

6(b)(5) of the Act,<sup>12</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In addition, the Exchange notes that the proposal which established the current rule provision governing the cut-off time for non-Strategy Orders (which permits the Exchange to designate a cut-off time within a particular time range) was designated by the Commission to be effective and operative upon filing.<sup>13</sup>

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

CBOE does not believe that the proposed rule change will 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*

Written comments on the proposed rule change were neither solicited nor received.

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

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>16</sup> However, Rule 19b-4(f)(6)(iii)<sup>17</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative

delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow market participants to receive the benefits of the proposed rule change prior to the next settlement date when the modified HOSS opening procedure will be utilized, which will be on Wednesday, March 19, 2008. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.<sup>18</sup>

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 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-2008-21 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-CBOE-2008-21. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of 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-2008-21 and should be submitted on or before April 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-5520 Filed 3-18-08; 8:45 am]

**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-57484; File No. SR-ISE-2008-11]

#### **Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Cross Orders**

March 12, 2008.

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 February 26, 2008, 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 substantially prepared by the ISE. The ISE has designated the proposed rule change as "non-controversial" under Section 19(b)(3)(A)(iii)<sup>3</sup> of the Act and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> See *supra* note 9.

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission 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 filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing notice requirement.

<sup>17</sup> *Id.*

<sup>18</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>19</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)(iii).

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

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 ISE is proposing to amend its rules governing equities to adopt new order types, allowing for several different types of cross transactions. The text of the proposed rule change is available at the ISE, the Commission's Public Reference Room, and [www.ise.com](http://www.ise.com).

### 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

The purpose of this filing is to amend ISE Rules to adopt the following new order types, which are described in more detail below: (1) Cross order; (2) cross with size order; (3) midpoint cross order; and (4) ISO cross order.

A *Cross Order* is an order to buy and sell the same security at a specific price better than the Exchange's displayed best bid and offer ("BBO") and equal to or better than the National Best Bid and Offer ("NBBO").

A *Cross with Size Order* is a cross order to buy and sell at least 5,000 shares of the same security with a market value of at least \$100,000.00: (1) At a price equal to or better than the Exchange's displayed BBO and the NBBO; and (2) where the size of the order is larger than the largest order displayed on the Exchange at that price.

A *Midpoint Cross Order* is a cross order with an instruction to execute it at the midpoint of the NBBO. If the NBBO is locked at the time the midpoint cross is received, it will execute at the locked NBBO. If the NBBO is crossed at the time the midpoint cross is received, the midpoint cross will be automatically canceled. Midpoint cross orders may be executed and reported in increments as small as

one-half of the Minimum Price Variation.

An *ISO Cross Order* is any type of cross order, other than a Midpoint Cross,<sup>5</sup> marked as required by Rule 600(b)(30) of Regulation NMS to be executed without taking any of the actions described in Rule 2107(d). These orders shall be executed because the Equity EAM routing the order to the Exchange has represented that the Equity EAM has satisfied the quotations of other markets as required by Rule 600(b)(30).

Cross, cross with size, midpoint cross and ISO cross will be automatically executed if they meet the requirements for such order types, and will be immediately and automatically canceled if they do not meet these requirements.

##### 2. Statutory Basis

The basis under the Act for this proposed rule change is found in Section 6(b)(5).<sup>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, serve 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. In particular, ISE believes that the proposed rule change will provide investors with more flexibility in entering orders and receiving executions of such orders.

#### 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 persons.

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public

interest; (ii) impose any significant burden on competition; and (iii) 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>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup> As required under Rule 19b-4(f)(6)(iii),<sup>9</sup> the ISE 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.

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>10</sup> However, Rule 19b-4(f)(6)(iii)<sup>11</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE requested that the Commission waive the 30-day operative delay period for "non-controversial" proposals under Rule 19b-4(f)(6)<sup>12</sup> and make the proposed rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposed rule language is based on comparable language contained in the rules of the Boston Stock Exchange, Inc.<sup>13</sup> Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.<sup>14</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>7</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> See Boston Stock Exchange Rules, Chapter XXXVII—Boston Equities Exchange Trading System, Section 2—Eligible Orders (c)(ii) Subsections (A), (B), (F) and (N).

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>5</sup> An ISO Cross order would never be used in conjunction with a Midpoint Cross order because by definition a Midpoint Cross order would never be trading through the NBBO.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

#### 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-ISE-2008-11 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-ISE-2008-11. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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-2008-11 and should be submitted on or before April 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57488; File No. SR-ISE-2008-26]

#### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fee Changes

March 13, 2008.

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 March 10, 2008, 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 substantially prepared by the Exchange. The Exchange designated this proposal as one establishing or changing a due, fee, or other charge imposed by ISE under Section 19(b)(3)(A)(ii) 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

ISE proposes to amend its Schedule of Fees by adding to and subtracting from its list of Premium Products.<sup>5</sup> The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.ise.com>.

#### 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. ISE has substantially 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 is proposing to amend its Schedule of Fees to establish fees for transactions in options on the UltraShort Oil & Gas ProShares ("DUG"),<sup>6</sup> UltraShort Dow30 ProShares ("DXD"),<sup>7</sup> and PowerShares DB Agriculture Fund ("DBA").<sup>8</sup> The

<sup>6</sup> "Dow Jones" and "Dow Jones U.S. Oil & Gas<sup>SM</sup>" are service marks of Dow Jones & Company, Inc. ("Dow Jones") and has been licensed for use for certain purposes by ProFunds Trust. All other trademarks and service marks are the property of their respective owners. DUG is not sponsored, endorsed, issued, sold or promoted by Dow Jones. Dow Jones has not licensed or authorized ISE to: (i) Engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on DUG; or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on DUG or with making disclosures concerning options on DUG under any applicable federal or State laws, rules or regulations. Dow Jones does not sponsor, endorse, or promote such activity by ISE and is not affiliated in any manner with ISE.

<sup>7</sup> "The Dow 30<sup>SM</sup>," "Dow Jones Industrial Average," and "DJIA," are service marks of Dow Jones, and have been licensed for use for certain purposes by ProFunds Trust. All other trademarks and service marks are the property of their respective owners. DXD is not sponsored, endorsed, issued, sold or promoted by Dow Jones. Dow Jones has not licensed or authorized ISE to: (i) Engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on DUG; or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on DUG or with making disclosures concerning options on DUG under any applicable federal or State laws, rules or regulations. Dow Jones does not sponsor, endorse, or promote such activity by ISE and is not affiliated in any manner with ISE.

<sup>8</sup> DBA is based on the Deutsche Bank Liquid Commodity Index—Optimum Yield Agriculture Excess Return<sup>TM</sup> and managed by DB Commodity Services LLC. DBLCI<sup>TM</sup> and Deutsche Bank Liquid Commodity Index<sup>TM</sup> are trademarks of Deutsche Bank AG, London ("DB AG"). PowerShares<sup>®</sup> is a registered service mark of PowerShares Capital Management LLC ("PowerShares"). DBA is not sponsored, endorsed, sold or promoted by DB AG, and DB AG makes no representation regarding the advisability of investing in DBA. Neither DB AG nor PowerShares has licensed or authorized ISE to: (i) Engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on DBA; or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on DBA or with making

Continued

<sup>15</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)(ii).

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

<sup>5</sup> "Premium Products" is defined in the Schedule of Fees as the products enumerated therein.