

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56694; File No. SR-ISE-2007-61]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Specific Performance Commitments for Primary Market Makers**

October 24, 2007.

On July 17, 2007, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its Rule 802(b)(2) regarding specific performance commitments for Primary Market Makers ("PMMs"). On September 10, 2007, ISE filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on September 19, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

**I. Description of the Proposal**

Currently, ISE Rule 802(b)(2) requires PMMs to submit specific performance commitments each time they request an allocation of options on indices, foreign currency options and Fund Shares (collectively, "Index-Based Products"). The initial rationale behind adopting a requirement on PMMs to submit proposed performance commitments for allocations of options on new Index-Based Products was to require a stronger commitment for certain competitive products like exchange-traded funds and indices and to assist the Exchange's Allocation Committee when choosing between PMMs seeking the same product.

The Exchange now believes that its rule is overbroad and may actually discourage some PMMs from seeking allocations of options on Index-Based Products. Therefore, ISE is proposing to amend the rule to provide that specific performance commitments need only be submitted in response to a request by the Exchange, thereby eliminating their submission as a uniform requirement

each time a PMM seeks a new allocation of options in Index-Based Products.<sup>4</sup>

**II. Discussion**

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires 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. The Commission believes that the proposed amendment of ISE Rule 802(b)(2) will encourage PMMs to seek allocations of products on the Exchange, and thereby remove impediments to and perfect the mechanism for a free and open market. Further, the Exchange will continue to evaluate performance standards of its market makers pursuant to existing practice. The proposed rule also allows the Exchange to require the submission of specific performance commitments from a PMM seeking a new allocation as the Exchange in its discretion deems appropriate. Accordingly, the Commission finds that the proposal promotes just and equitable principles of trade and protects investors and the public interest.

**III. Conclusion**

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-ISE-Phlx-2007-61), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E7-21285 Filed 10-29-07; 8:45 am]

BILLING CODE 8011-01-P

<sup>4</sup> ISE notes that modifying this requirement will not affect a PMM's other obligations as a market maker on the Exchange under Chapter 8 of ISE's Rules.

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56697; File No. SR-NYSE-2007-90]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Fee Charged to Member Organizations for Participation in the Exchange's Continuing Education Program**

October 24, 2007.

Pursuant to section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act"), and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 1, 2007, New York Stock Exchange LLC ("NYSE" 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 NYSE. The Exchange has designated the proposed rule change as establishing or changing a due, fee, or other charge applicable only to members, pursuant to section (b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. On October 19, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>5</sup> 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**

NYSE proposes to amend, effective October 1, 2007, the fees charged for the Continuing Education Program for Active Floor Members from a \$100 semi-annual participation fee, plus an additional \$100 fee to re-register for additional sessions, to a flat \$50 fee per training module. The text of the proposed rule change is available on NYSE's Web site at <http://www.nyse.com>, at NYSE, 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, NYSE included statements concerning

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

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

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

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

<sup>5</sup> In Amendment No. 1, the Exchange made clarifying, non-substantive changes to the filing.

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

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

<sup>3</sup> See Securities Exchange Act Release No. 56383 (September 11, 2007), 72 FR 53612.