

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55336; File No. SR-ISE-2006-59)

February 23, 2007

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Foreign Currency Options

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 September 29, 2006, 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. On February 23, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The ISE is proposing to adopt rules for the listing and trading of cash-settled foreign currency options (“FCOs”) on the following currencies: the euro, the British pound, the Australian dollar, the New Zealand dollar, the Japanese yen, the Canadian dollar, the Swiss franc, the Chinese renminbi, the Mexican peso, the Swedish krona, the Russian ruble, the South

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange: (1) reduced the number of currencies on which the Exchange proposes to list and trade cash-settled FCOs; (2) amended the position limit amounts for the currencies that are proposed in this Amendment No.1; (3) removed the listing and trading of foreign currency options that expire in weekly intervals from the proposed rule text; (4) made certain non-substantive changes to the proposed rule text; and (5) adopted a margin rule similar to Commentary .16 of the Philadelphia Stock Exchange’s Rule 722. Amendment No. 1 replaced and superseded the original filing in its entirety.

African rand, the Brazilian real, the Israeli shekel, the Norwegian krone, the Polish zloty, the Hungarian forint, the Czech koruna, and the Korean won (individually, a “Currency” and collectively, the “Currencies”). The text of the proposed rule change is available on the Exchange’s Web site (<http://www.iseoptions.com>), at 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 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 purpose of the proposed rule change is to adopt rules enabling the Exchange to list and trade FCOs. The Exchange proposes to adopt rules for the listing and trading of cash-settled FCOs on the following currencies: the euro, the British pound, the Australian dollar, the New Zealand dollar, the Japanese yen, the Canadian dollar, the Swiss franc, the Chinese renminbi, the Mexican peso, the Swedish krona, the Russian ruble, the South African rand, the Brazilian real, the Israeli shekel, the Norwegian krone, the Polish zloty, the Hungarian forint, the Czech koruna

and the Korean won.⁴ FCOs would, in all other respects, be traded pursuant to the Exchange's trading rules and procedures and be covered under the Exchange's existing surveillance program. The Exchange notes that the Philadelphia Stock Exchange ("PHLX") currently has rules that permit the listing and trading of both physically-settled FCOs⁵ and U.S. Dollar-settled FCOs on a number of foreign currencies.⁶ FCOs listed and traded by the Exchange pursuant to this proposed rule change will not be fungible with those listed and traded by PHLX.

The Exchange proposes to list and trade cash-settled FCOs using the Reuters Composite Currency Rate,⁷ an industry benchmark, and modify that rate to create an underlying value that represents the prevailing rate of a currency pair in an index-like format. ISE proposes to use modifiers of 1, 10, or 100 depending on the exchange rate level of the underlying foreign

⁴ The Exchange is proposing to trade cash-settled FCOs only on those currencies whose futures contracts, and options on such futures contracts, are currently traded on the Chicago Mercantile Exchange ("CME").

⁵ Unlike cash-settled FCOs, a physically-settled FCO gives its owner the right to receive physical delivery (if it is a call) or to make physical delivery (if it is a put), of the underlying foreign currency when the option is exercised.

⁶ See Securities Exchange Act Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR-PHLX-2006-34). See also PHLX Rules 1000-1093.

⁷ The Exchange notes that there are many major trading platforms for spot market currencies including single bank portals (Deutsche Bank, Citigroup, UBS, Barclays, etc.), multi-bank portals (FXall, Currenex, FXConnect, etc.), broker-neutral portals (Reuters Dealing and EBS), portal aggregators (Bloomberg, LavaFX, FlexTrade), as well as many online broker portals. Additionally, several major ISE members, including OptionsXpress and Interactive Brokers, provide access to CME futures products. ISE therefore believes that sufficient market access is available to both institutional as well as retail investors. Foreign exchange prices are also widely available via public websites, broker websites, as well as in print publications. Additionally, websites such as Bloomberg.com, Reuters.com, Yahoo! Finance, CNBC.com, OANDA.com, Nasdaq.com, and many others provide free currency data. Investors Business Daily, Wall Street Journal, and the New York Times also provide currency data as part of their daily coverage. Furthermore, ISE will disseminate real-time underlying data on OPRA for all the currency rates it intends to list options on.

currency.⁸ For example, if one US Dollar buys .84177 euros, a modifier of 100 would be used so that the modified exchange rate would become 84.18. Modified exchange rates are rounded to two decimal places (i.e., to the nearest one one-hundredth). Modified exchange rates are rounded up if they end in values greater than or equal to five one-thousandths, and rounded down if less than five one-thousandths. In the example above, if one US Dollar buys .84174 euros, the modified exchange rate, using the same 100 modifier, would become 84.17. The Reuters data is based on an amalgamation of midpoint dealer quotes on its foreign exchange dealing system.

