

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>11</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>12</sup> Accordingly, the proposal will take effect upon filing with the Commission. 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.

### 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-CBOE-2005-05 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2005-05. 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 the filing also will be available for inspection and copying at the principal office of the CBOE. 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-CBOE-2005-05 and should be submitted on or before February 16, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-282 Filed 1-25-05; 8:45 am]

BILLING CODE 8010-01-P

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51050; File No. SR-ISE-2004-31]

#### Self-Regulatory Organizations; International Securities Exchange, Inc.; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to System-Assisted Quotation Services

January 18, 2005.

On September 30, 2004, the International Securities Exchange, Inc. ("ISE" or "Exchange") submitted to 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 codify in the ISE's rules certain services the ISE offers market makers to help them manage their quotations. On November 16, 2004, the ISE submitted 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 December 14, 2004.<sup>3</sup> The Commission received no comments on the proposed rule change.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities

exchange.<sup>4</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires among other things, that the rules of the Exchange are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the proposal does not alter the obligations of ISE market makers. The proposed rule change codifies ISE system functionality which should provide ISE market makers assistance in effectively managing their quotations.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-ISE-2004-31) be, and it hereby is, approved.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-280 Filed 1-25-05; 8:45 am]

BILLING CODE 8010-01-P

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51054; File No. SR-NYSE-2005-07]

#### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Proposed Changes to Exchange Rules 440F ("Public Short Sale Transactions Effected on the Exchange") and 440G ("Transactions in Stocks and Warrants for the Accounts of Members, Allied Members and Member Organizations")

January 18, 2005.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Exchange Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on January 11, 2005, the New York Stock Exchange, Inc. (the "NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "SEC" or the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been

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

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

<sup>6</sup> 15 U.S.C. 78s(b)(2).

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

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

<sup>2</sup> 15 U.S.C. 78a et seq.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>13</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> Securities Exchange Act Release No. 50813 (December 7, 2004), 69 FR 74551 (December 14, 2004).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

prepared by the Exchange. 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 NYSE is filing with the SEC proposed amendments to Exchange Rules 440F ("Public Short Sale Transactions Effected on the Exchange") and 440G ("Transactions in Stocks and Warrants for the Accounts of Members, Allied Members and Member Organizations") to include certain short-exempt sales on Reports of Short Interest (*i.e.*, Forms SS20 and 121). The text of the proposed amendments is available from the NYSE and the Commission.<sup>4</sup>

### 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 Exchange 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 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

Exchange Rule 440F requires members and member organizations to report round-lot short sale transactions for public customers on Form SS20. Exchange Rule 440G requires members and member organizations to report round-lot short sale transactions for members, allied members or member organizations on Form 121. Rule 440F.10 ("Requirements for filing") and 440G.10 ("Requirements for filing") also provide "General Instructions" to complete "Reports on Form SS20" and "Reports on Form 121," respectively.

Currently, short-exempt sales are excluded when computing the total short interest on the forms, under Rules 440F and 440G, respectively. However, the SEC greatly increased the number of short-exempt sales transactions when they adopted Regulation SHO.

Concurrently with the adoption of Regulation SHO, the SEC issued the Pilot Order<sup>5</sup> providing for a one-year Pilot program under which the provisions of Rule 10a-1 and any SRO short sale price test, including the tick test contained in Exchange Rule 440B, are suspended. Subsequently, on November 29, 2004, the SEC issued a Second Pilot Order<sup>6</sup> postponing its previously announced one-year pilot suspending the provisions of Rule 10a-1 and any short sale price test of any exchange or national securities association for short sales of designated securities.

The Pilot was established as part of the SEC's review of short sale regulations in conjunction with the adoption of Regulation SHO. Pursuant to Regulation SHO, broker-dealers are required to mark short sale orders of securities enumerated in the Pilot Order effected during any Pilot period as "short exempt" so that such orders are not subject to price tests. A large number of broker-dealers had informed the Commission that it would be inefficient and very costly for them to comply with this marking requirement for Pilot stocks, requiring significant systems changes for both firms and customers. In addition, these broker-dealers had raised the possibility that these significant systems changes may be in effect for only the duration of the one-year Pilot. As a result, the Exchange, along with other market centers, have agreed to "mask" short sale orders in Pilot stocks for the duration of the Pilot, as it would be more efficient than having broker-dealers and their customers make the changes. However, as it would take some time to make necessary changes to the various market centers systems, the market centers will not be able to "mask" orders until May 2, 2005. As a result, the Commission issued the Second Pilot Order extending the implementation of the Pilot until that date.

The Pilot is now scheduled to begin on May 2, 2005 and end on April 28, 2006. All other terms of the Pilot Order<sup>7</sup>

<sup>5</sup> See Securities Exchange Act Release No. 50104 (July 28, 2004), 69 FR 48032 (August 6, 2004).

<sup>6</sup> See Securities Exchange Act Release No. 50747 (November 29, 2004) ("Second Pilot Order"), available at <http://www.sec.gov/rules/other/34-50747.htm>.

<sup>7</sup> See Securities Exchange Act Release No. 50104 (July 28, 2004), 69 FR 48032 (August 6, 2004) ("Pilot Order"), available at <http://www.sec.gov/rules/other/34-50104.htm>. The Pilot Order provided for a one-year pilot program ("Pilot Program"), under which the provisions of Rule 10a-1 and any self-regulatory organization ("SRO") short sale price test, including the tick test contained in Exchange Rule 440B, are suspended

remain unchanged,<sup>8</sup> which requires these Pilot "designated securities" to be marked "short-exempt" sales. Accordingly, the Exchange proposes to amend the instructions to Forms SS20 and 121, pursuant to Rules 440F and 440G to include these certain short-exempt sales on Reports of Short Interest.

