

face value to \$.15 per million current face value.

(2) The fee for a Notification Send from 1 p.m. to 2 p.m. is revised from \$1.25 per million current to \$.75 per million current face value.

(3) The fee for a Notification Receive from Opening of Business to 1 p.m. is revised from \$.50 per million current face value to \$.40 per million current face value.

(4) The fee for a Notification Receive from 1 p.m. to 2 p.m. or 2 p.m. to 3 p.m. is revised from \$.25 per million current face value to \$.20 per million current face value.

(5) The fee for (i) a Notification Send from 2 p.m. to 3 p.m. or 3 p.m. to Close of Business and (ii) a Notification Receive from 3 p.m. to Close of Business remains unchanged.

FICC believes the proposed rule change is consistent with the requirements of section 17A of the Act<sup>5</sup> and the rules and regulations thereunder applicable to FICC because it clarifies and updates FICC's fee schedule. As such, it provides for the equitable allocation of fees among its participants and aligns fees for services with the associated cost to deliver the service.

#### *(B) Self-Regulatory Organization's Statement on Burden on Competition*

FICC does not believe that the proposed rule change will have an impact or impose any burden on competition.

#### *(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

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

The foregoing proposed rule change has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and Rule 19b-4(f)(2)<sup>7</sup> thereunder because the rule establishes a due, fee, or other charge. At any time within sixty 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](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2005-21 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 20549-9303.

All submissions should refer to File Number SR-FICC-2005-21. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at <http://www.ficc.com>. 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-FICC-2005-21 and should be submitted on or before February 9, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-539 Filed 1-18-06; 8:45 am]

BILLING CODE 8010-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-53104; File No. SR-ISE-2006-02]

### **Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Directed Orders System Change**

January 11, 2006.

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 January 5, 2006, the International Securities Exchange, Inc. ("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 change its existing system as it relates to "Directed Orders." Specifically, the Exchange is proposing to identify to a Directed Market Maker ("DMM") the identity of the firm entering a Directed Order. This system change will be effective until June 30, 2006, while the Commission considers a corresponding ISE proposal to amend its rules to specify that order-entry firm identity is disclosed to the DMM. In addition, the Exchange commits that it will reverse this system change prior to June 30, 2006, if the Commission staff prohibits all options exchanges from disclosing the identity

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

<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)(3)(A).

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

<sup>5</sup> 15 U.S.C. 78q-1.

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

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

of order entry firms in their directed order systems. In that case, the Exchange will reverse this system change effective simultaneously with all other exchanges enforcing anonymity in their systems.<sup>5</sup> The text of the proposed rule change is available on the ISE's Web site [http://www.iseoptions.com/legal/proposed\\_rule\\_changes.asp](http://www.iseoptions.com/legal/proposed_rule_changes.asp), at the principal office of the ISE, 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 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 Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange operates a Directed Order system in which Electronic Access Members ("EAMs") can send an order to a DMM for possible price improvement.<sup>6</sup> If a DMM accepts Directed Orders generally, that DMM must accept all Directed Orders from all EAMs. Once such a DMM receives a Directed Order, it either must enter the order into the Exchange's "Price Improvement Mechanism" ("PIM") or must release the order into the Exchange's limit order book, in which case there are certain restrictions on the DMM interacting with the order. While ISE rules do not specify that Directed Orders are sent to a DMM on an anonymous basis, prior to this filing, the Exchange did not disclose to a DMM the identity of the EAM sending a Directed Order.

The Boston Options Exchange ("BOX") operates a system almost identical to ISE's Directed Order system, with one important distinction. Based on BOX's published rules, ISE believed that BOX's system had the same anonymity feature as ISE's system.

However, BOX's system is not in fact anonymous, and its system provides BOX directed market makers with the identity of the firm entering an order.<sup>7</sup> ISE's market makers find this feature very attractive in that it provides a DMM with relevant information when deciding whether or not to guarantee price improvement for an order. Without ISE also disclosing the identity of the order entry firm, ISE's Directed Order system is not competitive with the BOX's system. While the Boston Stock Exchange, Inc. ("BSE") has filed a proposed rule change to conform to the BOX rules to the actual operation of its system,<sup>8</sup> BOX continues to identify firms entering directed orders while the Commission considers the pending rule filing.

ISE believes that BOX has been non-compliant with its rules and that this places the ISE at a significant competitive disadvantage. ISE further believes that the only way that ISE can address the immediate inequity in the market is to modify ISE's system to disclose the identity of the EAM entering a Directed Order on a temporary basis while the Commission considers whether to approve the BOX Proposal. Thus, the purpose of this filing is to remove the anonymity feature from ISE's Directed Order system for a period ending on June 30, 2006. This system change is effective on filing under Rule 19b-4(f)(5). The ISE has simultaneously filed a proposed rule change, similar to the BOX Proposal, to specify in its rules that the identity of the entering firm is disclosed to a DMM,<sup>9</sup> which if approved by the Commission, will make the system change permanent (the "Permanent Rule Change").<sup>10</sup> The Permanent Rule Change has been filed pursuant to section 19(b)(2) of the Act to provide the Commission an opportunity to consider both the BOX and ISE proposals contemporaneously.

