

reference to “XLE” from Commentary .01. Currently, Commentary .01 provides that, for purposes of this Rule, the term “registered person” means any member, registered representative or other person registered or required to be registered under Exchange rules, but does not include such person whose activities are limited solely to the transaction of business on the floor or XLE, with members or registered broker-dealers. XLE was the Exchange’s old trading system for NMS Stocks, which ceased operations in 2008.<sup>27</sup>

Accordingly, the Exchange is removing reference to that system; any new trading system for NMS Stocks, such as the Exchange’s proposed PSX System, would not be exempt, such that registered persons would be subject to the continuing education requirements of Rule 640.

#### Conclusion

The Exchange believes that these proposed new rules should form a solid framework for registration with respect to PSX.<sup>28</sup> As a result of the new registration requirements, additional persons will become subject to the Exchange’s continuing education requirement in Rule 640. The Exchange believes that the new requirements will cover the scope of persons who do business on PSX and should provide a solid framework for Representative and Principal registration and qualification. The proposal specifies which qualification examinations are required for each category of registration.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>29</sup> in general, and furthers the objectives of: (1) Section 6(c)(3)(B) of the Act,<sup>30</sup> pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons; and (2) Section 6(b)(5) of the Act,<sup>31</sup> in that it is designed, among other things, to prevent fraudulent and manipulative acts and practices, to

<sup>27</sup> See Securities Exchange Act Release No. 58613 (September 22, 2008), 73 FR 57181 (October 1, 2008) (SR-Phlx-2008-65).

<sup>28</sup> The Exchange intends to separately revise its registration and qualification rules related to activity other than business conducted on PSX, including its options business. The Exchange understands that other self-regulatory organizations are expected to adopt a framework that requires more fulsome registration and qualification requirements clearly spelled out in rules. The Exchange supports the Commission’s commitment to ensure that such rules are adopted by all self-regulatory organizations on a consistent basis.

<sup>29</sup> 15 U.S.C. 78f(b).

<sup>30</sup> 15 U.S.C. 78f(c)(3)(B).

<sup>31</sup> 15 U.S.C. 78f(b)(5).

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, by adopting provisions requiring principals to register and pass qualification examinations and by enhancing the registration requirements covering persons trading NMS Stocks through the facilities of the Exchange.

#### 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 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

No written comments were either solicited or received.

### 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 shall: (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 No. SR-Phlx-2010-91 on the subject line.

##### Paper Comments

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

All submissions should refer to File No. SR-Phlx-2010-91. 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 Web site viewing and printing 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 such filing also will be available for inspection and copying at the principal office of Phlx. 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-Phlx-2010-91 and should be submitted on or before August 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62508; File No. SR-ISE-2010-65]

#### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees and Rebates for Adding and Removing Liquidity

July 15, 2010.

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 28, 2010, the International Securities

<sup>32</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.

Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 in order to increase the number of options classes to be included in the Exchange's current schedule of transaction fees and rebates for adding and removing liquidity. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at <http://www.sec.gov>.

### **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 self-regulatory organization 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 self-regulatory organization 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 proposes to increase liquidity and attract order flow by amending its transaction fees and rebates for adding and removing liquidity ("maker/taker fees").<sup>3</sup> The

<sup>3</sup> These fees are similar to the "maker/taker" fees currently assessed by NASDAQ OMX PHLX ("PHLX"). PHLX currently charges a fee for removing liquidity to the following class of market participants: (i) Customer, (ii) Directed Participant, (iii) Specialist, ROT, SQT and RSQT, (iv) Firm, (v) Broker-Dealer, and (vi) Professional. PHLX also provides a rebate for adding liquidity to the following class of market participants: (i) Customer, (ii) Directed Participant, (iii) Specialist, ROT, SQT and RSQT, and (iv) Professional. See Securities Exchange Act Release Nos. 61684 (March 10, 2010), 75 FR 13189 (March 18, 2010); 61932 (April 16, 2010), 75 FR 21375 (April 23, 2010); and 61961 (April 22, 2010), 75 FR 22881 (April 30, 2010).

