access to all products traded on CBOE. The proposed rule change was published for comment in the **Federal Register** on May 27, 2008.[3] The Commission received no comments regarding the proposal.

The Commission has carefully reviewed the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [4] and, in particular, Section 6(b)(5) of the Act,[5] which requires that an exchange have rules designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The proposal will expand the scope of Sponsored User access, which has previously been approved by the Commission,[6] beyond CBOE's FLEX Hybrid Trading System (''FLEX'') and the CBOE Stock Exchange facility (''CBSX'') to all other products that are traded on CBOE. Sponsored Users who access other products trading on CBOE will be subject to the same requirements as Sponsored Users on FLEX and CBSX.[7] In addition, although the number of Sponsored Users who may access products other than FLEX and CBSX will be limited to fifteen, CBOE will admit applicants in a non-discriminatory manner using a first-in, first-out method. In this regard, CBOE's actions will be subject to review under Chapter XIX of its rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CBOE–2008–54) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15104 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

[3] *See* Securities Exchange Act Release No. 57836 (May 19, 2008), 73 FR 30430.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

[6] *See* Securities Exchange Act Release No. 56792 (November 15, 2007), 72 FR 65776 (November 23, 2007) (SR–CBOE–2006–99) (approving proposed rule change to permit sponsored user access to FLEX). *See also* Securities Exchange Act Release No. 57646 (April 10, 2008), 73 FR 20726 (April 16, 2008) (SR–CBOE–2008–37) (notice of filing and immediate effectiveness of proposed rule change to permit sponsored user access to CBSX).

[7] *See* CBOE Rule 6.20A.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58038; File No. SR–ISE–2008–50]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exposure of Public Customer Orders to all ISE Members

June 26, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2008, 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 and II below, which Items have been substantially prepared by the ISE. The ISE has designated the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change 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

The ISE proposes to amend ISE Rule 803 relating to the exposure of public customer orders. The text of the proposed rule change is available on ISE's Web site at *http://www.ise.com,* at ISE's principal office, 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 ISE 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 ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend ISE Rule 803 relating to the exposure of public customer orders. Pursuant to Commission approval, before a Primary Market Maker (''PMM'') sends a public customer order through the intermarket linkage (''Linkage'') when ISE is not at the national best bid or offer (''NBBO''), the Exchange exposes these customer orders to all its market makers to give them an opportunity to match the NBBO.[5]

Specifically, before the PMM sends a Linkage Order on behalf of a public customer, the public customer order is exposed at the NBBO price for a period established by the Exchange not to exceed one second. During this exposure period, Exchange market makers may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option. If at the end of the exposure period, the order is executable at the then-current NBBO and the ISE is not at the then-current NBBO, the order is executed against responses that equal or better the then-current NBBO.[6] The exposure period will be terminated if the exposed order becomes executable on the ISE at the prevailing NBBO or if the Exchange receives an unrelated order that could trade against the exposed order at the prevailing NBBO price.[7] If, after an order is exposed, the order is not executed in full on the Exchange at the then-current NBBO or better, and it is marketable against the then-current NBBO, the PMM sends a Linkage Order on the customer's behalf for the balance of the order as provided in Rule 803(c)(2)(ii) even though there may be other ISE members who would be willing to execute the order at the better price. If the balance of the order is not marketable against the then-

[5] *See* Securities Exchange Act Release No. 57812 (May 12, 2008), 73 FR 28846 (May 19, 2008) (Notice of Filing of Amendment No. 1 to the Proposed Rule Change and Order Granting Accelerated Approval of Proposed Rule Change, As Modified by Amendment No. 1 Thereto, Relating to the Exposure of Public Customer Orders).

[6] Executions will be allocated pro-rata based on size (*i.e.*, the percentage of the total number of contracts available at the same price that is represented by the size of a market maker's response).

[7] The order is executed against orders and quotes on the book and responses received during the exposure period in price priority. At the same price, customer orders are executed first in time priority and then all other interest (orders, quotes and responses) are allocated pro-rata based on size.

current NBBO, it is placed on the ISE book.

The Exchange notes that when an order is sent to another exchange through Linkage, the other exchange charges an execution fee. The cost of sending the order through Linkage can be substantial, particularly with respect to other options exchanges that have adopted a maker-taker fee schedule.[8] To retain as much order flow as possible on ISE and to help reduce costs associated with the number of orders sent through Linkage, ISE proposes to expose public customer orders to Electronic Access Members in addition to all other market makers, thus permitting all members of the Exchange to respond to these public customer orders before the orders are sent to another exchange through Linkage. This proposal will provide additional opportunities for public customer orders to be executed at the NBBO at ISE, and, as noted above, will reduce PMM costs by reducing the number of Linkage orders they must send to other exchanges.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with 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.[9] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act's [10] 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 proposed rule change will give additional opportunities for public customer orders to be executed at the NBBO at ISE and reduce costs by reducing the number of Linkage orders sent to other exchanges.

