

for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 (CCNPP), located in Calvert County, Maryland. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

### Environmental Assessment

#### *Identification of the Proposed Action*

The proposed action would exempt the licensee from the requirements of 10 CFR 50.68(b)(1) during the handling and storage of spent nuclear fuel in a 10 CFR part 72 licensed spent fuel storage container that is in a CCNPP spent fuel pool. The proposed action is in accordance with the licensee's application dated December 21, 2004, as supplemented on May 31, 2005. The supplemental letter provided clarifying information that did not expand the scope of the original request.

#### *The Need for the Proposed Action*

Under 10 CFR 50.68(b)(1), the Commission sets forth the following requirement that must be met, in lieu of a monitoring system capable of detecting criticality events. Plant procedures shall prohibit the handling and storage at any one time of more fuel assemblies than have been determined to be safely subcritical under the most adverse moderation conditions feasible by unborated water. Section 50.12(a) allows licensees to apply for an exemption from the requirements of 10 CFR part 50 if the regulation is not necessary to achieve the underlying purpose of the rule and other conditions are met. The licensee has stated that the NRC has previously established five criteria that, if met, would satisfy the intent of 10 CFR 50.68(b)(1).

#### *Environmental Impacts of the Proposed Action*

The NRC has completed its safety evaluation of the proposed action and concludes that the exemption described above would continue to satisfy the underlying purpose of 10 CFR 50.68(b)(1). The details of the staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation. The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in the amount of any effluent released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological

environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

#### *Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

#### *Alternative Use of Resources*

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, dated April 1984, and the Supplemental Environmental Impact Statement for License Renewal of Nuclear Plants, Calvert Cliffs Nuclear Power Plant (NUREG-1437, Supplement 1), dated October 1999.

#### *Agencies and Persons Consulted*

In accordance with its stated policy, on August 24, 2005, the staff consulted with the Maryland State official, R. McLean of the Maryland Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

#### **Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 31, 2004, as supplemented by letter dated May 31, 2005. Documents may be viewed, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or (301) 415-4737, or send an e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 25th day of August, 2005.

For the Nuclear Regulatory Commission.

**Patrick D. Milano,**

*Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52327; File No. SR-ISE-2004-33]

### Self-Regulatory Organizations; International Securities Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Relating to the Entry of Complex Orders into the Facilitation Mechanism

August 24, 2005.

#### I. Introduction

On November 16, 2004, the International Securities Exchange, Inc. ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend ISE Rule 716(d), "Facilitation Mechanism," to allow Electronic Access Members ("EAMs") to enter complex orders into the ISE's facilitation mechanism. On December 14, 2004, the ISE submitted Amendment No. 1 to the proposal.<sup>3</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on July 12, 2005.<sup>4</sup> The Commission received no comments regarding the proposal. This

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

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

<sup>3</sup> Amendment No. 1 made a technical revision to the text of the proposed rule change.

<sup>4</sup> See Securities Exchange Act Release No. 51968 (July 1, 2005), 70 FR 40089.

order approves the proposed rule change, as amended.

## II. Description of the Proposal

Currently, an EAM may not use the ISE's facilitation mechanism to facilitate a complex order. The ISE proposes to amend ISE Rule 716(d) to allow EAMs to use the facilitation mechanism to facilitate complex orders. Under the proposal, each leg of the complex order must be for at least 50 contracts. After an EAM enters a complex order into the facilitation mechanism, ISE members will be able to enter at net prices indications at which they would be willing to participate in the facilitation of the order. Complex orders entered into the facilitation mechanism will be executed pursuant to ISE Rule 716(d)(4), and the priority rules for complex orders in ISE Rule 722(b)(2) will apply.<sup>5</sup> If a complex order entered into the facilitation mechanism could receive an improved net price from bids and offers for the individual legs of the order in the ISE's auction market, then the complex order will be executed at the better net price.

## III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>7</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposal could facilitate the execution of complex orders. The Commission notes that the priority rules in ISE Rule 722(b)(2) will apply to complex orders

entered into the facilitation mechanism. In addition, if bids and offers in the ISE's auction market for the individual legs of the complex order being facilitated could produce a better net price for the order, then the complex order will receive an execution at the better net price.

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-ISE-2004-33), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52330; File No. SR-ISE-2005-38]

### Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Fee Changes

August 24, 2005.

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 August 1, 2005, the International Securities Exchange, Inc. ("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 prepared by the ISE. On August 22, 2005, ISE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The ISE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the ISE under Section 19(b)(3)(A)(ii) of the Act,<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</sup> which renders the proposal effective upon

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<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> Amendment No. 1 made changes to the filing, including Exhibit 5 (ISE's Schedule of Fees), to correct the names of the indexes: iShares Russell 2000(r) Index is the iShares Russell 2000(r) Index Fund and the full and proper name of the Lehman Brothers 20+ year Treasury Bond Index is the iShares Lehman Brothers 20+ year Treasury Bond Index ETF, and to remove references to the ISE Integrated Gas and Services Index (PMP).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, 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 five products: The iShares Russell 2000(r) Index Fund, the Semiconductor HOLDRs Trust, the Oil Service HOLDRs Trust, the Energy Select Sector SPDR® Fund, and the iShares Lehman Brothers 20+ year Treasury Bond Index ETF. The text of the proposed rule change, as amended, 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 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 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 five products: the iShares Russell 2000 Index Fund ("IWM"), the Semiconductor HOLDRs Trust ("SMH"), the Oil Service HOLDRs Trust ("OIH"), the Energy Select Sector SPDR Fund ("XLE"), and the iShares Lehman Brothers 20+ year Treasury Bond Index ETF ("TLT").<sup>6</sup> Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for transactions by Public Customers<sup>7</sup> in options on IWM, SMH, OIH, XLE, and TLT.<sup>8</sup> The Exchange currently charges an execution fee and a comparison fee

<sup>6</sup> The ISE represents that all five products are "Fund Shares," as defined by ISE Rule 502(h).

<sup>7</sup> ISE Rule 100(32) defines "Public Customer" as a person that is not a broker or dealer in securities.

<sup>8</sup> The ISE represents that these fees will be charged only to Exchange members.

<sup>5</sup> ISE Rule 722(b)(2) provides, in part, that a complex order may be executed at a total credit or debit price with another ISE member without giving priority to established bids or offers in the market that are not better than the bids or offers comprising such net debit or credit, provided that if any of the established bids or offers consists of a public customer limit order, the price of at least one leg of the complex order must trade at a price that is better than the corresponding bid or offer in the marketplace.

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).