

of a member, only the proceeds from the side of the market that was offset pursuant to the agreement at the last margin cycle are considered. In the New FICC-CME Agreement, this approach will be extended to the CBOT products in order to provide consistency in the liquidation methods.

#### 4. Amendments 1, 2, and 3 to the FICC-BCC Cross-Margining Agreement

FICC is proposing to amend its cross-margining agreement with BCC with Amendment 3 to the agreement.<sup>10</sup> Amendment 3 will (i) add FICC's GCF Repo Treasury and non-mortgage-backed Agency products to the arrangement, (ii) add FICC's non-mortgage-backed Agency offset classes e and f, and (iii) amend the contingency procedures between the clearing organizations (contained in Appendix I of the agreement) to provide that FICC will not wait past 12 a.m. Eastern time for the BCC cross-margining file in order to run its cross-margining system. With respect to (ii), FICC has determined that even though BCC does not currently clear non-mortgage-backed Agency futures, the parties can still cross-margin FICC's Agency products against BCC's Treasury products given that the agreement provides for inter-offset class cross-margining using the appropriate correlation factors. With respect to (iii), the operational procedures provide that FICC will wait until 3:00 a.m. Eastern time for the BCC file which is the same cut-off time for all of its other cross-margining partners. However, FICC has determined that the 3:00 a.m. Eastern time cut-off, which is significantly later than the GSD's normal cross-margining processing time, should only be used for extreme situations where not including a particular file would be disruptive to members. Currently, this would not be anticipated to be the case for a BCC file because of BCC's files relatively low historical impact.<sup>11</sup> Therefore, FICC has determined that it would be more prudent from a risk management perspective to adopt a cut-off time of 12:00 a.m. Eastern time for receipt of BCC files.

<sup>10</sup> Securities Exchange Act Release No. 45656 (March 27, 2002), 67 FR 15646 (April 2, 2002) [File No. SR-GSCC-2002-01].

<sup>11</sup> The operational and contingency procedures contained in the FICC-BCC agreement provide that in the event FICC does not receive BCC's file by the cut-off time, FICC will calculate the applicable cross-margining reductions assuming that BCC submitted a file with no positions available for cross-margining which may result in margin calls for the affected participants by both FICC and BCC. These margin calls would not be disruptive to members because the cross-margining reductions in the program with the BCC are not anticipated to be large amounts.

As part of this proposed rule change filing, FICC will include Amendments 1 and 2 that were previously made with respect to its existing cross-margining agreement with BCC. The purpose of Amendment 1 was to update the list of products being cross-margining. The purposes of Amendment 2 were to remove references to the cross-margining agreement with NYCC from Appendix A in which the parties are required to list other outstanding cross-margining arrangements and to update the notice provision.

#### 5. Amendments 1 and 2 to the FICC-BOTCC Cross-Margining Agreement

As in the case of the BCC agreement, FICC will include as part of this proposed rule change filing Amendments 1 and 2 that were previously made with respect to its existing cross-margining arrangement with BOTCC.<sup>12</sup> The purposes of Amendment 1 were to update the list of products being cross-margining, add an appendix setting forth operational contingency procedures, clarify procedures to be used if one clearing organization discovers a calculation error, correct cited Bankruptcy Code language, correct language in one of the participant agreements, and refine the timing of the effectiveness of changes to the cross-margining reduction. The purpose of Amendment 2 was to remove references to the cross-margining agreement with NYCC from Appendix A.

#### 6. Removal of NYCC Cross-Margining Agreement From the GSD's Rules

FICC is removing its cross-margining agreement with NYCC<sup>13</sup> from the GSD's rules. That arrangement has been dormant for some time and the parties have agreed that should they determine to reinstitute cross-margining, they will enter into a new cross-margining agreement that will be similar to FICC's other cross-margining agreements. At that time, FICC would file the appropriate proposed rule change with the Commission.

