

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59701; File No. SR-ISE-2009-15)

April 3, 2009

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Quoting Obligations of Second Market Competitive Market Makers

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 March 25, 2009, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange 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 proposes to amend the quoting obligations of Second Market Competitive Market Makers. The text of the proposed rule change is as follows, with deletions in [brackets] and additions underlined:

Rule 904. Market Maker Quotes and Orders

(a) Quotes. Except as provided below, all of the requirements of Rules 803, 804, and 805 related to quoting obligations of Primary Market Makers and Competitive Market Makers apply to SMPMMs and SMCMMs respectively. For purposes of the Rules, SMCMMs are considered appointed to all of the options classes listed in the Second Market.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(1) SMCMMs are not required to make markets in a minimum number of options classes in the Second Market. SMCMMs may choose whether to make markets in one or more options classes traded in the Second Market on a daily basis.

(2) If an SMCMM chooses to make markets in one or more options classes in the Second Market, it must [participate in the opening rotation and] make markets and enter into any resulting transactions on a continuous basis in all of the series of the options class until the close of trading that day. Further, SMCMMs may [not] initiate quoting in an additional number of options classes intraday, up to the number of options classes for which they participated in the opening rotation on that day.

(b) No Change.

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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-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 the proposed rule change is to amend the quoting obligations of Second Market Competitive Market Makers (“SMCMMs”). Pursuant to Commission approval, ISE currently lists for trading a number of low-volume options classes that qualify for listing under

its Rule 502 in a “Second Market.”³ Among other things, the Second Market has allowed the Exchange to provide an opportunity for additional members to provide liquidity as market makers. Specifically, the Second Market trading rules allow SMCMMs to choose whether to make markets in one or more options classes on a daily basis. Under the current rules, if a SMCMM chooses to make markets in an options class, it must participate in the opening rotation and continue to quote all of the series of the options class through the close that day. Further, SMCMMs are not allowed to initiate quoting in an options class intraday.

The Exchange proposes to amend its Second Market rules as follows: 1) permit SMCMMs to quote in a greater number of options classes intraday, and 2) relax the requirement that SMCMMs must participate in the opening rotation in the options class that it chooses to make a market in on a specific day. With this proposed rule change, SMCMMs may initiate quoting in an options class intraday. However, the number of options classes in which a SMCMM may initiate quoting shall be limited to a number equal to the number of classes in which the SMCMM participated in the opening rotation on that day. For example, if a SMCMM participates in the opening rotation for 30 options classes, it may initiate quoting intraday in an additional 30 classes. Once an SMCMM starts quoting, it will continue to be required to quote all of the series through the remainder of the day.

The Exchange believes that relaxing the obligation for SMCMMs to participate in the opening and permitting this class of market makers to quote in a greater number of options classes intraday will encourage additional SMCMM participation and add liquidity to these low-volume options classes.

³ See Securities Exchange Act Release No. 54580 (October 6, 2006), 71 FR 60781 (October 16, 2006) (SR-ISE-2006-40).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder and, in particular, the requirements of section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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 proposed rule change is designed to attract additional liquidity in low-volume options classes by providing for open access to market makers.

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

This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange provided the Commission with written notice of its intent to file the proposed rule

change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change as required by Rule 19b-4(f)(6).⁴ The proposed amendment to ISE Rule 904 will allow SMCMMs to quote in a greater number of options classes intraday and thus provide additional liquidity in the low-volume options classes that trade in the Exchange's Second Market. Further, no other exchange requires its market makers to participate in the opening rotation in 100% of the series in options classes in which it makes a market. For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 of the Act, as it does not raise any new, unique or substantive issues, and is beneficial for competitive purposes and to promote a free and open market for the benefit of investors.

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.

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-2009-15 on the subject line.

⁴ 17 CFR 240.19b-4(f)(6).

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-2009-15. 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, on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2009-15 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵

Florence E. Harmon
Deputy Secretary

⁵ 17 CFR 200.30-3(a)(12).