

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 by ensuring that Exchange participants, like participants in other markets, are prohibited from engaging in the practice of trade shredding.

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

The Exchange does not believe that the proposed rule changes will impose any 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 either solicited or received.

## 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 self-regulatory organization 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. 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-CHX-2006-03 on the subject line.

### *Paper Comments*

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

All submissions should refer to File Number SR-CHX-2006-03. 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 offices of CHX. 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-CHX-2006-03 and should be submitted on or before April 6, 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. 34-53439; File No. SR-ISE-2006-11]

### **Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to ISE Rule 1100(g) "Exercise of Options Contracts"**

March 7, 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 February 13, 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 and II below, which Items have been prepared by the Exchange. On March 3, 2006, the ISE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The ISE filed the proposal as a "non-controversial" proposed rule change pursuant to section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders it 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, pursuant to section 19(b)(1) of the Act<sup>6</sup> and Rule 19b-4 thereunder,<sup>7</sup> proposes to amend ISE Rule 1100(g) "Exercise of Options Contracts" to add two additional minutes within which one may deliver a contrary exercise advice ("CEA")<sup>8</sup> or an Advice Cancel to the Exchange. The proposal is intended to conform ISE Rule 1100(g) to a recent change in the closing time for equity options and narrow-based index options

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

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

<sup>3</sup> Amendment No. 1 clarified that the Exchange is requesting that the Commission waive the 5-day pre-filing notice requirement and the 30-day operative delay period and made certain other minor clarifying changes.

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

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> 15 U.S.C. 78s(b)(1).

<sup>7</sup> 17 CFR 240.19b-4.

<sup>8</sup> A CEA is a communication either to not exercise an option that would be automatically exercised pursuant to the Options Clearing Corporation's ("OCC") Exercise-by-Exception ("Ex-by-Ex") procedure, or to exercise an option that would not be automatically exercised pursuant to the OCC's Ex-by-Ex procedure.

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

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

<sup>7</sup> 17 CFR 200.30-3(a)(12).

from 4:02 p.m. to 4 p.m. (EST).<sup>9</sup> The text of the proposed rule change is available on the ISE's Web site (<http://www.iseoptions.com>), at the ISE'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 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 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 purpose of the proposed amendment to ISE Rule 1100(g) is to change the time for delivering a CEA or Advice Cancel to conform to the new trading hours for equity options and narrow-based index options.

The Exchange recently submitted a proposed rule change to amend ISE Rule 700 to modify the close of the normal trading hours in options on individual stocks and options on narrow-based indexes from 4:02 p.m. to 4 p.m. (EST).<sup>10</sup> However, that filing did not address the change that is the subject of the instant filing. Specifically, the Exchange proposes to amend ISE Rule 1100(g) in order for the rule to be consistent with respect to the new hours of trading in equity options and narrow-based index options. Accordingly, the Exchange is proposing to change all references to 28 minutes in ISE Rule 1100(g) to 30 minutes to reflect the 2 minutes change in the closing time for options on individual stocks and options on narrow-based indexes. According to the Exchange, the proposed rule change, as amended, is based on a proposed rule change submitted by the Pacific Exchange, Inc.,

which was recently approved by the Commission.<sup>11</sup>

#### 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act<sup>12</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>13</sup> in particular, because it is designed 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.

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

The Exchange does not believe that the proposed rule change, as amended, 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

The ISE has neither solicited nor received comments on the proposed rule change, as amended.

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after 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, the proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative prior to 30-days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE has asked the Commission to waive

the 30-day operative delay and the 5-day pre-filing requirement. The Commission believes that waiving the 30-day operative delay and the 5-day pre-filing requirement is consistent with the protection of investors and the public interest because such waiver will allow the ISE to immediately clarify its rule and conform it to the industry-wide close of trading times now in effect. Accelerating the operative date will allow for a more efficient and effective market operation by offering clarity and internal consistency with existing ISE rules. For these reasons, the Commission designates the proposed rule change, as amended, as effective and operative immediately upon filing with the Commission.<sup>17</sup>

At any time within 60-days after the filing of the amended 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.<sup>18</sup>

## 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-ISE-2006-11 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-ISE-2006-11. This file number should be included on the

<sup>9</sup> See Securities Exchange Act Release No. 53248 (February 7, 2006), 71 FR 8015 (February 15, 2006) (approving SR-ISE-2005-58, which amended ISE Rule 700, so that equity options and narrow-based index options may trade until 4 p.m. instead of 4:02 p.m. (EST)).

<sup>10</sup> See Securities Exchange Act Release No. 53248 (February 7, 2006), 71 FR 8015 (February 15, 2006) (order granting accelerated approval of SR-ISE-2005-58).

<sup>11</sup> See Securities Exchange Act Release No. 53249 (February 7, 2006), 71 FR 8035 (February 15, 2006) (order granting accelerated approval of SR-PCX-2005-138).

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> *Id.*

<sup>17</sup> For the purposes only of waiving the 30-day operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>18</sup> The effective date of the original proposed rule change is February 13, 2006 and the effective date of the amendment is March 3, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on March 3, 2006, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

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 the 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 Number SR-ISE-2006-11 and should be submitted on or before April 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Nancy M. Morris,**  
Secretary.

