proposal provides for an equitable allocation of reasonable fees among Exchange members largely through the elimination of various fee exemptions and a small increase in the specialist transaction fee (formerly, the regulatory fee). Specifically, the increase in the specialist transaction fee that will be assessed on the total value of specialist transactions is the only transaction-based fee that specialists pay in connection with equity securities. In addition, the Exchange expects the proposal to attract additional order flow largely due to the reduction in the current transaction charge ceiling even though the transaction fee rate per share is slightly increased. Therefore, the Exchange maintains that the proposed equity transaction fee changes, in the aggregate, are an equitable allocation of reasonable fees among its members.

The Exchange believes that the proposed revision to equity transaction fees will better clarify for all market participants the transaction charges applicable to equity orders executed on the Exchange. In addition, the Exchange also submits that the revision will provide additional revenue to support ongoing operations as well as create greater incentives for market participants to send order flow to the Amex.

2. Statutory Basis

Amex believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(4) of the Act,[14] in particular, in that it is designed to assure the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

Amex does not believe that the proposed rule change, as amended, will 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

No written comments were solicited or received with respect to the proposed rule change.

charges among its members and issuers and other persons using its facilities. 15 U.S.C. 78(f)(b)(4).

[14] 15 U.S.C. 78f(b).

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

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, as amended, has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and subparagraph (f)(2) of Rule 19b–4 thereunder,[16] since it establishes or changes a due, fee or other charge imposed by the Exchange.

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 of appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.[17]

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.* Please include File Number SR–Amex–2005–101 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–Amex–2005–101. 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 Section. Copies of such filing also will be available for inspection and copying at the principal office of the Amex.

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 No. SR–Amex–2005–101 and should be submitted on or before November 28, 2005.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

[17] The effective date of the original proposed rule change is September 30, 2005, and the effective date of Amendment No. 2 is October 27, 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 October 27, 2005, the date on which Amex filed Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6141 Filed 11–4–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52698; File No. SR–CBOE–2005–78]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Fee Waiver for Certain Transactions in SPX LEAPS® Options

October 28, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 26, 2005, the Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''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 prepared by the Exchange. CBOE has designated the proposed rule change as one establishing or changing a due, fee, or other charge imposed by CBOE pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal

[18] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(2).

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

CBOE proposes to amend its Fees Schedule to waive fees through December 15, 2005 for certain transactions in S&P 500 index options LEAPS®.[5] The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's Office of the Secretary, 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 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 proposes to amend its Fees Schedule to waive fees for certain transactions in S&P 500 index (''SPX'') options LEAPS through December 15, 2005, which is the last day of trading in the December 2005 SPX options series. Specifically, the Exchange will waive all trading related fees (transaction, floor brokerage, and OBO fees) for transactions in which a market participant closes a position in reduced-value SPX LEAPS (''RV SPX LEAPS'') and simultaneously opens a corresponding position in full-value SPX LEAPS (''FV SPX LEAPS'').[6]

The fee waiver would apply only to trades that close positions in RV SPX LEAPS and simultaneously open corresponding positions in FV SPX LEAPS. The fee waiver would apply on a 10-for-1 basis only.[7] For example, if a market participant closes 100 contracts of the December 2006 120 strike RV SPX LEAPS and opens a 10 contract position in the December 2006 1200 strike FV SPX LEAPS, all trading related fees would be waived for all contracts in both transactions. However, if a market participant closes 100 contracts of the December 2006 120 strike RV SPX LEAPS and opens a 100 contract position in the December 2006 1200 strike FV SPX LEAPS, fees would be waived for all of the RV SPX LEAPS contracts but only for 10 contracts of the FV SPX LEAPS transaction. All standard fees would apply to the remaining 90 contracts of the FV SPX LEAPS transaction.

The purpose of the proposed fee waiver is to encourage rollover of open interest in currently listed RV SPX LEAPS series into FV SPX LEAPS series, in order to facilitate the listing of series in options on the Mini-SPX (''XSP'').[8] Currently, the Exchange lists December 2006 and December 2007 series in both the RV SPX LEAPS and the FV SPX LEAPS. After December 2005 expiration, the Exchange will list the XSP December 2006 series and after December 2006 expiration, the Exchange will list the XSP December 2007 series. Since XSP options, like RV SPX LEAPS, are also based on 1⁄10th the value of the S&P 500 Index, the Exchange intends to move any open interest in December 2006 and 2007 RV SPX LEAPS into December 2006 and 2007 XSP series, respectively, once those XSP series have been listed, in order to avoid having open at the same time two ''reduced-value SPX'' products.[9] The purpose of the proposed fee waiver is to encourage as much open interest as possible to move from the RV SPX LEAPS into the FV SPX LEAPS before the Exchange moves any remaining open interest in RV SPX LEAPS into the XSP.

