

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44208; File No. SR-ISE-01-02]

Self-Regulatory Organizations; International Securities Exchange LLC; Order Granting Approval to Proposed Rule Change Relating to Anticipatory Hedging Activity

April 20, 2001.

On January 12, 2001, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change relating to anticipatory hedging activity.

The proposed rule change would prohibit a member or a person associated with a member who has knowledge of all the terms and conditions concerning the imminent execution of (1) an order and a solicited order, (2) an order being facilitated, or (3) two orders being crossed, to enter, based on that knowledge, an order to buy or sell an option of the same class, shares in the underlying security, or any related instrument, before the same information is disclosed to the trading crowd.

The proposed rule change was published for comment in the **Federal Register** on February 27, 2001.³ The Commission received no comments on the proposal.

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 exchange⁴ and, in particular, the requirements of section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds

specifically that the proposed rule change is consistent with section 6(b)(5) of the Act,⁶ because it is designed to maintain the integrity of the ISE's market by preventing the misuse of non-public information and affording the trading crowd a fair and full opportunity to make informed trading decisions. It also conforms to similar rules at other options exchanges relating to anticipatory hedging.⁷

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-ISE-01-02) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44214; File No. SR-NASD-2001-21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Amendments to the Fee Structure of the Code of Arbitration Procedure

April 24, 2001.

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 March 23, 2001, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. ("NASD Dispute Resolution") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Dispute Resolution. On April 20, 2001, the NASD filed Amendment No. 1 to the proposal.³ The

⁶ 15 U.S.C. 78f(b)(5).

⁷ See, e.g., American Stock Exchange Rule 950(d), Commentary .04., Chicago Board Options Exchange Rule 6.9(e).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Laura Gansler, Counsel, NASD Dispute Resolution, to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, dated April 19, 2001 ("Amendment No. 1"). In Amendment No. 1, the NASD changed the first sentence of NASD Rule 10306 to indicate that the terms of a settlement agreement do not need to be disclosed to NASD Dispute Resolution, rather than the NASD as originally proposed.

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 Substance of the Proposed Rule Change

NASD Dispute Resolution is proposing to amend the Code of Arbitration of Procedure ("Code") to clarify or simplify several fee-related provisions of the Code. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

10306. Settlements

[All settlements upon any matter shall be at the election of the parties.]

(a) *Parties to an arbitration may agree to settle their dispute at any time.*

(b) *The terms of a settlement agreement do not need to be disclosed to NASD Dispute Resolution. However, the parties will remain responsible for payment of fees incurred, including fees for previously scheduled hearing sessions. If the parties fail to agree on the allocation of outstanding fees, the fees shall be divided equally among all parties.*

* * * * *

10319. Adjournments

(a) The arbitrator(s) may, in their discretion, adjourn any hearing(s) either upon their own initiative or upon the request of any party to the arbitration.

(b) [Unless waived by the Director of Arbitration upon a showing of financial need,] *If an adjournment requested by a party is granted after arbitrators have been appointed, the [a] party requesting the adjournment [after arbitrators have been appointed shall deposit with the request for an adjournment,] shall pay a fee equal to the initial deposit of hearing session fees for the first adjournment and twice the initial deposit of hearing session fees, not to exceed [\$1,000] 1,500 for a second or subsequent adjournment requested by that party. [If the adjournment is granted, the arbitrator(s) may direct the return of the adjournment fee.] The arbitrators may waive these fees in their discretion. If more than one party requests the adjournment, the arbitrators shall allocate the fees among the requesting parties.*

(c) Upon receiving a third request consented to by all parties for an adjournment, the arbitrator(s) may dismiss the arbitration without prejudice to the Claimant filing a new arbitration.

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⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 43983 (February 20, 2001), 66 FR 12576 (February 27, 2001).

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.