

In addition, FICC will be able to include in a member's clearing fund requirement a "special charge" based on such factors as FICC determines to be appropriate from time to time. Such factors may include, but are not limited to, such things as price fluctuation, volatility, or lack of liquidity.

The proposed VaR methodology will necessitate a change to FICC's risk management consequences of the late allocation of repo substitution collateral. Because offset classes and margin rates will no longer be present in the revised GSD rules, FICC will base the margining for such a generic CUSIP on the same calculation as that used for securities whose volatility is less amenable to statistical analysis.<sup>7</sup>

The VaR methodology will not include calculations that are incorporated in the GSD's current cross-margining programs with The Clearing Corporation ("TCC") and with the Chicago Mercantile Exchange ("CME"). In order to provide for continuity of cross-margining following the implementation of the VaR methodology and because certain key calculations required for cross-margining are unique to cross-margining, FICC will continue to perform the applicable cross-margining calculations outside of the VaR model. FICC will then adjust the cross-margining clearing fund calculation using a scaling ratio of the VaR clearing fund calculation to the cross-margining clearing fund calculation so that the clearing fund amount available for cross-margining is appropriately aligned with the VaR model. The proposed changes described herein will necessitate amendments to FICC's cross-margining agreements with TCC and with CME as follows:

1. The definition of FICC's "Margin Rate" in each of the agreements will be amended to reflect that the margin rate will no longer be based on margin factors published in the current rules (as these will no longer be applied under the VaR methodology). Instead, they will be determined based on a percentage that will be determined using the same parameters and data (e.g., confidence level and historic indices) as those used to generate margin factors in the current rules.

2. Section 5(a) of each cross-margining agreement will be amended to state that FICC's residual margin amount will be calculated as specified in the agreement and will be adjusted,

if necessary, to correct for differences between the methodology of calculating the residual margin amount as described in the agreement and the VaR methodology. This change will be necessary to account for the deletion of relevant margin factors and disallowance schedules (which, like the margin factors, are incorporated into the agreements by reference) from GSD rules and to adjust for the possibility that the new VaR methodology could generate a charge that would otherwise allow for a cross-margining reduction that is greater than the margin requirement.

### III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in FICC's custody or control or for which it is responsible.<sup>8</sup> Because FICC's proposed rule change implements a VaR methodology that should better reflect market volatility and should more thoroughly distinguish the levels of risk presented by individual securities, FICC should be able to more accurately calculate the risk presented by each of its member's activity and to collect clearing fund to protect against that risk. As a result, FICC should be in a better position to assure the safeguarding of securities and funds in its custody or control or for which it is responsible.

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder. In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation.<sup>9</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-FICC-2006-16) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55221; File No. SR-ISE-2007-06]

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

February 1, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 22, 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 ISE. The ISE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) 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

The ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on one Premium Product.<sup>5</sup> The text of the proposed rule change is available on the ISE's Web site ([http://www.iseoptions.com/legal/proposed\\_rule\\_changes.asp](http://www.iseoptions.com/legal/proposed_rule_changes.asp)), at the ISE, 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 ISE included statements concerning the

<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)(ii).

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

<sup>5</sup> "Premium Products" is defined in the Schedule of Fees as the products enumerated therein.

<sup>7</sup> Securities Exchange Act Release No. 53534 (March 21, 2006), 71 FR 15781 (March 29, 2006) (File No. SR-FICC-2005-18). This rule change created a generic CUSIP offset and applicable margin rate for determining clearing fund consequences for such late allocations.

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

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

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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 such statements.

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

##### 1. Purpose

The Exchange is proposing to amend its Schedule of Fees to establish fees for transactions in options on the following Premium Product: The ISE Integrated Oil & Gas Index ("PMP").<sup>6</sup> Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for all transactions in options on PMP.<sup>7</sup> The amount of the execution fee and comparison fee for PMP shall be \$0.15 and \$0.03 per contract, respectively, for all Public Customer Orders<sup>8</sup> and Firm Proprietary orders. The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.<sup>9</sup> Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be \$0.16 and \$0.03 per contract, respectively. All of the applicable fees covered by this filing are identical to fees charged by the

<sup>6</sup> The Exchange represents that PMP, a narrow-based index, meets the standards of ISE Rule 2002(b), which allows the ISE to begin trading this product by filing a Form 19b-4(e) at least five business days after commencement of trading this new product pursuant to Rule 19b-4(e) under the Act. Accordingly, the ISE represents that it has submitted the required Form 19b-4(e) to the Commission. See Telephone conversation between Samir Patel, Assistant General Counsel, ISE, and Richard Holley III, Special Counsel, Division of Market Regulation, Commission, on January 25, 2007.

<sup>7</sup> These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2007, these fees will also be charged to Linkage Orders (as defined in ISE Rule 1900). See Securities Exchange Act Release No. 54204 (July 25, 2006), 71 FR 43548 (August 1, 2006) (SR-ISE-2006-38).

<sup>8</sup> "Public Customer Order" is defined in ISE Rule 100(a)(39) as an order for the account of a Public Customer. "Public Customer" is defined in ISE Rule 100(a)(38) as a person that is not a broker or dealer in securities.

<sup>9</sup> The execution fee is currently between \$.21 and \$.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently \$.03 per contract side.

Exchange for all other Premium Products. Further, since options on PMP are not multiply-listed, the Payment for Order Flow fee shall not apply. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

##### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act<sup>10</sup> that the rules of an exchange 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**

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(2)<sup>12</sup> 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

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 19b-4(f)(2).

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-2007-06 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-2007-06. 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 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-2007-06 and should be submitted on or before February 28, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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<sup>13</sup> 17 CFR 200.30-3(a)(12).