

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-60780; File No. SR-ISE-2009-71)

October 2, 2009

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to PrecISE Fees

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 September 30, 2009, the International Securities Exchange, LLC (the “Exchange” or “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 its fees relating to the Exchange’s proprietary PrecISE Trade® order entry terminals. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.ise.com>), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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.

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

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

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 fees relating to the Exchange's proprietary PrecISE Trade® order entry terminals. First, the Exchange currently has a monthly PrecISE sponsored customer fee of \$250 per terminal, with a maximum of \$1,500 per sponsored customer. A "Sponsored Customer" is a non-Member of the Exchange that trades under a sponsoring Member's execution and clearing identity. The Exchange permits Sponsored Customers of Members to access the Exchange directly via a PrecISE trade terminal, provided certain conditions are met. The Exchange's sponsored customer fees have been in place since 2007.<sup>3</sup>

Earlier this year, the Exchange amended its PrecISE terminal fees by increasing those fees from \$300 to \$350 per month for the first 10 users and from \$50 to \$100 per month for all subsequent users.<sup>4</sup> The Exchange increased its PrecISE terminal fees to cover its costs of building out an enhanced PrecISE terminal. The PrecISE terminals that sponsored customers use have the same functionalities as the terminals that are used by ISE Members. ISE now proposes to amend its PrecISE sponsored customer fee by aligning this fee with its PrecISE terminal fees. Accordingly, the Exchange proposes to increase its PrecISE sponsored customer fee from \$300 to \$350 per terminal per month for the first 10 users and from \$50 to \$100 per month for all subsequent users.

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<sup>3</sup> See Exchange Act Release No. 34-56496 (September 21, 2007), 72 FR 55268 (September 28, 2007).

<sup>4</sup> See Exchange Act Release No. 34-60208 (July 1, 2009), 74 FR 33012 (July 9, 2009) (the "PrecISE Fee Filing").

In the PrecISE Fee Filing, the Exchange also changed the method for calculating its PrecISE terminal fees.<sup>5</sup> ISE now proposes to adopt the same method for calculating its PrecISE sponsored customer fee that it currently uses for calculating the PrecISE terminal fee, which is to charge users for the total number of logins used during a month per Sponsored Customer.

Second, the Exchange proposes to remove the PrecISE through VPN fee from its fee schedule. The Exchange no longer supports a PrecISE through VPN connection. Members that used to connect to the Exchange through a VPN now connect to the Exchange via the internet.

These proposed fee changes will be operative on October 1, 2009.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Exchange Act") for this proposed rule change is the requirement under Section 6(b)(4) that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, these fees will enable the Exchange to cover its costs for providing an enhanced version of its front-end trading system to sponsored customers.

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

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<sup>5</sup> Id.

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) of the Act<sup>6</sup> and Rule 19b-4(f)(2)<sup>7</sup> thereunder. 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](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2009-71 on the subject line.

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-2009-71. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such 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 No. SR-ISE-2009-71 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).