

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61348; File No. SR-ISE-2010-01]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposal To Codify Certain Provisions of the Options Listing Procedures Plan Into ISE's Rules

January 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 4, 2010, the International Securities Exchange, LLC (the "Exchange" or "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 Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 Rule 504 and adopt Rule 504A to apply uniform objective standards to the range of options series exercise (or strike) prices available for trading on the Exchange. The text of the proposed rule change is available on the Exchange's Web site <http://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 those statements may be examined at the places specified 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to implement in ISE rules changes that were recently made to the Plan for the Purpose of Developing and Implementing Procedures Designated to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934, also known as the Options Listing Procedures Plan ("OLPP"), in Amendment No. 3 thereto.<sup>5</sup> Proposed new ISE Rule 504A incorporates uniform objective standards to the range of options series exercise (or strike) prices available for trading on the Exchange, as a quote mitigation strategy intended to reduce the overall number of option series available for trading, which will in turn lessen the rate of increase in quote traffic ("range limitations" or "range limitation strategy").

Rule 504 currently indicates what series of option contracts may be open for trading after a particular class of options has been approved for trading on the Exchange. Proposed new Rule 504A applies certain "range limitations" to the addition of new series for options classes overlying equity securities, Exchange Traded Fund Shares ("ETFs"), or Trust Issued Receipts ("TIRs").

As proposed in Rule 504A, if the price of the underlying security is less than or equal to \$20, the Exchange would not list new option series with an exercise price more than 100 percent above or below the price of the underlying

security.<sup>6</sup> If the price of the underlying security is greater than \$20, the Exchange would not list new options series with an exercise price more than 50 percent above or below the price of the underlying security. The proposal provides for an objective basis upon which the underlying prices for the price range limitations described above shall be determined, specifically in regard to intra-day add-on series and next-day series additions, new expiration months and for options series to be added as a result of pre-market trading.

This proposed rule change also allows the Exchange to designate up to five underlying securities to which, instead of the aforementioned 50 percent restriction, a 100 percent restriction would apply. These designations would be made on an annual basis and cannot be removed during the calendar year unless the options class is delisted by the Exchange, in which case the Exchange may designate another class to replace the delisted class. If a designated class is delisted by the Exchange but continues to trade on at least one other exchange, any additional series for the class which are added from that point forward would again be subject to the proposed exercise price range limitations, unless the class is subsequently designated by another exchange. The proposal also provides a procedure for the Exchange to request, if conditions warrant, additional case-by-case exceptions even when it has already so designated five underlying securities.

In addition, the Exchange may request, on a case-by-case basis, an exemption when it desires to list a series from the 100 percent range limitation. This procedure would enable the Exchange to list options series with strike prices that are more than 100 percent above or below the price of an underlying security, if unanimously agreed upon by all exchanges that list options overlying the security.<sup>7</sup>

The Exchange notes that the proposal would not restrict its ability to list options series in two situations. First, the Exchange would not be restricted from listing options series that have been properly listed by another exchange. And second, the proposal expressly eliminates the applicability of range limitations with regard to the

<sup>5</sup> See Securities Exchange Act Release No. 60531 (August 19, 2009), 74 FR 43173 (August 26, 2009) (Order approving Amendment No. 3 to the OLPP, which would apply uniform objective standards to the range of options series exercise or strike prices available for trading on exchanges that are sponsors of OLPP). The sponsors of OLPP include ISE, Chicago Board Options Exchange, Inc.; NASDAQ OMX PHLX, Inc.; NASDAQ OMX BX, Inc.; The NASDAQ Stock Market LLC; NYSE Amex, LLC; and NYSE Arca, Inc. (together known as the "Plan Sponsor Exchanges"). The OLPP is a national market system plan that, among other things, sets forth procedures governing the listing of new options series and replaces and supersedes the Joint-Exchange Options Plan ("JEOP"). See Securities Exchange Act Release No. 44521 (July 6, 2009) [sic], 66 FR 36809 (July 13, 2001) (Order approving OLPP). See also Securities Exchange Act Release No. 29698 (September 17, 1991), 56 FR 48954 [sic] (September 25, 1991) (Order approving JEOP).

<sup>6</sup> This restriction would not prohibit the listing of at least three options series per expiration month in an options class.

<sup>7</sup> Application of any of the aforementioned exceptions and/or exemptions to the strike price range limitations for an underlying security would be available to all exchanges listing options on such security.

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

listing of \$1 strike prices in option classes participating in the \$1 Strike Program, and the listing of series of FLEX options.

The Exchange believes that the proposed rule change implementing range limitation strategies for equity, ETF, and TIR options should be beneficial in reducing quote traffic on the Exchange and in the options industry.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act's<sup>9</sup> requirements that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In particular, the Exchange believes that codifying certain range limitation provisions of the OLPP, as amended, serves to foster investor protection.

### 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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>13</sup>

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.

## 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](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2010-01 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-2010-01. 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

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the pre-filing requirement.

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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the self-regulatory organization. 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-2010-01 and should be submitted on or before February 11, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61363; File No. PCAOB-2009-02]

### Public Company Accounting Oversight Board; Order Approving Proposed Rules on Auditing Standard No. 7, Engagement Quality Review, and Conforming Amendment

January 15, 2010.

## I. Introduction

On August 4, 2009, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Securities and Exchange Commission (the "Commission") a notice (the "Notice") of proposed rules (File No. PCAOB-2009-02) on Auditing Standard No. 7, *Engagement Quality Review*, and Conforming Amendment to the Board's Interim Quality Control Standards, pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the "Act"). Notice of the proposed rules was published in the **Federal Register** on November 5, 2009.<sup>1</sup> The Commission received nine comment letters relating to the proposed rules. For the reasons discussed below, the Commission is granting approval of the proposed rules. As specified by the Board, the rules are

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> See SEC Release No. 34-60903 (October 29, 2009); 74 FR 57357 (November 5, 2009).

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).