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July 12, 2005

Dr. Cynthia A. Glassman
Acting Chairman Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609

Re: File # SR-2005-31

Dear Dr. Glassman:

The recently proposed cancellation fee policy of the International Securities Exchange (ISE) should be abrogated by the Securities and Exchange Commission (SEC).

Short of complete abrogation the SEC should require the ISE to modify their rule change to specifically target only those customers who engage in the alleged abuse the exchange is trying to prevent. Shifting from a per-order cancellation fee to a per-contract fee is anti-competitive, is unnecessary, and is fraught with innumerable adverse unintended consequences for the financial markets and the investing public at large.

Even the premise that the ISE alleges as a basis for the rule change is, itself questionable on two levels. Firstly, any increase in the total bandwidth used for cancellations is more than offset by the falling cost of bandwidth itself. Accordingly, cancellation on a per-order basis (or a per-contract basis) is made less expensive over time. Therefore, cancellation fees should be declining even on a per-order basis. Secondly, the entering of a large order, for example 300 or 500 contracts, uses no greater material bandwidth than entering a one lot order. It is simply a red herring to suggest that the contract size is a material component of bandwidth use. The SEC should be particularly judicious in allowing SRO's to set fees which can impact overall competition in the marketplace. This is particularly true as consolidation in the industry evolves and potential for monopolistic pricing thereby increases. I am sure the SEC is well aware of the fact that every time one exchange increases their fees, through tacit collusion the other exchanges follow. If anything, the SEC should question the need at all for a cancellation fee, and at a minimum should be expecting this fee to decline over time, not increase.

A simple solution, which directly targets the alleged abuse without unduly burdening competition, is at hand. Simply disallow small lot trades (ie. 1 lots, 2 lots, 5 lots) which are executed to be netted against other cancelled orders. This would solve the problem yet not place an undue burden on large contract users. Let me provide an example to illustrate the problem;. if I am attempting to execute a 100 lot time spread, I may have to change the side of the spread I am trying to trade(working) multiple times in response to the specialists (and customers)changing their markets on the side of the market I may be leaning on to execute the spread. If I cancel my order, for example, seven times because the specialist is changing his market in response to the fluctuating market price, I will incur a $70.00 fee from engaging in a perfectly permissible activity which is not “truly excessive” and which is not the target of the proposed rule change. If I achieve partial fills throughout this process of reacting to a fluctuating market by canceling my orders, then one can see that one could incur even more burdensome cancellation fees. If these fees deter my legitimate trading activity, then the marketplace as a whole becomes less competitive, and at the margin the depth and liquidity of the markets are negatively impacted to the detriment of every market participant.

The ISE alleges that a 1 to 5 cancel ratio will only capture those participants who are truly excessive. This is simply not true. The specialists themselves often change their markets in reaction to the fluctuating value of the underlying security, several times within the course of minutes and thousands of times within the course of a day. The specialists further have the advantage of electronically updating their markets whereas the only alternative for the retail customer is to cancel their order or receive an inferior fill based on the price of the underlying security. There are an infinite number of examples I could provide and would be willing to provide which would demonstrate a compelling need for customers to be able to cancel orders uninhibited by a fee.

Bottom line: Please abrogate this rule

IORS systems are not overburdened, bandwidth is constantly increasing at a lower cost per use, the rule overreaches beyond those it intends to target, and a simpler more direct remedy is available, all of which would preserve competition, prevent monopolistic pricing, and be in the greater public interest.

Please feel free to contact me with your questions, comments, or concerns. I can be reached at (312) 362-4178. Thank you for your time and consideration.

Sincerely,

Charles B. Cox III

P.S. My small firm and I trade over 3 million contracts a year with the ISE. We do not rapid fire one lots to reduce our cancellation fee. Most of our orders are 50-100 lots or greater. Many times we have to cancel more than the 5 to 1 ratio in order to achieve the executions we desire. Options are a derivative product. Pricing constantly changes as a function of volatility, time until expiration, and the price of the underlying security. We as retail customers must be able to react to those variables without undue burden. It is incumbent upon the SRO’s, and of course the SEC, to protect the retail customer from monopolistic and unnecessary fees.