

11Aa3-2 thereunder,⁹ in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets.

The Participants have represented to the Commission that members of various exchanges have raised concerns regarding their obligations to fill Satisfaction Orders (which result after a trade-through¹⁰) at the close of trading in the underlying security. Specifically, these members are concerned that they may not have sufficient time to hedge the positions they acquire.¹¹ The Participants believe their proposal to limit liability for trade-throughs for the last five minutes of trading in the underlying security to the filling of 10 contracts per exchange, per transaction, will protect small customer orders, yet establish a reasonable limit for their members' liability. The Participants represent that this proposal should not affect a member's potential liability under an exchange's disciplinary rule for engaging in a pattern or practice of trading through other markets under section 8(c)(i)(C) of the Linkage Plan.

The Pilot Amendment clarifies that the limitation on liability would apply to each Satisfaction Order. As amended, the proposal is limited to a one-year pilot period. The Commission believes the one-year pilot period will give the Participants and the Commission an opportunity to evaluate: (1) The need for the limitation on liability for trade-throughs near the end of the trading day; (2) whether 10 contracts per Satisfaction Order is the appropriate limitation; and (3) whether the opportunity to limit liability for trade-throughs near the end of the trading day leads to an increase in trade-throughs. The Commission expects the Participants to provide a report to the Commission at least sixty days prior to seeking permanent approval of the pilot program. The report should include information about the number and size of trade-throughs that occur during the last seven minutes of the trading day and the number and size of trade-throughs that occur during the rest of the trading day, the number and size of Satisfaction Orders that the Participants might be required to fill without the limitation on liability and how those amounts are affected by the limitation on liability, and the extent to which the

Participants use the underlying market to hedge their options positions.

The Commission finds that the proposal to reduce the amount of time a member must wait after sending a linkage order to a market before that member can trade through that market from thirty seconds to twenty seconds is appropriate because the Linkage Plan will retain the requirement that a Participant respond to a Linkage order within 15 seconds of receipt of that order.¹²

The Commission also finds that the proposal to establish a general prohibition against Linkage fees for executing Satisfaction Orders is appropriate. An exchange will receive a Satisfaction Order only when it has traded through customer orders on another exchange. The Commission agrees with the Participants that an exchange that has traded through another market should not be allowed to impose a fee on the aggrieved party that exercises its rights under the Linkage Plan to complain about the trade-through.

IV. Conclusion

It is therefore ordered, pursuant to section 11A of the Act,¹³ and Rule 11Aa3-2(c)(4) thereunder,¹⁴ that Joint Amendment No. 4, as modified by the Pilot Amendment, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48063; International Series Release No. 1269]

List of Foreign Issuers That Have Submitted Information Under the Exemption Relating to Certain Foreign Securities

June 19, 2003.

Foreign private issuers with total assets in excess of \$10,000,000 and a class of equity securities held of record by 500 or more persons, of which 300 or more reside in the United States, are

subject to registration under Section 12(g) of the Securities Exchange Act of 1934¹ (the "Act").²

Rule 12g3-2(b)³ provides an exemption from registration under Section 12(g) of the Act with respect to a foreign private issuer that submits to the Commission, on a current basis, the material required by the Rule. The informational requirements are designed to give investors access to certain information so they have the opportunity to inform themselves about the issuer. The Rule requires the issuer to provide the Commission with information that it has: (1) Made or is required to make public pursuant to the law of the country of its domicile or in which it is incorporated or organized; (2) filed or is required to file with a stock exchange on which its securities are traded and that was made public by such exchange; and/or (3) distributed or is required to distribute to its security holders.

When the Commission adopted Rule 12g3-2(b) and other rules⁴ relating to foreign securities, it indicated that from time to time it would publish lists showing those foreign issuers that have claimed exemptions from the registration provisions of Section 12(g) of the Act.⁵ The purpose of this release is to call to the attention of brokers, dealers and investors, that some form of relatively current information concerning the issuers included in this list is available in the Commission's public files.⁶ The Commission also wishes to bring to the attention of brokers, dealers, and investors the fact that current information concerning foreign issuers may not necessarily be available in the United States.⁷ The Commission continues to expect that brokers and dealers will consider this

¹ 15 U.S.C. 78a *et seq.*

² Foreign issuers may also be subject to such requirements of the Act by reason of having securities registered and listed on a national securities exchange in the United States, and may be subject to the reporting requirements of the Act by reason of having registered securities under the Securities Act of 1933, 15 U.S.C. 77a *et seq.*

³ 17 CFR 240.12g3-2(b).

⁴ Exchange Act Release No. 8066 (April 28, 1967).

⁵ Exchange Act Release No. 45855 (May 1, 2002) was the last such list.

⁶ Inclusion of an issuer on the list in this release is not an affirmation by the Commission that the issuer has complied or is complying with all the conditions of Rule 12g3-2(b). The list does identify those issuers that have both claimed the exemption and have submitted relatively current information to the Commission as of May 21, 2003.

⁷ Paragraph (a)(4) of Rule 15c2-11 [17 CFR 240.15c2-11] requires a broker-dealer initiating a quotation for securities of a foreign private issuer to review, maintain in its files, and make reasonably available upon request, the information furnished to the Commission pursuant to Rule 12g3-2(b) since the beginning of the issuer's last fiscal year.

⁹ 17 CFR 240.11Aa3-2.

¹⁰ Trade-throughs occur when broker-dealers execute customer orders on one exchange at prices inferior to another exchange's disseminated quote.

¹¹ See letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Annette Nazareth, Director, Division of Market Regulation, Commission, dated November 19, 2002.

¹² The Participants have represented that they believe reducing the response time even further to five seconds would provide an opportunity for the transmittal of responses to orders, while also allowing their members to execute orders on their own exchanges in a timely manner.

¹³ 15 U.S.C. 78k-1.

¹⁴ 17 CFR 240.11Aa3-2(c)(4).

¹⁵ 17 CFR 200.30-3(a)(29).