Exchange's maker/taker fees currently apply to the following categories of market participants: (i) Market Maker; (ii) Market Maker Plus;<sup>4</sup> (iii) Non-ISE Market Maker;<sup>5</sup> (iv) Firm Proprietary; (v) Customer (Professional);<sup>6</sup> (vi) Priority Customer;<sup>7</sup> 100 or more contracts; and (vii) Priority Customer, less than 100 contracts.<sup>8</sup>

#### **Current Transaction Charges for Adding and Removing Liquidity**

The Exchange currently assesses a per contract transaction charge to market participants that remove, or "take," liquidity from the Exchange in the

<sup>4</sup> A Market Maker Plus is a market maker who is on the National Best Bid or National Best Offer 80% of the time for series trading between \$0.03 and \$5.00 in premium in each of the front two expiration months and 80% of the time for all series trading between \$0.03 and \$5.00 in order to receive the rebate. The Exchange determines whether a market maker qualifies as a Market Maker Plus at the end of each month by looking back at each market maker's quoting statistics during that month. If at the end of the month, a market maker meets the Exchange's stated criteria, the Exchange rebates \$0.10 per contract for transactions executed by that market maker during that month. The Exchange provides market makers a report on a daily basis with quoting statistics so that market makers can determine whether or not they are meeting the Exchange's stated criteria. On June 28, 2010, the Exchange submitted a proposed rule change, SR-ISE-2010-68, to be effective on July 1, 2010, to amend the qualification standards for market makers to receive the \$0.10 per contract rebate. Pursuant to that proposed rule change, a market maker must be on the National Best Bid or National Best Offer 80% of the time for series trading between \$0.03 and \$5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to \$100) and between \$0.10 and \$5.00 (for options whose underlying stock's previous trading day's last sale price was greater than \$100) in premium in each of the front two expiration months and 80% of the time for series trading between \$0.03 and \$5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to \$100) and between \$0.10 and \$5.00 (for options whose underlying stock's previous trading day's last sale price was greater than \$100) in premium across all expiration months in order to receive the rebate.

<sup>5</sup> A Non-ISE Market Maker, or Far Away Market Maker ("FARMM"), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), registered in the same options class on another options exchange.

<sup>6</sup> A Customer (Professional) is a person who is not a broker/dealer and is not a Priority Customer.

<sup>7</sup> A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

<sup>8</sup> The Chicago Board Options Exchange ("CBOE") currently makes a similar distinction between large size customer orders that are fee liable and small size customer orders whose fees are waived. CBOE currently waives fees for customer orders of 99 contracts or less in options on exchange-traded funds ("ETFs") and Holding Company Depository Receipts ("HOLDERS") and charges a transaction fee for customer orders that exceed 99 contracts. See Securities Exchange Act Release No. 59892 (May 8, 2009), 74 FR 22790 (May 14, 2009).

