

participants' public customer options activities into their overall supervisory structure, thereby eliminating any uncertainty over where supervisory responsibility lies, and by fostering the strengthening of participant organizations' internal controls and supervisory systems.

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

The Exchange 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, as amended.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

### III. 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-BSE-2008-29 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-BSE-2008-29. 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, 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 BSE, located at 100 Franklin Street, Boston, MA 02110. 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-BSE-2008-29 and should be submitted on or before August 20, 2008.

### IV. Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>28</sup> In particular, the Commission believes that the proposed rule change would help to better integrate the supervisory and compliance functions of a firm's public customer options activities into the firm's overall supervisory and compliance functions, thereby eliminating any uncertainty about where supervisory responsibility lies. Therefore, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>29</sup> which requires, among other things, that Exchange rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission also finds good cause to approve the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. The proposed rule change is substantially similar to recent CBOE and FINRA rule amendments concerning options supervision, which were approved by the Commission.<sup>30</sup> The Commission believes that approving the proposed rule change will simplify firms' compliance, and is consistent with the public interest and the investor

<sup>28</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>29</sup> 15 U.S.C. 78f(b)(4).

<sup>30</sup> See Securities Exchange Act Release No. 56971 (December 14, 2007), 72 FR 72804 (December 21, 2007) (approval order for File No. SR-CBOE-2007-106) and Securities Exchange Act Release No. 57775 (May 5, 2008) 73 FR 26453 (May 9, 2008) (approval order for File No. SR-FINRA-2007-035).

protection goals of the Act. Finally, the Commission finds that it is in the public interest to approve the proposed rule change as soon as possible to expedite its implementation.

Accordingly, the Commission believes good cause exists, consistent with Sections 19(b)(2) of the Act,<sup>31</sup> to approve the proposed rule change on an accelerated basis.

### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-BSE-2008-29) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8-17428 Filed 7-29-08; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58215; File No. SR-FINRA-2008-035]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Addition of Fees Imposed for the Series 14 and Series 16 Examinations to FINRA's Fee Schedule

July 23, 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 June 26, 2008, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) 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 FINRA. This order provides notice of the proposed rule change and approves the proposed rule change on an accelerated basis.

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

FINRA is proposing to amend Section 4(c) of Schedule A to the FINRA By-Laws ("Schedule A") to add the fees

<sup>31</sup> 15 U.S.C. 78s(b)(2).

<sup>32</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.

charged for the Series 14 and Series 16 examinations. The text of the proposed rule change is available at FINRA, the Commission's Public Reference Room, and <http://www.finra.org/RulesRegulation/RuleFilings/index.htm>.

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

In its filing with the Commission, FINRA 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. FINRA 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

On July 30, 2007, NASD and the New York Stock Exchange ("NYSE") consolidated their member firm regulation operations into a combined organization, FINRA. As part of the consolidation, FINRA assumed ownership of the Series 14 (Compliance Official) and Series 16 (Supervisory Analyst) examinations.<sup>3</sup> Thus, as of July 30, 2007, these two examinations became FINRA examinations and ceased being NYSE examinations, and FINRA retained the entire fee for those examinations.<sup>4</sup> The proposed rule change would add the fee for these two examinations to the fee table in Schedule A. The proposed rule change does not change the fee charged for either of these examinations. The fee for the Series 14 examination remains

\$300,<sup>5</sup> and the fee for the Series 16 examination remains \$200.<sup>6</sup>

Because the proposed rule change does not change the amount of the examination fees for the Series 14 or Series 16, FINRA believes that it is appropriate for the amendments to Schedule A to have a retroactive effective date of July 30, 2007, the date FINRA assumed ownership of the two examinations. As noted above, the proposed rule change will have no effect on the amount of the fee for either the Series 14 or the Series 16 examination. Moreover, the retroactive effective date will not affect the fee paid by individuals who have already taken the exams.

#### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,<sup>7</sup> which require, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Because FINRA now owns the Series 14 and Series 16 examinations, FINRA believes that it is appropriate to reflect the fees charged in connection with those examinations in the fee table in Schedule A.

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

FINRA 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. 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:

<sup>5</sup> The \$300 fee for the Series 14 examination has been in place since 2001. See Securities Exchange Act Release No. 44296 (May 11, 2001), 66 FR 27714 (May 18, 2001) (SR-NYSE-2001-09).

<sup>6</sup> The \$200 fee for the Series 16 examination has been in place since 1998. See Securities Exchange Act Release No. 40731 (December 1, 1998), 63 FR 67964 (December 9, 1998) (SR-NYSE-98-39).

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

### 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-FINRA-2008-035 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-FINRA-2008-035. 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 FINRA. 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-FINRA-2008-035 and should be submitted on or before August 20, 2008.

