

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57014; File No. SR-ISE-2007-111]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To List and Trade Options on the iShares MSCI Mexico Index Fund

December 20, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 16, 2007, the International Securities Exchange, LLC (“Exchange” or “ISE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposal from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to list and trade options on the iShares MSCI Mexico Index Fund (the “Fund Options”). ISE is not proposing any changes to the rules of the Exchange.

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. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts 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 this rule change is to obtain approval to list for trading on the Exchange options on the iShares MSCI Mexico Index Fund (“Fund”). The Exchange currently has in place initial

listing and maintenance standards set forth in ISE Rules 502(h) and 503(h), respectively (the “Listing Standards”), that are designed to allow the Exchange to list funds structured as open-end investment companies such as the Fund without having to file for Commission approval to list for trading options on the Fund.³ The Exchange submits that the Fund meets substantially all of the Listing Standard requirements. In particular, all of the requirements set forth in ISE Rule 502(h) are met except for the requirement concerning the existence of a comprehensive surveillance sharing agreement (“CSSA”). However, the Exchange submits that sufficient mechanisms exist that would provide the Exchange with adequate surveillance and regulatory information with respect to the Fund.

The Fund is registered pursuant to the Investment Company Act of 1940 as a management investment company designed to hold a portfolio of securities which track the MSCI Mexico Index (“Index”).⁴ The Index consists of stocks traded primarily on the Bolsa Mexicana de Valores (the “Bolsa”). The Fund employs a “representative sampling” methodology to track the Index, which means that the Fund invests in a representative sample of securities in the Index that have a similar investment profile as the Index.⁵ Barclays Global Fund Advisors (“BGFA” or the “Adviser”) expects the Fund to closely track the Index so that, over time, a tracking error of 5%, or less, is exhibited. Securities selected by the Fund have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the Index. The Fund will not concentrate its investments (i.e., hold 25% or more of its total assets in the stocks of a particular industry or group of industries), except, to the extent practicable, to reflect the concentration in the Index. The Fund will invest at least 80% of its assets in

the securities comprising the Index and/or in American Depositary Receipts (“ADRs”). In addition, at least 90% of the Fund’s assets will be invested in the securities comprising the Index or in other related Mexican securities or ADRs. The Fund may also invest its other assets in futures contracts, options on futures contracts, listed options, over-the-counter (“OTC”) options and swaps related to the Index, as well as cash and cash equivalents. The Exchange believes that these requirements and policies prevent the Fund from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in the Fund could become a surrogate for trading in unregistered securities.

Shares of the Fund (“Fund Shares”) are issued and redeemed, on a continuous basis, at net asset value (“NAV”) in aggregation size of 100,000 shares, or multiples thereof (a “Creation Unit”). Following issuance, Fund Shares are traded on an exchange like other equity securities. The Fund Shares trade in the secondary markets in amounts less than a Creation Unit and the price per Fund Share may differ from its NAV which is calculated once daily as of the regularly scheduled close of business of the New York Stock Exchange (“NYSE”).⁶

State Street Bank and Trust Company, the administrator, custodian, and transfer agent for the Fund, calculates the Fund’s NAV. Detailed information on the Fund can be found at <http://www.ishares.com>.

The Exchange has reviewed the Fund and determined that the Fund Shares satisfy the Listing Standards except for the requirement set forth in ISE Rule 502(h)(1), which requires the Fund to meet the following condition: “any non-U.S. component stocks in the index or portfolio on which the Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio.” The Exchange currently does not have in place a surveillance agreement with Bolsa.

The Exchange understands that the Commission has been willing to allow a national securities exchange to rely on a memorandum of understanding entered into between regulators in the event that the exchanges themselves cannot enter into a CSSA.

The Exchange further understands that the American Stock Exchange (“Amex”) has previously attempted to

³ ISE Rules 502(h) and 503(h) set forth the initial listing and maintenance standards for registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or other similar entities that are traded on a national securities exchange or through the facilities of a national securities exchange.