following 50 options classes: PowerShares QQQ trust ("QQQQ"), Bank of America Corporation ("BAC"), Citigroup, Inc. ("C"), Standard and Poor's Depository Receipts/SPDRs ("SPY"), iShares Russell 2000 ("IWM"), Financial Select Sector SPDR ("XLF"), Apple, Inc. ("AAPL"), General Electric Company ("GE"), JPMorgan Chase & Co. ("JPM"), Intel Corporation ("INTC"), Goldman Sachs Group, Inc. ("GS"), Research in Motion Limited ("RIMM"), AT&T, Inc. ("T"), Verizon Communications, Inc. ("VZ"), United States Natural Gas Fund ("UNG"), Freeport-McMoRan Copper & Gold, Inc. ("FCX"), Cisco Systems, Inc. ("CSCO"), Diamonds Trust, Series 1 ("DIA"), Amazon.com, Inc. ("AMZN"), United States Steel Corporation ("X"), Alcoa Inc. ("AA"), American International Group, Inc. ("AIG"), American Express Company ("AXP"), Best Buy Company ("BBY"), Caterpillar, Inc. ("CAT"), Chesapeake Energy Corporation ("CHK"), Dendreon Corporation ("DNDN"), iShares MSCI Emerging Markets Index Fund ("EEM"), iShares MSCI EAFE Index Fund ("EFA"), iShares MSCI Brazil Index Fund ("EWZ"), Ford Motor Company ("F"), Direxion Shares Financial Bull ("FAS"), Direxion Shares Financial Bear ("FAZ"), First Solar, Inc. ("FSLR"), Market Vectors ETF Gold Miners ("GDX"), SPDR Gold Trust ("GLD"), iShares DJ US Real Estate Index Fund ("IYR"), MGM Mirage ("MGM"), Morgan Stanley ("MS"), Microsoft Corporation ("MSFT"), Micron Technology, Inc. ("MU"), Palm, Inc. ("PALM"), Petroleo Brasileiro S.A. ("PBR"), The Procter & Gamble Company ("PG"), Potash Corporation of Saskatchewan ("POT"), Transocean Ltd. ("RIG"), ProShares UltraShort S&P 500 ("SDS"), iShares Silver Trust ("SLV"), Energy Select Sector SPDR Fund ("XLE"), and Exxon Mobil Corporation ("XOM") (the "Select Symbols"). The per contract transaction charge depends on the category of market participant submitting an order or quote to the Exchange that removes liquidity.<sup>9</sup> Priority Customer Complex orders, regardless of size, are not assessed a fee for removing liquidity.

The Exchange also currently assesses transaction charges for adding liquidity in options on the Select Symbols. Priority Customer orders, regardless of size, and Market Maker Plus orders are not assessed a fee for adding liquidity.

<sup>9</sup> Although these options classes will no longer be subject to the tiered market maker transaction fees, the volume from these options classes will continue to be used in the calculation of the tiers so that this new pricing does not affect a market maker's fee in all other names.

### Current Rebates

In order to promote and encourage liquidity in options classes that are subject to maker/taker fees, the Exchange currently offers a \$0.10 per contract rebate for Market Maker Plus orders sent to the Exchange.<sup>10</sup> Further, in order to incentivize members to direct retail orders to the Exchange, Priority Customer Complex orders, regardless of size, currently receive a rebate of \$0.15 per contract on all legs when these orders trade with non-customer orders in the Exchange's Complex Orderbook. Additionally, the Exchange's Facilitation Mechanism has an auction which allows for participation in a trade by members other than the member who entered the trade. To incentivize members, the Exchange currently offers a rebate of \$0.15 per contract to contracts that do not trade with the contra order in the Facilitation Mechanism.<sup>11</sup>

### Fee Changes

The Exchange proposes to add the following 30 options classes to be included in the Exchange's maker/taker fee schedule: Barrick Gold Corporation ("ABX"), Bristol-Myers Squibb Company ("BMY"), BP p.l.c. ("BP"), ConocoPhillips ("COP"), Dell Computer Corporation ("DELL"), Dryships Inc. ("DRYS"), iShares Trust FTSE/Xinhua China 25 Index Fund ("FXI"), Halliburton Company ("HAL"), International Business Machines Corporation ("IBM"), The Coca-Cola Company ("KO"), Las Vegas Sands Corp. ("LVS"), McDonald's Corporation ("MCD"), Altria Group Inc. ("MO"), Monsanto Company ("MON"), Nokia Oyj ("NOK"), Oracle Corporation ("ORCL"), Pfizer Inc. ("PFE"), QUALCOMM Inc ("QCOM"), Sprint Corporation ("S"), Schlumberger Limited ("SLB"), Semiconductor HOLDERS Trust ("SMH"), SanDisk Corporation ("SNDK"), Proshares Ultrashort Lehman ("TBT"), United States Oil Fund ("USO"), Visa Inc ("V"), Companhia Vale Do Rio Doce ("VALE"), Weatherford International Inc. ("WFT"), Industrial Select Sector

