

there is no annual hourly burden associated with maintaining the charter in this form.<sup>5</sup>

Because virtually all funds extant have now adopted audit committee charters, the annual one-time collection of information burden associated with adopting audit committee charters in the future will be limited to the burden incurred by newly established funds. Commission staff estimates that fund sponsors establish approximately 400 new funds each year,<sup>6</sup> and that all of these funds will adopt an audit committee charter in order to rely on rule 32a-4. Thus, Commission staff estimates that the annual one-time hour burden associated with adopting an audit committee charter under rule 32a-4 going forward will be approximately 1200 hours.<sup>7</sup>

As noted above, all funds that rely on rule 32a-4 are subject to the ongoing collection of information requirement to preserve a copy of the charter in an easily accessible place. This ongoing requirement, which Commission staff has estimated has no hourly burden, applies to the 400 new funds that adopt an audit committee charter each year and the 8044 funds that have previously adopted the charter and continue to maintain it.

When funds adopt an audit committee charter in order to rely on rule 32a-4, they also may incur one-time costs related to hiring outside counsel to prepare the charter. Commission staff estimates that those costs average approximately \$1000 per fund.<sup>8</sup>

<sup>5</sup> No hour burden related to such maintenance of the charter was identified by the funds the Commission staff surveyed. Commission staff understands that many audit committee charters have been significantly revised after their adoption in response to the Sarbanes-Oxley Act (Pub. L. No. 107-204, 116 Stat. 745) and other developments. However, the costs associated with these revisions are not attributable to the requirements of rule 32a-4.

<sup>6</sup> See Investment Company Institute ("ICI"), Mutual Fund Factbook (2005) ("ICI 2005 Factbook"), at 9. The total number of funds in the marketplace has remained approximately the same each year for the past three years. Although there has been some variation in the number of funds that are newly established and funds that have ceased operations each year, Commission staff has estimated that the total number of respondents will remain constant. Id at 9.

<sup>7</sup> This estimate is based on the following calculation: (3.0 burden hours for establishing charter × 400 new funds = 1200 burden hours).

<sup>8</sup> Costs may vary based on the individual needs of each fund. However, based on the staff's conversations with outside counsel that prepare these charters, legal fees related to the preparation and adoption of an audit committee charter usually average \$1000 or less. The Commission also understands that the ICI has prepared a model audit committee charter, which most legal professionals use when establishing audit committees, thereby reducing the costs associated with drafting a charter.

Commission staff understands that virtually all funds now rely on rule 32a-4 and have adopted audit committee charters, and thus estimates that the annual cost burden related to hiring outside legal counsel will, in the future, be limited to newly established funds.

As noted above, Commission staff estimates that approximately 400 new funds each year will adopt an audit committee charter in order to rely on rule 32a-4, and that an additional 8044 funds will continue to preserve their audit committee charters in order to rely on rule 32a-4. Thus, Commission staff estimates that the ongoing annual cost burden associated with rule 32a-4 in the future will be approximately \$400,000.<sup>9</sup>

The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.<sup>10</sup>

The collections of information required by rule 32a-4 are necessary to obtain the benefits of the rule. The Commission is seeking OMB approval, because an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov); and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

September 12, 2005.

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E5-5747 Filed 10-18-05; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>9</sup> This estimate is based on the following calculations: (\$1000 cost of adopting charter × 400 newly established funds = \$400,000).

<sup>10</sup> These estimates are based on telephone interviews between Commission staff and fund representatives.

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52596; File No. SR-ISE-2005-40]

### Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Market Maker Quotation Obligations

October 12, 2005.

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 September 6, 2005, 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 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 proposal on an accelerated basis.

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

The Exchange proposes to clarify the implementation of changes to Exchange Rule 804 regarding market maker quotation obligations.

#### 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 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

In file number SR-ISE-2005-18, the Exchange proposed to adopt rule changes on a pilot basis to allow Electronic Access Members to designate "Preferred Market Makers" on orders

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

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

Electronic Access Members enter into the Exchange's systems. In Amendment No. 1 to SR-ISE-2005-18, the Exchange proposed to increase the quotation obligations of Competitive Market Makers under Exchange Rule 804, who are eligible to be designated as Preferred Market Makers. Specifically, in SR-ISE-2005-18, as amended, the Exchange proposed to amend Exchange Rule 804 to require that Competitive Market Makers maintain continuous quotes in all of the series of any options class the Competitive Market Maker is quoting. The Exchange also proposed to amend Exchange Rule 804 to limit to 60 the number of options classes a Competitive Market Maker is required to quote when there are more than 100 options classes in such Competitive Market Maker's appointed Group. The Commission approved SR-ISE-2005-18, as amended, on June 10, 2005, for a pilot period expiring on July 18, 2005.<sup>3</sup> The pilot period subsequently was extended to June 10, 2006.<sup>4</sup>

While the Exchange included the changes to Exchange Rule 804 as part of the Exchange's proposal to allow Competitive Market Makers to be designated as Preferred Market Makers, the Exchange did not intend that the proposed changes to Exchange Rule 804 be adopted on a pilot basis. The purpose of this rule filing is to clarify that the changes to Exchange Rule 804 were intended by the Exchange to be adopted on a permanent basis. The Exchange notes that SR-ISE-2005-18, as amended, was published for comment in the **Federal Register**, and no comments were received on the proposed changes to Exchange Rule 804.