The Exchange is proposing amendments to Rules 440F.10 and 440G.10 to conform the instructions to Forms SS20 and 121, respectively, to the Pilot Order. The purpose of Rules 440F and 440G is to capture short interest for reporting purposes, which is meant to include the designated securities subject to the Pilot Order—regardless as to whether they are marked "short-exempt." In addition, the Exchange is proposing some minor amendments to the rules to remove obsolete references.

##### (1) Statutory Basis

The statutory basis for the proposed rule change is Sections 6(b)(5)<sup>9</sup> and 17A<sup>10</sup> of the Exchange Act which require, among other things, that the rules of the Exchange are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and national market system, and in general to protect investors and the public interest; and the prompt and accurate clearance and settlement of securities transactions.

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

The Exchange does not believe that the proposed rule change will impose

for short sales in: (1) Certain "designated securities" identified in Appendix A to the SEC's Pilot Order; (2) any security included in the Russell 1000 Index effected between 4:15 p.m. e.s.t. and the open of the consolidated tape on the following day; and (3) any security not included in (1) and (2) above effected in the period between the close of the consolidated tape (*i.e.*, after 8 p.m. e.s.t.) and the open of the consolidated tape the following day. During the Pilot, all other provisions of Rule 10a-1 and Regulation SHO—including the marking, locate and delivery requirements—remain in effect. The SEC also noted in the Pilot Order that SROs, including the Exchange, would actively monitor trading in the Pilot Program securities to identify any abusive short selling.

<sup>8</sup> See SEC, Division of Market of Regulation, Responses to Frequently Asked Questions Concerning Regulation SHO (December 17, 2004), available at <http://www.sec.gov/divisions/marketreg/mrfaqregsho1204.htm>.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78q-1.

<sup>4</sup> Both Exhibits A and B are available at <http://www.nyse.com/regulation/> and <http://www.sec.gov/rules/sro.shtml>.

any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

**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 Exchange consents, the Commission: (a) By order approve such 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, as amended, 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2005-07 in the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NYSE-2005-07. This file number should be included on the subject line of 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 NYSE. 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 submission should refer to File Number SR-NYSE-2005-07 and should be submitted on or before February 16, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-279 Filed 1-25-05; 8:45 am]

**BILLING CODE 8010-01-P**

**SOCIAL SECURITY ADMINISTRATION**

**The Ticket To Work and Work Incentives Advisory Panel Meeting**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of meetings.

**DATES:**

February 23, 2005, 9 a.m.-5 p.m.  
February 24, 2005, 9 a.m.-6 p.m.\*  
February 25, 2005, 9 a.m.-1 p.m.

\*The full deliberative panel meeting ends at 5 p.m. The standing committees of the Panel will meet from 5 p.m. until 6 p.m.

**ADDRESSES:** Hotel Monaco, 333 St. Charles Ave., New Orleans, LA 70130.

**SUPPLEMENTARY INFORMATION:**

*Type of meeting:* This is a quarterly meeting open to the public. The public is invited to participate by coming to the address listed above. Public comment will be taken during the quarterly meeting. The public is also invited to submit comments in writing on the implementation of the Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 at any time.

*Purpose:* In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces a meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of Public Law 106-170

establishes the Panel to advise the President, the Congress, and the Commissioner of SSA on issues related to work incentives programs, planning, and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

Interested parties are invited to attend the meeting. The Panel will use the meeting time to receive briefings, hear presentations, conduct full Panel deliberations on the implementation of TWWIIA, and receive public testimony.

The Panel will meet in person commencing on Wednesday, February 23, 2005 from 9 a.m. to 5 p.m. Thursday, February 24, 2005 from 9 a.m. to 5 p.m. (standing committee meetings from 5 p.m. to 6 p.m.); and Friday, February 25, 2005 from 9 a.m. to 1 p.m.

*Agenda:* The Panel will hold a quarterly meeting. Briefings from Social Security, presentations on Medicaid and Medicare, full Panel deliberations and other Panel business will be held Wednesday, Thursday, and Friday, February 23, 24, and 25, 2005. Public testimony will be heard in person Wednesday, February 23, 2005 from 3 p.m. to 3:30 p.m. and on Friday, February 25, 2005 from 9 a.m. to 9:30 a.m. Members of the public must schedule a timeslot in order to comment. In the event that the public comments do not take up the scheduled time period for public comment, the Panel will use that time to deliberate and conduct other Panel business.

Individuals interested in providing testimony in person should contact the Panel staff as outlined below to schedule time slots. Each presenter will be called on by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute verbal presentation. Full written testimony on TWWIIA Implementation, no longer than 5 pages, may be submitted in person or by mail, fax or email on an on-going basis to the Panel for consideration.

Since seating may be limited, persons interested in providing testimony at the meeting should contact the Panel staff by e-mailing [Shirletta.Banks@socialsecurity.gov](mailto:Shirletta.Banks@socialsecurity.gov) or calling (202) 358-6430.

The full agenda for the meeting will be posted on the Internet at <http://www.socialsecurity.gov/work/panel> approximately one week before the meeting or can be received in advance electronically or by fax upon request.

<sup>11</sup> 17 CFR 200.30-3(a)(12).