

only for transactions by Non-Customers<sup>9</sup> in options on IWM, SMH, OIH, XLE, and TLT. The amount of the execution fee and comparison fee for the products covered by this filing shall be the same for all order types on the Exchange—that is, orders for Public Customers and Non-Customers (which include Market Makers and Firm Proprietary)—and shall be equal to the execution fee and comparison fee, respectively, that are currently charged by the Exchange for transactions by Non-Customers in equity options.<sup>10</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b)(4) of the Act,<sup>11</sup> which requires 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 Exchange believes that the proposed rule change, as amended, 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 rule change, as amended, 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 Act<sup>12</sup> and Rule 19b-4(f)(2)<sup>13</sup> thereunder. At any time within 60 days of the filing of such amended 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

<sup>9</sup> ISE Rule 100(22) defines "Non-Customer" as a person or entity that is broker or dealer in securities.

<sup>10</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 per side.

<sup>11</sup> 15 U.S.C. 78f(b)(4).

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

<sup>13</sup> 17 CFR 19b-4(f)(2).

public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>14</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 No. SR-ISE-2005-38 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-ISE-2005-38. 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. Copies of such filing also will be available for inspection and copying at the principal office of the 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

<sup>14</sup> The effective date of the original proposed rule is August 1, 2005. The effective date of Amendment No. 1 is August 22, 2005. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on August 22, 2005, the date on which the ISE submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

submissions should refer to File Number SR-ISE-2005-38 and should be submitted on or before September 21, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52331; File No. SR-ISE-2004-16]

### Self-Regulatory Organizations; International Securities Exchange, Inc.; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto Establishing a Directed Order Process

August 24, 2005.

On May 20, 2004, the International Securities Exchange, Inc. ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to adopt new ISE Rule 811 to allow Exchange market makers to receive Public Customer Orders directed to them from Electronic Access Members ("EAMs") through the Exchange's system ("Directed Orders"). On April 26, 2005, the ISE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on June 20, 2005.<sup>4</sup> The Commission received no comments on the proposed rule change.

Under ISE's proposal, a market maker that wishes to accept Directed Orders must systemically indicate that it wishes to receive Directed Orders each day, must be willing to accept Directed Orders from all EAMs, may receive Directed Orders only through the Exchange's system, and may not reject Directed Orders. A market maker receiving a Directed Order ("Directed Market Maker") would have to, within three seconds of receipt of the order, either submit the Directed Order to the

<sup>15</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.

<sup>3</sup> Amendment No. 1 replaced and superseded the original filing in its entirety.

<sup>4</sup> Securities Exchange Act Release No. 51835 (June 13, 2005), 70 FR 35479.

Price Improvement Mechanism ("PIM"), or send the order to the Exchange's limit order book. If the market maker submits the order to the PIM and is quoting at the national best bid or offer ("NBBO") on the opposite side of the Directed Order, it would be prohibited from changing its quotation to a price less favorable than the price available at the NBBO or reducing the size of its quotation prior to submitting the Directed Order to the PIM, unless such quotation change is the result of an automated quotation system that operates independently from the existence or nonexistence of a pending Directed Order. If the market maker sends the order to the Exchange's limit order book (or the Exchange system releases the order to the limit order book after three seconds) certain restrictions would apply to a market maker's ability to trade with the order depending on whether the Directed Order is marketable or not marketable, and whether the Directed Market Maker is quoting at the NBBO or not quoting at the NBBO. In any case, the Directed Market Maker would be last in priority when the Directed Order is matched against contra interest.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.<sup>5</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires among other things, 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 transaction 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.

The Commission notes that the proposal is similar to the Directed Order program currently in place on the Boston Options Exchange facility ("BOX") of the Boston Stock Exchange, Inc. ("BSE").<sup>7</sup> Similar to the program currently in place on BOX, market makers receiving Directed Orders must accept all orders directed to them and must send such orders only to the PIM

or to the Exchange's limit order book. In addition, a market maker that receives a Directed Order when not quoting at the NBBO as well as when quoting at the NBBO, would have to wait three seconds before trading with the Directed Order. The Directed Order would be exposed to other market participants to give them the first opportunity to trade with the Directed Order. Accordingly, the Commission believes that the proposal would not provide any disincentive for market makers that receive Directed Orders to quote competitively.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-ISE-2004-16) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-4732 Filed 8-30-05; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52333, File No. SR-MSRB-2005-13]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Relating to Official Statement Delivery Requirements Under Rule G-32, Rule G-36, and Rule G-11

August 25, 2005.

On June 23, 2005, the Municipal Securities Rulemaking Board ("MSRB" or "Board"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposed rule change consisting of amendments to Rule G-32 (on delivery of official statements to new issue customers), Rule G-36 (on delivery of official statements and advance refunding documents to the Board) and Rule G-11 (on new issue municipal securities during the underwriting period). The proposed rule change is intended to improve the efficiency of official statement dissemination in the municipal securities marketplace and the timeliness of official statement deliveries to customers. The proposed

rule change was published for comment in the **Federal Register** on July 25, 2005.<sup>3</sup> The Commission received no comment letters regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB<sup>4</sup> and, in particular, the requirements of Section 15B(b)(2)(C) of the Act<sup>5</sup> and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Act requires, among other things, that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.<sup>6</sup> In particular, the Commission finds that the proposed rule change will increase the efficiency of official statement dissemination in the marketplace and the timeliness of official statement deliveries to customers.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-MSRB-2005-13) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2005-22056]

### Public Meeting To Discuss the Implementation of the North American Standard for Cargo Securement

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

<sup>3</sup> See Securities Exchange Act Release No. 52058 (July 19, 2005), 70 FR 42604 (July 25, 2005).

<sup>4</sup> In approving this rule 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>5</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>6</sup> *Id.*

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>7</sup> See BSE Rules Chapter VI, Section 5(b) and (c), and Section 10.

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

<sup>9</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.