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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65678; File No. SR-ISE-2011-67)

November 3, 2011

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Market Data Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that, on October 24, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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

The Exchange proposes to amend its Schedule of Fees to adopt subscription fees for the sale of a market data offering called the ISE Implied Volatility and Greeks Feed. The text of the proposed rule change is available on the Exchange's website www.ise.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

in Item IV below. The self-regulatory organization 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

ISE proposes to amend its Schedule of Fees to adopt subscription fees for the sale of the ISE Implied Volatility and Greeks Feed. The Exchange previously submitted a proposed rule change to establish this data feed.[3]

ISE Implied Volatility and Greeks Feed

The ISE Implied Volatility and Greeks Feed delivers real-time implied volatilities and risk parameters for equity, index and ETF options. This information is used to track an option's price relative to changes in volatility and the underlying security's price, which affects the theoretical price of an option. The risk parameters are useful for delta neutral option execution and monitoring an option's time premium decay. The ISE Implied Volatility and Greeks Feed is also useful for investing and hedging strategies such as placing orders based on changes in levels of volatility. The ISE Implied Volatility and Greeks Feed includes real-time implied volatilities for the bid, ask and mid-point price as well as delta, gamma, vega, theta and rho for each option series. The ISE Implied Volatility and Greeks Feed is a low latency feed that produces data for the entire universe of U.S. options disseminated by the Options Price Reporting Authority (OPRA). The Exchange believes the ISE Implied Volatility and Greeks Feed provides valuable information that can help users make informed investment decisions.

Proposed Fees for ISE Implied Volatility and Greeks Feed

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[3] See Exchange Act Release No. 65295 (September 8, 2011), 76 FR 56832 (September 14, 2011) (SR-ISE-2011-55).

The Exchange proposes to make the ISE Implied Volatility and Greeks Feed available to both members and non-members on a subscription basis, as follows:

- $5,000 per month per Business Unit[4] for Subscribers[5] who are Professionals, and $50 per controlled device[6] per month after the first 50 controlled devices. This subscription level is for internal use only and includes the first 50 controlled devices.

In addition, the Exchange is proposing to create a new data distribution model, called the Managed Data Access Service[7] to further the distribution of the ISE Implied Volatility and Greeks Feed.[8] Under this distribution model, Managed Data Access Distributors[9] are required to monitor the delivery of the data in the Managed Data Access Service to their clients, the

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4 A "Business Unit" is a separate and distinct business group at a Subscriber firm that has access to the ISE Implied Volatility and Greeks Feed. A market making desk, a risk management group, etc. would each be considered a Business Unit.

5 A "Subscriber" is any firm that receives the ISE Implied Volatility and Greeks Feed directly from the ISE or indirectly through a redistributor and then distributes it either internally or externally. A redistributor includes market data vendors and connectivity providers such as extranet and private network providers.

6 A "controlled device" is any device that a Subscriber or Managed Data Access Distributor of the ISE Implied Volatility and Greeks Feed permits to access the information in the ISE Implied Volatility and Greeks Feed.

7 "Managed Data Access Service" is any retransmission data product containing the ISE Implied Volatility and Greeks Feed offered by a Managed Data Access Distributor, as defined below, where the Managed Data Access Distributor manages and monitors, but does not necessarily control, the information.

8 The Exchange notes that a managed data solution is not a novel distribution model. At least one other exchange currently offers a managed data solution to distribute its proprietary market data. See Exchange Act Release No. 34-63276 (November 8, 2010), 75 FR 69717 (November 15, 2010) (SR-NASDAQ-2010-138).

9 A "Managed Data Access Distributor" is a subscriber of the ISE Implied Volatility and Greeks Feed that permits access to the information in the ISE Implied Volatility and Greeks Feed through a "controlled device." A Managed Data Access Distributor can also offer a data feed solution, including an Application Programming Interface (API) or similar automated delivery solutions, with only limited entitlement controls (e.g., usernames and/or passwords) to a recipient of the information.

