

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56496; File No. SR-ISE-2007-85)

September 21, 2007

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 17, 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 ISE. ISE filed the proposal pursuant to Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2)⁴ thereunder, as establishing or changing a due, fee, or other charges applicable to a member, which renders the proposed rule change 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

ISE is proposing to amend its Schedule of Fees to establish fees to: (i) raise its PrecISE through VPN fees; and (ii) adopt a PrecISE Sponsored Customer fee. The text of the proposed rule change is available at ISE, www.iseoptions.com, and the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 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 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 this proposed rule change is to amend the Exchange's Schedule of Fees to: (i) raise its PrecISE through VPN fees; and (ii) adopt a PrecISE Sponsored Customer fee.

"PrecISE" is ISE's internally-developed proprietary order-routing terminal used by Electronic Access Members ("EAMs") to send order flow to the Exchange. The Exchange currently permits EAMs to access the Exchange through a VPN connection from their PrecISE terminals for which the Exchange currently charges \$250 per month per terminal.⁵ VPN is an internet-based "virtual private network" that allows secure access to the ISE through the internet. PrecISE through VPN provides PrecISE functionality without requiring dedicated network lines and is a cost-efficient means of access for small and mid-sized broker-dealers. The Exchange notes that EAMs may also use PrecISE through VPN as a back-up or disaster recovery connection to the Exchange. The Exchange now proposes to increase its PrecISE through VPN

⁵ See Securities Exchange Act Release No. 54121 (July 10, 2006), 71 FR 40566 (July 17, 2006) (SR-ISE-2006-31).

fee from \$250 per month per terminal to \$300 per month per terminal to offset the Exchange's costs for maintaining these connections.⁶

The Exchange also proposes to adopt a PrecISE Sponsored Customer fee of \$300 per month per terminal. The Exchange currently operates a program that permits sponsored customers of Members to access the Exchange directly via a PrecISE trade terminal, provided certain conditions are met.⁷ The proposed Sponsored Customer fee shall only apply to sponsored customers that are not affiliates of the ISE member who sponsors its access. For example, an ISE member that sponsors five of its customers, all of whom are not affiliated with it, will be charged \$1,500 per month for the five sponsored terminals through which the Member's customers will be able to directly connect to the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁸ in general, and furthers the objectives of Section 6(b)(4),⁹ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. In particular, these fees will permit the Exchange to recover the costs of developing, maintaining, and supporting

⁶ The Exchange notes that this proposed fee increase will bring the PrecISE through VPN fees in line with the fee the Exchange currently charges EAMs for a network connection. See Securities Exchange Act Release No. 55960 (June 26, 2007), 72 FR 36531 (July 3, 2007) (SR-ISE-2007-42) (notice of filing and immediate effectiveness of proposed rule change adopting a per user per month fee for the Exchange's PrecISE Trade® terminal).

⁷ See Securities Exchange Act Release No. 55586 (April 5, 2007), 72 FR 18701 (April 13, 2007) (SR-ISE-2007-19) (notice of filing and immediate effectiveness of proposed rule change relating to access to the Exchange by Sponsored Customers).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

PrecISE Trade terminals and its various functionalities. Additionally, the Exchange believes the proposed fees are equitable in that they only apply to those members that elect to use PrecISE.¹⁰

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

The Exchange believes that 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 interested parties.

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

The foregoing proposed rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act¹¹ and Rule 19b-4(f)(2)¹² thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member.

At any time within 60 days of the filing of the 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.

¹⁰ Telephone amendment between Samir Patel, Assistant General Counsel, ISE, and Richard Holley, Senior Special Counsel, Division of Market Regulation, Commission, September 21, 2007.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

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. Please include File Number SR-ISE-2007-85 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-2007-85. 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 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of 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-2007-85 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).