Under the proposed rule change, FCOs listed by the Exchange will be cleared by The Options Clearing Corporation (“OCC”), and will enable holders of options contracts to receive U.S. Dollars representing the difference between the modified exchange rate⁹ and the exercise price of the option. Specifically, upon exercise of an in-the-money cash-settled FCO call option, the holder will receive, from OCC, U.S. Dollars representing the difference between the exercise strike price and the closing settlement value of the cash-settled FCO contract multiplied by 100. Upon exercise of an in-the-money cash-settled FCO put option, the holder will receive, from OCC, U.S. Dollars representing the excess of the exercise price over the closing settlement value of the cash-settled FCO contract multiplied by 100. Additionally, cash-settled FCOs that are in-the-money by any amount on expiration date will be exercised automatically by OCC, while cash-settled FCOs that are out-of-the-money on expiration date will expire worthless.

⁸ See Exhibit 3 to the proposed rule change (listing the modifiers for each Currency pair). Modifiers used for creating underlying values will also be posted on the Exchange’s website no later than the first day on which FCOs begin trading on ISE. Once a modifier has been assigned to a currency pair, it can only be changed upon a filing of a proposed rule change with the Commission.

⁹ A “modified exchange rate” is defined in proposed ISE Rule 2201(8).

The Exchange hereby proposes to adopt new rules and amend certain existing rules in order to list and trade FCOs. The Exchange has also attached an exhibit to this proposed rule change that illustrates the contract specifications applicable to FCOs. The Exchange's proposed ISE Rule 2201, Definitions, defines terms applicable to FCOs. Proposed ISE Rule 2202, Criteria for Foreign Currency Options, states that the Currencies may be approved for trading on the Exchange. Proposed ISE Rule 2202 also states that if any of the sovereign governments or the European Economic Community's European Monetary System issuing one of the Currencies replaces it with a new currency, that new currency, subject to filing a proposed rule change with the Commission, shall also be approved for listing and trading under these proposed rules.

Proposed ISE Rule 2203, Foreign Currency Options Contracts To Be Traded, states that the Exchange may open for trading put options and call options on the Currencies and that only options contracts of a series of options approved by the Exchange and currently open for trading may be traded on the Exchange. Proposed ISE Rule 2204, Withdrawal of Approval of Foreign Currency Options, states that, in the interest of a fair and orderly market and for the protection of investors, the Exchange may withdraw approval of the trading of a foreign currency option. For example, in the case of the European Economic Community's European Monetary System, the Exchange will withdraw approval of the trading of a foreign currency option if such currency is eligible to and does in fact merge with the euro.

Proposed ISE Rule 2205, Series of Foreign Currency Options Opened for Trading, states that after a class of options contracts on any of the Currencies has been approved for listing and trading, the Exchange may open for trading series of FCOs that expire in consecutive monthly

intervals, in three or “cycle” month intervals, or that have up to 36 months to expiration.¹⁰ Under this proposed rule change, the Exchange may list cash-settled FCOs with expirations that are the same as the expirations permitted for index options pursuant to ISE Rules 2000 and 2001, except that cash-settled FCOs shall have expirations up to 36 months only. Though no long-term series will be listed initially, this proposal would allow the Exchange to list long-term series, *i.e.*, up to 36 months. The expiration date for the consecutive and cycle month options will be 11:59 p.m. Eastern time on the Saturday immediately following the third Friday of the expiration month. Under Proposed ISE Rule 2205, as the modified exchange rate moves, the Exchange may list additional series of FCOs in order to maintain sufficient numbers of in-the-money and out-of-the-money series. Further, the strike price of each series of FCOs opened for trading by the Exchange shall be reasonably close to the modified exchange rate.

Proposed ISE Rule 2206, Terms of Foreign Currency Options Contracts, states that, among other things, all FCOs shall be quoted in U.S. Dollars, shall be European-style, and that the interval between strike prices of series of FCOs shall be no less than \$0.10. Additionally, under the Exchange’s current rules, the minimum trading increment for a FCO contract trading at less than \$3.00 will be \$0.05, and for a FCO contract trading at \$3.00 or higher, the minimum trading increment will be \$0.10.

Proposed ISE Rule 2207, Dissemination of Information, states that the Exchange shall ensure that the current modified exchange rate is disseminated at least once every fifteen seconds by the Options Price Reporting Authority (“OPRA”) or one or more major market data vendors

¹⁰ The Exchange notes that consecutive month and cycle month expirations of a given series will never overlap.

during the time FCOs are traded on the Exchange. The Exchange will also disseminate FCO quotes and trades over OPRA.

