

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

### III. 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 Number SR-Amex-2007-34 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-2007-34. 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. Copies of such filing also will be available for inspection and copying at the principal offices 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-2007-34 and should be submitted on or before June 6, 2007.

### IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, 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>11</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>12</sup> which requires that an exchange have rules designed, among other things, 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 this proposal should benefit investors by providing an exception to the minimum public distribution requirements for certain Section 107 Securities issued and traded in thousand dollar denominations and providing an exception to the 400 public shareholder requirement for Section 107 Securities that are redeemable at the option of the holders thereof on at least a weekly basis. The Commission believes that these exceptions are reasonable and should allow for the listing and trading of certain Section 107 Securities that would otherwise not be able to be listed and traded on the Exchange.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. The Commission notes that it has previously approved minimum public distribution and minimum public shareholder requirements that are substantially similar to Amex's proposal and found that such requirements were consistent with the Act.<sup>13</sup> The Commission presently is not aware of any regulatory issue that should cause it to revisit that finding or would preclude the application of the proposed exceptions to the minimum public distribution and minimum public shareholder requirements. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for such securities.

<sup>11</sup> In approving this 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>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> See Securities Exchange Act Release No. 55687 (May 1, 2007), 72 FR 25824 (May 7, 2007) (SR-NYSE-2007-27).

### V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (SR-Amex-2007-34), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-9364 Filed 5-15-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55734; File No. SR-ISE-2007-22]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Split Prices

May 10, 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 26, 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 the ISE. On April 20, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. 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 proposes to amend its rule governing "Split Prices." Specifically, the Exchange proposes to provide for executions in its Block, Facilitation and Solicitation Mechanisms at half-penny prices for certain options classes included in the penny pilot program.<sup>3</sup> The text of the proposed rule change is available at ISE, the Commission's Public Reference Room, and [www.iseoptions.com](http://www.iseoptions.com).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>15</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> See Securities Exchange Act Release No. 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR-ISE-2006-62) ("Penny Pilot Order").

## 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 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 Exchange proposes to amend its rule governing "Split Prices."<sup>4</sup> Specifically, the Exchange proposes to provide for executions in its Block, Facilitation and Solicitation Mechanisms at half-penny prices for certain options classes included in the penny pilot program. The Exchange's rule governing Split Prices was previously approved by the Commission.<sup>5</sup> Pursuant to the Commission's approval, the Exchange currently provides for such "Split Prices" in options quoted in standard \$.05 and \$.10 increments.

On January 26, 2007, the Exchange, along with the other options exchanges, commenced a six-month pilot program to quote certain options classes in penny increments.<sup>6</sup> The penny pilot rules adopted by the Exchange specifically state that Split Prices do not apply to options trading in penny increments. At the time ISE adopted the penny pilot rules, the Exchange believed that being able to place orders and responses in the Block, Facilitation and Solicitation Mechanisms in penny increments would give its members sufficient pricing flexibility. However, based on its experience with the penny pilot thus far, the Exchange believes that the same competitive pressure that led to Split Prices in standard increments has arisen in the penny pilot options. Specifically, the Exchange stated that it has seen floor-based exchanges print large blocks at two prices, one-cent apart, effectively providing for a half-penny block print. For competitive reasons, and to allow its members the same pricing flexibility that floor-based

exchanges appear to be providing to their members, the ISE proposes to extend Split Prices to options classes included in the penny pilot program. The Exchange also represents that the Options Clearing Corporation will continue to accept and clear trades at sub-penny prices and that orders that are on the ISE book will be protected and executed at the midpoint prices.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is 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. In particular, the proposal will provide additional pricing flexibility in penny pilot options and allow the Exchange to compete more effectively with floor-based exchanges.

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

The Exchange does not believe that the proposed rule change will 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

Written comments on the proposed rule change were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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-2007-22 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 No. SR-ISE-2007-22. 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 at <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. Copies of the 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 No. SR-ISE-2007-22 and should be submitted on or before June 6, 2007.

<sup>4</sup> See Supplementary Material .06 to ISE Rule 716.

<sup>5</sup> See Securities Exchange Act Release No. 51666 (May 9, 2005), 70 FR 25631 (May 13, 2005) (SR-ISE-2003-07).

<sup>6</sup> See Penny Pilot Order, *supra* note 3.

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

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

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

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E7-9365 Filed 5-15-07; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55737; File No. SR-NASD-2006-124]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Amendment Nos. 1 and 2 to, and Order Granting Accelerated Approval of, a Proposed Rule Change as Modified by Amendment Nos. 1 and 2 To Require the Provision of Certain Information About the Securities Investor Protection Corporation to Customers

May 10, 2007.

#### I. Introduction

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 the National Association of Securities Dealers, Inc. ("NASD") has filed Amendment Nos. 1 and 2 to the proposed rule change, which, as amended, would adopt proposed NASD Rule 2342 to require NASD members, except those excluded from membership in the Securities Investor Protection Corporation ("SIPC") or who sell only investments ineligible for SIPC protection, to provide new customers, and all customers annually, with certain information about SIPC. This order provides notice of and solicits comments from interested persons on the proposed rule change as modified by Amendment Nos. 1 and 2, and approves the proposed rule change as amended on an accelerated basis.