⁴ Morgan Stanley Capital International Inc. (“MSCI”) created and maintains the Index.

⁵ As of July 31, 2007, the Fund was comprised of 27 securities. America Movil SA de CV—Series L had the greatest individual weight at 25.57%. The aggregate percentage weighting of the top 5 and 10 securities in the Fund were 58.51% and 78.39%, respectively.

⁶ The regularly scheduled close of trading in the NYSE is normally 4:00 p.m. Eastern Time (“ET”).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

enter into a surveillance agreement with Bolsa as part of seeking approval to list and trade options on the Mexico Index.⁷ The Chicago Board Options Exchange ("CBOE") has also previously attempted to enter into a surveillance agreement with Bolsa at or about the time when the CBOE sought approval to list for trading options on the CBOE Mexico 30 Index in 1995, which was comprised of stocks trading on Bolsa.⁸ Since Bolsa was unable to provide a surveillance agreement, the Commission allowed the CBOE to rely on the memorandum of understanding executed by the Commission and the CNBV,⁹ dated as of October 18, 1990 ("MOU").¹⁰ The Commission noted that in cases where it would be impossible to secure a CSSA, the Commission relied in the past on surveillance sharing agreements between the relevant regulators.¹¹ The Commission further noted that, pursuant to the terms of the MOU, it was the Commission's understanding that both the Commission and the CNBV could acquire information from, and provide information to, the other similar to that which would be required in a CSSA between exchanges and, therefore, should the Exchange or the CBOE need information on Mexican trading in the component securities of the Mexico Index or the CBOE Mexico 30 Index, the Commission could request such information from the CNBV under the MOU.¹²

The practice of relying on surveillance agreements or MOUs between regulators when a foreign exchange was unable, or unwilling, to provide an information sharing agreement was affirmed by the Commission in the Commission's New Product Release ("New Product Release").¹³ The Commission noted in the New Product Release that if securing a CSSA is not possible, an exchange should contact the Commission prior to listing a new derivative securities product. The Commission also noted that it may determine instead that it is appropriate to rely on a memorandum of understanding between the Commission and the foreign regulator.

The Exchange has also recently contacted Bolsa with a request to enter into a surveillance agreement. Until such time that the Exchange is able to secure a surveillance agreement with Bolsa, the Exchange requests that the Commission allow the listing and trading of the Fund Shares without a CSSA, upon reliance on the MOU entered into between the Commission and the CNBV. The Exchange believes this request is reasonable and notes that the Commission has provided similar relief in the past. For example, the Commission approved, on a pilot basis, an ISE proposal to list and trade options on the iShares MSCI Emerging Markets Fund.¹⁴

The Commission's approval of this request to list and trade options on the Fund would otherwise render the Fund compliant with all of the Listing Standards.

2. Statutory Basis

The basis for this proposed rule change is found in section 6(b)(5) of the Act,¹⁵ in that the proposed change will serve to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Further, this proposed rule change is similar to a proposal previously submitted by Amex and recently approved by the Commission.¹⁶

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. 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. Please include File Number SR-ISE-2007-111 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-ISE-2007-111. 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, 100 F Street, NE., Washington, DC 20549, 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 Amex. 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-ISE-2007-111 and should be submitted on or before January 18, 2008.

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

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

⁷ See Securities Exchange Act Release No. 34500 (August 8, 1994), 59 FR 41534 (August 12, 1994).

⁸ See *infra* New Product Release at note 13.

⁹ The National Commission for Banking and Securities, or "CNBV," is Mexico's regulatory body for financial markets and banking.

¹⁰ See Securities Exchange Act Release No. 36415 (October 25, 1995), 60 FR 55620 (November 1, 1995) (SR-CBOE-95-45).

¹¹ *Id.*

¹² *Id.*

¹³ See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998), at note 101.