Managed Data Access Recipients.[10] This new pricing and administrative option is in response to industry demand, as well as due to changes in the technology used to distribute market data.

Managed Data Access Service provides an alternative delivery option for the ISE Implied Volatility and Greeks Feed. The Managed Data Access Distributor must agree to reformat, redisplay and/or alter the ISE Implied Volatility and Greeks Feed prior to retransmission, but not to affect the integrity of the ISE Implied Volatility and Greeks Feed and not to render it inaccurate, unfair, uninformative, fictitious, misleading, or discriminatory.

The Exchange will maintain contracts with Managed Data Access Recipients, who may use the information in the ISE Implied Volatility and Greeks Feed for internal purposes only and may be liable for any unauthorized use under the Managed Data Access Service.

In the past, the Exchange has considered this type of distribution to be an uncontrolled data product if the Managed Data Access Distributor does not control both the entitlements and the display of the information. Over the last several years, Managed Data Access Distributors have improved the technical delivery and monitoring capabilities of data therefore Managed Data Access Service is a response to an industry need to administer new types of technical deliveries.

<u>Proposed Fees for ISE Implied Volatility and Greeks Feed as a Managed Data Access Service</u>

The Exchange proposes to charge for Managed Data Access Service for the ISE Implied Volatility and Greeks Feed, as follows:

- $1,500 per month for Managed Data Access Distributors who distribute the data feed externally through a controlled device to Non-Professional recipients, and $1 per controlled device per month.

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10 A "Managed Data Access Recipient" is a subscriber to the Managed Data Access Service for the purpose of accessing the ISE Implied Volatility and Greeks Feed offered by a Managed Data Access Distributor.

- $1,500 per month for Managed Data Access Distributors who distribute the data feed externally through a controlled device to Professional recipients, and $50 per controlled device per month.
- $1,500 per month for Managed Data Access Distributors who distribute the data feed internally from an Application Programming Interface (API) to Professional recipients, and a monthly fee based on the number of unique option symbols received by the recipient, as follows:
  - $1,000 per month for up to 10,000 unique option symbols
  - $2,000 per month for up to 25,000 unique option symbols
  - $3,000 per month for up to 50,000 unique option symbols
  - $4,000 per month for up to 100,000 unique option symbols
  - $5,000 per month for an unlimited number of unique option symbols
- $250 per month API log-in fee for Managed Data Access Recipients. This fee is only applicable to recipients who utilize an API to receive the ISE Implied Volatility & Greeks Feed from a Managed Data Access Distributor.

2. <u>Statutory Basis</u>

The basis under the Securities Exchange Act of 1934 (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. The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general, and with Sections 6(b)(4) of the Act,[12] in particular, in that it provides

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which ISE operates or controls.

The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act[13] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The fees charged would be the same for all market participants, and therefore do not unreasonably discriminate among market participants.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility of offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[14]

By removing "unnecessary regulatory restrictions" on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative

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13 15 U.S.C. 78f(b)(8).

14 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well.

On July 21, 2010, President Barak [sic] Obama signed into law H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"), which amended Section 19 of the Act. Among other things, Section 916 of the Dodd-Frank Act amended paragraph (A) of Section 19(b)(3) of the Act by inserting the phrase "on any person, whether or not the person is a member of the self-regulatory organization" after "due, fee or other charge imposed by the self-regulatory organization." As a result, all SRO rule proposals establishing or changing dues, fees, or other charges are immediately effective upon filing regardless of whether such dues, fees, or other charges are imposed on members of the SRO, non-members, or both. Section 916 further amended paragraph (C) of Section 19(b)(3) of the Act to read, in pertinent part, "At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) [of Section 19(b)], the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, 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 this title. If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) [of Section 19(b)] to determine whether the proposed rule should be approved or disapproved."