<sup>12</sup> FICC currently has a cross-margining agreement in place with BOTCC through which certain CBOT products are cross-margining with certain FICC products. Securities Exchange Act Release No. 45335 (January 25, 2002), 67 FR 4768 (January 31, 2001) [File No. SR-GSCC-2001-03]. BOTCC recently announced that it will become the clearing corporation for Eurex. In the next few weeks, FICC will determine the status of its cross-margining arrangement with BOTCC and will submit a proposed rule change filing addressing changes to the existing agreement, if necessary.

<sup>13</sup> Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR-GSCC-98-04].

### III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to facilitate the safeguarding of securities and funds which are in its custody or control or for which it is responsible and in general will protect investors and the public interest.<sup>14</sup> The Commission finds that FICC's proposed rule change is consistent with this requirement because it continues FICC's cross-margining program which provides members with significant benefits, such as greater liquidity and more efficient use of collateral in a prudent manner, and enhances FICC's overall risk management process.

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-FICC-2003-10) be and hereby is approved.

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

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04-220 Filed 1-5-04; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49009; File No. SR-ISE-2003-39]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the International Securities Exchange, Inc., Relating to the Extension of a Linkage Fee Pilot Program

December 30, 2003.

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 18, 2003, the International Securities Exchange, Inc. ("Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in

<sup>14</sup> 15 U.S.C. 78q-1(b)(3)(F).

<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.

Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposed rule change on an accelerated basis.

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

The ISE is proposing to extend until July 31, 2004 the current pilot program regarding transaction fees charged for trades executed through the intermarket options linkage ("Linkage"). Currently pending before the Commission is a filing to make such fees permanent.<sup>3</sup>

The proposed fee schedule is available at the Exchange and at the Commission.

### **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 III 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 purpose of this proposed rule change is to extend for six months the pilot program establishing ISE fees for Principal ("P") Orders and Principal Acting as Agent ("P/A") Orders executed through Linkage. The fees currently are effective for a pilot program scheduled to expire on January 30, 2004,<sup>4</sup> and this filing would extend the fees through July 31, 2004. The three fees the ISE charges for P and P/A orders are: The basic execution fees for trading on the ISE, which range from \$.12 to \$.21 per contract/side depending on average daily trading volume on the Exchange; a \$.10 surcharge per contract/side for trading certain licensed products; and a \$.03 comparison fee per contract/side (collectively "Linkage fees"). These are the same fees that all

ISE Members pay for non-customer transactions executed on the Exchange.<sup>5</sup> The ISE does not charge for the execution of Satisfaction Orders sent through Linkage and is not proposing to charge for such orders.

In the Permanent Fee Filing, the ISE discusses in detail the reasoning why it believes it is appropriate to charge fees for P and P/A Orders executed through Linkage. In sum, market makers on competing exchanges can match a better price on the ISE; they never are obligated to send orders to the ISE through Linkage. However, if such market makers do seek the ISE's liquidity, whether through conventional orders or through the use of P Orders or P/A Orders, the Exchange believes it is appropriate to charge our Members the same fees levied on other non-customer orders. The ISE appreciates that there has been limited experience with Linkage and that the Commission is continuing to study Linkage in general and the effect of fees on trades executed through Linkage. Thus, this filing would extend the status quo for ISE's Linkage fees for six months while the Commission considers the Permanent Fee Filing.

##### **2. Statutory Basis**

The ISE believes that the basis for this proposed rule change is the requirement under Section 6(b)(4) under the Act<sup>6</sup> that an exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. As discussed in more detail above, the ISE believes that this proposed rule change will equitably allocate fees by having all non-customer users of ISE transaction services pay the same fees. If the ISE were not to charge Linkage fees, the Exchange's fees would not be equitable, in that ISE Members would be subsidizing the trading of their competitors, all of whom access the same trading services.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Moreover, the ISE believes that failing to adopt the proposed rule change would impose a burden on competition by requiring ISE Members to subsidize the trading of their competitors.

#### *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. 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR-ISE-2003-39. 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should be submitted by January 27, 2004.

### **IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change**

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, applicable to a national securities exchange,<sup>7</sup> and, in particular, with the requirements of section 6(b) of the Act<sup>8</sup> and the rules

<sup>3</sup> See File No. SR-ISE-2003-30 (the "Permanent Fee Filing").

