISE. On February 16, 2007, ISE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) 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.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to add a new order type for the ISE Stock Exchange that would prevent orders from being cancelled back to Equity Electronic Access Members (“Equity EAMs”) when the order would either cause a locked or crossed market if displayed or cause a

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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> In Amendment No. 1, the Exchange revised the proposed rule text to clarify its meaning.

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

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

trade-through if executed. The text of the proposed rule change is available at ISE, the Commission's Public Reference Room, and [www.ise.com](http://www.ise.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. The Exchange 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 ISE Stock Exchange has several order types that may result in orders being cancelled back to Equity EAMs when the orders cannot be displayed on the ISE Stock Exchange because the order would create a violation of ISE Rule 2112 by locking or crossing the Protected Quotation<sup>6</sup> of another Trading Center<sup>7</sup> or would cause a violation of ISE Rule 2107(b) by trading-through the Protected Quotation of another Trading Center.<sup>8</sup>

The purpose of this filing is to add an order type that will give Equity EAMs the choice of whether to have orders re-priced instead of cancelled. Re-price orders and the unexecuted

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<sup>6</sup> See ISE Rule 2100(c)(16).

<sup>7</sup> See ISE Rule 2100(c)(20).

<sup>8</sup> For example, Not Routable orders are limit orders that are to be executed in whole or in part upon receipt, and if not fully executed, displayed on the ISE Stock Exchange if possible. If a Not Routable limit order is not fully executed and is not displayable on the ISE, the order is cancelled back to the member. See ISE Rule 2104(i).

balance of Re-price orders will be automatically re-priced within the minimum price variation<sup>9</sup> for display on the ISE Stock Exchange instead of being cancelled. For example, if the National Best Bid and Offer is \$4.06 x \$4.10 and the ISE Best Bid and Offer is \$4.05 x \$4.10 when an Equity EAM enters a Not Routable limit order to sell with a limit price of \$4.05, the order will be cancelled back to the member unless it is marked “Re-Price.” If the order is marked “Re-Price,” the order will be placed on the ISE Stock Exchange’s limit order book at \$4.07, the lowest possible offer price that the ISE can display without creating a locked or crossed market.

## 2. Statutory Basis

The ISE believes that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>10</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes that this filing will provide investors with more flexibility in entering orders and receiving executions of such orders.

### 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.

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<sup>9</sup> See ISE Rule 2210.

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposal.<sup>12</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>13</sup> However, Rule 19b-4(f)(6)(iii)<sup>14</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day pre-operative period, which would make the rule change operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because the proposed rule change is substantially similar to a

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<sup>12</sup> As required under Rule 19b-4(f)(6)(iii), ISE provided the Commission with notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposal.

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> Id.

rule previously approved by the Commission.<sup>15</sup> For this reason, the Commission designates that the proposal become operative immediately.

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 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>16</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-2007-14 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.

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<sup>15</sup> See Nasdaq Rule 4751(f)(8).

For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>16</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on February 16, 2007, the date on which ISE filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

All submissions should refer to File Number SR-ISE-2007-14. 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-2007-14 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>17</sup>

Florence E. Harmon  
Deputy Secretary

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