

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

CBOE is revising CBOE Rule 3.23—Integrated Billing System, which requires all members to designate a CBOE Clearing Member for the payment of CBOE invoices. The proposed rule change exempts from the CBOE Rule 3.23 requirements those members that are approved to act solely as lessors. Members that are approved to act solely as lessors have no trading functions on the Exchange (*e.g.*, approved to act as a Market-Maker or Floor Broker) and conduct no activities that would necessitate the designation of a CBOE Clearing Member for the payment of CBOE invoices. Going forward, CBOE will bill any fees owed by members that are approved to act solely as lessors on a manual basis.

2. Statutory Basis

The proposed rule change is comprised of an administrative membership rule change that is designed to facilitate Exchange operations and therefore the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(5)⁶ in particular, in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

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

This 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

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

Because the foregoing 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) does not become operative for 30 days from the date on which it was filed, 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 Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

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-CBOE-2005-67 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-CBOE-2005-67. 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 offices of the CBOE. 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-2005-67 and should be submitted on or before October 19, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52479; File No. SR-ISE-2004-04]

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

September 21, 2005.

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 February 23, 2004, the International Securities Exchange, Inc. ("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 prepared by the Exchange. On September 7, 2005, the ISE filed Amendment No. 1 to the proposed rule change.³ On September 20, 2005, the ISE filed Amendment No. 2 to the

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). As required by Rule 19b-4(f)(6)(ii), the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date of this proposal.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 superseded and replaced ISE's original filing in its entirety.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

proposed rule change.⁴ 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 Substance of the Proposed Rule Change

The Exchange is proposing to decrease the exposure period in its Facilitation and Solicited Order Mechanisms from 10 seconds to three seconds. The text of the proposed rule change is as follows (*italics* indicates additions; [brackets] indicate deletions):⁵

* * * * *

Rule 716. Block Trades

(a) through (e) no change.

Supplementary Material to Rule 716

.01 through .03 no change.

.04 The time given to Members to enter Responses under paragraph (c)(1) shall be thirty (30) seconds. The time given to Members to enter Responses under paragraph (d)(1) and Responses under paragraph (e)(1) shall be [ten (10)] *three (3)* seconds.

.05 through .08 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 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 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

Electronic Access Members that seek to execute their customer orders as principal (facilitations) or to execute

⁴ 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.

⁵ There were no changes to the text of the proposed rule change in Amendment No. 1. However, the proposal was updated in Amendment No. 1 to reflect changes in the text of ISE Rule 716 that occurred since the initial proposal was submitted. The Purpose section of the filing was also updated.

their customer orders against orders they solicit from other broker-dealers (solicitations) may use the Facilitation and Solicited Order Mechanisms contained in ISE Rule 716 or the Price Improvement Mechanism contained in ISE Rule 723. All three of these mechanisms expose orders to the market to give other market participants an opportunity to participate in the trade. Currently, the exposure period for the Facilitation and Solicited Order Mechanisms is ten seconds under ISE Rule 716, while the exposure period for the Price Improvement Mechanism is only three seconds under ISE Rule 723. The purpose of this proposed rule change is to reduce the exposure period for the Facilitation and Solicited Order Mechanisms from ten seconds to three seconds.⁶

When it approved the three-second exposure period for the Price Improvement Mechanism, the Commission concluded that, in light of the ISE's fully electronic marketplace, the three-second exposure period gave participants sufficient time to compete for orders. The ISE believes that there is no reason for the exposure periods to be different among the three mechanisms, since members are notified of the orders and enter their interest in trading with the orders in the same technical manner. Moreover, the Price Improvement Mechanism is an interactive auction where members receive and can respond to multiple price updates within the three second period, whereas members only receive one message at the start of an auction with respect to orders executed through the Facilitation and Solicited Order Mechanisms. Indeed, the ISE believes that exposing orders for ten seconds rather than three in its fully electronic market adds risk to the orders being exposed without providing any offsetting benefit to the orders.