#### II. Description of the Proposal

NASD filed the proposed rule change with the Securities and Exchange Commission (the "Commission") on November 9, 2006. The Commission published the proposal for comment in the **Federal Register** on December 13, 2006.<sup>3</sup> The Commission received nine comments in response to the Notice.<sup>4</sup>

On February 7, 2007, NASD filed Amendment No. 1 to the proposed rule change, which also responded to the comments.<sup>5</sup> The Commission received one comment in response to Amendment No. 1.<sup>6</sup> All of the comments received by the Commission regarding the proposed rule change are available on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). On April 19, 2007, NASD filed Amendment No. 2 to the proposed rule change, which also responded to the comment on the proposed rule change as modified by Amendment No. 1.<sup>7</sup>

NASD filed the proposed rule change to adopt proposed NASD Rule 2342, which would require NASD members to advise all new customers, in writing, at the opening of an account, and all customers at least once each year that they may obtain information about SIPC, including the SIPC brochure, by contacting SIPC, and to provide such customers with SIPC's telephone number and Web site address. Amendment No. 1 proposed that firms that are excluded from membership in SIPC pursuant to Section 3(a)(2)(A)(i) through (iii) of the Securities Investor Protection Act of 1970 ("SIPA") and that are not SIPC members be exempt from the requirements of proposed Rule 2342. Amendment No. 2 proposed to exempt firms whose business consists exclusively of the sale of investments that are ineligible for SIPC protection from the requirements of proposed Rule 2342. Below is the text of the proposed rule change, as modified by Amendment Nos. 1 and 2. Proposed new language is in *italics*.

December 20, 2006 ("Ferrara 1"); e-mail from Philip C. McMorrow, President, Cantella Co., Inc. dated December 21, 2006 ("McMorrow"); e-mail from E.C. Blitz dated December 22, 2006 ("Blitz"); letter from Kenneth M. Cherrier, Chief Compliance Officer, Fintegra, to Nancy M. Morris, Secretary, Commission, dated December 22, 2006 ("Cherrier"); e-mail from Michael A. Pagano, 1st Global Capital Corp. dated December 22, 2006 ("Pagano"); e-mail from Christine E. Saccante, Vice President, Chief Compliance Officer, Operations Manager, Maxwell Noll Inc. dated December 27, 2006 ("Saccante"); e-mail from William R. Sykes, Sykes Financial Services LLC dated December 28, 2006 ("Sykes"); e-mail from John Harris, Chief Executive Officer, BondMart, Inc. dated December 30, 2006 ("Harris"); letter from Noland Cheng, Chairman, SIFMA Operations Committee, to Nancy M. Morris, Secretary, Commission, dated January 12, 2007 ("Cheng").

<sup>5</sup> Amendment No. 1 modified the text of proposed Rule 2342.

<sup>6</sup> See e-mail from Frederick G. Ferrara, Chief Compliance Officer, Panattoni Securities, Inc. dated February 13, 2007 ("Ferrara 2").

<sup>7</sup> Amendment No. 2 further modified the text of proposed Rule 2342 and proposed changing the effective date of the rule change.

## 2000. BUSINESS CONDUCT

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### 2300. Transactions with Customers

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#### 2342. SIPC Information

*All members, except those members: (a) that pursuant to Section 3(a)(2)(A)(i) through (iii) of the Securities Investor Protection Act of 1970 (SIPA) are excluded from membership in the Securities Investor Protection Corporation (SIPC) and that are not SIPC members; and (b) whose business consists exclusively of the sale of investments that are ineligible for SIPC protection, shall advise all new customers, in writing, at the opening of an account, that they may obtain information about SIPC, including the SIPC brochure, by contacting SIPC, and also shall provide the Web site address and telephone number of SIPC. In addition, such members shall provide all customers with the same information, in writing, at least once each year. In cases where both an introducing firm and clearing firm service an account, the firms may assign these requirements to one of the firms.*

#### III. Summary of Comments on the Proposal and Amendment No. 1

Two commenters supported the proposed rule change. One believed that the disclosure required by proposed NASD Rule 2342 would remind clients that they are buying a product that is not directly underwritten or supported by a bank or covered by the Federal Deposit Insurance Corporation ("FDIC").<sup>8</sup> Another believed that public customers would benefit from broader dissemination of information about SIPC.<sup>9</sup>

Seven commenters generally opposed the proposed rule change.<sup>10</sup> Five questioned the need for disseminating the information that would be required by proposed Rule 2342.<sup>11</sup> Two suggested that the proposed rule be revised to mandate that firms include on their Web sites a link to SIPC's Web site.<sup>12</sup> One questioned whether investors need, or are interested in, information about SIPC, suggested that investors are unlikely to read the proposed disclosure, and questioned the cost of implementing it.<sup>13</sup> Another stated that customers will be made

<sup>8</sup> See Cherrier.

<sup>9</sup> See Cheng.

<sup>10</sup> See Ferrara 1; McMorrow; Blitz; Pagano; Saccante; Sykes; Harris.

<sup>11</sup> See McMorrow; Blitz; Pagano; Saccante; Sykes; Harris.

<sup>12</sup> See Pagano; Saccante.

<sup>13</sup> See Pagano.

<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> See Securities Exchange Act Release No. 54871 (December 5, 2006), 71 FR 74970 (December 13, 2006) (SR-NASD-2006-124) ("Notice").

<sup>4</sup> See e-mail from Frederick G. Ferrara, Chief Compliance Office, Panattoni Securities, Inc. dated