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). If the balance of the order is not marketable against the then-current NBBO, it is placed on the ISE book.

ISE currently charges a customer fee in options on Premium Products [6] and in Second Market [7] options; customer fees on all other options are currently waived by the Exchange. To encourage ISE members to respond to the exposure of these public customer orders, the Exchange proposes to waive customer fees in options on Premium Products and in Second Market options incurred by members who step up and match or improve the NBBO during the exposure period so these public customer orders can be executed on the Exchange.[8] With this filing, the Exchange is also proposing to clarify on its Schedule of Fees that the fee waiver is applicable to orders exposed pursuant to Supplementary Material .02 to ISE Rule 803 rather than to Linkage Orders.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the proposed rule change will allow ISE to retain more flow by giving these customer orders additional opportunity to be executed at the NBBO at ISE and will also reduce PMM costs by reducing the number of Linkage orders they must send to other exchanges.

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.

[6] Premium Products is defined in the Schedule of Fees as the products enumerated therein.

[7] *See* ISE Rule 900.

[8] ISE recently adopted fee waivers for Firm Proprietary, ISE Market Maker and Payment for Order Flow fees incurred by members who step up and match or improve the NBBO during the exposure period. *See* Securities Exchange Act Release No. 58164 (July 15, 2008), 73 FR 42638 (July 22, 2008) (SR–ISE–2008–56). This filing extends that waiver to apply to customer orders in Premium Products and in Second Market options. The Exchange represents that, since July 1, 2008, the date SR–ISE–2008–56 was filed and became operative, no customer orders have responded during the exposure period and thus, no customer orders were deprived of the proposed fee waiver.

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) of the Act [9] and Rule 19b-4(f)(2) thereunder,[10] because it establishes or changes a due, fee, or other charge imposed on members by ISE. Accordingly, the proposal is effective upon filing with the Commission. 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*. Please include File Number SR–ISE–2008–57 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–2008–57. 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 a.m. and 3 p.m. 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–ISE–2008–57 and should be submitted on or before August 20, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17411 Filed 7–29–08; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b-4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58224; File No. SR–ISE–2007–94]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Accelerated Approval of a Proposed Rule Change as Modified by Amendments No. 1 and 3 Thereto Relating to Reduction of Certain Order Handling and Exposure Periods From Three Seconds to One Second

July 25, 2008.

I. Introduction

On October 5, 2007, the International Securities Exchange, LLC (''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 certain order exposure times from three seconds to one second. On December 4, 2007, ISE filed Amendment

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

[2] 17 CFR 240.19b–4.

No. 1 to the proposed rule change. On May 22, 2008, ISE filed Amendment No. 2 to the proposed rule change and withdrew this Amendment on May 29, 2008. On June 23, 2008, ISE filed Amendment No. 3 to the proposed rule change. The proposed rule change, as modified by Amendments No. 1 and 3, was published for comment in the **Federal Register** on July 3, 2008.[3] The Commission received one comment on the proposal.[4] This order approves the proposed rule change, as modified by Amendments No. 1 and 3, on an accelerated basis.

II. Description of the Proposal

The Exchange proposes 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 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.

Rule 717 requires members to expose agency orders to the marketplace before executing them as principal [5] or executing them against orders solicited from other members.[6] 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.

Rule 811 contains the requirements applicable to the handling and execution of Directed Orders. 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.[7] 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 national best bid or offer (''NBBO''); [8] (ii) before executing a Directed Order against the Directed Market Maker's Guarantee; [9] and (iii) before being given to the Primary Market Maker for handling where the Directed Market Maker is also the Primary Market Maker.[10] Finally, if a Directed Order is placed on the Exchange's limit order book, the Directed Market Maker is not permitted to enter a proprietary order to execute against the Directed Order during the three seconds following the release of the Directed Order.

Under the proposal, all of the three-second exposure periods referred to above would be reduced to one second.

The Commission received one comment letter regarding the proposed rule change.[11] The commenter expresses concern that the combined effect of the proposed rule change and another ISE proposal [12] would lead to greater rates of internalization and reduced amounts of price improvement being made available to public customers on ISE, especially to small orders under 50 contracts.[13]

III. Discussion and Commission Findings

After carefully reviewing the proposed rule change and the comment submitted, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, 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. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,[16] which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that, given the electronic environment on ISE, reducing each of the exposure periods from three seconds to one second as proposed could facilitate the prompt execution of orders, while continuing to provide market participants with an opportunity to compete for exposed bids and offers. To substantiate that ISE members could receive, process, and communicate a response back to the Exchange within one second, the Exchange stated that it distributed a survey to ISE members that regularly participate in orders executed through the mechanisms that would be affected by the proposal. ISE stated that the survey results indicated that it typically takes, at most, 110 milliseconds, for members to receive, process, and

[3] *See* Securities Exchange Act Release No. 58041 (June 26, 2008), 73 FR 38263 (''Notice'').

[4] *See* letter from Lisa J. Fall, General Counsel, Boston Options Exchange (''BOX''), to Nancy M. Morris, Secretary, Commission, dated May 14, 2008 (''BOX Comment'').

[5] Rule 717(d).

[6] 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).

[7] 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).

[8] If a Directed Market Maker is quoting at the NBBO at the time it releases a Directed Order, the Directed Market Maker is last in priority, and the order is exposed to all market participants before the Directed Order is executed against the Directed Market Maker's quote.

[9] If the Directed Market Maker is quoting at the NBBO on the opposite side of the market from a Directed Order at the time the Directed Order is received by the Directed Market Maker, and the Directed Order is marketable, the Exchange's system will automatically guarantee execution of the Directed Order against the Directed Market Maker at the price and the size of the Directed Market Maker's quote. Rule 811(d).

