

interest, while eliminating an unnecessary procedural requirement.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

### **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) does not become operative for 30 days after the date of the 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>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>11</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>12</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. In making this determination, the Commission notes that Nasdaq's proposed rule change is similar to and consistent with the NYSE's rule regarding pre-notification to the Exchange for release of material information,<sup>13</sup> and the Commission

believes that the Nasdaq's proposed rule change raises no new regulatory issues. The Commission also believes that providing pre-notification to Nasdaq outside of market hours, except ten minutes prior to opening, provides no regulatory benefit, since such notifications would not be reviewed by Nasdaq staff overnight or until such time that Nasdaq staff was on duty, which is likely only shortly prior to the beginning of market hours. In addition, given that one of the primary purposes of this notice is to allow MarketWatch staff to assess whether it is appropriate to implement a trading halt, such notification would only be necessary shortly before the opening, as the rule contemplates, to allow Nasdaq staff to make this determination. For these reasons, the Commission designates that the proposed rule change become operative immediately upon filing.<sup>14</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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-NASDAQ-2010-008 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-NASDAQ-2010-008. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

to the NYSE for disclosures "made shortly before the opening or during market hours (presently 9:30 a.m. to 5 p.m., New York time)."

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

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 Web site viewing and printing in the Commission's Public Reference Room, 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 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-NASDAQ-2010-008 and should be submitted on or before March 16, 2010.

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

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-3394 Filed 2-22-10; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61522; File No. SR-ISE-2010-12]

### **Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Trading Hours for Foreign Currency Options**

February 16, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 2, 2010, 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

<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>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required to give 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 this requirement.

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>13</sup> See Section 202.06 of the NYSE Listed Company Manual, which requires pre-notification

have been prepared by the Exchange. The Exchange has filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 2210 regarding the trading hours for foreign currency options (“FX Options”) traded on the Exchange. The text of the proposed rule change is available on the Exchange’s Web site <http://www.ise.com>, at the principal office of the Exchange, 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 proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Rule 2210 regarding the trading hours for FX Options traded on the Exchange. Currently, under ISE Rule 2210(a), FX Options may be traded on the Exchange between the hours of 9:30 a.m. and 4:15 p.m. Eastern time, except on the last day of trading during expiration week, in which case trading ceases at 12 p.m. Eastern time. ISE now proposes to open trading in FX Options at 7:30 a.m. Eastern time, two hours earlier than the current opening time. In support of this proposed rule change, ISE will ensure that quotes and trades are disseminated over the Options Price Reporting Authority during the time FX Options are open for trading on the Exchange. Further, the Exchange notes that FX Options are listed and traded only on ISE. As such, (1) FX Options are

not fungible with foreign currency options listed by any other exchange, and (2) orders in FX Options will not trade at inferior prices, thus preserving intermarket protection against trade-throughs.

In support of this proposed rule change, the Exchange notes that there are several market centers that account for a significant portion of all foreign exchange transactions and which are active in the foreign exchange markets prior to the Exchange’s current opening time. By opening trading in FX Options at 7:30 a.m. Eastern time, ISE hopes to attract new participants and liquidity from Western Europe, specifically the United Kingdom. According to the Bank for International Settlements’ Triennial Central Bank Survey of Foreign Exchange and Derivatives Market Activity in 2007, trading activity in the United Kingdom accounts for approximately 34% of foreign exchange transactions. Although foreign exchange trading occurs 24 hours a day, trading activity at each market center is consolidated into approximately 8–10 hours per day. In the United Kingdom, specifically in London, the most active trading times correspond to between 2 a.m. Eastern time and 12 p.m. Eastern time. In the United States, specifically in New York, trading is most active between 8 a.m. Eastern time and 5 p.m. Eastern time. The overlap in trading hours between the two market centers results in a period of concentrated liquidity and is often considered a peak time for transactions in the foreign exchange market. That hypothesis is also supported by the fact that key economic statistics for North America are traditionally released prior to 9:30 a.m. Eastern time.<sup>5</sup>

Foreign currency futures listed on the Chicago Mercantile Exchange (“CME”) and the Intercontinental Exchange (“ICE”) are available for trading virtually 24 hours a day. The CME also provides virtually an all day market for trading in options contracts on foreign currency futures.<sup>6</sup> Several ISE members are also members of CME and ICE, and actively trade foreign exchange derivative products at those two exchanges. ISE believes amending its rule to allow for an earlier opening will attract greater participation in the Exchange’s FX Options.

