

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-59943; File No. SR-ISE-2009-28)

May 20, 2009

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program for Directed Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 13, 2009, 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, II, and III below, which items have been prepared by the ISE. The proposed rule change has been filed by the ISE as effecting a change in an existing order-entry or trading system pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(5) 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 extend the pilot period for the system change that identifies to a Directed Market Maker ("DMM") the identity of the firm entering a Directed Order until November 30, 2009.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 7 CFR 240.19b-4.

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

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

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

On January 5, 2006, the ISE initiated a system change to identify to a DMM the identity of the firm entering a Directed Order. The ISE filed this system change on a pilot basis under Section 19(b)(3)(A) of the Exchange Act of 1934 (the "Exchange Act") and Rule 19b-4(f)(5) thereunder<sup>5</sup> so that it would be effective while the Commission considered a separate proposed rule change filed under Section 19(b)(2) of the Exchange Act to amend the ISE's rules to reflect the system change on a permanent basis (the "Permanent Rule Change").<sup>6</sup> The current pilot expires on May 29, 2009,<sup>7</sup> but the Commission has not yet taken action with respect to the Permanent Rule Change. Accordingly, the Exchange proposes to extend the pilot for an additional six months,

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<sup>5</sup> Exchange Act Release No. 53104 (Jan. 11, 2006), 71 FR 2142 (Jan. 19, 2006) (Notice of Filing and Immediate Effectiveness of SR-ISE-2006-02).

<sup>6</sup> Exchange Act Release No. 53103 (Jan. 11, 2006), 71 FR 3144 (Jan. 19, 2006) (Notice of Filing of SR-ISE-2006-01).

<sup>7</sup> Exchange Act Release No. 59276 (January 22, 2009), 74 FR 5007 (January 28, 2009) (Notice of Filing and Immediate Effectiveness of SR-ISE-2009-02).

until November 30, 2009, so that the system change will remain in effect while the Commission continues to evaluate the Permanent Rule Change.<sup>8</sup>

2. Statutory Basis

The basis under the Exchange Act is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Extension of the pilot program will allow the Exchange continue operating under the pilot while the Commission considers the Permanent Rule Change.

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 Exchange 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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act<sup>9</sup> and Rule 19b-4(f)(5)<sup>10</sup> thereunder. At any time within 60 days of

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<sup>8</sup> The ISE anticipated that extension of the pilot might be necessary and included this in the filing for the initial pilot. See supra note 5, at footnote 5.

<sup>9</sup> 5 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 7 CFR 240.19b-4(f)(5).

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 Exchange 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 Exchange 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-2009-28 in the subject line.

##### Paper comments

- Send paper comments in triplicate to Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2009-28. 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-2009-28 and should be submitted by [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>11</sup> 7 CFR 200.30-3(a)(12).