

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56843; File No. SR-ISE-2007-71)

November 27, 2007

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving a Proposed Rule Change Relating to Fee Changes on a Retroactive Basis

On October 2, 2007, the International Securities Exchange, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change, 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> to retroactively apply a fee reduction that was implemented on September 4, 2007, as discussed below. The proposed rule change was published for comment in the Federal Register on October 22, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

On September 4, 2007, the Exchange implemented a fee reduction to the Schedule of Fees, effective for the month of September 2007, with respect to Electronic Access Member (“EAM”) Trading Application Software Fees (“Software Fees”).<sup>4</sup> Consequently, the Software Fees are as follows:

- Equity EAMs are charged \$250 for each of the first and second connections and \$50 for each additional connection thereafter, regardless of whether the Equity

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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. 56662 (October 16, 2007), 72 FR 59576.

<sup>4</sup> See Securities Exchange Act Release No. 56379 (September 10, 2007), 72 FR 52591 (September 14, 2007) (SR-ISE-2007-79) (notice of filing and immediate effectiveness of a proposed rule change relating to fee changes).

EAM is connected via Financial Information eXchange (“FIX”) or Application Programming Interface (“API”).<sup>5</sup>

- Options EAMs that connect via API are charged \$250 for each of the first five connections and \$100 for each additional connection.
- Options EAMs that connect via FIX are charged \$250 for each of the first and second connections and \$50 for each additional connection thereafter.

The Exchange now seeks to apply retroactively these reduced fees to the time period of July 1, 2007 to August 31, 2007 (“Retroactive Period”).

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act<sup>6</sup> and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>7</sup> in that it will reduce the Software Fees during the Retroactive Period and result in an equitable allocation of reasonable dues, fees, and other charges among the Exchange’s members and other persons using its facilities.<sup>8</sup>

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<sup>5</sup> ISE uses an open API, which members program to in order to develop applications that send trading commands and/or queries to and receive broadcasts and/or transactions from the trading system. FIX is an industry-wide messaging standard protocol.

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

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> In approving this rule change, the Commission notes that it has considered the proposal’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-ISE-2007-71) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Nancy M. Morris  
Secretary

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

<sup>10</sup> 17 CFR 200.30-3(a)(12).