Proposed ISE Rule 2208, Position Limits for Foreign Currency Options, sets the position limit for FCOs, on the same side of the market, as follows: 1,200,000 contracts for the euro; 600,000 contracts for the Australian dollar, the British pound, the Canadian dollar, the Israeli shekel, the Japanese yen, the Swedish krona and the Swiss franc; 300,000 contracts for the Brazilian real, the Chinese renminbi, the Czech koruna, the Hungarian forint, the Korean won, the Mexican peso, the New Zealand dollar, the Norwegian krone, the Polish zloty, the Russian ruble and the South African rand. For the purpose of determining which positions are on the same side of the market, under Proposed ISE Rule 2208, long call positions are to be aggregated with short put positions and short call positions are to be aggregated with long put positions.

Proposed ISE Rule 2209, Exercise Limits for Foreign Currency Options, generally states that exercise limits for FCOs shall be equivalent to the position limits prescribed to that FCO. Thus, the exercise limit for FCOs over any five consecutive business days shall be as follows: 1,200,000 contracts for the euro; 600,000 contracts for the Australian dollar, the British pound, the Canadian dollar, the Israeli shekel, the Japanese yen, the Swedish krona and the Swiss franc; 300,000 contracts for the Brazilian real, the Chinese renminbi, the Czech koruna, the Hungarian forint, the Korean won, the Mexican peso, the New Zealand dollar, the Norwegian krone, the Polish zloty, the Russian ruble and the South African rand. Under Proposed ISE Rule 2209, the Exchange may from time to time, subject to Commission approval, establish exercise limits that are different from the position limits established for FCOs on a Currency or across all Currencies.

Proposed ISE Rule 2210, Trading Sessions, provides that transactions in FCOs may be effected on the Exchange between the hours of 9:30 a.m. and 4:15 p.m. Eastern Time, except that on the last trading day of the week during which a FCO is set to expire, trading shall cease at 12:00 p.m. Eastern Time. Trading in cash-settled FCOs will follow the holiday schedule of the U.S. equity markets. If Friday is an Exchange holiday, the settlement value for cash-settled FCOs will be determined on the preceding trading day, which will also be the last trading day for the expiring option. The Exchange's Proposed Rules 2210(b) and (c) make certain adjustments to current processes because FCO openings, unlike openings of equity and index options, do not depend on the opening of trading of the underlying market, because the currency market does not have specified trading hours. Accordingly, the opening rotation for FCOs shall be held at or as soon as practicable after the Exchange's market opens, unless an Exchange official determines to delay the opening rotation in the interest of maintaining a fair and orderly market. Proposed ISE Rule 2210 lists some of the factors an Exchange official may consider in delaying the opening rotation. Additionally, in the interest of a fair and orderly market, an Exchange official may, under certain circumstances, halt or suspend trading in a FCO until such time that the circumstances that led to the halt or suspension no longer exist.

Proposed ISE Rule 2211, Reporting of Foreign Currency Options Position, requires each Member of the Exchange to file a report with respect to all accounts that have an aggregate position of 12,500 or more FCO contracts on the same side of the market in any underlying foreign currency. Under this proposed rule, Members shall be required to file all such reports within one business day following the day that the reportable transactions occur.

Proposed ISE Rule 2212, Foreign Currency Options Closing Settlement Value, states that the closing settlement value, which shall be posted by the Exchange on its Web site, shall be the Noon Buying Rate, as determined by the Federal Reserve Bank of New York, on the last trading day during expiration week.¹¹ If the Noon Buying Rate is not announced by 2:00 p.m. Eastern Time, the closing settlement value will be the most recently announced Noon Buying Rate, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances.¹²

In the event the Noon Buying Rate is not published for an underlying currency, the Exchange proposes to apply the WM/Reuters Closing Spot rate to determine the closing settlement value of any underlying currency.¹³ The WM/Reuters Closing Spot rate is determined at 16:00 UK time, also known as the 'fix' time (1:00 PM, New York time). WM/Reuters typically publishes its closing rates 15 minutes after the fix time. The Reuters System is the

¹¹ The closing settlement value, whether based on the Noon Buying Rate or the WM/Reuters Closing Spot rate, will also be modified using the applicable modifier, i.e., 1, 10 or 100, that is used in calculating the respective modified exchange rate.

¹² The Exchange may use the WM/Reuters Closing Spot rate if the Noon Buying Rate is not available. The Exchange notes that the Commission has recently approved listing standards for securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interests in non-U.S. currency deposited into a trust that utilizes the Noon Buying Rate for the calculation of the Net Asset Value of the trust. See Securities Exchange Act Release No. 52843 (November 28, 2005), 70 FR 72486 (December 5, 2005) (order granting accelerated approval of SR-NYSE-2005-65).