ISE believes that these amendments to Section 19 of the Act reflect Congress's intent to allow the Commission to rely upon the forces of competition to ensure that fees for market data are reasonable and equitably allocated. Although Section 19(b) had formerly authorized immediate effectiveness for a "due, fee or other charge imposed by the self-regulatory organization," the Commission adopted a policy and subsequently a rule stipulating that fees for data and other products available to persons that are not members of the self-regulatory organization must be approved by the Commission after first being published for comment. At the time, the Commission supported the adoption of the policy and the rule by pointing out that unlike members, whose representation in self-regulatory organization governance was mandated by the Act, non-members should be given the opportunity to comment on fees before being required to pay them, and that the Commission should specifically approve all such fees. ISE believes that the amendment to Section 19 reflects Congress's conclusion that the evolution of self-regulatory organization governance and competitive market structure have rendered the Commission's prior policy on non-member fees obsolete. Specifically, many exchanges have evolved from member-owned not-for-profit corporations into for-profit investor-owned corporations (or subsidiaries of investor-owned corporations). Accordingly, exchanges no longer have narrow incentives to manage their affairs for the exclusive benefit of their members, but rather have incentives to maximize the appeal of their products to all customers, whether members or nonmembers, so as to broaden distribution and grow revenues. Moreover, we believe that the change also reflects an endorsement of the Commission's determinations that reliance on competitive markets is an appropriate means to ensure equitable and reasonable prices. Simply put, the change reflects a presumption that all fee changes should be permitted to take effect immediately, since the level of all fees are constrained by competitive forces.

The recent decision of the United States Court of Appeals for the District of Columbia Circuit in NetCoaliton [sic] v. SEC, No. 09-1042 (D.C. Cir. 2010), although reviewing a Commission decision made prior to the effective date of the Dodd-Frank Act, upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. "In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'"[15]

The court's conclusions about Congressional intent are therefore reinforced by the Dodd-Frank Act amendments, which create a presumption that exchange fees, including market data fees, may take effect immediately, without prior Commission approval, and that the Commission should take action to suspend a fee change and institute a proceeding to determine whether the fee change should be approved or disapproved only where the Commission has concerns that the change may not be consistent with the Act.

The Exchange believes that the proposed market data fees are consistent with the requirements of the Act because competition provides an effective constraint on the market data fees that the Exchange has the ability and the incentive to charge. ISE has a compelling need to attract order flow from market participants in order to maintain its share of trading volume. This compelling need to attract order flow imposes significant pressure on ISE to act reasonably in setting the fees for its market data offerings, particularly given that the market participants that will pay such fees often will be the same market participants from whom ISE must attract order flow. These market participants include broker-dealers that control the handling of a large volume of customer and proprietary order flow. Given the portability of order flow from one exchange to another, any exchange that sought to charge unreasonably high market data fees

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15 NetCoaltion [sic], at 15 (quoting H.R. Rep. No. 94–229, at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 321, 323).

would risk alienating many of the same customers on whose orders it depends for competitive survival. ISE currently competes with eight options exchanges for order flow.[16]

ISE is constrained in pricing the ISE Implied Volatility and Greeks Feed by the availability to market participants of alternatives to purchasing ISE products. ISE must consider the extent to which market participants would choose one or more alternatives instead of purchasing the Exchange's data.

For the reasons cited above, the Exchange believes that the proposed fees for the ISE Implied Volatility and Greeks Feed are equitable, fair, reasonable and not unreasonably discriminatory. The Exchange further believes that the continued availability of the ISE Implied Volatility and Greeks Feed enhances transparency, fosters competition among orders and markets, and enables buyers and sellers to obtain better prices. In addition, the Exchange believes that no substantial countervailing basis exists to support a finding that the proposed terms and fees for this product fails to meet the requirements of the Act.

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

ISE does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Notwithstanding its determination that the Commission may rely upon competition to establish fair and equitably allocated fees for market data, the NetCoaltion [sic] court found that the Commission had not, in that case, compiled a record that adequately supported its conclusion that the market for the data at issue in the case was competitive.

16 The Commission has previously made a finding that the options industry is subject to significant competitive forces. See Securities Exchange Act Release No. 59949 (May 20, 2009), 74 FR 25593 (May 28, 2009) (SR-ISE-2009-97) (order approving ISE's proposal to establish fees for a real-time depth of market offering).

