

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55994; File No. SR-ISE-2007-37]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Cancellation Fees

June 29, 2007.

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 June 1, 2007, the International Securities Exchange, LLC (the "ISE" or the "Exchange") 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 ISE. On June 20, 2007, the ISE filed Amendment No. 1 to the proposed rule change. The ISE has filed the proposed rule change as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) 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, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees regarding its cancellation fee. The text of the proposed rule change is available at ISE, the Commission's Public Reference Room, and <http://www.iseoptions.com>.

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

The purpose of this proposed rule change is to amend the ISE's cancellation fee. The Exchange currently has a cancellation fee of \$1.50 that applies to Electronic Access Members ("EAMs") that cancelled at least 500 orders in a month, for each order cancellation in excess of the total number of orders such member or an introducing broker executed that month. Further, all orders from the same clearing EAM for itself or an introducing broker, executed in the same series on the same side of the market at the same price within a 30 second period, are aggregated and counted as one executed order for purposes of this fee. The Exchange adopted this fee to recover the costs associated with processing multiple cancellations. The Exchange now proposes to exclude broker-dealer orders, including non-member market maker (FARM) orders, from this fee by charging this fee for public customer orders only. Non-customers already pay transaction fees, which helps address cancellation costs, while the ISE currently excludes most public customer orders from transaction fees.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

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 unsolicited written comments from members or other interested parties.

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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁵ and Rule 19b-4(f)(2)⁶ thereunder. At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such proposed 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.⁷

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-2007-37 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-2007-37. 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

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 19b-4(f)(2).

⁷ For purposes of calculating the 60-day abrogation period, the Commission considers the period to commence on June 20, 2007, the date on which the Exchange filed Amendment No. 1.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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 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-2007-37 and should be submitted on or before July 30, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56004; File No. SR-NASD-2004-130]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change as Modified by Amendment Nos. 2 and 3 Relating to Amendments to Rule 2320(g) (Three Quote Rule) and Corresponding Recordkeeping Requirements under Rule 3110(b)

July 2, 2007.

I. Introduction

On August 27, 2004, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend NASD Rule 2320(g) ("Three Quote Rule") to exempt from the Three Quote Rule certain transactions in foreign securities of a foreign issuer that are part of an index calculated by the FTSE Group. On May 8, 2006, NASD filed Amendment No. 1 to the proposed rule change.³ On

October 19, 2006, NASD filed Amendment No. 2 to the proposed rule change.⁴ The proposed rule change, as modified by Amendment No. 2, was published for comment in the **Federal Register** on October 31, 2006.⁵ The Commission received ten comment letters on the proposal.⁶ On April 3, 2007, NASD filed Amendment No. 3 to the proposed rule change⁷ and a response to the comment letters.⁸ This order provides notice of Amendment No. 3 and approves the proposed rule change as modified by Amendment Nos. 2 and 3 on an accelerated basis.

II. Description of the Proposal

Currently, the Three Quote Rule requires NASD members who execute a transaction in a non-exchange-listed security⁹ for or with a customer to contact and obtain the quotations from three dealers (or all dealers if less than three) to determine the best inter-dealer market for that security. The Three Quote Rule, however, does not apply if

⁴ Amendment No. 2 replaced and superseded in its entirety the text of the original filing, as amended.

⁵ See Securities Exchange Act Release No. 54650 (October 25, 2006), 71 FR 63812 ("Notice").

⁶ See letters from James Duncan, Senior Vice President & Director, International Trading, and Andrew Jappy, Chief Information Officer & EVP, Canaccord Capital Corporation, dated November 21, 2006 ("Canaccord Letter"); Achilles M. Perry, Associate General Counsel, CIBC World Markets Corp., dated November 21, 2006 ("CIBC Letter"); Grant Vingoe, Esq., Partner, Arnold Porter LLP, dated November 21, 2006 ("Arnold Porter Letter"); Bill Yancey, Chairman of the Board, and John C. Giese, President and CEO, Security Traders Association, dated November 21, 2006 ("STA Letter"); Rik Parkhill, Executive Vice President, TSX Group, Inc., President, TSX Markets, dated November 29, 2006 ("TSX Letter"); George W. Lennon, President, Canadian Security Traders Association, Inc., dated December 1, 2006 ("CSTA Letter"); Christopher Climo, Managing Director, Compliance and Chief Compliance Officer, TD Securities, Inc., dated December 7, 2006 ("TD Securities Letter"); James E. Twiss, Chief Policy Counsel, Market Regulation Services Inc., dated December 8, 2006 ("RS Letter"); Debra V. Moore, Manager—NASDAQ/OTC Equity Trading, and Glenn A. Hoback, Implementation Consultant—Internal Controls, Wachovia Securities, LLC, dated December 14, 2006 ("Wachovia Letter"); and Bryce Engel, Chief Brokerage Operations Officer, TD AMERITRADE, Inc., dated December 21, 2006 ("TD Ameritrade Letter").

⁷ In Amendment No. 3, NASD proposes, among other things, to codify the existing exemptions relating to transactions in a non-exchange-listed security (as defined below) that are securities listed on a Canadian exchange.

⁸ See letter from Andrea D. Orr, Assistant General Counsel, NASD, to Nancy M. Morris, Secretary, Commission, dated April 3, 2007 ("NASD Response Letter").

⁹ NASD Rule 6610(c) defines the term "non-exchange-listed security" as "any equity security that is not traded on any national securities exchange" and "shall not include 'restricted securities,' as defined by SEC Rule 144(a)(3) under the Securities Act of 1933, nor any securities designated in the PORTAL Market, the Rule 6700 Series."

two or more priced quotations for a non-exchange-listed security are displayed in an inter-dealer quotation system that permits quotation updates on a real-time basis. NASD proposes to expand the categories of transactions that would be exempted from the Three Quote Rule. First, NASD proposes to exempt a transaction for or with a customer in a non-exchange-listed security of a foreign issuer that is part of the FTSE All-World Index, if such transaction is executed during the regular business hours of the foreign market for the foreign security and no trading halt or other similar trading or quoting restriction is in effect in any foreign market on which such security is listed. Second, in response to comments following publication of its proposal, NASD proposes to codify certain exemptions previously issued by NASD staff under the Three Quote Rule's exemptive process.¹⁰ Specifically, NASD proposes to exempt a transaction for or with a customer pertaining to the execution of an order in a non-exchange-listed security that is listed on a Canadian exchange as long as the customer order is executed by the NASD member or a person associated with the member on a Canadian exchange in an agency or riskless principal capacity and the member or a person associated with the member conducts regular and rigorous reviews of the equality of the execution of such orders in such securities, pursuant to the member's duty of best execution. NASD has also proposed to amend its recordkeeping requirement to provide a corresponding exclusion with respect to these proposed exemptions.

Under the proposed rule change, NASD members would continue to be required to comply with their best execution obligations under NASD Rule 2320 and, to the extent applicable, the suitability obligations under NASD Rule 2310.

III. Summary of Comments and NASD's Response

The Commission received ten comment letters on the proposal.¹¹ NASD submitted the NASD Response Letter,¹² and corresponding Amendment No. 3 to address the issue regarding application of the proposed rule change to Canadian-listed securities that was raised by the commenters. While some commenters expressed general support for NASD's proposal to exempt from the Three Quote Rule

¹⁰ See, e.g., Letter to Kenneth W. Perlman, General Counsel, Mayer & Schweitzer, Inc., from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, Inc., on May 29, 1998.

¹¹ See *supra* note 6.

¹² See *supra* note 8.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded in its entirety the text of the original filing.