

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56960; File No. SR-ISE-2007-118)

December 13, 2007

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

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 December 11, 2007, the International Securities Exchange, LLC (“ISE” or “Exchange”) 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 substantially prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by ISE under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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

ISE proposes to amend its Schedule of Fees to reflect the addition of six new Premium Products.<sup>5</sup> The text of the proposed rule change is available at the Commission’s Public Reference Room, at the Exchange, and on its Web site at [www.ise.com](http://www.ise.com).

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

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

<sup>5</sup> “Premium Products” is defined in the Schedule of Fees as options on the products enumerated therein.

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 in Item IV below. The Exchange 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 Exchange is proposing to amend its Schedule of Fees to reflect the addition of options on the following new products: the ProShares UltraShort QQQ Fund<sup>®</sup> (“QID”), ProShares Ultra QQQ Fund<sup>®</sup> (“QLD”),<sup>6</sup> ProShares UltraShort S&P500<sup>®</sup> Fund (“SDS”), ProShares Ultra S&P500<sup>®</sup> Fund (“SSO”),<sup>7</sup> ProShares UltraShort Russell2000 Fund (“TWM”)

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<sup>6</sup> “NASDAQ-100 Index” is a trademark of the NASDAQ Stock Markets, Inc. (“NASDAQ”) and has been licensed for use by ProShares in connection with the listing and trading of the QLD and the QID on the American Stock Exchange. QLD and QID are not sponsored, sold or endorsed by NASDAQ, and NASDAQ makes no representation regarding the advisability of investing in QLD and QID. NASDAQ and ProShares have not licensed or authorized ISE to: (1) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on QLD and QID; or (2) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on QLD and QID or with making disclosures concerning options on QLD and QID under any applicable federal or state laws, rules or regulations. NASDAQ and ProShares do not sponsor, endorse, or promote such activity by ISE and are not affiliated in any manner with ISE.

<sup>7</sup> “Standard & Poor’s<sup>®</sup>,” “S&P<sup>®</sup>,” “S&P 500<sup>®</sup>,” “Standard & Poor’s 500<sup>®</sup>,” “Standard & Poor’s Depository Receipts<sup>®</sup>,” and “SPDR<sup>®</sup>” are trademarks of The McGraw-Hill Companies, Inc. (“McGraw-Hill”), and have been licensed for use by ProShares in connection with the listing and trading of the SSO and the SDS on the American Stock Exchange. SSO and SDS are not sponsored, sold or endorsed by Standard & Poor’s (“S&P”), a division of McGraw-Hill, and S&P makes no representation regarding the

and ProShares Ultra Russell2000 Fund (“UWM”).<sup>8</sup> The Exchange represents that QID, QLD, SDS, SSO, TWM and UWM are eligible for options trading because they constitute “Exchange-Traded Fund Shares,” as defined by ISE Rule 502(h).

All of the applicable fees covered by this filing are identical to fees charged by the Exchange for all other Premium Products. Specifically, the Exchange will charge an execution fee and a comparison fee for all transactions in options on QID, QLD, SDS, SSO, TWM and UWM.<sup>9</sup> The amount of the execution fee and comparison fee for products covered by this filing shall be \$0.15 and \$0.03 per contract, respectively, for all Public Customer Orders<sup>10</sup> and Firm

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advisability of investing in SSO and SDS. McGraw-Hill, S&P and ProShares have not licensed or authorized ISE to: (1) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on SSO and SDS; or (2) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on SSO and SDS or with making disclosures concerning options on SSO and SDS under any applicable federal or state laws, rules or regulations. McGraw-Hill, S&P and ProShares do not sponsor, endorse, or promote such activity by ISE and are not affiliated in any manner with ISE.

<sup>8</sup> “Russell 2000® Index” is a trademark of Frank Russell Company (“Russell”) and has been licensed for use ProShares in connection with the listing and trading of the UWM and TWM on the American Stock Exchange. UWM and TWM are not sponsored, sold or endorsed by Russell, and Russell makes no representation regarding the advisability of investing in UWM and TWM. Russell and ProShares have not licensed or authorized ISE to: (1) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on UWM and TWM; or (2) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on UWM and TWM or with making disclosures concerning options on UWM and TWM under any applicable federal or state laws, rules or regulations. Russell and ProShares do not sponsor, endorse, or promote such activity by ISE and are not affiliated in any manner with ISE.

<sup>9</sup> These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2008, these fees will also be charged to Linkage Orders (as defined in ISE Rule 1900). See Securities Exchange Act Release No. 56128 (July 24, 2007), 72 FR 42161 (August 1, 2007) (SR-ISE-2007-55).

<sup>10</sup> Public Customer Order is defined in ISE Rule 100(a)(39) as an order for the account of a Public Customer. Public Customer is defined in ISE Rule 100(a)(38) as a person that is not a broker or dealer in securities.

Proprietary orders. The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.<sup>11</sup> Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be \$0.37 and \$0.03 per contract, respectively.<sup>12</sup> Further, since options on QID, QLD, SDS, SSO, TWM and UWM are multiply-listed, the Payment for Order Flow fee shall apply to these products. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>14</sup> in particular, in that it is designed to provide for the 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.

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<sup>11</sup> The execution fee is currently between \$.21 and \$.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently \$.03 per contract side.

<sup>12</sup> The amount of the execution and comparison fee for non-ISE Market Maker transactions executed in the Exchange's Facilitation and Solicitation Mechanisms is \$0.16 and \$0.03 per contract, respectively.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(4).

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 proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>15</sup> and Rule 19b-4(f)(2)<sup>16</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal took effect upon filing with the Commission. At any time within 60 days of the filing of such 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-2007-118 on the subject line.

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

<sup>16</sup> 17 CFR 240.19b-4(f)(2).

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-2007-118. 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 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 10:00 a.m. and 3:00 p.m. Copies of such 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-2007-118 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.<sup>17</sup>

Florence E. Harmon  
Deputy Secretary

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