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For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59756; File No. SR-ISE-2009-08]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval of Proposed Rule Change Relating to Changes to the Third Amended and Restated Limited Liability Company Operating Agreement of Direct Edge Holdings LLC

April 13, 2009.

I. Introduction

On February 27, 2009, the International Securities Exchange, LLC (the "Exchange" or "ISE"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² this proposed rule change. On March 3, 2009, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on March 10, 2009.³ The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description

Maple Merger Sub, LLC ("Merger Sub"), a wholly-owned subsidiary of Direct Edge Holdings, LLC ("Direct Edge"), currently owns and operates a

marketplace for the trading of U.S. cash equity securities by Equity Electronic Access Members of ISE under the rules of ISE, as a facility, as that term is defined in Section 3(a)(2) of the Act, of ISE (the "Equity Facility").⁴ As a facility of ISE, the Equity Facility is subject to regulation by ISE and oversight by the Commission. In addition, because Direct Edge is the sole owner of the entity that operates the Equity Facility, ISE must review any amendments to Direct Edge's governing documents, including the Third Amended and Restated Limited Liability Company Operating Agreement of Direct Edge Holdings LLC ("Third Amended and Restated DE Operating Agreement"), to determine whether it must be filed with, or filed with and approved by, the Commission before it may become effective under Section 19 of the Act.⁵ Accordingly, ISE reviewed the proposed changes to the Third Amended and Restated DE Operating Agreement and determined that such changes were required to be filed with and approved by the Commission, consistent with the requirements in Section 15.2 of the Third Amended and Restated DE Operating Agreement.

ISE, on behalf of Direct Edge, proposes to amend and restate the Third Amended and Restated DE Operating Agreement to decrease from 7.5% to 5% the percentage ownership interest in Direct Edge that the ISE Stock Exchange Consortium Members⁶ must retain in order to retain the right to designate a Manager to the Direct Edge Holdings Board of Managers. ISE also proposes that if any ISE Stock Exchange Consortium Member elects to sell its ownership interest in Direct Edge, it must first offer to sell such interest to the non-selling ISE Stock Exchange Consortium Members to allow such non-selling ISE Stock Exchange Consortium Members to collectively maintain their current percentage ownership interest. In addition, ISE proposes to make other non-substantive clean-up changes necessary to reflect

that the Third Amended and Restated DE Operating Agreement, as amended, will become the Fourth Amended and Restated Limited Liability Company Operating Agreement of Direct Edge Holdings, LLC.

III. Commission's Findings and Order Granting Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act,⁸ which requires, among other things, that a national securities exchange be so organized and have the capacity to carry out the purposes of the Act, and the rules and regulation thereunder, and Section 6(b)(5) of the Act⁹ in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. The Commission believes that the proposed changes to the Third Amended and Restated DE Operating Agreement should not adversely affect the ability of ISE and the Commission to fulfill their respective regulatory obligations under the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change, as amended (SR-ISE-2009-08) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon,

Deputy Secretary.

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⁴ See Exchange Act Release No. 59135 (December 22, 2008), 73 FR 79954 (December 30, 2008) (SR-ISE-2008-85) (order approving a proposed rule change, as modified by Amendment No. 1, relating to the purchase by ISE Holdings of an ownership interest in Direct Edge).

⁵ See Third Amended and Restated DE Operating Agreement, Section 15.2.

⁶ Currently, the ISE Stock Exchange Consortium Members are DB US Financial Markets Holding Corporation, LabMorgan Corporation, Merrill Lynch L.P. Holdings, Inc., Nomura Securities International, Inc., and Sun Partners LLC. See Notice, supra note 3. The ISE Stock Exchange Consortium Members formerly were minority unitholders of the ISE Stock Exchange, LLC. See *id.* Currently, the ISE Stock Exchange Consortium Members have a collective ownership interest of 8.76% in Direct Edge.

⁷ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(1).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

⁹ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59492 (March 3, 2009), 74 FR 10322 ("Notice").