

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54895; File No. SR-ISE-2006-75]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 2101 (Equity Securities Traded) and 2106 (Opening Process)

December 8, 2006.

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> notice is hereby given that on December 5, 2006, the International Securities Exchange, LLC (“ISE” 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. The Exchange filed the proposed rule change as a “non-controversial” rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> which rendered the proposal effective upon filing with the Commission. 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 proposes to amend ISE Rule 2101 (Equity Securities Traded) and ISE Rule 2106 (Opening Process) to allow the Exchange to trade Equity Securities (hereinafter, “securities”)<sup>4</sup> that are primarily listed on NYSE Arca pursuant to unlisted trading privileges (“UTP”) and to incorporate opening procedures for securities primarily listed on NYSE Arca, respectively. The text of the proposed rule change is available on the Exchange’s Web site, <http://www.iseoptions.com>, at the Exchange’s Office of the Secretary, 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, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposal. 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

ISE Rule 2101 (Equity Securities Traded) provides the ISE with the authority to trade securities pursuant to UTP. Currently, ISE Rule 2101 allows ISE to trade securities that are primarily listed on the New York Stock Exchange, American Stock Exchange, or admitted to trading on the NASDAQ Stock Market. Recently, some Exchange Traded Funds (“ETFs”) that had been listed on the American Stock Exchange moved to NYSE Arca. The ISE is seeking to amend ISE Rule 2101 to add NYSE Arca to the list of primary markets of which ISE has authority to trade securities pursuant to UTP.

ISE Rule 2106 governs the process for opening trading in a security. ISE Rule 2106 currently covers the opening of securities that are primarily listed or traded on the New York Stock Exchange, American Stock Exchange and Nasdaq. Related to the above discussion, the ISE is proposing to amend ISE Rule 2106 to provide procedures for the opening process of NYSE Arca-listed stock, which will be the same as the procedures for Nasdaq securities.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> in that it is designed to promote just and equitable principles of trade and 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.

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

The Exchange believes that the proposed rule change would impose no 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 did not solicit or receive any written comments with respect to the proposal.

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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>7</sup>

As required under Rule 19b-4(f)(6)(iii),<sup>8</sup> the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, because this filing will enable the ISE to commence trading the subject securities without delay. For this reason, the Commission designates the proposal to be effective and operative upon filing.<sup>9</sup>

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 the furtherance of the purposes of the Act.<sup>10</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>9</sup> For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>10</sup> See 15 U.S.C. 78s(b)(3)(C).

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> See ISE Rule 2100(c)(7).

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

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-ISE-2006-75 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2006-75. 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 such filing also will be available for inspection and copying at the principal office of the Exchange. 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-ISE-2006-75 and should be submitted on or before January 5, 2007.

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

**Florence E. Harmon,**

*Deputy Secretary,*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54897; File No. SR-ISE-2006-76]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to ISE Stock Exchange Fees**

December 8, 2006.

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> notice is hereby given that on December 5, 2006, the International Securities Exchange, LLC ("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 Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to section 19(b)(3)(A) 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. 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 its Schedule of Fees to adopt fees related to the ISE Stock Exchange, LLC ("ISE Stock"). The text of the proposed rule change is available on the Exchange's Web site, <http://www.iseoptions.com>, at the Exchange's Office of the Secretary, 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, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposal. 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 the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to adopt fees related to the trading of equity securities on ISE Stock, a facility of the Exchange. The proposed fee schedule includes execution fees, access fees and regulatory fees for trading of equity securities as well as changes to existing language to clarify the application of certain fees that are specific to trades being executed in the MidPoint Match system.<sup>5</sup> The fees that are applicable to MidPoint Match were filed separately; the fees set forth in this filing apply only to the displayed market. With regard to the execution fees, the Exchange proposes to charge members that remove liquidity an execution fee of \$0.0030 per share executed or 0.3% of the trade value in the case of shares priced under \$1.00. For members that provide liquidity, the Exchange proposes a rebate of \$0.0025 per share executed. There will be no rebate to liquidity providers for executions under \$1.00. The execution fees are applied on a per share basis, regardless of where the security is listed.

Pursuant to Regulation NMS under the Act, when ISE Stock does not have contra-side interest resident in its system equal to or better than a Protected Bid or Protected Offer,<sup>6</sup> it will either cancel the orders that are marketable against the Protected Bid or Protected Offer if the system is incapable of routing out, or route orders that are marketable against a Protected Bid or Protected Offer to one or more Trading Centers.<sup>7</sup> For the orders that are routed out, the Exchange proposes to charge a fee of \$0.0030 per share executed, which is the same as the fee ISE Stock proposes to charge members for removing liquidity. The Exchange proposes not to charge any additional fees for routing orders to another Trading Center for execution.

Additionally, in line with current practice in the industry, where market data revenue received from the Consolidated Tape Association and UTP Plan is shared between firms that execute on an exchange and the exchange itself, the Exchange proposes a 50 percent credit to members that provide liquidity to the displayed

<sup>5</sup> See Securities Exchange Act Release No. 54561 (October 2, 2006), 71 FR 59844 (October 11, 2006) (SR-ISE-2006-54).

<sup>6</sup> See ISE Rule 2100(c)(15).

<sup>7</sup> See ISE Rule 2100(c)(20).

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

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