## IV. Commission's Findings and Order Granting Accelerated Approval

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 15 of the Act<sup>8</sup> and the rules and regulations thereunder applicable to a national securities association.<sup>9</sup> In particular, the Commission finds that the proposed rule change is consistent with Section

<sup>8</sup> 15 U.S.C. 78o-3.

<sup>9</sup> In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>3</sup> As part of the consolidation, FINRA also assumed sole ownership of the Series 7 (General Securities Representative), Series 86 (Research Analyst—Analysis), and Series 87 (Research Analyst—Regulatory) examinations. Before the consolidation, the Series 7 examination was owned by NYSE, and the Series 86 and Series 87 examinations were jointly owned by NASD and NYSE. The fees for the Series 7, Series 86, and Series 87 examinations are already listed in Schedule A as required fees to be paid by FINRA members because, prior to the closing of the consolidation, the examination was either owned in part by NASD or required by NASD rules.

<sup>4</sup> Prior to the consolidation, NASD, which administered the examinations and collected the entire fee for the examinations, and NYSE, which owned or co-owned the examinations, each received a portion of the examination fee for the Series 7, Series 14, Series 16, Series 86, and Series 87 examinations. Following the consolidation, as the sole owner of these examinations, FINRA has retained the entire examination fee.

15A(b)(5) of the Act,<sup>10</sup> which requires that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which FINRA operates or controls.

The Commission believes that FINRA's proposed rule change is consistent with Section 15A(b)(5) of the Act<sup>11</sup> because it would clarify in FINRA's fee schedule the fees that FINRA charges for the Series 14 and Series 16 examinations. The Commission notes that the proposal, while adding references to the fees for the Series 14 and Series 16 examinations to FINRA's Schedule A, would not change the amount of the fees charged to persons who take these exams. Rather, the Commission notes, the proposed rule change simply would reflect the fact that FINRA, and not NYSE, is now the owner of these examinations and therefore it must incorporate the fees in its fee schedule. The Commission also believes that it is appropriate to approve these changes retroactive to July 30, 2007, because that is the date on which FINRA assumed ownership of these examinations as a result of the consolidation. The Commission notes that FINRA has represented that the retroactive effective date would not affect the fees paid by individuals who have already taken these examinations.

FINRA has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice thereof in the **Federal Register**. As noted above, the proposed rule change would not change the amount charged for either the Series 14 or 16 examinations, but would clarify the fees charged by FINRA for these examinations by including these fees on FINRA's fee schedule. The Commission believes that granting accelerated approval of the proposed rule change would reduce any possible confusion about the applicable fees for these examinations and would allow persons currently seeking to take these examinations to determine more easily the applicable fees. Accordingly, the Commission believes that there is good cause, consistent with Sections 15A(b)(5) and 19(b) of the Act,<sup>12</sup> to approve the proposed rule change on an accelerated basis.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (File No. SR-FINRA-2008-035) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-17410 Filed 7-29-08; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58216; File No. SR-ISE-2008-57]

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

July 23, 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 July 17, 2008, International Securities Exchange, LLC (the "ISE" or the "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 ISE filed the proposal pursuant to Section 19(b)(3)(A) 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 by adopting additional fee waivers related to the execution on ISE of public customer orders exposed to members before those orders are sent out for execution on another exchange through the intermarket linkage ("Linkage"). The text of the proposed rule change is available at the Exchange, <http://www.ise.com>, and the Commission's Public Reference Room.

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</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)(2).

## 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

Before a Primary Market Maker ("PMM") sends a customer order through the Linkage when ISE is not at the national best bid or offer ("NBBO"), the Exchange exposes these customer orders to all its members to give them an opportunity to match the NBBO.<sup>5</sup> This exposure is intended to allow ISE to retain more flow by giving these customer orders additional opportunity to be executed at the NBBO at ISE, which also reduces PMM costs by reducing the number of Linkage orders they must send to other exchanges on behalf of customer orders.

Specifically, before the PMM sends a Linkage Order on behalf of a public customer, the public customer order is exposed at the NBBO price for a period established by the Exchange not to exceed one second. During this exposure period, Exchange members may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option. If at the end of the exposure period, the order is executable at the then-current NBBO and the ISE is not at the then-current NBBO, the order is executed against responses that equal or better the then-current NBBO. The exposure period is terminated if the exposed order becomes executable on the ISE at the prevailing NBBO or if the Exchange receives an unrelated order that could trade against the exposed order at the prevailing NBBO price. If, after an order is exposed, the order is not executed in full on the Exchange at the then-current NBBO or better, and it

<sup>5</sup> See Securities Exchange Act Release No. 58038 (June 26, 2008), 73 FR 38261 (July 3, 2008) (SR-ISE-2008-50) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exposure of Public Customer Orders to all ISE Members).

<sup>10</sup> 15 U.S.C. 78o-3(b)(5).

<sup>11</sup> 15 U.S.C. 78o-3(b)(5).

<sup>12</sup> 15 U.S.C. 78o-3(b)(5), and 78s(b).