<sup>10</sup> The concept of incenting market makers with a rebate is not novel. In 2008, the CBOE established a program for its Hybrid Agency Liaison whereby it provides a \$0.20 per contract rebate to its market makers provided that at least 80% of the market maker's quotes in a class during a month are on one side of the national best bid or offer. Market makers not meeting CBOE's criteria are not eligible to receive a rebate. See Securities Exchange Act Release No. 57231 (January 30, 2008), 73 FR 6752 (February 5, 2008). The CBOE has since lowered the criteria from 80% to 60%. See Securities Exchange Act Release No. 57470 (March 11, 2008), 73 FR 14514 (March 18, 2008).

<sup>11</sup> The Commission notes that this rebate is also offered to contracts that do not trade with the contra order in the Price Improvement Mechanism.

SPDR ("XLI"), SPDR S&P Retail ETF ("XRT"), and Yahoo! Inc. ("YHOO") (the "Additional Select Symbols").

### Other Fees

- Fees for orders executed in the Exchange's Facilitation, Solicited Order, Price Improvement and Block Order Mechanisms are for contracts that are part of the originating or contra order.

- Complex orders executed in the Facilitation and Solicited Order Mechanisms are charged fees only for the leg of the trade consisting of the most contracts.

- Payment for Order Flow fees will not be collected on transactions in options overlying the Select Symbols and the Additional Select Symbols.<sup>12</sup>

- The Cancellation Fee will continue to apply to options overlying the Select Symbols and the Additional Select Symbols.<sup>13</sup>

- The Exchange has a \$0.20 per contract fee credit for members who, pursuant to Supplementary Material .02 to Rule 803, execute a transaction in the Exchange's flash auction as a response to orders from persons who are not broker/dealers and who are not Priority Customers.<sup>14</sup> For options overlying the Select Symbols and the Additional Select Symbols, the Exchange proposes to lower the per contract fee credit for members who execute a transaction in the Exchange's flash auction as a response to orders from persons who are not broker/dealers and who are not Priority Customers to \$0.10 per contract.

- The Exchange has a \$0.20 per contract fee for market maker orders sent to the Exchange by EAMs.<sup>15</sup> Market maker orders sent to the Exchange by EAMs will be assessed a fee of \$0.25 per contract for removing liquidity in options overlying the Select Symbols and the Additional Select Symbols and

<sup>12</sup> ISE currently has a payment-for-order-flow ("PFOF") program that helps the Exchange's market makers establish PFOF arrangements with an Electronic Access Member ("EAM") in exchange for that EAM preferencing some or all of its order flow to that market maker. This program is funded through a fee paid by Exchange market makers for each customer contract they execute, and is administered by both Primary Market Makers ("PMM") and Competitive Market Makers ("CMM"), depending to whom the order is preferenced.

<sup>13</sup> The Exchange assesses a Cancellation Fee of \$2.00 to EAMs that cancel at least 500 orders in a month, for each order cancellation in excess of the total number of orders such member executed that month. All orders from the same clearing EAM executed in the same underlying symbol at the same price within a 300 second period are aggregated and counted as one executed order for purposes of this fee. This fee is charged only to customer orders.

<sup>14</sup> See Securities Exchange Act Release No. 61731 (March 18, 2010), 75 FR 14233 (March 24, 2010).

<sup>15</sup> See Securities Exchange Act Release No. 60817 (October 13, 2009), 74 FR 54111 (October 21, 2009).

\$0.10 per contract for adding liquidity in options overlying the Select Symbols and the Additional Select Symbols.

The Exchange has designated this proposal to be operative on July 1, 2010.

