

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

Because the foregoing 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 from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</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 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-2008-18 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-2008-18. 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 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-2008-18 and should be submitted on or before April 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-4837 Filed 3-11-08; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57441; File No. SR-ISE-2007-95]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 2 and 3, Relating to Reserve Orders

March 6, 2008.

On October 12, 2007, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to establish a new order type called Reserve Orders. The ISE filed Amendment Nos. 1 and 2 to the

proposal on January 17, 2008.<sup>3</sup> The ISE filed Amendment No. 3 to the proposal on January 25, 2008.<sup>4</sup> The proposed rule change, as modified by Amendment Nos. 2 and 3, was published for comment in the **Federal Register** on February 1, 2008.<sup>5</sup> The Commission received no comment letters regarding the proposal, as modified by Amendment Nos. 2 and 3. This order approves the proposed rule change, as modified by Amendment Nos. 2 and 3.

The Exchange proposes to amend ISE Rule 715, "Types of Orders," to add a new order type, Reserve Orders.<sup>6</sup> A Reserve Order is a single-sided limit order that has both a displayed portion and a non-displayed or reserve portion, both of which are available for execution against incoming marketable orders.<sup>7</sup> Non-marketable Reserve Orders rest on the book.<sup>8</sup> The non-displayed portion of a Reserve Order will be available for execution only after all displayed interest at that price has been executed.<sup>9</sup> Both the displayed and the non-displayed portions of a Reserve Order will be ranked initially by the specified limit price and time of entry, and both the displayed and non-displayed portions of a Reserve Order will trade in accordance with the priority and allocation provisions in ISE Rule 713.<sup>10</sup>

When the displayed portion of a Reserve Order has been decremented, in whole or in part, it will be refreshed from the non-displayed portion of the resting Reserve Order. Upon any refresh, the entire displayed portion of the order will be ranked at the specified limit price, assigned a new entry time (*i.e.*, the time that the newly displayed portion of the order was refreshed), and given priority in accordance with ISE Rule 713.<sup>11</sup> Any remaining non-displayed portion of the order will receive the same time stamp as the newly displayed portion of the order.<sup>12</sup>

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

<sup>3</sup> Amendment No. 2 replaces the original filing and Amendment No. 1 in their entirety.

<sup>4</sup> Amendment No. 3 clarifies portions of the purpose section of the proposed rule change.

<sup>5</sup> Securities Exchange Act Release No. 57207 (January 25, 2008), 73 FR 6225.

<sup>6</sup> The ISE also proposes to revise paragraphs (c), (d), and (e) of ISE Rule 713, "Priority of Quotes and Orders," to reflect the implementation of Reserve Orders.

<sup>7</sup> See ISE Rule 715(g)(1).

<sup>8</sup> See ISE Rule 715(g)(1).

<sup>9</sup> See ISE Rule 715(g)(5).

<sup>10</sup> See ISE Rule 715(g)(2), (3), and (5).

<sup>11</sup> See ISE Rule 715(g)(4).

<sup>12</sup> See ISE Rule 715(g)(5).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f)(6). 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 Commission notes that the Exchange has satisfied the five-day pre-filing notice requirement.

<sup>18</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.

securities exchange.<sup>13</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires, in part, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

The Commission believes that Reserve Orders will provide market participants with greater flexibility in displaying and managing their orders. This may encourage market participants to bring liquidity to the Exchange that they might not otherwise have submitted. In addition, because the ISE's rules provide that the non-displayed portion of a Reserve Order will be available for execution only after all displayed interest at that price has been executed,<sup>15</sup> there is an incentive for market participants to display their trading interest. The Commission also notes that the rules of another options exchange provide for the use of reserve orders,<sup>16</sup> as do the rules of several exchanges trading equity securities.<sup>17</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-ISE-2007-95), as modified by Amendment Nos. 2 and 3, is approved.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-4838 Filed 3-11-08; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57442; File No. SR-NYSE-2008-13]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete From Section 802.01E of the Exchange's Listed Company Manual Text That is No Longer Relevant

March 6, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> notice is hereby given that on February 14, 2008, the New York Stock Exchange LLC ("NYSE" 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 filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</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 Section 802.01E of the Exchange's Listed Company Manual ("Manual") to delete a provision that ceased by its terms to be applied on December 31, 2007. The text of the proposed rule change is available on the Exchange's Web site (<http://www.nyse.com>) 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 NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

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

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

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

##### 1. Purpose

Section 802.01E of the Manual contains a provision that gives the Exchange discretion to allow certain companies to remain listed if their annual reports are delayed beyond 12 months after the required filing date because such a company may have a position in the market (relating to both the nature of its business and its very large publicly-held market capitalization) such that its delisting from the Exchange would be significantly contrary to the national interest and the interests of public investors. This provision expired on December 31, 2007. As the period to which the provision relates has ended, it no longer has any effect and the Exchange wishes to delete it from the Manual.

##### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>8</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

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

The Exchange 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 were neither solicited nor received.

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

Because the foregoing rule 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 from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See ISE Rule 715(g)(5).

<sup>16</sup> See NYSE Arca Rules 6.62(c)(3) and 6.76(a). In addition, the NASDAQ Stock Market LLC ("Nasdaq") has proposed to use Reserve Orders on the Nasdaq Options Market ("NOM"). See Securities Exchange Act Release No. 55667 (April 25, 2007), 72 FR 23869 (May 1, 2007) (File No. SR-NASDAQ-2007-004) (notice of filing of a proposal to establish rules governing trading on NOM).

<sup>17</sup> See e.g., Amex Rule 131(s)-AEMI, NYSE Rule 204(d), Nasdaq Rule 4757(f)(2), and NYSE Arca Equities Rule 7.31(h)(e).

<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>19</sup> 17 CFR 200.30-3(a)(12).