[FR Doc. E6-3788 Filed 3-15-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53428; File No. 4-514]

### Self-Regulatory Organizations; Notice of Filing of Proposed Minor Rule Violation Plan by The Nasdaq Stock Market LLC

March 7, 2006.

Pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19d-1(c)(2) thereunder,<sup>2</sup> notice is hereby given that on February 22, 2006, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") copies of a proposed minor rule violation plan ("MRVP") specifying those uncontested minor rule violations with sanctions not exceeding \$2,500 which would not be subject to the provisions of Rule 19d-

1(c)(1) under the Act<sup>3</sup> requiring that a self-regulatory organization promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.<sup>4</sup> In accordance with paragraph (c)(2) of Rule 19d-1 of the Act, Nasdaq proposes to designate certain specified rule violations as minor rule violations, and requests that it be relieved of the reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis. Nasdaq proposes to include in its proposed MRVP the policies and procedures currently included in Nasdaq Rule 9216(b) ("Procedure for Violations Under Plan Pursuant to SEC Rule 19d-1(c)(2)") and the rule violations currently included in Nasdaq Rule IM-9216 ("Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d-1(c)(2)").<sup>5</sup>

According to Nasdaq's proposed MRVP, under Rule 9216(b) and IM-9216, Nasdaq or the Nasdaq Review Counsel may impose a fine (not to exceed \$2,500) and/or a censure on a member or an associated person with respect to any rule listed in IM-9216. If the person against whom the fine or censure is imposed does not dispute the violation, the Department of Enforcement or the Department of Market Regulation may prepare and request that such person execute a minor rule violation plan letter.<sup>6</sup> In such

<sup>3</sup> 17 CFR 240.19d-1(c)(1).

<sup>4</sup> The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations ("SROs") to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with the Commission shall not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

<sup>5</sup> On January 13, 2006, the Commission approved Nasdaq's application for registration as a national securities exchange, including the rules governing the Nasdaq exchange. Exchange Act Release No. 53128, 71 FR 3550 (January 23, 2006). In the approval order, the Commission noted that Nasdaq Rule 9216(b) and IM-9216 provided for the imposition of fines for minor rule violations pursuant to a minor rule violation plan. Accordingly, the Commission noted that as a condition to the operation of the Nasdaq Exchange, Nasdaq must file a minor rule violation plan with the Commission.

<sup>6</sup> Consistent with Nasdaq's rules, Nasdaq noted in its submission to the Commission that the Department of Enforcement, the Department of Market Regulation, and the Office of Disciplinary Affairs will be comprised of NASD Regulation, Inc. ("NASDR") staff acting on behalf of Nasdaq pursuant to Nasdaq's contractual arrangement with

a letter, the member or associated person accepts a finding of violation, consents to the imposition of sanctions, and agrees to waive the right to a hearing before a Hearing Panel (or, if applicable, an Extended Hearing Panel), any right of appeal to the Nasdaq Review Council, the Commission, or the courts, and any other challenge to the validity of the letter. The letter will describe the act or practice engaged in or omitted, the rule, regulation, or statutory provision violated, and the sanction or sanctions to be imposed.<sup>7</sup>

If a member or associated person executes a minor rule violation plan letter, the letter shall be submitted to the Nasdaq Review Council. The Office of Disciplinary Affairs may accept such letter or refer it to the Nasdaq Review Council for acceptance or rejection. Similarly, the Review Subcommittee of the Nasdaq Review Council may accept or reject such letter or refer it to the Nasdaq Review Council for acceptance or rejection. If the letter is rejected, Nasdaq may take any other appropriate disciplinary action with respect to the alleged violation or violations.

Nasdaq proposed that the quarterly report of actions taken on minor rule violations under Rule 9216(b) and IM-9216 would list for each violation: Nasdaq's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation has occurred and the date of disposition.<sup>8</sup>

The following Nasdaq rule violations currently are included in Rule 9216(b) and IM-9216: Rules 2210, 2211, IM-2210-1 and 2210-4 (Communications with the public); Rule 3360 (Failure to timely file reports of short positions on Form NS-1); Rule 3110 (Failure to keep and preserve books, accounts, records, memoranda, and correspondence in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with the Rules of Nasdaq); Rule 8211 (Failure to submit trading data as requested); Rule 1013 (Failure to timely submit amendments to Form BD); Rule 1031 (Failure to timely submit amendments to Form U4); Rule 1031 (Failure to timely submit amendments to Form U5); Rule 1120 (Failure to comply with the Firm Element of the continuing education requirements);

NASDR. See Nasdaq Rule 9001 and Nasdaq Rule 9120(f), (g) and (x).

<sup>7</sup> Nasdaq attached a sample form of a minor rule violation letter with its submission to the Commission.

<sup>8</sup> Nasdaq attached a sample form of the quarterly report with its submission to the Commission.

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

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

<sup>2</sup> 17 CFR 240.19d-1(c)(2).