### 2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(4) that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The impact of the proposal upon the net fees paid by a particular market participant will depend on a number of variables, most important of which will be its propensity to add or remove liquidity in options overlying the Select Symbols and the Additional Select Symbols. The Exchange operates in a highly competitive market in which market participants can readily direct order flow to another exchange if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed fees it charges for options overlying the Select Symbols and the Additional Select Symbols remain competitive with fees charged by other exchanges and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than to a competing exchange.

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

The proposed rule change does not 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 rule change has become effective pursuant to Section 19(b)(3) of the Act<sup>16</sup> and Rule 19b-4(f)(2)<sup>17</sup> thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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

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-2010-65 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2010-65. 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 Web site viewing and printing 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 such 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 publicly available. All submissions should refer to File Number SR-ISE-2010-65 and should be submitted on or before August 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62503; File No. SR-ISE-2010-71]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Market Maker Incentive Plan for Foreign Currency Options

July 15, 2010.

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 June 30, 2010, 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 prepared by the Exchange. 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 extend an incentive plan for market makers in four foreign currency options ("FX Options"). The text of the proposed rule change is available on ISE's Web site at <http://www.ise.com>, on the Commission's Web site at <http://www.sec.gov>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### 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 extend an incentive plan for market makers in options on the New Zealand dollar ("NZD"), the Mexican peso ("PZO"), the Swedish krona ("SKA") and the Brazilian real ("BRB").<sup>3</sup> On August 3, 2009, the Exchange adopted an incentive plan applicable to market makers in NZD, PZO and SKA,<sup>4</sup> and on January 19, 2010, added BRB to the incentive plan.<sup>5</sup> The Exchange subsequently extended the date by which market makers may join the incentive plan.<sup>6</sup> The Exchange proposes to again extend the date by which market makers may join the incentive plan.

In order to promote trading in these FX Options, the Exchange has an incentive plan pursuant to which the Exchange waives the transaction fees for the Early Adopter<sup>7</sup> FXPMM<sup>8</sup> and all Early Adopter FXCMMs<sup>9</sup> that make a market in NZD, PZO SKA and BRB for as long as the incentive plan is in effect. Further, pursuant to a revenue sharing agreement entered into between an Early Adopter Market Maker and ISE, the Exchange pays the Early Adopter FXPMM forty percent (40%) of the transaction fees collected on any customer trade in NZD, PZO SKA and BRB and pays up to ten (10) Early Adopter FXCMMs that participate in the incentive plan twenty percent (20%) of the transaction fees collected for trades between a customer and that FXCMM. Market makers that do not participate in

<sup>3</sup> The Commission previously approved the trading of options on NZD, PZO, SKA and BRB. See Exchange Act Release No. 34-55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR-ISE-2006-59).

<sup>4</sup> See Exchange Act Release No. 34-60536 (August 19, 2009), 74 FR 43204 (August 26, 2009) (SR-ISE-2009-59).

<sup>5</sup> See Exchange Act Release No. 34-61459 (February 1, 2010), 75 FR 6248 (February 8, 2010) (SR-ISE-2010-07).

<sup>6</sup> See Exchange Act Release Nos. 34-60810 (October 9, 2009), 74 FR 53527 (October 19, 2009) (SR-ISE-2009-80), 34-61334 (January 12, 2010), 75 FR 2913 (January 19, 2010) (SR-ISE-2009-115), and 61851 (April 6, 2010), 75 FR 18565 (April 12, 2010) (SR-ISE-2010-27).

<sup>7</sup> Participants in the incentive plan are known on the Exchange's Schedule of Fees as Early Adopter Market Makers.

<sup>8</sup> A FXPMM is a primary market maker selected by the Exchange that trades and quotes in FX Options only. See ISE Rule 2213.

<sup>9</sup> A FXCMM is a competitive market maker selected by the Exchange that trades and quotes in FX Options only. See ISE Rule 2213.

<sup>18</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.