

exchange.<sup>17</sup> In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,<sup>18</sup> 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.<sup>19</sup> 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 MOU<sup>20</sup> 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

<sup>17</sup> 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).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> See *supra* note 10; See also New Product Release, *supra* note 13.

<sup>20</sup> 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,<sup>21</sup> 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,<sup>22</sup> 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,<sup>23</sup> 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.<sup>24</sup>

**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)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,<sup>2</sup> 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

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</sup> See *supra* note 14.

<sup>23</sup> 15 U.S.C. 78s(b)(2).

<sup>24</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.

19(b)(3)(A)(iii) of the Act,<sup>3</sup> and Rule 19b-4(f)(3) 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 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 Constitution<sup>5</sup> to allow for the election of a Former Employee Director<sup>6</sup>, 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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(3).

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

<sup>6</sup> 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")."

provide that a Former Employee Director may become the Chairman of the Board of Directors of the Exchange. This proposed rule change will not affect the prohibition on an "industry representative" becoming Chairman of the Board of Directors of the Exchange as currently provided under the Constitution.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(1)<sup>7</sup> that an exchange be so organized and to have the capacity to be able to carry out the purposes of the Act and to comply, and (subject to any rule or order of the Commission pursuant to Section 17(d)<sup>8</sup> or 19(g)(2) of the Act<sup>9</sup>) to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder and the rules of the exchange. The Exchange also believes this proposed rule change furthers the objective of Section 6(b)(5)<sup>10</sup> that an exchange have rules that, among other things, are designed to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The foregoing proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(iii)<sup>11</sup> of the Act and Rule 19b-4(f)(3)<sup>12</sup> thereunder because it was designated by the Exchange as concerned solely with the

administration of the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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-ISE-2007-117 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-2007-117. 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 such filing will also 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 No. SR-ISE-2007-117 and should be submitted on or before January 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57019; File No. SR-ISE-2007-120]

### **Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 710, Minimum Trading Increments**

December 20, 2007.

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> notice is hereby given that on December 17, 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 and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) 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**

ISE proposes to amend Rule 710, Minimum Trading Increments, to decrease the size of the minimum quoting and trading increments applicable to the Exchange's foreign currency options ("FX options"). The text of the proposed rule change is available at ISE, the Commission's Public Reference Room, and <http://www.ise.com>.

<sup>13</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).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>7</sup> 15 U.S.C. 78f(b)(1).

<sup>8</sup> 15 U.S.C. 78q(d).

<sup>9</sup> 15 U.S.C. 78s(g)(2).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(3).