

Act.<sup>7</sup> The Commission believes investors benefit from the competition among options exchanges that results when options are listed on more than one options exchange; and that investors are sufficiently protected, even though ISE will be permitted to list a series of option contracts when the market price of the underlying security is below \$3, because the Exchange must comply with all of the other maintenance listing requirements, and the market price of the underlying security was at or above \$3 when the options series was listed on the first options exchange.<sup>8</sup> Therefore, the Commission finds that proposed rule change will promote just and equitable principles of trade, and, in general, protect investors and the public interest consistent with Section 6(b)(5) of the Act.<sup>9</sup>

The ISE has requested that the proposed rule change be given accelerated approval pursuant to Section 19(b)(2) of the Act.<sup>10</sup> The Commission believes accelerated approval of the proposal would enhance competition among the options exchanges. Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>11</sup> to approve the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-ISE-2002-21) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46646; File No. SR-ISE-2002-20]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by International Securities Exchange, Inc., Relating to Its Complex Order Rule

October 11, 2002.

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 October 1, 2002, the International Securities Exchange, Inc. (the "Exchange" or the "ISE"), 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 prepared by the ISE.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons described below, the Commission is granting accelerated approval to the proposed rule change.

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

The ISE is proposing permanent approval of its complex order rule, Rule 722 (the "Rule"). The ISE also proposes to amend the Rule to delete the provisions allowing a Member to execute 40 percent of certain complex orders such Member entered without the need for the order to be exposed for 30 seconds.

#### 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. 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.

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Commission supplied additional text to the description of the proposed rule change, with the consent of the ISE, to reflect ISE's deletion of rules that otherwise permitted "crossing" of orders. Telephone conversation between Michael Simon, Senior Vice President and General Counsel, ISE, and Andrew Shippe, Special Counsel, Division of Market Regulation, Commission (October 10, 2002).

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

On October 18, 2001, the Commission approved the ISE's Complex Order Rule.<sup>4</sup> The Rule established priority and order handling principles for complex orders such as spreads and straddles. By its terms, the Rule was effective for one year, or until October 18, 2002. The purpose of this proposed rule change is to adopt the Rule on a permanent basis. The ISE's complex order rule is similar to those of the other exchanges with respect to order handling and priority afforded complex orders.<sup>5</sup> The one provision that is unique to the ISE permits a Member to execute 40 percent of certain complex orders as principal, or as agent against an order solicited from a Member or non-Member broker-dealer, without the need for the order to be exposed for 30 seconds. The Exchange now proposes to delete that provision.

The ISE notes the complex order rule has been effective in providing a framework for the trading of complex orders. While the ISE continues to consider ways to improve upon the handling of complex orders, over the last year the basic trading mechanism and complex order priority structure have proven sound. The ISE therefore seeks approval of this rule on a permanent basis.

##### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>4</sup> File No. SR-ISE-2002-18; Release No. 34-44955 (October 18, 2001); 66 FR 53819 (October 24, 2001).

<sup>5</sup> Chicago Board Options Exchange ("CBOE") Rule 6.45; American Stock Exchange ("Amex") Rule 950(d), Commentary .01; Philadelphia Stock Exchange ("Phlx") Rule 1033; Pacific Exchange Rule 6.75.

<sup>7</sup> *Id.*

<sup>8</sup> The Commission notes that such series must have been properly listed by the original options exchange.

<sup>9</sup> 15 U.S.C. 78f(b)(5). In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> 17 CFR 240.30-3(a)(12).

*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. 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR-ISE-2002-20 and should be submitted by November 8, 2002.

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

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, and in particular, with the requirements of Section 6(b)(5).<sup>6</sup> The Commission did not receive comments on the proposed rule change when the pilot was first proposed.<sup>7</sup> Pursuant to Section 19(b)(2) of the Act,<sup>8</sup> the Commission further finds good cause to approve the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The proposed rule change would eliminate the provisions of the Rule that permit members to execute 40% of certain complex orders without prior exposure to the market.

The Commission believes that limiting such facilitation or crossing rights helps to adequately protect competitive pricing for all orders. Furthermore, this change makes the rule consistent with the rules of CBOE, Amex and Phlx. The Commission also believes that it is appropriate to permanently approve this heretofore-pilot program on an accelerated basis in order to ensure continuous operation of the ISE's framework for trading complex orders.

### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-ISE-2002-20) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46638; File No. SR-MSRB-2002-13]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Municipal Fund Securities Limited Principal Qualification Examination (Series 51) and Rule G-3 on Professional Qualifications

October 10, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 30, 2002 the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-2002-13). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

<sup>10</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.

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

The MSRB has filed with the SEC a proposed rule change consisting of the test specifications and the study outline for the MSRB's new Municipal Fund Securities Limited Principal Qualification Examination (Test Series 51), as well as an amendment to Rule G-3, on professional qualifications (hereafter referred to as "the proposed rule change"). The amendment to Rule G-3 will extend to March 31, 2003 the period during which certain categories of principals may continue to act as municipal fund securities limited principals without taking and passing the new Series 51 examination. The proposed rule change will become operative on November 1, 2002.

A description of the new Series 51 examination is included in the study outline. Confidential information on the examination is included in the test specifications and has been filed with the Secretary of the SEC pursuant to Rule 24b-2 under the Exchange Act for confidential treatment. Below is the text of the amendment to Rule G-3. New language is italicized; deletions are in brackets.

Rule G-3. Classification of Principals and Representatives; Numerical Requirements; Testing; Continuing Education Requirements

(a) No change.

(b) Municipal Securities Principal; Municipal Fund Securities Limited Principal.

(i)-(iii) No change.

(iv) Municipal Fund Securities Limited Principal.

(A)-(D) No change.

(E) Temporary Provisions for Municipal Fund Securities Limited Principal. Notwithstanding any other provision of this rule, until *March 31, 2003*, [December 31, 2002,] the following provisions shall apply to any broker, dealer or municipal securities dealer whose municipal securities activities are limited exclusively to municipal fund securities:

(1)-(3) No change.

(4) On and after *April 1, 2003*, [January 1, 2003,] all municipal fund securities limited principals (including any municipal fund securities limited principals designated as provided in clause (b)(iv)(E)(1)) must be qualified as provided in subparagraph (b)(iv)(B).

(c)-(h) No change.

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<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> See fn. 4, *supra*.

<sup>8</sup> 15 U.S.C. 78s(b)(2).