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

The Exchange believes that 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 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 proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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 [11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12] As required under Rule 19b–4(f)(6)(iii),[13] the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[16] which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that a waiver of the 30-day operative delay will allow the Exchange to implement this proposed rule change immediately and, thus, permit all ISE members to respond to public customer orders that have been exposed.[17] Further, the Commission notes that another exchange has similar rules that would expose in-bound orders that are executable against the NBBO on that exchange's book for one second.[18] Accordingly, the Commission designates the proposed rule change operative 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.* Please include File Number SR–ISE–2008–50 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2008–50. 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

[8] Several options exchanges have adopted a fee structure in which firms receive a rebate for the execution of orders resting in the limit order book, *i.e.*, posting liquidity, and pay a fee for the execution of orders that trade against liquidity resting on the limit order book, *i.e.*, taking liquidity. Taker fees currently range up to $0.45 per contract and are charged without consideration of the order origin category, including public customer orders. The effective price paid by a customer purchasing an option can be considerably higher on an exchange that charges a taker fee. Because orders cannot be executed at prices inferior to the NBBO, ISE members are effectively forced to pay taker fees when an exchange with a taker fee structure is at the NBBO and the members' orders are directly routed to such an exchange or indirectly routed to such an exchange through Linkage (where the fees are passed through).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *Id.*

[17] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[18] *See* Chapter V, Section 16(b) of the Rules of the Boston Options Exchange.

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 a.m. and 3 p.m. 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 submissions should refer to File Number SR–ISE–2008–50 and should be submitted on or before July 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–15069 Filed 7–2–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58041; File No. SR–ISE–2007–94]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change as Modified by Amendments No. 1 and 3 Thereto Relating to Reduction of the Order Handling and Exposure Periods

June 26, 2008.

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 October 5, 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 ISE. On December 4, 2007, ISE filed Amendment No. 1 to the proposed rule change. On May 22, 2008, ISE filed Amendment No. 2 to the proposed rule change.[3] On June 23, 2008, ISE filed Amendment No. 3 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is proposing to reduce the order handling and exposure periods contained in Exchange Rules 716 (Block Trades), 717 (Limitations on Orders), 723 (Price Improvement Mechanism for Crossing Transactions), and 811 (Directed Orders) from three seconds to one second.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.iseoptions.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, ISE 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. ISE 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 purpose of the proposed rule change is to reduce the order handling and exposure periods contained in Exchange Rules 716 (Block Trades), 717 (Limitations on Orders), 723 (Price Improvement Mechanism for Crossing Transactions), and 811 (Directed Orders) from three seconds to one second.

Rule 716 contains the requirements applicable to the execution of orders using the Block Order Mechanism, Facilitation Mechanism, and Solicited Order Mechanism. The Block Order Mechanism allows members to obtain liquidity for the execution of a block-size order, whereas the Facilitation and Solicited Order Mechanisms allow members to enter block-size cross transactions. Rule 723 contains the requirements applicable to the execution of orders using the Price Improvement Mechanism (''PIM''). The PIM allows members to enter cross transactions of any size. Orders entered into any of these mechanisms (''Mechanisms'') currently are exposed to all market participants for three seconds, giving participants an opportunity to enter additional trading interest before the orders are automatically executed. Under the proposal, the exposure period for all four Mechanisms would be reduced to one second.

Rule 717 requires members to expose agency orders to the marketplace before executing them as principal[4] or executing them against orders solicited from other members.[5] Under Rule 717, an order can be exposed either by entering it onto the Exchange and waiting at least three seconds before entering the contra-side proprietary or solicited order, or by utilizing the various mechanisms that have an exposure period built into the functionality as described above. Under the proposal, the exposure period for orders entered onto the Exchange would be reduced to one second.[6]

Rule 811 contains the requirements applicable to the handling and execution of Directed Orders. A Directed Order is an order routed from an Electronic Access Member to an Exchange Market Maker (the ''Directed Market Maker'') through the Exchange's system.[7] A Directed Market Maker is required to enter Directed Orders into the PIM or release the order to the Exchange's limit order book within three seconds of receipt.[8] Under the proposal, this time period would be reduced to one second.

Additionally, there are three instances when a Directed Order is exposed to all market participants for three seconds after being released to the Exchange's limit order book: (i) Before a Directed Order is matched against the Directed Market Maker at the NBBO;[9] (ii) before

[19] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Amendment No. 2 was withdrawn on May 29, 2008.

[4] Rule 717(d).

[5] Rule 717(e). The Exchange proposes to make a non-substantive clean-up of Rule 717(e) to specify that members can use the Facilitation Mechanism to execute solicited crosses. The Facilitation Mechanism rule was amended earlier this year to allow members to enter solicited crosses, and Rule 717(e) should have been updated at that time. *See* Securities Exchange Act Release No. 55557 (March 29, 2007), 72 FR 16838 (April 5, 2007).

[6] Under Rule 717(d), a member may enter an agency order that would execute against a pre-existing proprietary order on the Exchange if such proprietary order was entered at least three seconds prior to receipt of the agency order. Under the proposal, this time period would also be reduced to one second.

[7] Rule 811(a)(1).

[8] Rule 811(c)(3). If the Directed Market Maker fails to do so within three seconds, the Exchange's system automatically releases the order. Rule 811(c)(3)(ii).

[9] If a Directed Market Maker is quoting at the NBBO at the time it releases a Directed Order, the

Continued