2. Basis

The basis under the Act for this proposed rule change is found in

⁶ ISE Rule 716 originally required that orders be exposed in the Facilitation Mechanism for 30 seconds. In September 2002, the Commission approved reducing this exposure period from 30 seconds to ten seconds. *See* Securities Exchange Act Release No. 46514 (September 18, 2002), 67 FR 60627 (September 25, 2005) (approving File No. SR-ISE-2001-19). The Solicited Order Mechanism was approved in June 2004 with an exposure period of ten seconds. *See* Securities Exchange Act Release No. 49943 (June 30, 2004), 69 FR 41317 (July 8, 2004) (approving File No. SR-ISE-2001-22). The Price Improvement Mechanism was approved in December 2004 with the three-second exposure period. *See* Securities Exchange Act Release No. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (approving File No. SR-ISE-2003-06).

Section 6(b)(5),⁷ in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, in that the proposal will allow orders to be executed through the Facilitation and Solicited Order Mechanisms in a more timely and efficient manner.

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.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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-ISE-2004-04 on the subject line.

⁷ 15 U.S.C. 78f(b)(5).

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-ISE-2004-04. 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 submissions should refer to File Number SR-ISE-2004-04 and should be submitted on or before October 19, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52475; File No. SR-NYSE-2005-50]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Proposed Amendments to Rules 282 (Mandatory Buy-In), 284 (Procedure for Closing Defaulted Contract), 289 (Must Receive Delivery), and 290 (Defaulting Party May Deliver After Notice of Intention To Close)

September 20, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 15, 2005, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The NYSE hereby proposes an amendment to Rules 282 ("Mandatory Buy-In"), 284 ("Procedure for Closing Defaulted Contract"), 289 ("Must Receive Delivery"), and 290 ("Defaulting Party May Deliver After Notice of Intention to Close") to standardize buy-in rules and procedures. The proposed rule change is set forth below. Proposed new language is *italicized*; proposed deletions are in [brackets].

Rule 282—[Mandatory] Buy-In Procedures

A contract in securities, [other than] *except* a contract *where its* [the] close-out [of which] is governed by the rules of a Qualified Clearing Agency, which has not been [fulfilled] *completed by the seller* in accordance with its terms, [for a period of thirty calendar days] *may be closed-out by the buyer (i.e., the initiating member organization) no sooner than three business days* after the due date for delivery, [shall be closed] pursuant to the following procedures:

(a) [A NOTICE of intention in triplicate] *An initiating member organization (buyer) may deliver a written "buy-in" notice* [shall be delivered] to the *defaulting* member organization [in default] at or before

12:00 [p.m.] *noon ET at least two business days before the proposed execution of a "buy-in"* [on the fourth business day prior to the thirty-first calendar day after the due date of the contract] (*the buy-in execution date shall be referred to as the "effective date" of the notice*). [Hereafter, such fourth business day shall be referred to as the Effective Date of NOTICE. A copy of a receive order] *Receipt of delivery to the defaulting member organization*, [issued by a Qualified Clearing Agency or a stamped comparison must accompany] *must be maintained with the [NOTICE when delivered] notice as part of the initiating member organization's books and records*. [If neither of these documents is available, then, if possible, other evidence of the item should accompany the NOTICE.]

(b) The *defaulting* member organization receiving the [NOTICE of intention] *"buy-in" notice* must [indicate on the copies of the NOTICE] *send a signed, written response to the initiating organization stating its position with respect to the resolution of the item [and then return, to the initiating organization, a copy signed by a member, allied member officer or authorized representative of the organization] no later than 5:00 p.m. ET on [the third business day after the Effective Date of NOTICE] the date of issuance of the "buy-in" notice (the "buy-in" notice date)*.

[(c) If the NOTICE is returned to the initiating party "DK'd," the initiating party shall itself "close-out" the contract with reasonable promptness. The party which "DK'd" the NOTICE may not seek to fulfill the contract at a later date. No such "close-out" by the initiating organization shall preclude it from taking action to recover any resulting damages.]

[(d) c] If the [NOTICE] *"buy-in" notice* has not been returned *by 5:00 p.m. ET on the "buy-in" notice date*, [duly signed, when due] or *the "buy-in" notice is returned as "DK'd,"* or the [NOTICE] *"buy-in" notice* is returned with the indication that the contract is known but that delivery cannot be made, a "buy-in" [ORDER in duplicate shall be sent to the member or organization in default by 9:30 a.m.] *shall be executed on the "effective date" by the initiating member organization by purchasing all or part of the securities necessary to satisfy the amount requested in the "buy-in" notice*. [on the thirty-first calendar day after the due date or, if the Exchange is closed on such day, on the next day that the Exchange is open for trading.]

(d) *Where the buyer is a customer (other than another member*

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).