

securities, regardless of which Tape they are reported to. The Exchange is proposing to implement these fee changes on October 1, 2008. Specifically, the Exchange proposes to implement a tiered rebate structure for securities priced at or above \$1.00 across all Tapes, averaged across an entire month, where the first five million maker shares executed on an average daily volume (ADV) basis receive a rebate of \$0.0032 per share, with an increase in the rebate to \$0.0035 for each maker share executed above five million ADV. Additionally, the Exchange proposes to reinstate a single taker fee for securities priced at or above \$1.00 of \$0.0030 for executions on all securities, regardless of which Tape they are reported to.

For shares executed on an order delivery basis in securities priced at or above \$1.00, the Exchange proposes to rebate \$0.0027 for all maker shares executed, regardless of which Tape they are reported to.

The execution fee for equities priced under \$1.00, regardless of which tape they are reported to, is 0.3% of trade value with no rebates for adding liquidity.

For the avoidance of doubt, the Exchange proposes to add a note to the fee schedule stating that fees are based on ADV per member, per month.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁴ in general, and furthers the objectives of Section 6(b)(4),⁵ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act⁶ and Rule 19b-4(f)(2)⁷ thereunder. 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. Please include File Number SR-ISE-2008-69 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-ISE-2008-69. 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 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 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-ISE-2008-69 and should be submitted on or before October 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8-23364 Filed 10-2-08; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58645; File No. SR-ISE-2008-72]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Foreign Currency Options Closing Settlement Value

September 25, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 23, 2008, 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 have been substantially prepared by the Exchange. 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 ISE proposes to amend its rules regarding Foreign Currency Options ("FX Options").³ The text of the proposed rule amendment is as follows, with deletions in [brackets] and additions in *italics*:

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ ISE began trading FX options on April 17, 2007 pursuant to Commission approval. See Securities Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007).

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 19b-4(f)(2).

Rule 2212. Foreign Currency Options Closing Settlement Value

(a) The closing settlement value shall be the day's announced Noon Buying Rate, as determined by the Federal Reserve Bank of New York, on the last trading day during expiration week. If the Noon Buying Rate is not announced by [2] 5:00 p.m. Eastern time, the closing settlement value will be the most recently announced Noon Buying Rate, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. In the event the Noon Buying Rate is not published for an underlying currency, the Exchange will apply the WM/Reuters Closing Spot rate to determine the closing settlement value. If the Federal Reserve Bank of New York determines to publish a Noon Buying Rate in the future for a currency for which it currently does not publish such rate, the Exchange will apply the Noon Buying Rate in place of the WM/Reuters Composite Spot rate to determine the closing settlement value for such currency.

(b)–(c) No Change.

* * * * *

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 self-regulatory organization 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

(a) *Purpose*—ISE proposes to amend its rules regarding FX Options. Specifically, the Exchange proposes to amend its FX Options closing settlement value rule by changing the reference time from 2 p.m. Eastern time to 5 p.m. Eastern time. ISE's current rule for determining closing settlement value for FX Options states that the closing settlement value shall be the day's announced "Noon Buying Rate," as determined by the Federal Reserve Bank of New York, on the last trading day during expiration week. ISE Rule 2212(a) further states that if the Noon Buying Rate is not announced by 2 p.m.

Eastern time, the closing settlement value will be the most recently announced Noon Buying Rate.⁴ The Exchange now proposes to amend its FX options closing settlement value rule by changing the reference time from 2 p.m. to 5 p.m. While the Noon Buying Rate is still established by the Federal Reserve Bank of New York, the Noon Buying Rate will soon be disseminated and displayed at a later time, albeit on the same day. This proposed rule change will allow the Exchange to continue to rely on this industry-recognized value and do so without causing any disruption in the calculation of the closing settlement value for FX Options.

The Exchange is not proposing to make any changes to its FX Options rules other than to change the reference time found in ISE Rule 2212(a).

