

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

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No comments were solicited or received in connection with 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 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 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities, and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to file No. SR-CSE-00-08 and should be submitted by November 12, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43470; File No. SR-CSE-00-07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Cincinnati Stock Exchange, Incorporated to Reduce the Fee to Members for Professional Agency Transactions

October 20, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 13, 2000, The Cincinnati Stock Exchange, Incorporated ("CSE" 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 the CSE under Section 19(b)(3)(A)(ii) of the Act,³ 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 CSE proposes to amend Exchange Rule 11.10A(d), Professional Agency Transactions, to reduce the fee to members for professional agency transactions⁴ from \$0.005 per share (\$0.50/100 shares) to \$0.0025/share (\$0.25/100 shares). The text of the proposed rule change is available at the CSE and at the Commission.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ CSE Rule 11.9(a)(8) defines a professional agency order as an order entered by a CSE Member or approved dealer as agent for the account of a broker-dealer, futures commission merchant or a member of a contract market.

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

The proposed rule change amends the Exchange's fee schedule to decrease professional agency transaction fees from \$0.005 per share (\$0.50/100 shares) to \$0.0025 per share (\$0.25/100 shares). The fee reduction is proposed to allow professional agency transactions to be more competitive with other execution execution types on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act⁵ in general, and in particular, furthers the objectives of Section 6(b)(4) of the Act,⁶ in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members.

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

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

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 in connection with the proposed rule change.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁷ and subparagraph (f)(2) of Rule 19b-4

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

thereunder,⁸ because it involves a member due, fee, or other charge. 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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR-CSE-00-07, and should be submitted by November 17, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34 43462; File No. SR-ISE-00-10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange, LLC Relating to Payment for Order Flow

October 19, 2000

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 12, 2000, the International Securities Exchange, LLC (the "Exchange" or "ISE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the ISE. 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 establish a payment for order flow program as follows:

Authorization To Impose a Payment-for-Order-Flow Fee. The ISE will impose fees on Primary Market Makers ("PMMs") and Competitive Market Makers ("CMMs"). There will be up to three separate fees on a per-contract basis:

- Fees on transactions with Public Customer;³
- Fees on transactions with Non-Customers⁴ other than market makers on another options exchange ("away market makers"); and
- Fees on transactions with away market makers.

There will not be any fees on transactions in which all parties are PMMs and CMMs. The Exchange will establish the specific fees in a separate rule filing submitted pursuant to Section 19(b)(3)(A) of the Act.⁵ The three fees may be the same, or may differ from each other; one or more fees may be set at \$0 per contract. The fees on transactions with Non-Customers and away market makers may not be higher than the fee on Customer transactions, however. In addition, the fee on transactions with away market makers will not be higher than the fee on transactions with other Non-Customers.

The Exchange also will have the flexibility to establish multi-tiered fees. These tiers can be based on such factors as the overall trading activity of an option, the Exchange's market share in an option, or any other objective factor. If the Exchange establishes multi-tiered fees, the Exchange's fee filing will specify each of those fees.

Use of the Funds Generated by the Fee to Pay for Order Flow. The Exchange

will separately account for the funds this fee generates on a per-group basis. That is, the Exchange will segregate these funds according to each of the groups of "bins" of options the Exchange trades. The PMMs will use the funds generated by the fee to pay Electronic Access Members ("EAMs") for their order flow. The PMMs will have full discretion regarding payments, including which EAMs will be paid, the amount of the payments, and the type of order flow subject to the payment. The Exchange also will establish "bin advisory committees" ("BACs") consisting of the PMM and CMMs in a bin. The Exchange will provide to all bin members information regarding payments made and the BACs will provide a forum for the discussion of, among other things, payment issues. These committees will be advisory in nature only, however, and the PMM will retain full discretion over all payment decisions.

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 the statements.

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

1. Purpose

The purpose of the proposed rule change is to establish the structure for an ISE payment-for-order-flow program. This is a competitive response by the Exchange to similar programs of the other options exchanges. The proposal has two parts: establishing the structure of a fee to fund a payment-for-order-flow program; and establishing how the funds the fees generate will be used to pay for order flow.

Establishing a Fee Structure. The Exchange is proposing the flexibility of having up to three separate fees. The highest level of market maker fees will be on transactions between market makers and Public Customers. Because the funds generated will primarily be used to pay for customer order flow, the ISE believes that it is reasonable that market makers be "taxed" primarily on

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The ISE defines "Public Customer" in ISE Rule 100(29).

⁴ The ISE defines "Non-Customer" in ISE Rule 100(19).

⁵ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(2).

⁹ 17 CFR 200.30-3(a)(12).