## 2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is found in section 6(b)(5) of the Act,<sup>5</sup> in that the proposed rule change is designed to promote just and equitable principles of trade, 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, because the proposal clarifies that the amendments to Exchange Rule 804 were intended to be adopted on a permanent basis.

### *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 the proposed rule change. The Exchange has not received any 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. 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](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2005-40 on the subject line.

### *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-2005-40. 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 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-2005-40 and should be submitted on or before November 9, 2005.

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

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of section 6 of the Act<sup>6</sup> and the rules and regulations thereunder applicable to a national securities exchange,<sup>7</sup> and, in particular, the requirements of section 6(b)(5) of the Act.<sup>8</sup> Section 6(b)(5) requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, 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 previously approved, on a pilot basis, changes to Exchange Rule 804 that (a) require Competitive Market Makers to maintain continuous quotes in all of the series of any options class the Competitive Market Maker is quoting and (b) limit to 60 the number of options classes a Competitive Market Maker is required to quote when there are more than 100 options classes in such Competitive Market Maker's appointed Group (together, the "Exchange Rule 804 Changes").<sup>9</sup> Although the Exchange Rule 804 Changes were part of the Exchange's proposals to allow, on a pilot basis, Electronic Access Members to designate "Preferred Market Makers" on orders such Electronic Access Members enter into the Exchange's systems, the Commission notes that the Exchange Rule 804 Changes apply to all Competitive Market Makers, even in cases in which a Competitive Market Maker does not receive a designated order. The Commission also notes that the Exchange stated that the proposed rule change clarifies the intent of the Exchange that the Exchange Rule 804 Changes be approved on a permanent basis. The Commission further notes that the Exchange Rule 804 Changes were published for comment in the **Federal Register** in connection with File Number SR-ISE-2005-18 and File

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> See *supra* notes 3 and 4.

<sup>3</sup> See Securities Exchange Act Release No. 51818 (June 10, 2005), 70 FR 35146 (June 16, 2005).

<sup>4</sup> See Securities Exchange Act Release No. 52066 (July 20, 2005), 70 FR 43479 (July 27, 2005).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

Number ISE-2005-35,<sup>10</sup> and that no comments were received on such changes. The Commission believes that the proposed rule change would clarify that the obligations of Competitive Market Makers continue, regardless of whether the Preferred Market Maker pilot program is extended, and that such clarification does not raise any regulatory issues. For these reasons, the Commission believes that approving the Exchange Rule 804 Changes on a permanent basis is consistent with the Act.

The Exchange has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission notes that no comments were received in connection with the approvals of the Exchange Rule 804 Changes on a pilot basis. The Commission believes that accelerating approval of the proposed rule change should allow for more efficient market operation by offering clarity to existing ISE rules. Accordingly, the Commission finds good cause, consistent with section 19(b)(2) of the Act,<sup>11</sup> for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**.

## V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-ISE-2005-40) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E5-5742 Filed 10-18-05; 8:45 am]

**BILLING CODE 8010-01-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket No. OST-95-950]

### Notice of Request for Extension of a Previously Approved Collection

**AGENCY:** Office of the Secretary.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this

notice announces the Department of Transportation's (DOT) intention to request an extension of a previously approved information collection.

**DATES:** Comments on this notice must be received December 19, 2005.

**ADDRESSES:** You may submit comments [identified by DOT-DMS Docket Number OST-95-950] by any of the following methods.

- *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

• *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

• *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this information collection. For detailed instructions on submitting comments and additional information, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notes.

**Docket:** For access to the docket to read background documents or comments received go to <http://dms.dot.gov> at any time or to Room PL-401, on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jack Schmidt, Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-5420.

### SUPPLEMENTARY INFORMATION:

*Title:* Passenger Manifest Information.

*OMB Control Number:* 2105-0534.

*Expiration Date:* January 31, 2006.

*Type of Request:* Extension without change of a previously approved collection.

**Abstract:** Public Law 101-604 (entitled the Aviation Security Improvement Act of 1990, or "ASIA

90", and later codified as 49 U.S.C. 44909) requires that certificated air carriers and large foreign air carriers collect the full name of each U.S. citizen traveling on flight segments to or from the United States and solicit a contact name and telephone number. In case of an aviation disaster, airlines would be required to provide the information to the Department of State and, in certain instances, to the National Transportation Safety Board. Each carrier would develop its own collection system. The Passenger Manifest Information, Final Rule (14 CFR 243), was published in the **Federal Register**, Vol. 63, No. 32 (February 18, 1998). The rule was effective March 20, 1998.

**Respondents:** U.S. air carriers, foreign air carriers, travel agents and air travelers.

**Estimated Total Burden on Respondents:** 1.05 million hours.

**Estimated Respondents:** 23,245 (excluding air travelers).

**Comments are invited on:** (a) Whether the continued collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the current information collection; (c) ways to enhance the quality, utility, and clarity of the information being collected, and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC on October 13, 2005.

**Todd Homan,**

*Acting Director, Office of Aviation Analysis.*

[FR Doc. 05-20897 Filed 10-18-05; 8:45 am]

**BILLING CODE 4910-62-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket No. OST-2005-21074]

### Notice of Request for Extension of a Previously Approved Collection

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et. seq.), this notice announces that the Information

<sup>10</sup> *Id.*

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> CFR 200.30-3(a)(12).