

associated with maintaining the charter in this form.<sup>5</sup>

Because virtually all funds extant have now adopted audit committee charters, the annual one-time collection of information burden associated with adopting audit committee charters is limited to the burden incurred by newly established funds. Commission staff estimates that fund sponsors establish approximately 153 new funds each year,<sup>6</sup> and that all of these funds will adopt an audit committee charter in order to rely on rule 32a-4. Thus, Commission staff estimates that the annual one-time hour burden associated with adopting an audit committee charter under rule 32a-4 going forward will be approximately 459 hours.<sup>7</sup>

As noted above, all funds that rely on rule 32a-4 are subject to the ongoing collection of information requirement to preserve a copy of the charter in an easily accessible place. This ongoing requirement, which Commission staff has estimated has no hourly burden, applies to new funds that adopt an audit committee charter each year and to all funds that have previously adopted the charter and continue to maintain it.

When funds adopt an audit committee charter in order to rely on rule 32a-4, they also may incur one-time costs related to hiring outside counsel to prepare the charter. Commission staff estimates that those costs average approximately \$1000 per fund.<sup>8</sup> Commission staff understands that virtually all funds now rely on rule 32a-4 and have adopted audit committee charters, and thus estimates that the annual cost burden related to hiring outside legal counsel is limited to newly established funds.

As noted above, Commission staff estimates that approximately 153 new

funds each year will adopt an audit committee charter in order to rely on rule 32a-4. Thus, Commission staff estimates that the ongoing annual cost burden associated with rule 32a-4 in the future will be approximately \$153,000.<sup>9</sup>

The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The collections of information required by rule 32a-4 are necessary to obtain the benefits of the rule. The Commission is seeking OMB approval, because an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Lewis W. Walker, Acting Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: September 8, 2008.

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-21408 Filed 9-12-08; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58486; File No. SR-ISE-2008-36]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Non-Displayed Penny Quotes and Orders

September 8, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 28, 2008, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been 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 is proposing to allow non-displayed penny quotes and orders in options that trade in minimum pricing increments greater than one cent. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, 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 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

###### 1. Purpose

The Commission has approved rules with respect to the Nasdaq Options

<sup>5</sup>No hour burden related to such maintenance of the charter was identified by the funds the Commission staff surveyed. Commission staff understands that many audit committee charters have been significantly revised after their adoption in response to the Sarbanes-Oxley Act (Pub. L. No. 107-204, 116 Stat. 745) and other developments. However, the costs associated with these revisions are not attributable to the requirements of rule 32a-4.

<sup>6</sup>This estimate is based on the number of Form N-8As filed from January 2005 through December 2007.

<sup>7</sup>This estimate is based on the following calculation: (3.0 burden hours for establishing charter × 153 new funds = 459 burden hours).

<sup>8</sup>Costs may vary based on the individual needs of each fund. However, based on the staff's conversations with outside counsel that prepare these charters, legal fees related to the preparation and adoption of an audit committee charter usually average \$1000 or less. The Commission also understands that the ICI has prepared a model audit committee charter, which most legal professionals use when establishing audit committees, thereby reducing the costs associated with drafting a charter.

<sup>9</sup>This estimate is based on the following calculations: (\$1000 cost of adopting charter × 153 newly established funds = \$153,000).

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

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

Exchange (“NOM”) and the Chicago Board Options Exchange (“CBOE”) that permit the entry of orders and quotes in penny increments in options series that have a minimum trading increment greater than one cent.<sup>3</sup> Under these rules, the actual firm price of the order or quote is not displayed to market participants or the public. Rather, the penny price is hidden on the exchange and displayed at the next closest allowable trading increment. To avoid being competitively disadvantaged, the ISE proposes to adopt rules that similarly permit its members to enter orders and quotes in penny increments (“non-displayed penny orders” and “non-displayed penny quotes”).

The Exchange proposes to allow both Electronic Access Members and market makers to enter non-displayed penny orders. In addition, Exchange market makers will be permitted to enter non-displayed penny quotes. Orders and quotes will be permitted in one-cent price increments in selected options where the applicable minimum price increment is larger than one-cent.<sup>4</sup> The penny price of such orders will be firm for incoming orders.<sup>5</sup> Non-displayed penny orders and quotes will be displayed at the nearest minimum trading increment for the security, and the penny price of non-displayed penny orders and quotes will not be disclosed to any market participants.

Non-displayed penny orders will participate in executions effected through the Block, Facilitation, Solicited Order and Price Improvement Mechanisms. Both the Block and the Price Improvement Mechanism currently allow members to enter orders and responses in penny increments.<sup>6</sup> Accordingly, a non-displayed penny order will participate in executions effected through the Block and Price Improvement Mechanisms at the penny price. However, when entering orders and responses into the Facilitation and Solicited Order Mechanisms, members currently are limited to the regular

trading increment for the security and the split price for the regular trading increment.<sup>7</sup> In order to be consistent with the current rule, the proposal specifies that non-displayed penny orders also will be executed only at the regular increment or split price, as applicable. For example, if the displayed market is \$2.00 by \$2.05 and there is a hidden penny order to buy at 2.03, the hidden penny order will participate in the execution algorithms applied by the Facilitation and Solicited Order Mechanisms at the split price of \$2.025. If the hidden penny price in this example is \$2.02, the hidden penny order will participate in the execution algorithms at the regular trading increment of \$2.00.