Market participants who effect transactions that qualify for the fee waiver will receive a rebate of trade related fees (transaction, floor brokerage, and OBO fees) incurred by the transactions.[10] The rebate will be processed as a credit on billing statements produced at each month-end.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(4) of the Act,[12] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[13] and Rule 19b–4(f)(2) thereunder,[14] because it establishes or changes a due, fee, or other charge imposed by the Exchange. 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:

[5] Index LEAPS are long-term index option series that can expire up to 60 months from the date of issuance. *See* CBOE Rule 24.9(b).

[6] Pursuant to CBOE Rule 24.9(b), the Exchange may list LEAPS based on the full and the reduced value of the underlying index.

[7] The RV SPX LEAPS are 1⁄10th the size of the FV SPX LEAPS.

[8] The Exchange has announced that it intends to list XSP options in late October 2005.

[9] The Commission notes that the rollover of RV SPX LEAPS into XSP options is not the subject of this proposed rule change.

[10] The Exchange has represented that the waiver will be accomplished through a rebate to market participants, rather than a traditional waiver, for processing and administrative reasons, but that the effect of the rebate will be the same as if the fees were initially waived. Telephone conversation between Jaime Galvan, Assistant Secretary, CBOE and Deborah Flynn, Assistant Director, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on October 12, 2005.

[11] 15 U.S.C. 78f(b).

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

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

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–CBOE–2005–78 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–CBOE–2005–78. 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 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–CBOE–2005–78 and should be submitted on or before November 28, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6138 Filed 11–4–05; 8:45 am]

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[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52711; File No. SR–ISE–2004–04]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Order Approving Proposed Rule Change and Amendments No. 1 and 2 Relating to Exposure Periods in the Facilitation and Solicited Order Mechanisms

November 1, 2005.

I. Introduction

On February 23, 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''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to reduce the exposure period in its Facilitation and Solicited Order Mechanisms from ten seconds to three seconds. The ISE filed Amendments No. 1 and 2 to the proposal on September 7, 2005, and September 20, 2005, respectively.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on September 28, 2005.[4] The Commission received no comment letters regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of Proposal

Supplementary Material .04 to ISE Rule 716, ''Block Trades,'' currently provides ISE members with 10 seconds to respond to broadcast messages for orders entered into the ISE's Facilitation and Solicited Order Mechanisms. The ISE proposes to amend ISE Rule 716, Supplementary Material .04 to reduce the exposure period in the Facilitation and Solicited Order Mechanisms from 10 seconds to three seconds.[5]

Similar to the Facilitation and Solicited Order Mechanisms, the ISE's Price Improvement Mechanism (''PIM'') provides an auction process through which an ISE member may trade with its customer's order as principal or execute its customer's order against orders the member has solicited.[6] The exposure period for orders entered into the ISE's PIM is three seconds. The ISE notes that the PIM is an interactive auction in which ISE members receive and may respond to multiple price updates within the three-second exposure period. In contrast, ISE members receive only one message at the start of an auction for orders entered into the Facilitation and Solicited Order Mechanisms. The ISE believes that there is no reason for providing different exposure periods in the three mechanisms because, in each of the three mechanisms, ISE members are notified of orders and enter their interest in trading with such orders in the same technical manner.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b),[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[9] In particular, the Commission believes that reducing the exposure period for orders entered into the ISE's Facilitation and Solicited Order Mechanisms from 10 seconds to three seconds could facilitate the prompt execution of these orders while providing participants in ISE's market with an adequate opportunity to compete and provide price improvement for the orders.

In approving the ISE's PIM, the Commission concluded that the three-second PIM auction should afford electronic crowds sufficient time to compete for orders submitted to the PIM.[10] In reaching this conclusion, the

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

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 superseded and replaced the ISE's original filing in its entirety. Amendment No. 2 corrected a non-substantive typographical error in the text of the proposed rule change, and two incorrect references in footnotes to the Form 19b–4 for Amendment No. 1 and Exhibit 1 thereto.

[4] *See* Securities Exchange Act Release No. 52479 (September 21, 2005), 70 FR 56755.

[5] ISE Rule 716 originally required that orders be exposed in the Facilitation Mechanism for 30 seconds. In September 2002, the Commission approved an ISE proposal to reduce this exposure period from 30 seconds to 10 seconds. *See* Securities Exchange Act Release No. 46514 (September 18, 2002), 67 FR 60627 (September 25, 2005) (order approving File No. SR–ISE–2001–19). The Commission approved the ISE's Solicited Order Mechanism in June 2004 with an exposure period of 10 seconds. *See* Securities Exchange Act Release No. 49943 (June 30, 2004), 69 FR 41317 (July 8, 2004) (order approving File No. SR–ISE–2001–22).

[6] *See* ISE Rule 723, ''Price Improvement Mechanism for Crossing Transactions.'' *See also* Securities Exchange Act Release No. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (order approving File No. SR–ISE–2003–06) (''PIM Order'').

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] *See* PIM Order, *supra* note 6.