

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57508; File No. SR-ISE-2008-27)

March 17, 2008

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing Phase II of the Penny Pilot Program Expansion

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 12, 2008, 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. The Exchange has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act³ and Rule 19b-4(f)(1) thereunder,⁴ which renders the proposal 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

ISE is proposing to implement Phase II of the Penny Pilot Program expansion. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.ise.com>), at the ISE’s principal office, and at the Commission’s Public Reference Room.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

⁵ Exhibit 5 to the filing contains a Regulatory Information Circular that constitutes the text of the proposed rule change.

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

On January 24, 2007, the Commission approved ISE's rule filing, SR-ISE-2006-62, which permits 13 option classes to quote in penny increments in connection with the implementation of an industry-wide, six-month pilot program (the "Penny Pilot Program").⁶ Under the Penny Pilot Program, the minimum price variation for all 13 option classes, except for the Nasdaq-100 Index Tracking Stock ("QQQs"), is \$0.01 for all quotations in option series that are quoted at less than \$3 per contract and \$0.05 for all quotations in options series that are quoted at \$3 per contract or greater. The QQQs are quoted in \$0.01 increments for all options series.

A subsequent ISE rule filing, SR-ISE-2007-74, initiated a two-phase expansion of the Penny Pilot Program. Phase I of the expansion, which commenced on September 28, 2007,⁷

⁶ See Securities Exchange Act Release No. 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (the "Initial Filing"). The Penny Pilot Program was subsequently extended for an additional two month period, until September 27, 2007. See Securities Exchange Act Release No. 56151 (July 26, 2007), 72 FR 42452 (August 2, 2007) (SR-ISE-2007-68).

⁷ See Securities Exchange Act Release No. 56564 (September 27, 2007), 72 FR 56412 (October 3, 2007).

added 22 option classes that are among the most actively traded, multiply-listed option classes based on national average daily volume, and together with the original 13 option classes, represented approximately 35% of the total industry volume.

The Exchange now proposes to implement Phase II of the expansion, which will begin on March 28, 2008 and continue for one year until March 27, 2009. Phase II will add an additional 28 option classes to the Penny Pilot Program on March 28, 2008, bringing the total number of option classes in the Penny Pilot Program to 63. These 28 new option classes are also among the most actively traded, multiply-listed option classes. A Regulatory Information Circular, attached as Exhibit 5 to this proposed rule change, identifies these additional 28 underlying securities.⁸ The 35 classes currently in the Penny Pilot Program will continue to be quoted as they are today.

ISE believes that expanding the Penny Pilot Program as proposed by this rule filing will allow the Exchange and the Commission to further analyze, and over a longer period of time, the impact of quoting and trading option classes in penny increments and the impact of the Penny Pilot Program on liquidity, market structure, and quote traffic.

As proposed in the Initial Filing, ISE represents that options trading in penny increments will not be eligible for split pricing, as permitted under ISE Rule 716. In the Initial Filing, the Exchange also made references to quote mitigation strategies that are currently in place and proposed to apply them to the Penny Pilot Program. The Exchange proposes to continue applying those quote mitigation strategies. Specifically, as proposed in ISE Rule 804, ISE will continue to utilize a holdback timer that delays quotation updates for up to, but not longer than,

⁸ The Exchange notes that on August 27, 2007, Sun Microsystems, Inc. changed its ticker symbol from SUNW to JAVA. The Exchange will amend the Regulatory Information Circular to reflect this change prior to its issuance. In addition, the Exchange will revise the Regulatory Information Circular prior to its issuance to correct a typographical error.

one second. The Exchange's monitoring and delisting policies, as proposed in the Initial Filing, shall also continue to apply.

Finally, ISE intends to submit reports to the Commission analyzing the Penny Pilot Program for the following time periods:

- February 1, 2008 – July 31, 2008
- August 1, 2008 – January 31, 2009

The Exchange anticipates its reports will analyze the impact of penny pricing on market quality and options system capacity. The Exchange will submit each report within one month following the end of the period being analyzed.

2. Statutory Basis

The basis under the Act for this proposed rule change is found in Section 6(b)(5),⁹ in that the proposed rule change is designed 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

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 written comments from members or other interested parties.

⁹ 15 U.S.C. 78f(b)(5).

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act¹⁰ and Rule 19b-4(f)(1) thereunder,¹¹ because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

At any time within 60 days of the filing of the 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.¹²

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. Please include File Number SR-ISE-2008-27 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-2008-27. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

¹⁰ 15 U.S.C. 78s(b)(3)(A)(i).

¹¹ 17 CFR 240.19b-4(f)(1).

¹² See 15 U.S.C. 78s(b)(3)(C).

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, on official business days between the hours of 10:00 am and 3:00 pm. Copies of the 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-2008-27 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).