

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55589; File No. SR-ISE-2007-18]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Relating to Customer Orders on the Book

April 5, 2007.

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 March 5, 2007, the International Securities Exchange, LLC ("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 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 Exchange proposes to include in an automated information feed to members the aggregate quantity of customer interest at the Exchange's best bid and offer ("BBO").<sup>3</sup>

The text of the proposed rule change is available at the Exchange's principal office, at [http://www.iseoptions.com/legal/proposed\\_rule\\_changes.asp](http://www.iseoptions.com/legal/proposed_rule_changes.asp), 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 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 purpose of the proposed rule change is to provide all ISE members with information regarding orders of public customers at the ISE BBO. Currently, the ISE provides full customer information only to its Primary Market Makers ("PMMs"), who effectively act as specialists on the Exchange. Other ISE members do not have this information. Because the ISE provides customer orders with priority over broker-dealer orders and market maker quotations, having access to customer order information would allow members to know how many customer contracts first would need to be satisfied in order to have certainty of knowledge before crossing a large block. This is particularly useful for broker-dealers attempting to execute larger-sized orders through the ISE's Block and Facilitation Mechanisms.<sup>4</sup>

The ISE recently confirmed that at least one other exchange—the Chicago Board Options Exchange ("CBOE")—provides all its members with full information regarding customer orders at that exchange's BBO. The information is available through the CBOE's electronic data feed to its members. In order to remain competitive with the CBOE, we believe it is necessary to provide our members with similar information. Thus, we propose to make available to our members the full quantity of public customer interest included in the Exchange's BBO.

##### 2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>5</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 for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the proposal will provide members with additional information to help them execute their orders.

#### 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 written comments from members or other interested parties.

#### 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 ISE 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-ISE-2007-18 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-ISE-2007-18. 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

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

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

<sup>3</sup> The proposed rule change also will correct some cross-references in ISE Rule 713.

<sup>4</sup> See ISE Rule 716.

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

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 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 publicly available. All submissions should refer to File Number SR-ISE-2007-18 and should be submitted on or before May 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E7-6870 Filed 4-11-07; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55588; File No. SR-NASDAQ-2007-038]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Nasdaq Market Center Fees

April 5, 2007.

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 April 3, 2007, The NASDAQ Stock Market LLC ("Nasdaq" 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 substantially prepared by Nasdaq. Nasdaq has designated the proposal as constituting a "non-controversial" proposed rule change under Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</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 from interested persons.

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

Nasdaq proposes to modify the pricing for Nasdaq members using the Nasdaq Market Center. Nasdaq proposes to make the proposed rule change retroactively effective with respect to the Nasdaq Market Center's invoices for executions of non-Nasdaq securities priced under \$1 during the period from March 5, 2007 to March 21, 2007.<sup>5</sup> The text of the proposed rule change is available at Nasdaq, on the Exchange's Web site at <http://www.nasdaq.com>, and in 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, Nasdaq 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. Nasdaq 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

Nasdaq recently reduced its fee for executing orders in non-Nasdaq securities priced under \$1 to 0.1% of the cost of the transaction, effective March 22, 2007, on an immediately effective basis; this is the same as the comparable fee for Nasdaq-listed securities that had previously been in effect.<sup>6</sup> Prior to this change, the execution fee for non-Nasdaq securities priced under \$1 had ranged from \$0.0026 to \$0.003 per share executed. Nasdaq notes, however, that Rule 610(c)(2) of Regulation NMS<sup>7</sup> limits the fee on an execution of an order against a protected quotation, if the price of the protected quotation is less than \$1, to 0.3% of the quotation's price per share. Accordingly, Nasdaq is proposing to reduce the execution fee for non-Nasdaq

securities to 0.25% of the transaction cost for the period from March 5, 2007 (the effective date of Rule 610) through March 21, 2007 (the day before the effectiveness of SR-NASDAQ-2007-026). The change will result, in all circumstances, in a reduction of the execution fees previously payable with respect to orders in non-Nasdaq securities priced under \$1. Nasdaq is not, however, proposing to modify the routing fees or liquidity provider rebates applicable to transactions in these securities during the same time period.

###### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(4) of the Act,<sup>9</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls. This change will reduce execution fees for trading non-Nasdaq securities at prices under \$1 in a manner consistent with the requirements of Rule 610 of Regulation NMS.

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

Nasdaq does not believe that the proposed rule change will result in 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 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) 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 proposed rule change has become effective pursuant to Section

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

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

<sup>5</sup> Telephone conversation between John Yetter, Vice President and Deputy General Counsel, Nasdaq, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on April 5, 2007.

<sup>6</sup> See Securities Exchange Act Release No. 55576 (April 3, 2007) (SR-NASDAQ-2007-026).

<sup>7</sup> 17 CFR 242.610(c)(2).

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).