

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 add provisions to its rules governing a new service that will provide for the instant execution of certain limit orders of a specified size. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

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Chapter I

Definitions

Sec. 3.

Instant Liquidity Access ("ILA") Order

An ILA order is a round-lot limit order of no less than 100, nor more than 1000, shares priced at the Exchange's published offer (in the case of a buy) or at the Exchange's published bid (in the case of an order to sell), which a member or member-organization has entered for immediate execution in accordance with, and to the extent provided by, Chapter XXXIII, Section 8 (Instant Liquidity Access) of these Rules.

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Chapter XXXIII

Beacon

Sec. 8. [Year 2000 testing] *Instant Liquidity Access* (a) Each member and member organization shall participate in testing of computer systems designed to prepare for Year 2000, in a manner and frequency prescribed by the Exchange, and shall provide to the Exchange reports related to such testing as requested by the Exchange.

(b) The Exchange may exempt a member or member organization from this requirement if that member cannot be accommodated in the testing schedule by the organization conducting the test, if the member does not employ computers in its business, or for other good reasons.

Commission, dated September 5, 2003 ("Amendment No. 1"). In Amendment No. 1, the BSE: (1) Clarified that the proposal is substantially similar to the New York Stock Exchange, Inc. ("NYSE") rule related to the NYSE's Direct+ execution functionality; (2) corrected typographical errors in the purpose section; (3) clarified how trades will be reported to the Consolidated Tape Association; (4) noted that the proposed rule will be replacing an obsolete BSE rule related to year 2000 testing; and (5) and inserted a cross reference to other BSE rules that clarify instances in which BSE published quotes might not be "firm."

(c) Every member of the Exchange that clears securities transactions on behalf of other broker-dealers must take reasonable measures to ensure that each broker-dealer for which it clears securities transactions conducts testing with such member.

Adopted.

December 31, 1998.]

This section applies to the facilitation of orders through Instant Liquidity Access, a mechanism offered by the Exchange. All other provisions of the Constitution and Rules of the Exchange are applicable unless superseded by this section.

(a) Only straight limit orders without tick restrictions are eligible for entry as instant execution or Instant Liquidity Access ("ILA") orders. ILA orders to buy shall be priced at the price of the published BSE offer. ILA orders to sell shall be priced at the price of the BSE bid. An ILA order shall receive an immediate, instant execution against orders reflected in the Exchange's published quotation and shall be immediately reported as BSE transactions, unless:

(i) the BSE's published quotation is not firm (in accordance with Rule 11Ac1-1 of the Act, as set forth in these Rules in Chapter III, "Dealings on the Exchange", Section 7, "Dissemination of Quotations");

(ii) the primary market's published quotation is spread away from the BSE quotation in an amount, as determined by the Market Performance Committee of the Exchange, which would warrant curtailing the availability of instant executions in a particular security (currently \$0.25). Such an amount can be altered by the Market Performance Committee, as market conditions warrant, from time to time;

(iii) with respect to a single-sided ILA order, a better price exists in another ITS participating market center;

(iv) with respect to a single-sided ILA order, the BSE's published bid or offer is 100 shares;

(v) trading in the subject security has been halted;

(vi) the primary market has executed a block size trade at a price inferior to the BSE bid or offer.

ILA orders that cannot be immediately executed shall be cancelled.

(b) *Availability of ILA feature. ILA orders in a particular stock shall be eligible to receive an instant execution if entered after the Exchange has disseminated a published bid or offer in that stock until 4:00 p.m. or any other closing time of the exchange's floor market.*

(c) *Orders may not be broken into smaller amounts. An ILA order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less than 30 seconds between the entry of each such order in the book.*

(d) *Interaction with ITS orders. If an inbound ITS commitment has been processed and apportioned according to the rules set forth in Chapter XXXI, Intermarket Trading System, herein, based on orders in the BSE book, an ILA execution cannot take place against the same order.*

(e) *Partial executions. An ILA order which is for a size greater than that displayed on the BSE book will receive an instant execution up to the displayed size of the BSE quotation. Any excess will automatically be cancelled.*

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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 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

The purpose of the proposed rule change is to add new sections to its rules concerning new trading system functionality to provide for the instant execution of limit orders of 1000 shares or less against trading interest in the Exchange's published quotation. This new functionality, Instant Liquidity Access ("ILA"), will accommodate Exchange customers seeking immediate execution or cancel, similar to services offered by other exchanges and Electronic Communications Networks ("ECNs"), such as the New York Stock Exchange's Direct+ service.⁴

⁴ As noted above, the BSE's proposal is substantially similar to the existing NYSE Direct+ automatic execution functionality. It does, however, differ in the following four respects. First, inbound ILA orders to sell must be priced "at" (while the NYSE rule requires orders to be priced "at or above") the BSE published bid price and inbound orders to buy must be priced "at" (while the NYSE rule requires orders to be priced "at or below") the