

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54317; File No. SR-Amex-2006-70]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Application of Certain Violations of the Minor Rule Violation Fine Plan to Registered Options Traders, Supplemental Registered Options Traders, and Remote Registered Options Traders

August 15, 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 July 31, 2006, the American Stock Exchange LLC (“Amex” 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 Amex. On August 14, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 590, which codifies the Exchange’s Minor Rule Violation Fine Plan, to include additional violations of certain rules applicable to Registered Options Traders (“ROT’s”), Supplemental Registered Options Traders (“SROT’s”), and Remote Registered Options Traders (“RROT’s”).

The text of the proposed rule change is available on Amex’s Web site at <http://www.amex.com>, at Amex’s principal office, 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, as amended, 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend Amex Rule 590, the Minor Rule Violation Fine Plan, to include the violations of certain rules applicable to ROTs, SROT’s, and RROT’s.

The Exchange’s Minor Rule Violation Fine Plan provides a simplified procedure for the resolution of minor rule violations. Codified in Amex Rule 590, the Minor Rule Violation Fine Plan has three distinct sections: Part 1 (“General Rule Violations”), which covers more substantive matters that, nonetheless, are deemed “minor” by the Commission and Amex; Part 2 (“Floor Decorum”), which covers Floor Decorum and operational matters; and Part 3 (“Reporting Violations”), which covers the late submission of routine reports.

Part I of Rule 590 paragraph (g) applies to members, member organizations, approved persons, or employees of members or member organizations. In this regard, the Exchange proposes to amend Part 1 of Rule 590 to include additional violations of certain rules applicable to ROTs, SROT’s, and RROT’s. The proposal includes the addition of the failure to comply with ROT, SROT, and RROT quoting requirements, pursuant to Rules 958-ANTE (h)(iii), 993-ANTE (c)(ii), and 994-ANTE (c)(iv).<sup>4</sup>

Rule 958-ANTE (h)(iii) provides that if a ROT transacted 20% or more of his or her contract volume electronically, and not through open outcry, during any calendar quarter, then for the next quarter he or she would have an electronic quoting obligation. This analysis is performed separately for each ROT’s assigned option classes. The required percentage varies from 20% to

60% depending on the contract volume executed electronically on the Amex, in that option class, by all Amex market participants. Rules 993-ANTE (c)(ii) and 994-ANTE (c)(iv) require SROT’s and RROT’s to provide continuous two-sided quotations in accordance with Rule 958-ANTE (c), in at least 60% of the series of their assigned classes.

Furthermore, the Exchange proposes to include as a violation, the restriction on quoting outside assigned classes, as set forth in Rule 958-ANTE (a), Commentary .03 to Rule 993-ANTE, and 994-ANTE (c)(iii). Commentary .03 to Rule 993-ANTE provides that a SROT may act in a market-making capacity only in the option classes to which it is assigned, while Rule 994-ANTE (c)(iii) states that a RROT may not enter quotations electronically from outside the trading crowd in option classes in which it is not assigned as an RROT.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6 of the Act<sup>5</sup> in general and furthers the objectives of Section 6(b)(5)<sup>6</sup> in particular in that it is 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that proposed rule change would 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

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

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

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

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

<sup>3</sup> In Amendment No. 1, Amex provided a specific paragraph citation for the violation of Rule 958-ANTE (relating to the restriction on ROTs quoting outside their assigned option class), modified the description of this particular violation and similar violations under the SROT and RROT rules, and corrected an omission in the original proposed rule text.

<sup>4</sup> The Exchange’s SROT and RROT programs were recently approved by the Commission on April 12, 2006 and April 13, 2006, respectively. See Securities Exchange Act Release No. 53635 (April 12, 2006), 71 FR 20144 (April 19, 2006) (order approving the SROT program); Securities Exchange Act Release No. 53652 (April 13, 2006), 71 FR 20422 (April 20, 2006) (order approving the RROT program).

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

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

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(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 an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2006-70 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-Amex-2006-70. 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 Amex. 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-Amex-2006-70 and should

be submitted on or before September 11, 2006.

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

**Nancy M. Morris,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54315; File No. SR-ISE-2006-43]

### Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Fee Changes

August 14, 2006.

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 July 25, 2006, the International Securities Exchange, Inc. ("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 ISE. On August 10, 2006, ISE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The ISE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the ISE under Section 19(b)(3)(A)(ii) of the Act,<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</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, as amended, 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 Schedule of Fees to establish fees for transactions in options on nine

<sup>7</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> Amendment No. 1 revised the rule text contained in Exhibit 5 to conform it to the discussion contained in the Purpose section, which explains that a ten (10) cent per contract surcharge applies only to IWB, IWD, XLV, XLU, and XLK and not to all of the Premium Products that are the subject of this filing.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

Premium Products.<sup>6</sup> The text of the proposed rule change, as amended, is available on the ISE's Web site ([http://www.iseoptions.com/legal/proposed\\_rule\\_changes.asp](http://www.iseoptions.com/legal/proposed_rule_changes.asp)), at the principal office of the ISE, 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 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 Exchange is proposing to amend its Schedule of Fees to establish fees for transactions in options on the following nine Premium Products: PowerShares Water Resources Portfolio ("PHO"),<sup>7</sup> SPDR Homebuilders ETF ("XHB"),<sup>8</sup> iShares FTSE/Xinhua China 25 Index Fund ("FXI"), iShares Dow Jones Select

<sup>6</sup> "Premium Products" is defined in the ISE's Schedule of Fees as the products enumerated therein.

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