

consistent with the Act.²⁹ The Commission presently is not aware of any regulatory issue that should cause the Commission to revisit that earlier finding or preclude the trading of GLD on the Exchange pursuant to UTP. Therefore, accelerating approval of the proposal should benefit investors by creating, without undue delay, additional competition in the market for GLD.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁰ that the proposed rule change (SR-Amex-2005-032), is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51448; File No. SR-CHX-2005-07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Participant Fees and Credits.

March 30, 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 March 16, 2005, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. 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 proposes to amend its schedule of Participant Fees and Credits (the "Fee Schedule") to confirm that late fees will be assessed on a participant's bill ten (10) days from the

date on which payment of the bill is due. The text of the proposed rule change is available on CHX's Web site (<http://www.chx.com>), the CHX'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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 bills its participants monthly for fees and other assessments due to the Exchange. These bills typically are distributed to participants on the tenth day of the month following the month in which the fees were incurred and, by their terms, are due by the end of the month.³ Under the Exchange's Fee Schedule, the Exchange assesses a late fee on the outstanding balance of any unpaid participant bills. The current version of the Fee Schedule, however, allows the Exchange to assess this late fee only when a bill has remained unpaid 60 days from the date on which the fees were due.⁴

Through this proposal, the Exchange seeks to amend the Fee Schedule to permit an earlier assessment of the late fee.⁵ The Exchange believes that this change will encourage its participants to pay their bills on time by assessing a reasonable late fee in those instances in which a participant does not do so.

2. Statutory Basis

The Exchange believes that proposed rule change is consistent with Section 6(b)(4) of the Act⁶ in that it provides for the equitable allocation of reasonable

³ For example, the participant bills relating to the month of March are distributed on or about April 10 and are due on April 30.

⁴ Using the same example as above, the Exchange currently cannot assess a late fee unless a participant's March bill (due April 30) remains unpaid on June 30.

⁵ Under the proposal, the Exchange could assess a late fee if a participant has not paid its March bill (due April 30) by May 10.

⁶ 15 U.S.C. 78(f)(b)(4).

dues, fees and other charges among its members.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No written comments were either solicited or received.

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

The foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange and therefore has become effective pursuant to Section 19(B)(3)(A) of the Act⁷ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁸ At any time within 60 days of the filing of such 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 purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR-CHX-2005-07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File No. SR-CHX-2005-07. 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

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(2).

²⁹ See *supra* note 3.

³⁰ 15 U.S.C. 78s(b)(2).

³¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of the CHX. 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-CHX-2005-07 and should be submitted on or before April 26, 2005.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51443; File No. SR-ISE-2004-40]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the International Securities Exchange, Inc. Relating to Procedures for the Allocation of Market Maker Appointments

March 29, 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 December 14, 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 ISE. On January 18, 2005, the ISE filed Amendment No. 1 to the proposed rule change.³ On March 2, 2005, the ISE filed Amendment No. 2 to the proposed rule change.⁴ On March 21, 2005, the ISE filed Amendment No. 3 to the proposed rule change.⁵ 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 proposes to amend ISE Rule 802 to (1) specify that allocations of market maker appointments must be made in the best interest of the Exchange and (2) add criteria specific to the allocation of market maker appointments in index options in addition to the criteria currently contained in the Rule.

The text of the proposed rule change is available on the ISE's Web site (<http://www.iseoptions.com>), at the ISE'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 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.

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

1. Purpose

When the Exchange lists new options classes, it allocates them to one of its Primary Market Makers under ISE Rule

802. Pursuant to power delegated by the Exchange's Board, an Allocation Committee, which consists of representatives of Electronic Access Members, makes allocation decisions according to the guidelines contained in ISE Rule 802. ISE Rule 802 states, among other things, that the Allocation Committee should consider the following in making its decisions: The financial resources available to the Primary Market Maker, the Primary Market Maker's experience and expertise in market making or options trading, and the maintenance and enhancement of competition among Primary Market Makers.

The Exchange believes that, as competition among the options exchanges continues to intensify, it is increasingly important for the Exchange to assure that products are allocated to the Primary Market Makers that make the best markets. While it is implied that the Exchange's Board and all Exchange committees always must act in the best interest of the Exchange to provide competitive markets, because allocation decisions have a direct impact on the competitiveness of the Exchange, the Exchange proposes to specify this obligation to act in the best interest of the Exchange in ISE Rule 802.

According to the Exchange, options on index-based products can be among the most actively traded listed options, making them among the most important products to the Exchange. While the Exchange believes that the allocation standards contained in ISE Rule 802 work reasonably well with respect to the allocation of equity options, the Exchange believes it is appropriate for the Exchange to seek more specific commitments from Primary Market Makers as to the quality of the markets they are prepared to make in certain index-based products (*i.e.*, options on indices and exchange-traded funds). Moreover, the Exchange believes it is appropriate to have the ability to base re-allocation decisions on the failure of a Primary Market Maker to comply with its market quality commitments. The proposed rule change would not apply to allocation decisions made prior to approval of this proposed rule change by the Commission.

The Exchange proposes to supplement the current allocation criteria to require Primary Market Makers who ask for an allocation of an index-based product to provide specific quarterly spread and size commitments for the first year of listing. The Allocation Committee would consider these commitments in making its allocation decisions in addition to the factors currently contained in ISE Rule

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Form 19b-4, dated January 18, 2005, which replaced the original filing in its entirety ("Amendment No. 1").

⁴ See Form 19b-4, dated March 2, 2005, which replaced Amendment No. 1 in its entirety ("Amendment No. 2").

⁵ See Form 19b-4, dated March 21, 2005, which replaced Amendment No. 2 in its entirety ("Amendment No. 3"). Collectively, Amendment Nos. 1, 2, and 3 clarified the following: (1) That ISE's Board or designated committee shall make appointments in the best interest of the exchange to provide competitive markets; (2) that changes to the allocation requirements for index options will be prospective only; and (3) that information regarding order flow arrangements will not be used as a basis for remedial action.