

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-65731; File No. SR- ISE-2011-74)

November 10, 2011

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Remove the Requirement that its Members Pass the DTR Examination Prior to Registering

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 October 28, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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

Pursuant to the provisions of Section 19(b)(1) of the Act,<sup>3</sup> the Exchange is filing a proposed rule change to remove the requirement that Designated Trading Representatives ("DTRs") pass an examination administered by the ISE before they can be approved by the Exchange to enter quotations and orders on behalf of market makers.

The text of the proposed rule change is available on the Exchange's Internet website at <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

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

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, Proposed Rule Change

1. Purpose

The Exchange rules governing registration, examination, and continuing education requirements for ISE members previously only applied to associated persons who conducted a public customer business. Such persons were required, in part, to pass the General Securities Representative examination (“Series 7”) and the ISE’s Designated Trading Representative examination (“DTR Exam”) to function as representatives if accepting orders from non-member customers.<sup>4</sup> ISE members whose business was limited to proprietary securities trading (“Prop Traders”) were only required to pass the DTR exam prior to receiving approval to enter quotations and orders on the Exchange.

The ISE recently amended its rules governing registration, examination, and continuing education to require members, regardless of whether they conduct a public business or proprietary securities business, to register, qualify and comply with continuing education requirements.<sup>5</sup> To address the gap in registration and examination requirements related to Prop

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<sup>4</sup> See ISE Rule 602.

<sup>5</sup> See Securities Exchange Act Release No. 63843 (February 4, 2011), 76 FR 7885 (February 11, 2011) (SR-ISE-2010-115).

Traders, the ISE, in conjunction with other SROs,<sup>6</sup> implemented a new examination for Prop Traders (“Series 56”) that is administered by the Financial Industry Regulatory Authority on behalf of the SROs.<sup>7</sup>

Because the ISE now requires all Prop Traders to pass the Series 56 examination prior to being approved for membership, the Exchange believes that it is no longer necessary to administer its own exam. Likewise, the associated persons who are required to pass the Series 7 examination prior to receiving approval to enter quotations and orders on the Exchange, should no longer be required to also pass the DTR Exam because the Series 7 is a much more comprehensive examination and tests the candidate’s knowledge of the subject matter applicable to proprietary trading. Accordingly, the Exchange proposes to delete the requirement that Designated Trading Representatives take the DTR Exam. Such individuals will continue to be subject to the Exchange’s registration and other requirements specific [sic] Designated Trading Representatives.

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<sup>6</sup> The Series 56 examination program is shared by the ISE, Boston Options Exchange, Inc., Chicago Board Options Exchange, Inc., C2 Options Exchange, Inc., Chicago Stock Exchange, Inc., NASDAQ OMX, BX, NASDAQ OMX, PHLX, NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, and NYSE Amex, Incorporated,.

<sup>7</sup> The Series 56 examination tests a candidate’s knowledge of proprietary trading generally and the industry rules applicable to trading of equity securities and listed options contracts. The Series 56 examination covers, among other things, recordkeeping and recording requirements, types and characteristics of securities and investments, trading practices and display execution and trading systems. While the examination is primarily dedicated to topics related to proprietary trading, the Series 56 examination also covers a few general concepts relating to customers. The Series 56 examination became available to ISE members on August 1, 2011.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(1)<sup>9</sup> of the Act in particular, in that it is designed to enforce compliance by Exchange members and persons associated with its members with the rules of the Exchange. The Exchange also believes the proposed rule change furthers the objectives of Section 6(c)(3)<sup>10</sup> of the Act, which authorizes ISE to prescribe standards of training, experience and competence for persons associated with ISE members, in that this filing establishes that ISE members must take and pass the Series 56 examination, which is being adopted by other SROs so as to create market-wide consistency in the examination process, instead of administering an ISE specific examination. ISE believes the Series 56 examination program establishes the appropriate qualifications for an individual associated person that is required to register as a Proprietary Trader under Exchange Rule 313, including, but not limited to, Market-Makers, proprietary traders and individuals effecting transactions on behalf of other broker-dealers. The Exchange believes the Series 56 addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for individuals required to register as Designated Trading Representatives under ISE Rule 801.

### 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>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(1).

<sup>10</sup> 15 U.S.C. 78f(c)(3).

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 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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)<sup>11</sup> of the Act and Rule 19b-4(f)(6)<sup>12</sup> thereunder. 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.

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and operative upon filing with the Commission. The Commission believes that such waiver will allow the Exchange to decommission the use of its own examination for registration purposes in conjunction with the Exchange's deadline for its membership to have taken and passed the Series 56 examination. Waiver of the operative delay will help to streamline the exam procedures, while simultaneously protecting investors and the public interest. Therefore, the Commission designates the proposal to be operative upon filing.<sup>13</sup>

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 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).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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-2011-74 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-2011-74. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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-2011-74 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.<sup>14</sup>

Elizabeth M. Murphy  
Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).