

annually for User ID's, equal to AMEX's User ID fee of \$600 per year for IDC-O.

IDC-E charges are intended to be cost-neutral to the clearing firm members and are not expected to result in overall increased comparison charges for clearing firm members.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(4) of the Act in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act and subparagraph (f)(2) of Rule 19b-4 thereunder because it establishes or changes a due, fee, or other charge. 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 of appropriate in the public interest, for the protection of investors, or otherwise in the 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. 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 Amex. All submissions should refer to File No. SR-Amex-2002-17 and should be submitted by May 8, 2002.

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

Margaret H. McFarland, Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45726; File No. SR-ISE-2002-07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange LLC Relating to Mandatory System Testing

April 10, 2002.

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 February 13, 2002, the International Securities Exchange LLC (the "Exchange" or the "ISE") 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 Exchange is proposing to adopt a rule requiring members to participate in specified systems tests. Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * * Rule 419. Mandatory Systems Testing (a) Each member that the Exchange designates as required to participate in

a system test must conduct or participate in the testing of its computer systems to ascertain the compatibility of such systems with the Exchange's systems in the manner and frequency prescribed by the Exchange. The Exchange will designate members as required to participate in a system test based on: the category of membership (Primary Market Maker, Competitive Market Maker and Electronic Access Member); the computer system(s) the member uses; and the manner in which the member connects to the Exchange. The Exchange will give Members reasonable notice of any mandatory systems test, which notice will specify the nature of the test and Members' obligations in participating in the test.

(b) Every member required by the Exchange to conduct or participate in testing of computer systems shall provide to the Exchange such reports relating to the testing as the Exchange may prescribe. Members shall maintain adequate documentation of tests required by this Rule and results of such testing for examination by the Exchange.

(c) A member or member organization that is subject to this Rule and that fails to conduct or participate in the tests, fails to file the required reports, or fails to maintain the required documentation, may be subject to disciplinary action pursuant to the Exchange's rules.

* * * * *

Rule 1614. Imposition of Fines for Minor Rule Violations

* * * * *

(d) Violations Subject to Fines. The following is a list of rule violations subject to, and the applicable sanctions that may be imposed by the Exchange pursuant to, this Rule:

* * * * *

(8) Mandatory Systems Testing (Rule 419). Failure to conduct or participate in the testing of computer systems, or failure to provide required reports or maintain required documentation, shall be subject to the fines listed below.

Table with 2 columns: Violations within one calendar year, Sanction. Rows include First Violation (\$250), Second Violation (\$500), Third Violation (\$1000), Fourth Violation (\$2000), and Fifth Violation or more (Formal Disciplinary Action).

2 15 U.S.C. 78f(b).

3 15 U.S.C. 78f(b)(4).

4 15 U.S.C. 78s(b)(3)(A)(ii).

5 17 CFR 240.19b-4(f)(2).

6 17 CFR 200.30-3(a)(12).

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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

According to the ISE, the purpose of the proposed rule change is to give the Exchange flexibility to require members to participate in mandated system tests. The ISE believes that it is critical that its members work closely with the Exchange in testing new software releases, especially as the Exchange implements new versions of its software. The ISE represents that, while its members generally have been responsive to its testing schedule, at times the Exchange has had difficulty getting the proper level of attention of a member, resulting in some members failing to be prepared to test according to the ISE's time schedule. The proposed rule change would give the Exchange the ability to designate certain tests as mandatory for specified classes of members. Failure to engage in a test would subject a member to disciplinary action, including possible fines pursuant to changes proposed to the ISE's minor rule violation program.

2. Statutory Basis

The ISE believes that the proposed rule change is consistent with section 6(b) of the Act,³ in general, and furthers the objectives of section 6(b)(5)⁴ in particular, 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 ISE also represents that the proposal is designed to further the purposes of section 6(b)(6)⁵

requiring the rules of an exchange to provide that its members and persons associated with its members be appropriately disciplined for violation of the provisions of the Act, the rules or regulation thereunder, or the rules of the Exchange.

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.

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 ISE consents, the Commission will:

(A) by order approve the 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. 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 at 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-2002-07 and should be submitted by May 8, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45718; File No. SR-NYSE-2002-07]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the New York Stock Exchange, Inc. Relating to the Listing and Trading Standards of Trust Issued Receipts

April 9, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 16, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On March 28, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.³ On April 9, 2002, the Exchange filed Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and to approve the proposed rule change, as amended, on an accelerated basis.

⁶ 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 Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission (March 27, 2002) ("Amendment No. 1"). Amendment No. 1 replaces the original filing in its entirety, and makes clarifications and technical corrections to the proposed rule text.

⁴ See Letter from James F. Duffy, Senior Vice President and Associate General Counsel, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission (April 9, 2002) ("Amendment No. 2"). Amendment No. 2 clarifies that the proposed rule change applies to a Trust Issued Receipt, not specific proprietary products, and clarifies rule text and the purpose of Rule 19b-4(e).

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

⁵ 15 U.S.C. 78f(b)(6).