

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48811; File No. SR-ISE-2003-25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto by the International Stock Exchange, Inc. To Amend Rules 713 and 715 To Add Definitions for All-or-None Orders, Stop Orders and Stop Limit Orders

November 20, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 16, 2003, the International Stock 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 Exchange has filed the proposal as a "non-controversial" rule change pursuant to section 19(b)(3)(A)(iii) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ On November 13, 2003, the ISE filed Amendment No. 1 to the proposed rule change.⁶ 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 Exchange is proposing to amend Rules 713 and 715 to add definitions for all-or-none orders, stop orders and stop limit orders. The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

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Rule 715. Types of Orders

(c) *All-Or-None Orders.* An all-or-none order is a limit or market order that is to be executed in its entirety or not at all.

(d) *Stop Orders.* A stop order is an order that becomes a market order when the stop price is elected. A stop order to buy is elected when the option is bid or trades on the ISE at, or above, the specified stop price. A stop order to sell is elected when the option is offered or trades on the ISE at, or below, the specified stop price.

(e) *Stop Limit Orders.* A stop limit order is an order that becomes a limit order when the stop price is elected. A stop limit order to buy is elected when the option is bid or trades on the ISE at, or above, the specified stop price. A stop limit order to sell becomes a sell limit order when the option is offered or trades on the ISE at, or below, the specified stop price.

Rule 713. Priority of Quotes and Orders

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Supplementary Material to Rule 713

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.02 All-or-none orders, as defined in Rule 715(c), are contingency orders that have no priority on the book. Such orders are maintained in the system and remain available for execution after all other trading interest at the same price has been exhausted.

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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 Exchange 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 proposes to amend Rules 713 and 715 to add definitions for all-or-none orders, stop orders and stop limit orders. The definitions of these three order types are consistent with the definitions contained in other exchanges' rules.⁷ An all-or-none order is a limit or market order that is to be executed in its entirety or not at all. All-or-none orders are contingency orders that have no priority on the book. Such

orders are maintained in the system and remain available for execution after all other trading interest at the same price has been exhausted.

Stop orders are defined as orders that become market orders when the stop price is elected. A stop order to buy is elected when the option is bid or trades on the ISE at, or above, the specified stop price. A stop order to sell is elected when the option is offered or trades on the ISE at, or below, the specified stop price. When the stop price is elected, the system releases a market order into the market and the order would be handled in the same manner as any other market order.

Stop limit orders are defined as orders that become limit orders when the stop price is elected. A stop limit order to buy is elected when the option is bid or trades on the ISE at, or above, the specified stop price. A stop limit order to sell is elected when option is offered or trades on the ISE at, or below, the specified stop price. Once the stop price is elected, the limit order is placed on the ISE book and would be handled in the same manner as any other limit order on the ISE book. In Amendment No. 1, the Exchange has represented that stop and stop limit orders will be elected automatically by the system without manual intervention by any market participant, and that no market participant on the ISE will be able to view pending stop and stop limit orders in the system.

2. Statutory Basis

The ISE believes that the rule change is consistent with section 6 of the Act in general⁸ and Section 6(b)(5) of the Act in particular.⁹ The Exchange believes that the proposed rule change is intended 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 Exchange also believes that new order types will offer investors new trading opportunities on the Exchange and enhance the Exchange's competitive position.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

⁵ The ISE provided a five-day written notice to the Commission of its intent to file the proposal. The ISE has requested the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii) under the Act. 17 CFR 240.19b-4(f)(6)(iii).

⁶ See letter from Katherine Simmons, Vice President and Associate General Counsel, ISE, to Theodore Lazo, Senior Special Counsel, Division of Market Regulation, Commission, Dated November 13, 2003 ("Amendment No. 1").

⁷ See, e.g., CBOE Rule 43.2.

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

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, as amended, does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if the proposal is consistent with the protection of investors and the public interest; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing, or such shorter time as designated by the Commission, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6)¹¹ thereunder. At any time within 60 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.¹² The Commission has decided to waive the 30 day operative delay and designates that the proposal become operative upon filing with the Commission because the proposed rule change permits the implementation of all-or-none, stop, and stop limit orders in a manner consistent with the protection of investors and the public interest.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amended proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW.,

Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the ISE.

All submissions should refer to File No. SR-ISE-2003-25 and should be submitted by December 19, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48812; File No. SR-NASD-2003-160]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Regarding Reporting of Transactions Conducted Through Electronic Communications Networks to the Automated Confirmation Transaction Service

November 20, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 27, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the

Commission.⁵ 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

Nasdaq proposes to amend NASD Rule 6130 to further clarify the reporting requirements applicable to transactions conducted through electronic communications networks ("ECNs") and reported to the Automated Confirmation Transaction Service ("ACT"). These reporting requirements were recently codified by SR-NASD-2003-98.⁶ Nasdaq is also proposing to delay until November 10, 2003 the implementation of rule changes effected by SR-NASD-2003-98.

The text of the proposed rule change is set forth. Proposed new language is in italics; proposed deletions are in brackets.

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6100. AUTOMATED CONFIRMATION TRANSACTION SERVICE (ACT)

6130. Trade Report Input

(a)-(b) No change.

(c) Which Party Inputs Trade Reports to ACT

ACT Participants shall, subject to the input requirements below, either input trade reports into the ACT system or utilize the Browse feature to accept or decline a trade within the applicable time-frames as specified in paragraph (b) of this Rule. Trade data input obligations are as follows:

(1)-(5) No change.

(6) in transactions conducted through two ACT ECNs or an ACT ECN AND an ECN that is not an ACT ECN, an ACT ENC shall be responsible for complying with the requirements of paragraph (5) above for reporting a transaction executed through its facilities, and an ECN that routed an order to it for execution shall be deemed to be *and Order Entry Firm* [a Market Maker] for purposes of the rules for determining reporting parties reflected in paragraphs (1), [(2),] (3), and (4) above; and

(7) No change.

(d)-(e) No change.

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⁵ Nasdaq asked the Commission to waive the 5-day pre-filing notice requirement and the 30-day operative delay. See Rule 19b-4(f)(6)(iii) and 17 CFR 240.19b-4(f)(6)(iii).

⁶ Securities Exchange Act Release No. 48442 (September 4, 2003), 68 FR 53767 (September 12, 2002).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on November 13, 2003, the date the ISE filed Amendment No. 1.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).