

Copies of the 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-2006-26 and should be submitted on or before February 28, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57255; File No. SR-ISE-2007-76]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Voluntary Professionals

February 1, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on August 24, 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, II, and III below, which Items have been substantially prepared by the Exchange. On January 25, 2008, ISE filed Amendment No. 1 to the proposed rule change. 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 proposes to allow, on a purely voluntary basis, non-broker-dealer customers to designate their orders as "Voluntary Professional." Voluntary Professional orders will be treated the same as non-customer orders for purposes of execution priority and the ISE schedule of fees. The text of the proposed rule change is available at ISE,

the Commission's Public Reference Room, and <http://www.iseoptions.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 ISE 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 ISE 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Under ISE rules, a "Public Customer" is any person or entity that is not a broker or dealer in securities and a "Public Customer Order" is an order for the account of a Public Customer.<sup>3</sup> A "Non-Customer" is any person or entity that is a broker or dealer in securities and a "Non-Customer Order" is an order for the account of a broker or dealer.<sup>4</sup> These terms are used in specific ISE rules that provide certain marketplace advantages to Public Customer Orders over Non-Customer Orders. In particular, under ISE rules Public Customer Orders are given priority over Non-Customer Orders and market maker quotes at the same price, and subject to certain exceptions, members are not charged a transaction fee for the execution of Public Customer Orders, but are subject to cancellation fees related to the execution of Public Customer Orders.

Members have indicated that certain of their non-broker-dealer customers employing sophisticated trading strategies that involve cancelling a large percentage of their orders before the orders are executed would prefer to have their orders categorized as Non-Customer Orders, thereby gaining relief from the Exchange's cancellation fee that member firms pass through to these customers. Accordingly, the Exchange proposes to allow, on a purely voluntary basis, non-broker-dealer customers to instruct member firms, in writing, to designate their orders as Voluntary Professional.<sup>5</sup> Such orders would be

considered Non-Customer Orders for purposes of ISE Rules 713 (Priority of Quotes and Orders), 716 (Block Trades), 722 (Complex Orders), and 723 (Price Improvement Mechanism for Crossing Transactions). For orders designated as Voluntary Professional, ISE would charge members standard transaction fees currently applicable to broker-dealer orders, which means that the cancellation fee will not be applicable to such orders.

Under the proposal, Voluntary Professionals would participate in ISE's allocation process on equal terms with broker-dealer orders and market maker quotes. The proposal would also result in members paying the same transaction fees for the execution of Voluntary Professional orders as they do for broker-dealer orders. By definition, the Voluntary Professional designation would not otherwise affect these non-broker-dealer individuals or entities under the ISE rules. The Exchange notes that Voluntary Professional orders would continue to be treated the same as Public Customer Orders for purposes of linkage-related rules. For example, the ISE would provide the same away-market protection for orders designated as Voluntary Professional as it does for orders designated as Public Customer Orders by preventing incoming marketable orders from automatically executing at prices inferior to the best bid or offer on another national securities exchange. As provided in ISE Rule 714, such Voluntary Professional orders would be handled by the Primary Market Maker who may, according to ISE Rule 1901(c), send a P/A order to another exchange to get a better price for the customer.

###### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

##### 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.

the term Public Customer means a person "or entity" that is not a broker or dealer securities.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>14</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> ISE Rule 100(a)(32) and (33).

<sup>4</sup> ISE Rule 100(a)(22) and (23).

<sup>5</sup> The Exchange is also proposing to make non-substantive changes to correct cross references in Rule 100(a) to the Constitution, and to clarify that

*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**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**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-2007-76 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-ISE-2007-76. 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 at (<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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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-2007-76 and should be submitted on or before February 28, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-57251; File No. SR-NYSE-2007-62]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes to NYSE Rules 104 (Dealings by Specialists); 111 (Reports of Executions); 123A (Miscellaneous Reports); 123C (Market on the Close Policy and Expiration Procedures); 421 (Periodic Reports); 440B (Short Sales); 440C (Short Sale Borrowing and Delivery Requirements); 440F (Public Short Sale Transactions Effected on the Exchange); 440G (Transactions in Stocks and Warrants for the Accounts of Members, Allied Members and Member Organizations); 902 (Off-Hours Trading Orders); 1000 (Automatic Execution of Limit Orders Against Orders Reflected in NYSE Published Quotation); and 1003 (Application of Tick Tests) Relating to Recent Amendments to Rule 10a-1 and Regulation SHO**

February 1, 2008.

Pursuant to section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934

("Act")<sup>2</sup> and Rule 19b-4<sup>3</sup> thereunder, notice is hereby given that on July 6, 2007, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), and on December 5, 2007 amended, the proposed rule change as described in Items I and II below, which items have been substantially prepared by the Exchange. The Exchange filed the proposals as "non-controversial" rule changes under Rule 19b-4(f)(6)<sup>4</sup> under the Act, which rendered the proposals effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

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

The NYSE proposes to make conforming amendments to certain of its rules in light of recent changes to short sale provisions in Rule 10a-1<sup>5</sup> of the Act and Regulation SHO.<sup>6</sup> The rules the Exchange proposes to amend are the following: Rule 104 (Dealings by Specialists); Rule 111 (Reports of Executions); Rule 123A (Miscellaneous Reports); Rule 123C (Market on the Close Policy and Expiration Procedures); Rule 421 (Periodic Reports); Rule 440B (Short Sales); Rule 440C (Short Sale Borrowing and Delivery Requirements); Rule 440F (Public Short Sale Transactions Effected on the Exchange); Rule 440G (Transactions in Stocks and Warrants for the Accounts of Members, Allied Members and Member Organizations); Rule 902 (Off-Hours Trading Orders); Rule 1000 (Automatic Execution of Limit Orders Against Orders Reflected in NYSE Published Quotation); and Rule 1003 (Application of Tick Tests).

The text of the proposed rule change is available at the Exchange, on the Exchange's Web site at <http://www.nyse.com>, and in 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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at

<sup>2</sup> 15 U.S.C. 78a et seq.

<sup>3</sup> 17 CFR 240.19b-4.

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

<sup>5</sup> 17 CFR 240.10a-1.

<sup>6</sup> 17 CFR 242.200-203.

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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