

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

No written comments were solicited or received with respect to the proposed rule change.

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

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>9</sup> The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become operative prior to the 30th day after filing.<sup>10</sup>

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption.<sup>11</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>12</sup>

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days before doing so.

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>12</sup> As set forth in the Exchange's original filing proposing the Pilot Program, if the Exchange were to propose an extension, an expansion, or permanent approval of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the program, a report that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Short Term Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of the Exchange, OPRA, and market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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.

**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-Amex-2007-62 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-Amex-2007-62. 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 Commissions 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

Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program. See Form 19b-4 for File No. SR-Amex-2005-35, filed March 23, 2005.

the principal office of the Exchange. 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-Amex-2007-62 and should be submitted on or before August 7, 2007.<sup>13</sup>

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

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E7-13809 Filed 7-16-07; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56047; File No. SR-ISE-2007-54]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Short Term Option Series Pilot Program**

July 11, 2007.

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 27, 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 and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> 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**

The Exchange is proposing to amend its rules to extend the Short Term Option Series Pilot Program ("Pilot Program") for an additional year. The text of the proposed rule change is

<sup>13</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)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

available on the Exchange's Web site (<http://www.ise.com>), at the Exchange's principal office, 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 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

On July 12, 2005, the Commission approved the Pilot Program, which allows ISE to list and trade Short Term Option Series.<sup>5</sup> Under the terms of the Pilot Program, the Exchange can select up to five options classes on which Short Term Option Series may be opened on any Short Term Option Opening Date, as that term is defined in ISE Rules 504 and 2009. The Exchange is also allowed to list Short Term Option Series on any option class that is selected by other securities exchanges that employ a similar Pilot Program under their respective rules.

The Pilot Program is currently set to expire on July 12, 2007.<sup>6</sup> The purpose of this proposed rule change is to extend the Pilot Program for an additional year, through July 12, 2008. The Exchange believes that Short Term Option Series provides investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. While ISE has not listed any Short Term Option Series during the Pilot Program, there has been investor interest in trading short-term options at the Chicago Board Options Exchange. For competitive reasons and in order to have the ability to respond to customer interest in Short Term Option Series, the Exchange proposes

<sup>5</sup> See Securities Exchange Act Release No. 52012 (July 12, 2005), 70 FR 41246 (July 18, 2005) (File No. SR-ISE-2005-17).

<sup>6</sup> See Securities Exchange Act Release No. 54117 (July 10, 2006), 71 FR 40564 (July 17, 2006) (File No. SR-ISE-2006-37).

the continuation of the Pilot Program at ISE.

In the original proposal to establish the Pilot Program, the Exchange stated that if it were to propose an extension or an expansion of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the Pilot Program, a report ("Pilot Program Report") that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. Since the Exchange did not list any Short Term Option Series during the preceding year of the Pilot Program, there is no data available to compile such a report at this time. Therefore, the Exchange is not submitting a Pilot Program Report with this proposal.

Finally, the Exchange represents that it has the necessary systems capacity to support the listing of Short Term Option Series, should it determine to do so in the future.

#### 2. Statutory Basis

The Exchange believes that Short Term Option Series increase the variety of listed options available to investors and provide investors with a valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie options contracts. For these reasons, the Exchange believes the proposed rule change is consistent with section 6(b) of the Act.<sup>7</sup> Specifically, the Exchange believes the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act<sup>8</sup> that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

### 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 other interested parties.

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

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>9</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>10</sup> The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become operative prior to the 30th day after filing.<sup>11</sup>

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption.<sup>12</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>13</sup>

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

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days before doing so.

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>13</sup> As set forth in the Exchange's original filing proposing the Pilot Program, if the Exchange were to propose an extension, an expansion, or permanent approval of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the program, a report that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Short Term Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of the Exchange, OPRA, and market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program. See Form 19b-4 for File No. SR-ISE-2005-17, filed March 7, 2005.

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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.

#### 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-2007-54 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-2007-54. 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 the Exchange. 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-2007-54 and should be submitted on or before August 7, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56044; File No. SR-NASDAQ-2007-024]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Provide Additional Transparency To How Nasdaq Applies Its Public Interest Authority

July 11, 2007.

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 March 16, 2007, The NASDAQ Stock Market LLC ("Nasdaq") 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 Nasdaq. On June 26, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change. 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 the Substance of the Proposed Rule Change

Nasdaq proposes to modify Nasdaq IM-4300 to provide additional transparency to how Nasdaq applies its public interest authority. Nasdaq will implement the proposed rule upon approval. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.<sup>3</sup>

\* \* \* \* \*  
IM-4300. Use of Discretionary Authority

In order to further issuers' understanding of Rule 4300, Nasdaq is

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

<sup>27</sup> 17 CFR 240.19b-4.

<sup>3</sup> Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at <http://www.complinet.com/nasdaq>.

adopting this Interpretive Material as a non-exclusive description of the circumstances in which the Rule is generally invoked.

Nasdaq may use its authority under Rule 4300 to deny initial or continued listing to an issuer when an individual with a history of regulatory misconduct is associated with the issuer. Such individuals are typically an officer, director, substantial security holder (as defined in Rule 4350(i)(5)), or consultant to the issuer. In making this determination, Nasdaq [shall] *will* consider a variety of factors, including: [the severity of the violation; whether it involved fraud or dishonesty; whether it was securities-related; whether the investing public was involved; when the violation occurred; how the individual has been employed since the violation; whether there are continuing sanctions against the individual; whether the individual made restitution; whether the issuer has taken effective remedial action; and the totality of the individual's relationship to the issuer.]

- *The nature and severity of the conduct, taken in conjunction with the length of time since the conduct occurred;*
- *whether the conduct involved fraud or dishonesty;*
- *whether the conduct was securities-related;*
- *whether the investing public was involved;*
- *how the individual has been employed since the violative conduct;*
- *whether there are continuing sanctions (either criminal or civil) against the individual;*
- *whether the individual made restitution;*
- *whether the issuer has taken effective remedial action; and*
- *the totality of the individual's relationship to the issuer, giving consideration to:*
  - the individual's current or proposed position;
  - the individual's current or proposed scope of authority;
  - the extent to which the individual has responsibility for financial accounting or reporting; and
  - the individual's equity interest.

Based on this review, Nasdaq may determine that the regulatory history rises to the level of a public interest concern, but may also consider whether remedial measures proposed by the issuer, if taken, would allay that concern. Examples of such remedial measures could include any or all of the following, as appropriate:

- The individual's resignation from officer and director positions, and/or other employment with the company;