## 2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. This rule will enable the Exchange to remain competitive with other options markets that permit orders and quotes to be entered and executed in penny increments.

### 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 Exchange 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

The Exchange has designated the proposed rule change as one that 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. 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).<sup>8</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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 Exchange 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-2008-36 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-2008-36. 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

<sup>3</sup> Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (order approving SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080); Securities Exchange Act Release No. 57716 (April 25, 2008), 73 FR 24329 (May 2, 2008) (order approving SR-CBOE-2007-39).

<sup>4</sup> The Exchange will issue a circular to notify members of the options series in which non-displayed penny quotes and order may be entered.

<sup>5</sup> Incoming orders will receive the firm, non-displayed penny price. For example, if the non-displayed price of a limit order to buy is 2.02, an incoming limit order to sell at 2.01 will be executed at 2.02.

<sup>6</sup> ISE Rule 716, Supplementary Material .09 (regarding penny prices in the Block Mechanism); ISE Rule 723(b)(2) and (c)(2) (regarding penny prices in the Price Improvement Mechanism).

<sup>7</sup> ISE Rule 716, Supplementary Material .06 (regarding split prices in the Facilitation and Solicited Order Mechanisms).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

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 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-2008-36 and should be submitted on or before October 6, 2008.

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

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-21391 Filed 9-12-08; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58489; File No. SR-NASDAQ-2008-073]

### Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Trade Shares of 12 Funds of the WisdomTree Trust Pursuant to Unlisted Trading Privileges

September 8, 2008.

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 August 29, 2008, 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 prepared by Nasdaq. Nasdaq has designated the proposed rule change as constituting a 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 is filing a proposed rule change to trade, pursuant to unlisted trading privileges (“UTP”), shares (“Shares”) of 12 funds (each a “Fund”) of the WisdomTree Trust (“Trust”) under Nasdaq Rule 4420(o) (Managed Fund Shares). The text of the proposed rule change is available from Nasdaq’s Web site at <http://nasdaq.cchwallstreet.com>, at Nasdaq’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, 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 III below. Nasdaq had 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 proposes to trade the Funds on a UTP basis under Nasdaq Rule 4420(o), which governs the trading of “Managed Fund Shares” on the Exchange. The Shares will be offered by the Trust, which was established as a Delaware statutory trust on December 15, 2005. The Trust is registered with the Commission as an investment company.<sup>5</sup> The Commission recently approved the listing and trading of these same Funds by NYSE Arca, Inc. on its exchange.<sup>6</sup>

###### Description of the Shares and the Funds

WisdomTree Asset Management, Inc. (“WisdomTree Asset Management”) is the investment adviser to each Fund.<sup>7</sup> WisdomTree Asset Management is not affiliated with any broker-dealer. Mellon

<sup>5</sup> See Post-Effective Amendment No. 14 to Registration Statement on Form N-1A for the Trust (File Nos. 333-132380 and 811-21864) (“Registration Statement”). The descriptions of the Funds and the Shares contained herein are based on information in the Registration Statement.

<sup>6</sup> See Securities Exchange Act Release No. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (order approving SR-NYSEArca-2008-31).

<sup>7</sup> WisdomTree Investments, Inc. (“WisdomTree Investments”) is the parent company of WisdomTree Asset Management.

Capital Management serves as the sub-adviser for the Current Income Fund. The Dreyfus Corporation serves as the subadviser to each International Currency Income Fund. The Bank of New York is the administrator, custodian, and transfer agent for each Fund. ALPS Distributors, Inc. serves as the distributor for the Funds.

###### The Current Income Fund

The Current Income Fund seeks to earn current income while preserving capital and maintaining liquidity by investing primarily in very short term, high-quality money market securities denominated in U.S. dollars. Eligible investments include commercial paper, time deposits and certificates of deposits, asset-backed securities, government bills, government notes, corporate notes, and repurchase agreements. The Current Income Fund intends to maintain an average portfolio maturity of 90 days or less and will not purchase any money market security with a remaining maturity of more than 397 calendar days.

###### The International Currency Income Funds

Each of the Australian Dollar Fund, British Pound Sterling Fund, Canadian Dollar Fund, Euro Fund, and Japanese Yen Fund: (i) Seeks to earn current income reflective of money market rates available to foreign investors in the specified country or region, and (ii) seeks to maintain liquidity and preserve capital measured in the currency of the specified country or region. Each of these Funds intends to invest primarily in very short term, investment grade money market securities denominated in the non-U.S. currency specified in its name. Eligible investments include short-term securities issued by non-U.S. governments, agencies or instrumentalities, bank debt obligations and time deposits, bankers’ acceptances, commercial paper, short-term corporate debt obligations, mortgage backed securities, and asset-backed securities.

Each of the Brazilian Real Fund, Chinese Yuan Fund, Indian Rupee Fund, New Zealand Dollar Fund, South African Rand Fund, and South Korean Won Fund seeks: (i) To earn current income reflective of money market rates available to foreign investors in the specified country; and (ii) to provide exposure to changes in the value of the designated non-U.S. currency relative to the U.S. Dollar. Each of these Funds intends to achieve exposure to the non-U.S. market designated by its name using the following strategy. Each of the Funds will invest primarily in short term U.S. money market securities. In

<sup>9</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 C.F.R. 240.19b-4(f)(6).