(b) *Basis*—The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act's⁶ requirements that the rules of a national securities 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 particular, the proposed rule change will allow the Exchange to continue to rely on an industry-recognized value to determine the closing settlement value for FX Options traded on the Exchange.

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.

⁴ Under ISE Rule 2212, in the event the Federal Reserve Bank of New York does not maintain or publish a Noon Buying Rate for an underlying currency, ISE will apply the WM/Reuters Closing Spot rate to determine the closing settlement value.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

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

This 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 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 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 as required by Rule 19b-4(f)(6).⁷ For the foregoing reasons, the Exchange believes the proposed rule filing qualifies for expedited approval as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 of the Act.⁸

The Exchange believes the proposed rule change is non-controversial in that the only change proposed herein is to the reference time used by the Exchange to determine the closing settlement value for FX Options. The Exchange also believes that the proposed rule change does not raise any new, unique or substantive issues, and is beneficial for competitive purposes and to promote a free and open market for the benefit of investors.

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. Please include File

⁷ 17 CFR 240.19b-4(f)(6).

⁸ The Commission notes that it does not approve rule changes filed under paragraph (f)(6) of Rule 19b-4 of the Act.

Number SR-ISE-2008-72 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-ISE-2008-72. 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, 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-ISE-2008-72 and should be submitted on or before October 24, 2008.

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

Florence E. Harmon,
Acting Secretary.

[FR Doc. E8-23409 Filed 10-2-08; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58671; File No. SR-ISE-2008-71]

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

September 29, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 23, 2008, the International Securities Exchange, LLC (the "Exchange" or the "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 self-regulatory organization. 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 ISE is proposing to amend its Schedule of Fees by (1) raising the fee for Firm Proprietary orders, and (2) adopting a sliding scale-based fee credit for the Exchange's Electronic Access Members ("EAMs"). The text of the proposed rule change is available on the Exchange's Internet Web site at <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 self-regulatory organization 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

(a) *Purpose*—The Exchange proposes to amend its Schedule of Fees by increasing the firm proprietary transaction fee charged to members,

currently set at \$0.18 per contract, to \$0.20 per contract. In connection with the proposed increase to the firm proprietary transaction fee, the Exchange also proposes to adopt a sliding scale-based fee credit for EAMs. Specifically, the Exchange proposes to create a sliding scale-based fee credit that rewards EAMs for the total amount of order flow sent to ISE, as follows (all volume figures are aggregate volume for a member per calendar month):

- For the first 500,000 contracts traded on the Exchange during a calendar month, EAMs will not receive any credit.
- For the next 2,500,000 contracts traded, EAMs will receive a credit of \$0.005 per contract.
- For the next 1,000,000 contracts traded, EAMs will receive a credit of \$0.01 per contract.
- Thereafter, EAMs will receive an incremental credit of \$0.005 per contract per each 1,000,000 incremental contracts traded on the Exchange during a calendar month.

The sliding scale will apply to all customer and firm proprietary orders in all products and will be calculated on a member firm basis,³ and will apply to non-discounted volume only, that is, it will not apply to orders previously discounted by other pricing incentives that currently appear on the Exchange's Schedule of Fees. Under the proposal, credits will be capped at 100% of transaction charges. The Exchange believes the proposed fee credits will benefit order flow providers who send substantial non-market maker order flow to ISE while providing an incentive to those that do not currently send their non-market maker order flow to ISE to do so.

The proposed fee changes will be operative on October 1, 2008.

(b) *Basis*—The Exchange believes that the proposed rule change is consistent with the objectives of Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(4),⁵ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the proposed fee credit will allow the Exchange to compete more effectively with other options exchanges as it will serve as an incentive for order flow

³ If a member firm operates more than one EAM membership, the Exchange will aggregate the trading activity of firms for purposes of the sliding scale based on common ownership between firms as reflected on each firm's Form BD.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁹ 17 CFR 200.30-3(a)(12).