

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60902; File No. SR-ISE-2009-83)

October 29, 2009

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Clarify the Definition of “Narrow-Based Index”

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 19, 2009, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) 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 Exchange has filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 proposes to amend ISE Rule 2001(i) by clarifying the definition of “industry index” and “narrow-based index” to include indices having component securities that are all headquartered within a single country. The text of the proposed rule change is available on the Exchange’s Web site www.ise.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 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

This proposed rule change is based on a filing previously submitted by NASDAQ OMX PHLX, Inc ("PHLX") that was effective on filing.⁵

ISE proposes to amend Rule 2001, which defines the terms "industry index" and "narrow-based index" to mean "an index designed to representative of a particular industry or a group of related industries," to also accommodate an index having component securities that are all headquartered within a single country to be listed as a narrow-based index pursuant to Exchange rules. This would enable options based on an index, including companies all headquartered within a single country, to be rightfully considered as a generic narrow-based index for purposes of listing on the Exchange and trading.

The listing and trading of index options on the Exchange is generally conditioned on the ability to meet the rule requirements for narrow-based and broad-based indexes.⁶ More

⁵ See Exchange Act Release No. 60150 (June 19, 2009), 74 FR 30658 (June 26, 2009) (SR-Phlx-2009-35).

⁶ A "broad-based index" or "market index" is defined in ISE Rule 2001(j) as an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries.

particularly regarding narrow-based indexes, Rule 2002(b) states that the Exchange may trade options on an underlying index pursuant to Rule 19b-4(e) of the Act⁷ where all of the noted conditions noted are satisfied.⁸ Indeed, the Exchange has, and continues to, list and trade options on narrow-based indexes based on industries or a group of related industries that are located within various countries. These options are traded pursuant to the Exchange's index option trading rules.⁹

With the Exchange's interpretation of Rule 2001(i) as discussed herein, the Exchange proposes to list and trade options, pursuant to Rule 2002(b), on an index(es) that has component securities, which are all headquartered within a single country. The Exchange represents that, in all other material aspects, options on the underlying narrow-based index would be required to satisfy all other requirements for generic listing and trading pursuant to Rule 2002(b) and options on such indexes would be traded pursuant to the Exchange's trading rules.¹⁰ The proposed rule

⁷ The Chicago Board Options Exchange and PHLX have the same ability pursuant to their own rules.

⁸ These include the index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted, and consists of ten or more component securities; each component security has a market capitalization of at least \$75 million, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index; the market capitalization is at least \$50 million; and trading volume of each component security has been at least one million shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume has been at least 500,000 shares for each of the last six months. See Rule 2002(b)(1) – (12) for all of the conditions [sic]

⁹ See Chapter 20 (index options trading rules). See also Chapters 1 through 19 (general options trading rules).

¹⁰ See id. The trading rules include, among other things, position limits, exercise limits and terms of options contracts (Rules 2005, 2007 and 2009). See also Securities Exchange Act Release No. 48405 (August 25, 2003), 68 FR 52257 (September 2, 2003) (Order Approving Proposed Rule Change and Amendment No. 1 by the International Securities

change simply seeks to clarify that the generic listing and trading standards would cover an index that otherwise qualifies as a "narrow-based index," with the exception that the component securities of the index are all headquartered within a single country.

The Exchange represents that its existing surveillance procedures applicable to trading in options will be adequate to properly monitor the trading in options on these narrow-based indexes.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act")¹¹ and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest by clarifying the term "narrow-based index" also accommodates an index having component securities that are all headquartered within a single country.

Exchange, Inc. Relating to the Establishment of Trading Rules for Index Options and Generic Listing and Maintenance Standards for Narrow-Based Index Options).

¹¹ 15 U.S.C. 78s(b)(1). [sic]

¹² 15U.S.C. 78(f)(b). [sic]

¹³ 15 U.S.C. 78(f)(b)(5).

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)¹⁴ of the Act and Rule 19b-4(f)(6)¹⁵ thereunder. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change.

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.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

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. Please include File Number SR-ISE-2009-83 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 Number SR-ISE-2009-83. 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 10:00 a.m. and 3:00 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 available publicly. All submissions should refer to File Number SR-ISE-2009-83 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Florence E. Harmon
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).