<sup>5</sup> The Bureau of Labor Statistics releases Consumer Price Index (CPI) data at 8:30 a.m. Eastern time, and the Bureau of Economic Analysis releases quarterly Gross Domestic Product data at 8:30 a.m. Eastern time. Similarly, Statistics Canada releases Canadian CPI data at 7 a.m. Eastern time.

<sup>6</sup> CME’s trading hours are available at [http://www.cmegroup.com/trading\\_hours/fx-hours.html](http://www.cmegroup.com/trading_hours/fx-hours.html).

##### **2. Statutory Basis**

The basis under the Securities Exchange Act of 1934 (“Exchange Act”) for this proposed rule change is found in Section 6(b)(5). 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 of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, permitting trading to begin earlier in the day will permit investors greater opportunity to participate in the market, thereby removing an impediment to trading.

#### *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**

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)<sup>7</sup> of the Act and Rule 19b-4(f)(6)<sup>8</sup> thereunder. 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 filing the proposed rule change.

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

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

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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

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

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 proposal 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 No. SR-ISE-2010-12 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File No. SR-ISE-2010-12. 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 changes 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 Web site viewing and printing 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 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 No. SR-ISE-2010-12 and should be submitted on or before March 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61524; File No. SR-NASDAQ-2010-015]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Apply Retroactively a Correction of a Typographical Error in Rule 7018

February 16, 2010.

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 January 26, 2010, The NASDAQ Stock Market LLC ("NASDAQ") 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 NASDAQ. 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

NASDAQ is filing a proposed rule change to apply retroactively to the period from July 24, 2009 through January 25, 2010 the correction made by SR-NASDAQ-2010-014 of a typographical error<sup>3</sup> formerly in Rule 7018.<sup>4</sup> There is no proposed rule text.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ 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.

<sup>9</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> The Commission notes that the "typographical error" is more accurately characterized as a drafting error by Nasdaq that resulted in the omission and misplacement of rule language.

<sup>4</sup> See SR-NASDAQ-2010-014 (January 26, 2010), Securities Exchange Act Release No. 61515 (February 12, 2010).

NASDAQ 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

NASDAQ recently submitted an immediately effective filing to correct a typographical error in Rule 7018.<sup>5</sup> The purpose of this filing is [sic] apply the correction of the typographical error retroactively to the period from July 24, 2009 through January 25, 2010.

In SR-NASDAQ-2009-072,<sup>6</sup> NASDAQ submitted a proposed rule change to make clerical changes designed to streamline and simplify Rule 7018. As stated in the "Purpose" section of NASDAQ's Form 19b-4 filing, "[n]one of the clerical changes will modify any fee assessed or credit earned for trading on the NASDAQ Market Center." However, due to a typographical error, Exhibit 5 introduced inaccuracies into the provisions of the rule describing the fees for orders in securities listed on the New York Stock Exchange ("NYSE") that are routed to other venues without attempting to execute in NASDAQ for the full size of the order prior to routing. This portion of the fee schedule had previously been divided between sections governing fees for orders in NYSE-listed securities executed at NYSE and fees for orders executed at other venues. Both sections had included catch-all provisions governing "other" orders that did not fit into more defined categories of routed orders; these catch-all provisions apply specifically to directed orders that are not designated as intermarket sweep orders (*i.e.*, immediate-or-cancel orders that are directed to route to a venue specified by the member, and that may be executed by the receiving venue only if its quotation is at the national best bid or offer). In the case of such orders routed to NYSE, the fee is either \$0.0020 per share executed, or \$0.0019 per share executed for members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 35 million shares of liquidity provided. In the case of such orders routed to other venues, the fee is \$0.0035 per share executed. However, language describing the fee for routing to other venues was

<sup>5</sup> SR-NASDAQ-2010-014 (January 26, 2010).

<sup>6</sup> Securities Exchange Act Release No. 60430 (August 4, 2009), 74 FR 40279 (August 11, 2009) (SR-NASDAQ-2009-072).