For the reasons discussed above, ISE believes that the Dodd-Frank Act amendments to Section 19 materially alter the scope of the Commission's review of future market data filings, by creating a presumption that all fees may take effect immediately, without prior analysis by the Commission of the competitive environment. Even in the absence of this important statutory change, however, ISE believes that a record may readily be established to demonstrate the competitive nature of the market in question.

As recently noted by a number of exchanges,[17] there is intense competition between trading platforms that provide transaction execution and routing services and proprietary data products. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price and distribution of its data products. Without the prospect of a taking order seeing and reacting to a posted order on a particular platform, the posting of the order would accomplish little. Without trade executions, exchange data products cannot exist. Data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

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[17] See Securities Exchange Act Release Nos. 63084 (October 13, 2010), 75 FR 64379 (October 19, 2010) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise an Optional Depth Data Enterprise License Fee for Broker-Dealer Distribution of Depth-of-Book Data) (SR-NASDAQ-2010-125); and 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Market Data Feeds) (SR-PHLX-2010-121).

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will direct orders to a particular exchange only if the expected revenues from executing trades on the exchange exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it.

Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decrease, for two reasons. First, the product will contain less information, because executions of the broker-dealer's orders will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing orders will become correspondingly more valuable. Thus, a super-competitive increase in the fees charged for either transactions or data has the potential to impair revenues from both products. "No one disputes that competition for order flow is 'fierce'."[18] However, the existence of fierce competition for order flow implies a high degree of price sensitivity on the part of broker-dealers with order

[18] NetCoalition, at 24.

flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A broker-dealer that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. Similarly, if a platform increases its market data fees, the change will affect the overall cost of doing business with the platform, and affected broker-dealers will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platform may choose to pay rebates to attract orders, charge relatively low prices for market information (or provide information free of charge) and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market information, and setting relatively low prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

The market for market data products is competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Broker-dealers currently have numerous alternative venues for their order flow, including numerous self-regulatory organization (“SRO”) markets, as well as internalizing broker-dealers (“BDs”) and various forms of alternative trading systems (“ATSs”), including dark pools and electronic communication networks (“ECNs”). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities (“TRFs”) compete to attract internalized transaction reports. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products. The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including NASDAQ, NYSE, NYSE Amex, NYSEArca, and BATS.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple broker-dealers' production of proprietary data products. The potential sources of proprietary products are virtually limitless. The fact that proprietary data from ATSs, BDs, and vendors can by-pass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products, as BATS and Arca did before registering as exchanges by publishing proprietary book data on the Internet. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the data available in proprietary products is exponentially greater than the actual number of orders and transaction reports that exist in the marketplace. Market data vendors provide another form of price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract "eyeballs" that contribute to their advertising revenue. Retail broker-dealers, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. NASDAQ and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully.

Competition among platforms has driven ISE continually to improve its platform data offerings and to cater to customers' data needs. For example, ISE has developed and maintained multiple delivery mechanisms that enable customers to receive data in the form and manner they prefer and at the lowest cost to them. ISE offers front end applications such as its PrecISE Trade application which helps customers utilize data. ISE offers data via multiple extranet providers, thereby helping to reduce network and total cost for its data products. Despite these enhancements and a dramatic increase in message traffic, ISE's fees for market data have, for the most part, remained flat.

The vigor of competition for market data is significant and the Exchange believes that this proposal clearly evidences such competition. ISE is offering a new pricing model in order to keep pace with changes in the industry and evolving customer needs.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[19] and Rule 19b-4(f)(2)[20] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the

19 15 U.S.C. 78s(b)(3)(A)(ii).

20 17 CFR 240.19b-4(f)(2).

Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or 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 Exchange 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-2011-67 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2011-67. 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 website (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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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 Number SR-ISE-2011-67 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.[21]

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2011-29103 Filed 11/09/2011 at 8:45 am; Publication Date: 11/10/2011]

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21 17 CFR 200.30-3(a)(12).