¹⁴ See Securities Exchange Act Release No. 56324 (August 27, 2007), 72 FR 50426 (August 31, 2007) (SR-ISE-2007-72).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ See Securities Exchange Act Release No. 56778 (November 9, 2007), 72 FR 65113 (November 19, 2007) (SR-Amex-2007-100).

exchange.¹⁷ In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,¹⁸ which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

The listing of the Fund Options does not fully satisfy ISE's applicable Listing Standards, specifically the requirement set forth in ISE Rule 502(h)(1), which requires the Fund to meet the following condition: "Any non-U.S. component stocks in the index or portfolio on which the Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio." The Exchange currently does not have in place a surveillance agreement with Bolsa.

The Commission has been willing to allow an exchange to rely on a memorandum of understanding entered into between regulators where the listing SRO finds it impossible to enter into an information sharing agreement.¹⁹ In this case, ISE has attempted unsuccessfully to reach such an agreement with Bolsa.

Consequently, the Commission has determined to approve CBOE's listing and trading of the Fund Options and to allow ISE to rely on the MOU²⁰ with respect to the underlying Fund components trading on Bolsa. The Commission believes that, regardless of the Commission's willingness to permit reliance on the MOU, ISE should continue to use its best efforts to obtain a comprehensive surveillance agreement with Bolsa, which shall reflect the following: (1) Express language addressing market trading activity, clearing activity, and customer identity; (2) the Bolsa's reasonable ability to obtain access to and produce requested information; and (3) based on the CSSA and other information provided by the Bolsa, the absence of existing rules, law or practices that would impede the Exchange from obtaining foreign information relating to market activity, clearing activity, or customer identity, or in the event such rules, laws, or

¹⁷ In approving this 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).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ See *supra* note 10; See also New Product Release, *supra* note 13.

²⁰ See *supra* note 10.

practices exist, they would not materially impede the production of customer or other information.

The Exchange has requested accelerated approval of the proposed rule change. The Commission finds good cause, consistent with section 19(b)(2) of the Act,²¹ for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register** because it will enable the Exchange to immediately consider listing and trading the Fund Options, similar to products already traded on the Exchange,²² and because it does not raise any new regulatory issues.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,²³ that the proposed rule change (SR-ISE-2007-111) be, and it hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57015; File No. SR-ISE-2007-117]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Amendment of the Exchange's Amended and Restated Constitution

December 20, 2007.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,² notice is hereby given that on December 10, 2007, the International Securities Exchange, LLC ("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 Exchange. The Exchange has designated the proposed rule change as one concerned solely with the administration of the Exchange pursuant to Section

²¹ 15 U.S.C. 78s(b)(2).

²² See *supra* note 14.

²³ 15 U.S.C. 78s(b)(2).

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

19(b)(3)(A)(iii) of the Act,³ and Rule 19b-4(f)(3) thereunder,⁴ 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 Exchange is proposing to amend its Amended and Restated Constitution. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and on the Exchange's Internet Web site at <http://www.ise.com>.

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 this proposed rule change is to amend the Exchange's Constitution to make a clarifying change relating to the qualifications of the Chairman of the Board of Directors of the Exchange. Specifically, the Exchange previously amended its Constitution⁵ to allow for the election of a Former Employee Director⁶, with the intention that such Former Employee Director, if appointed, would be eligible to serve as the Chairman of the Board of Directors of the Exchange. However, in order to accomplish its intention, the Exchange must further amend the Constitution to explicitly

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(3).

⁵ Securities Exchange Act Release No. 56211 (August 6, 2007), 72 FR 45287 (August 13, 2007) (SR-ISE-2007-34).

⁶ Section 3.2(b)(vi) of the Constitution provides that "[t]he Sole LLC Member may, in its sole and absolute discretion, elect one (1) additional director who shall meet the requirements of "Non-Industry Directors," except that such person was employed by the Exchange at any time during the three (3) year period prior to his or her initial election (the "Former Employee Director")."