<sup>4</sup> See Securities Exchange Act Release No. 47719 (April 23, 2003), 68 FR 22764 (April 29, 2003) (SR-ISE-2003-11).

<sup>5</sup> The ISE charges these fees only to its Members, generally firms who clear P and P/A Orders for market makers on the other linked exchanges.

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> In approving this rule, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

and regulations thereunder. The Commission finds that the proposed rule change is consistent with section 6(b)(4) of the Act,<sup>9</sup> which requires that the rules of the Exchange provide for the equitable allocation or reasonable dues, fees, and other charges among its members other persons using its facilities. The Commission believes that the extension of the Linkage fee pilot until July 31, 2004 will give the Exchange and the Commission further opportunity to evaluate whether such fees are appropriate.

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,<sup>10</sup> for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The Commission believes that granting accelerated approval will preserve the Exchange's existing pilot program for Linkage fees without interruption as the ISE and the Commission further consider the appropriateness of Linkage fees.

#### V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-ISE-2003-39) is hereby approved on an accelerated basis for a pilot period to expire on July 31, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

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

[FR Doc. 04-216 Filed 1-5-04; 8:45 am]

BILLING CODE 8010-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48997; File No. SR-NASD-2003-161]

#### Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a Nasdaq Official Opening Price

December 29, 2003.

On October 28, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 establish a Nasdaq Official Opening Price that would be made available for wholly voluntary use by NASD members and the public. The proposed rule change was published for comment in the **Federal Register** on November 26, 2003.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission 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 association.<sup>4</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 15A of the Act<sup>5</sup> in general, and furthers the objectives of Section 15A(b)(6)<sup>6</sup> in particular, in that it is 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 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. Specifically, the Commission believes that Nasdaq's proposal may result in the public dissemination of information that more accurately reflects the trading in a particular security on Nasdaq at the open.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act<sup>7</sup>, that the proposed rule change (SR-NASD-2003-161) is approved.

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

**Jill M. Peterson,**  
*Assistant Secretary.*

[FR Doc. 04-224 Filed 1-5-04; 8:45 am]

BILLING CODE 8010-01-P

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> See Securities Exchange Act Release No. 48810 (November 19, 2003), 68 FR 66518.

<sup>4</sup> In approving the proposed rule change, the Commission 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-3.

<sup>6</sup> 15 U.S.C. 78o-3(b)(6).

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

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

#### DEPARTMENT OF STATE

[Public Notice 4580]

#### Bureau of Educational and Cultural Affairs; Middle East Partnership Initiative (MEPI) U.S. Business Internship Program for Young Middle Eastern Women

**ACTION:** Correction to proposal submission date.

The MEPI U.S. Business Internship Program for Young Middle Eastern Women was announced in Public Notice 4575 published on Monday, December 29, with an incorrect proposal submission date. The correct date should read, "February 17, 2004". All other program information remains the same.

**SUPPLEMENTARY INFORMATION:** Interested U.S. organizations should contact Robert Greenan at 202-619-5437 for additional information.

The Middle East Partnership Initiative (MEPI) U.S. Business Internship Program for Young Middle Eastern Women was announced in the **Federal Register**, Volume 68, Number 248, on December 29, 2003.

Dated: December 30, 2003.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 04-228 Filed 1-5-04; 8:45 am]

BILLING CODE 4710-05-P

#### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

#### Notice of Proposed Measure and Opportunity for Public Comment Pursuant to Section 421 of the Trade Act of 1974: Certain Ductile Iron Waterworks Fittings From the People's Republic of China

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of proposed measure; request for comments.

**SUMMARY:** The United States International Trade Commission (ITC) has determined, pursuant to section 421(b)(1) of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2451(b)(1)), that certain ductile iron waterworks fittings<sup>1</sup> from the People's

<sup>1</sup> For purposes of its investigation, the ITC considered certain ductile iron waterworks fittings to consist of cast pipe or tube fittings of ductile iron (containing 2.5 percent carbon and over 0.02 percent magnesium or magnesium and cerium, by weight) with mechanical, push-on (rubber

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> *Id.*

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