[10] As provided in Rule 714, when the Exchange's best bid or offer is inferior to another exchange, incoming marketable customer orders are handled by the Primary Market Maker pursuant to Rule 803(c), which requires the Primary Market Maker to either execute the order at a price that matches the NBBO or attempt to obtain the better price for the customer according to the Linkage rules contained in Chapter 19.

[11] *See* BOX Comment, *supra* note 4.

[12] The BOX Comment, *supra* note 4, was submitted in connection with SR–ISE–2008–29. In SR–ISE–2008–29, the ISE proposed to allow members to enter orders into the PIM at a price that matches the NBBO when the ISE market is inferior to the NBBO. The Commission approved SR–ISE–2008–29. *See* Securities Exchange Act Release No. 57847 (May 21, 2008), 73 FR 30987 (May 29, 2008).

[13] *See* BOX Comment, *supra* note 4.

[14] 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).

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

[16] 15 U.S.C. 78f(b)(8).

respond to broadcast messages related to the various mechanisms. According to the ISE, members who responded to the survey also indicated that reducing the exposure period to one second would not impair their ability to participate in orders executed through the mechanisms.[17] Accordingly, the Commission believes that it is consistent with the Act for ISE to reduce the order handling and exposure times discussed herein from three seconds to one second.

The Commission does not agree with the concerns raised by the commenter. Based on the ISE's statements regarding the survey results, the Commission believes that market participants should continue to have opportunities to compete for exposed bids and offers within a one second exposure period.

The Commission finds good cause to approve the proposed rule change prior to the thirtieth day after publication for comment in the **Federal Register**. The Commission notes that the proposed rule change was noticed for the full comment period and no additional comments were received.[18] The Commission also notes that the proposed rule change is substantially similar to a recently approved proposal submitted by the Chicago Board Options Exchange, Incorporated [19] and the Commission believes that ISE has provided reasonable support for ISE's belief that ISE market participants would continue to have an opportunity to compete for exposed bids and offers if exposure periods were reduced to one second. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[20] to approve the proposed rule change on an accelerated basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–ISE–2007–94), as modified by Amendments No. 1 and 3, be, and hereby is, approved on an accelerated basis.

[17] The ISE stated that all of the eight members that responded to the specific timing questions, and two of the three members that did not answer the specific timing questions, indicated that reducing the crossing exposure timer to one second would not impair their ability to participate in ISE crossing orders. The ISE stated that one member responded that it could not measure the specific times and indicated that it would prefer to keep the exposure periods at three seconds. *See* Notice.

[18] The BOX Letter was received prior to the publication of the Notice. *See* BOX Comment, *supra* note 4.

[19] *See* Securities Exchange Act Release No. 58088 (July 2, 2008), 73 FR 39747 (July 10, 2008).

[20] 15 U.S.C. 78s(b)(2).

[21] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Acting Secretary.

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[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58217; File No. SR–NSX–2008–12]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Provide for a Post Intermarket Sweep Order

July 24, 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 July 18, 2008, National Stock Exchange, Inc. (''NSX'' 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 Exchange. NSX filed the proposal pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] 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

The Exchange is proposing to amend NSX Rule 11.11(c)(8) to allow ETP Holders the option of designating an intermarket sweep order (''ISO'') as a ''Post Intermarket Sweep Order'' (''Post ISO''). The text of the proposed rule change is below. Proposed new language is in italics, and the proposed deletions are enclosed in brackets:

Rules of National Stock Exchange, Inc.

Chapter XI. Trading Rules

* * * * *

Rule 11.11. Orders and Modifiers

Users may enter into the System the types of orders listed in this Rule 11.11, subject to the limitations set forth in this Rule or elsewhere in these Rules.

(a)–(b) No change.

(c) Other Types of Orders and Order Modifiers.

(1)–(7) No change.

(8) [Incoming] Intermarket Sweep Order *(''ISO'')*.

(i) Incoming ISO. The System will accept incoming intermarket sweep orders (as such term is defined in Regulation NMS) from other trading centers. In order to be eligible for treatment as an intermarket sweep order, the order must be marked ''ISO,'' and the User entering the order must simultaneously route one or more additional limit orders marked ''ISO,'' as necessary, to away markets to execute against the full displayed size of any protected quotation for the security with a price that is superior to the limit price of the intermarket sweep order entered in the System. Such orders, if they meet the requirements of the foregoing sentence, will be considered immediate-or-cancel (IOC) and will be executed without regard to protected quotations at away markets consistent with Regulation NMS.

(ii) Post ISO. A User may designate an ISO as a ''Post ISO.'' In order to be eligible for treatment as a Post ISO, the order must be marked ''Post ISO,'' and in submitting such an order the User entering the order represents that such User has simultaneously routed one or more additional limit orders marked ''ISO,'' as necessary, to away markets to execute against the full displayed size of any protected quotation for the security with a price that is superior or equal to the limit price of the Post ISO entered in the System. Such order, if it meets the requirements of the foregoing sentence and is not a Post Only Order pursuant to Rule 11.11(c)(5), will be executed without regard to protected quotations at away markets consistent with Regulation NMS by sweeping the NSX Book up to and including its limit price. A Post ISO which is designated by the User as a Post Only Order pursuant to Rule 11.11(c)(5) will be rejected without execution if, when entered, it is immediately marketable against displayed orders in the NSX Book. Any unfilled portion of a Post ISO that meets the requirements of Rule 11.22(d)(3) will be posted at the entered limit price.

(9) No change.

(d) No change.

* * * * *

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,

[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).