

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56773; File No. SR-ISE-2007-104)

November 8, 2007

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

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 November 1, 2007, the International Securities Exchange, LLC (“Exchange” or “ISE”) 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 prepared by the ISE. 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 remove the surcharge fee for transactions in options on 10 Premium Products.<sup>3</sup> The text of the proposed rule change is available on the ISE's Web site (<http://www.ise.com>), at the principal office of 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 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

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

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

<sup>3</sup> Premium Products is defined in the Schedule of Fees as the products enumerated therein.

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 remove the surcharge fee previously adopted for transactions in options on the iShares S&P 100 Index Fund ("OEF"),<sup>4</sup> the Financial Select Sector SPDR Fund ("XLF"), the Technology Select Sector SPDR Fund ("XLK"), the Utilities Select Sector SPDR Fund ("XLU"),<sup>5</sup> the Materials Select Sector SPDR Fund ("XLB"), the Industrial Select Sector SPDR Fund ("XLI"), the Health Care Select Sector SPDR Fund ("XLV"), the Consumer Discretionary Select Sector SPDR Fund ("XLY"),<sup>6</sup> the Energy Select Sector SPDR Fund ("XLE"), and the Consumer Staples Select Sector SPDR Fund ("XLP").<sup>7</sup> The Exchange is proposing to remove the surcharge fee for these products from its Schedule of Fees because it no longer pays a license fee to Standard and Poor's, Inc. in connection with transactions in options on OEF, XLF, XLK, XLU, XLB, XLI, XLV, XLY, XLE and XLP. Accordingly, there is no longer a need for this surcharge fee. The Exchange will, however, continue to charge an execution fee and a comparison fee for transactions in options on OEF, XLF, XLK, XLU, XLB, XLI, XLV, XLY, XLE and XLP.

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<sup>4</sup> See Securities Exchange Act Release No. 46189 (July 11, 2002), 67 FR 47587 (July 19, 2002).

<sup>5</sup> See Securities Exchange Act Release No. 47243 (January 24, 2003), 68 FR 5066 (January 31, 2003).

<sup>6</sup> See Securities Exchange Act Release No. 47536 (March 19, 2003), 68 FR 14727 (March 26, 2003).

<sup>7</sup> See Securities Exchange Act Release No. 47564 (March 24, 2003), 68 FR 15256 (March 28, 2003).

## 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>8</sup> that an exchange have an 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) of the Act<sup>9</sup> and Rule 19b-4(f)(2)<sup>10</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.

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<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 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](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2007-104 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-2007-104. 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 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-2007-104 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.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).