

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. 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-Amex-2007-38 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Amex-2007-38. 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 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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-Amex-2007-38 and should be submitted on or before July 23, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55950; File No. SR-BSE-2007-09]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Appointment of Market Makers

June 25, 2007.

#### I. Introduction

On February 20, 2007, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to grant the authority for the Exchange to approve Market Maker appointments instead of the Board or a committee designated by the Board and to provide a process for those Market Makers who wish to withdraw from trading an option issue within their appointment. The Exchange filed Amendment No. 1 to the proposed rule change on May 11, 2007. The proposed rule change, as amended, was published for comment in the **Federal Register** on May 23,

2007.<sup>3</sup> The Commission received no comments on the proposal.

#### II. Description of the Proposal

The Exchange proposes to amend Section 4 (Appointment of Market Makers) of Chapter VI of the BOX Rules to grant the authority for the Exchange to approve Market Maker appointments instead of the Board or committee designated by the Board, as the rule currently states. This proposed change would allow the regulatory staff of the Exchange to approve Market Maker appointments. According to the Exchange, the BSE regulatory staff is more accessible than the Board and this change would help with the expediency of the Market Maker allocation approval process.

The Exchange also has proposed to add a provision to establish a process for those Market Makers who wish to withdraw from trading an option issue within their appointment.<sup>4</sup> A Market Maker may withdraw from an appointment as long as the Market Maker provides BOX with three business days written notice of its intent to withdraw from an appointment. If such written notice is not provided to BOX, then the Market Maker may be subject to formal disciplinary action.

#### III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>5</sup> and, in particular, the requirements of Section 6 of the Act.<sup>6</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>7</sup> in that the proposal has been designed to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission believes the proposal to grant the Exchange the authority to approve Market Maker appointments, instead of the Board, should help make the Market Maker allocation approval process more efficient, thereby potentially increasing liquidity on the Exchange. The proposal also provides transparency to the Exchange's process governing Market Makers who wish to

<sup>3</sup> See Securities Exchange Act Release No. 55774 (May 16, 2007), 72 FR 29019.

<sup>4</sup> See Proposed Section 4, subparagraph (i), Chapter VI of the BOX Rules.

<sup>5</sup> The Commission has considered the amended proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

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

withdraw from trading an option issue within their appointment.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-BSE-2007-09), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55959; File No. SR-ISE-2007-50]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

June 26, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 19, 2007, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the ISE. The ISE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on four Premium Products.<sup>5</sup> The text of the proposed rule

change is available at the ISE, at the Commission's Public Reference Room, and on the ISE's Web site ([http://www.iseoptions.com/legal/proposed\\_rule\\_changes.asp](http://www.iseoptions.com/legal/proposed_rule_changes.asp)).

#### 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 ISE 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 ISE 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 Exchange is proposing to amend its Schedule of Fees to establish fees for transactions in options on the following four Premium Products: First Trust ISE—Revere Natural Gas Index Fund ("FCG"), First Trust ISE Water Index Fund ("FIW"), the SPDR S&P Metals & Mining ETF ("XME"),<sup>6</sup> and the KBW Mortgage Finance Index ("MFX"). The Exchange represents that FCG, FIW, and XME are eligible for options trading because they constitute "Fund Shares," as defined by ISE Rule 502(h). The Exchange further represents that MFX meets the standards of ISE Rule 2002(b), which allows the ISE to begin trading this product by filing Form 19b-4(e) at least five business days after commencement of trading this new product pursuant to Rule 19b-4(e)

<sup>6</sup> "Standard & Poor's®," "S&P®," "S&P 500®," "Standard & Poor's 500®," "Standard & Poor's Depository Receipts®," "SPDR®," and "the S&P® Metals & Mining Select Industry Index," are trademarks of The McGraw-Hill Companies, Inc. ("McGraw-Hill"), and have been licensed for use by State Street Bank and Trust in connection with the listing and trading of XME. XME is not sponsored, sold or endorsed by Standard & Poor's, ("S&P"), a division of McGraw-Hill, and S&P makes no representation regarding the advisability of investing in XME. McGraw-Hill and S&P have not licensed or authorized ISE to: (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on XME; or (ii) use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on XME or with making disclosures concerning options on XME under any applicable federal or state laws, rules or regulations. McGraw-Hill and S&P do not sponsor, endorse, or promote such activity by ISE and are not affiliated in any manner with ISE.

under the Act.<sup>7</sup> The ISE represents that it submitted Form 19b-4(e) to the Commission on June 19, 2007.

All of the applicable fees covered by this filing are identical to fees charged by the Exchange for all other Premium Products. Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for all transactions in options on FCG, FIW, XME and MFX.<sup>8</sup> The amount of the execution fee and comparison fee for products covered by this filing shall be \$0.15 and \$0.03 per contract, respectively, for all Public Customer Orders<sup>9</sup> and Firm Proprietary orders. The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.<sup>10</sup> Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be \$0.37 and \$0.03 per contract, respectively.

Additionally, the Exchange has entered into a license agreement with Keefe, Bruyette & Woods, Inc. in connection with the listing and trading of options on MFX. As with certain other licensed options, to defray the licensing costs, the Exchange is adopting a surcharge fee of \$0.10 per contract for trading in options on MFX. The Exchange believes charging the participants that trade this instrument is the most equitable means of recovering the costs of the license. However, because of competitive pressures in the industry, the Exchange proposes to exclude Public Customer Orders from this surcharge fee. Accordingly, this surcharge fee will only be charged to Exchange members with respect to non-Public Customer Orders (e.g., ISE Market Maker, non-ISE Market Maker & Firm Proprietary orders) and shall apply

<sup>7</sup> 17 CFR 240.19b-4(e).

<sup>8</sup> These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2007, these fees will also be charged to Principal Orders and Principal Acting as Agent Orders. See ISE Rule 1900(10). See also Securities Exchange Act Release No. 54204 (July 25, 2006), 71 FR 43548 (August 1, 2006) (SR-ISE-2006-38) ("Linkage Orders Pilot"). Telephone conversation between Samir Patel, Assistant General Counsel, ISE, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on June 26, 2007.

<sup>9</sup> "Public Customer Order" is defined in ISE Rule 100(a)(39) as an order for the account of a Public Customer. "Public Customer" is defined in ISE Rule 100(a)(38) as a person that is not a broker or dealer in securities.

<sup>10</sup> The execution fee is currently between \$0.21 and \$0.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently \$0.03 per contract side.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

<sup>5</sup> "Premium Products" is defined in the Schedule of Fees as the products enumerated therein.