Through this proposal, the ISE will be able to operate on an equal competitive basis with BOX while the Commission evaluates whether exchanges should be permitted to disclose order flow provider identities. The ISE commits that it will submit another rule change under Rule 19b-4(f)(5) to reverse this

system change prior to June 30, 2006, if the Commission staff determines not to approve the Permanent Rule Change and the BOX Proposal and prohibits all options exchanges from disclosing the identity of order entry firms in their directed order systems. In that case, the Exchange will reverse this system change effective simultaneously with BOX, and all other options exchanges having similar systems, enforcing anonymity in their systems.

#### 2. Statutory Basis

The Exchange believes that the basis under the Act is found in section 6(b)(5),<sup>11</sup> in that the proposed rule change is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to 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. In particular, the system change will enable the Exchange to remain competitive in the market place while the Commission considers anonymity issues across all options markets.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that 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

Because the foregoing proposed rule change effects a change in an existing order entry or trading system that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting access to or availability of the system, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(5) thereunder.<sup>13</sup>

<sup>5</sup> In the event that the issue of anonymity in the Directed Order process is not resolved by June 30, 2006, the Exchange intends to submit another filing under Rule 19b-4(f)(5) extending this temporary system change.

<sup>6</sup> See Securities Exchange Act Release No. 52331 (August 24, 2005), 70 FR 51856 (August 31, 2005) (SR-ISE-2004-16).

<sup>7</sup> See Securities Exchange Act Release No. 53015 (December 22, 2005), 70 FR 77207 (December 29, 2005) (the "BOX Proposal").

<sup>8</sup> Id.

<sup>9</sup> See Securities Exchange Act Release No. 53103 (January 11, 2006) (File No. SR-ISE-2006-01).

<sup>10</sup> The ISE also enforces anonymity in certain other trading systems, such as its Facilitation Mechanism. The Exchange also plans to file a proposed rule change eliminating the anonymity provisions in certain of these areas.

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 19b-4(f)(5).

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 No. SR-ISE-2006-02 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-ISE-2006-02. 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-2006-02 and should be submitted on or before February 9, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

Nancy M. Morris,

Secretary.

[FR Doc. E6-518 Filed 1-18-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53103; File No. SR-ISE-2006-01]

### Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend Exchange Rule Governing Directed Orders

January 11, 2006.

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 January 5, 2006, the International Securities Exchange, Inc. ("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 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 amend its ISE Rule 811 with respect to identifying to a Directed Market Maker ("DMM") the identity of the firm entering a Directed Order.

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in [brackets].

\* \* \* \* \*

#### Rule 811. Directed Orders

\* \* \* \* \*

(b) Exchange market makers may only receive and handle orders on an agency basis if they are Directed Orders and only in the manner prescribed in the Rule 811. A market maker can elect whether or not to accept Directed Orders on a daily basis. If a market maker elects to be a Directed Market Maker, it must accept Directed Orders from all Electronic Access Members[. A Directed market maker] *and* cannot reject a Directed Order. *The identity of the Electronic Access Member that*

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

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

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

*entered the Directed Order will be made available to the Directed Market Maker.*

\* \* \* \* \*

#### 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. 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange operates a Directed Order system in which Electronic Access Members ("EAMs") can send an order to a DMM for possible price improvement.<sup>3</sup> If a DMM accepts Directed Orders generally, that DMM must accept all Directed Orders from all EAMs. Once such a DMM receives a Directed Order, it either must enter the order into the Exchange's "Price Improvement Mechanism" ("PIM") or must release the order into the Exchange's limit order book, in which case there are certain restrictions on the DMM interacting with the order.

The Boston Options Exchange ("BOX") operates a system almost identical to ISE's Directed Order system. Based on BOX's published rules, the ISE believed that BOX's system had the same anonymity feature as ISE's system. However, the Boston Stock Exchange, Inc. ("BSE") has filed a proposed rule change that acknowledges that BOX provides its directed market makers with the identity of the order entry firm and seeks to amend the BOX rules to be consistent with the actual operation of the BOX system (the "BOX Proposal").<sup>4</sup>

The ISE has significant concerns with the BOX Proposal and will be filing a comment letter arguing against its approval. Notwithstanding ISE's concerns with the BOX Proposal, the ISE believes it needs to remain competitive in the market place if the Commission determines to approve the BOX Proposal and allow exchanges to disclose the identity of order-entry

<sup>3</sup> See Securities Exchange Act Release No. 52331 (August 24, 2005), 70 FR 51856 (August 31, 2005) (SR-ISE-2004-16).

<sup>4</sup> See Securities Exchange Act Release No. 53015 (December 22, 2005), 70 FR 77207 (December 29, 2005) (SR-BSE-2005-52).