

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57468; File No. SR-ISE-2008-09)

March 11, 2008

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving Proposed Rule Change to Amend Exchange Rules Related to the Imposition of Fines for Minor Rule Violations

On January 18, 2008, the International Securities Exchange, LLC (“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 1614, “Imposition of Fines for Minor Rule Violations,” to add summary fines for violations of ISE Rule 1100, “Exercise of Options Contracts.” The proposed rule change was published for comment in the Federal Register on February 5, 2008.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

The Exchange proposes to add a summary fine schedule pursuant to its Minor Rule Violation Plan (“MRVP”) that will apply to any member who fails to submit to the Exchange in a timely manner pursuant to ISE Rule 1100 (or a regulatory information circular issued pursuant to ISE Rule 1100) an “Advice Cancel” or exercise instruction relating to the exercise or nonexercise of a noncash-settled equity option. The Exchange believes that imposing the fine levels specified with respect to both individual members and member organizations, and providing for a rolling 24-month surveillance period, will serve as an effective deterrent to such violative conduct.<sup>4</sup>

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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> See Securities Exchange Act Release No. 57229 (January 29, 2008), 73 FR 6753.

<sup>4</sup> In addition, as a member of the Intermarket Surveillance Group, the Exchange, as well as certain other self-regulatory organizations (“SROs”) executed and filed on October 29, 2007

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to facilitate transactions in securities, 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 further believes that ISE's proposal to impose sanctions on individuals and member organizations who fail to submit Advice Cancel or exercise instructions in a timely manner is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,<sup>7</sup> which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,<sup>8</sup> which governs minor rule violation plans. The Commission believes that the proposed rule change should strengthen the Exchange's ability to carry out its oversight and enforcement

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with the Commission, a final version of an Agreement pursuant to Section 17(d) of the Act (the "17d-2 Agreement"). As set forth in the 17d-2 Agreement, the SROs have agreed that their respective rules concerning the filing of Expiring Exercise Declarations, also referred to as Contrary Exercise Advices, of options contracts, are common rules. As a result, the proposal to amend ISE's MRVP will result in further consistency in sanctions among the SROs that are signatories to the 17d-2 Agreement concerning Contrary Exercise Advice violations.

<sup>5</sup> In approving this proposed 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>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f(b)(1) and 78f(b)(6).

<sup>8</sup> 17 CFR 240.19d-1(c)(2).

responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with ISE rules and all other rules subject to the imposition of fines under the MRVP. The Commission believes that the violation of any SRO rules, as well as Commission rules, is a serious matter. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that ISE would continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the ISE MRVP or whether a violation requires formal disciplinary action.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act<sup>9</sup> and Rule 19d-1(c)(2) under the Act,<sup>10</sup> that the proposed rule change (SR-ISE-2008-09) be, and hereby is, approved and declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 240.19d-1(c)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).