¹³ The Federal Reserve Bank of New York currently does not publish a Noon Buying Rate for the Czech koruna, the Hungarian forint, the Israeli shekel, the Korean won, the Polish zloty and the Russian ruble. As a result, the Exchange proposes to use the WM/Reuters Closing Spot rate for these 6 currencies to determine their closing settlement value. In the event the Federal Reserve Bank of New York determines to publish a Noon Buying Rate for any of these 6 currencies in the future, the Exchange shall resort to the Noon Buying Rate in place of the WM/Reuters Composite Spot rate to determine the closing settlement value for the applicable FCO.

primary source of spot foreign exchange rates used in the calculation of the WM/Reuters Closing Spot rate. WM/Reuters, however, may use alternative sources such as a country's Central Bank or rates from EBS, which is another major FX venue and market data service provider for 156 currencies, including all of the currencies underlying the products proposed by ISE under this filing.

WM/Reuters has two main methods for calculating its Closing Spot rate. The methodology used depends on whether a currency is determined by WM/Reuters to be a "trade currency" or a "non-trade currency."¹⁴ WM/Reuters applies a unique methodology for each category. Closing Spot rates for "non-trade currencies" are determined primarily by using data from Reuters. This methodology involves taking snapshots of quoted bids and offers for each currency at 15-second intervals over a two minute period. The median is then calculated independently for each currency's bid and offer. The midpoint of that median bid and offer becomes the final value.

Closing Spot rates for "trade currencies" are determined primarily by using data from both Reuters and EBS. This methodology involves taking snapshots of actual traded rates every second for a period of 30 seconds before the fix to 30 seconds after the fix. Trades are identified as a bid or offer and a spread is applied to calculate the opposite bid or offer. The spread applied is determined by the spread between buy and sell orders captured at the same time. The median

¹⁴ The Australian dollar, British pound, Canadian dollar, Czech koruna, Danish krone, euro, Japanese yen, New Zealand dollar, Norwegian krone, Singapore dollar, South African rand, Swedish krona, and Swiss franc are all considered by WM/Reuters to be "trade currencies," while all others are considered "non-trade currencies." The instant filing proposes to trade FCOs on all the "trade currencies" except the Danish krone and the Singapore dollar.

is then independently calculated for each currency's bid and offer, resulting in a midpoint trade rate. The midpoint of that median bid and offer becomes the final value.

Proposed ISE Rule 2212 additionally disclaims the Exchange's (and that of any agent of the Exchange's) liability and that of the Reporting Authority due to force majeure.

Proposed ISE Rule 2213, Market Maker Trading Licenses, creates two new classes of market makers on the Exchange, FXPMMs and FXCMMs, who shall have similar obligations as the PMMs and CMMs of the Exchange's equity and index markets. These new memberships will entitle firms to quote and trade FCOs only. Proposed ISE Rule 2213 sets out the rules and the obligations of market makers under which a FXPMM and/or FXCMM may purchase a trading license from the Exchange, subject to an annual fee paid to the Exchange in monthly installments. Under this proposed rule, market maker trading licenses, which do not hold any equity interest in the Exchange, will be sold annually through an auction conducted during the fourth quarter of each year. A firm may not hold more than four FXPMM trading licenses across all currencies and no more than one FXCMM trading license per currency pair. Additionally, market makers may not hold and act as both a FXPMM and FXCMM in the same currency pair. Market maker trading licenses will not be able to be leased or transferred, although they will be permitted to be transferred to an affiliated Member, or to another qualified Member which continues substantially the same business as the Member that currently holds the market maker trading license. Additionally, market maker trading licenses that are sold between annual auctions shall be assessed a premium of ten percent of the price at which the market maker

trading license was sold during the preceding auction.¹⁵

Proposed ISE Rule 2213(f) relates specifically to FXPMMs and states that a FXPMM's trading license shall have a three year term and that at the end of the three year term, the incumbent FXPMM shall have the right of first refusal to match the highest bid and market quality commitment from another bidding firm, enabling that FXPMM to remain a market maker in the currency pair for which it has a trading license. Under proposed ISE Rule 2213(f), sales of FXPMM trading licenses will be conducted by a sealed bid auction and prospective FXPMMs will be required to submit both a bid amount and a market quality commitment using parameters similar to those currently used by the Exchange for ETF and index options. Proposed ISE Rule 2213(f) further states that a FXPMM that continuously fails to meet its stated market quality commitments will have its trading license terminated by the Exchange, which will subsequently conduct an auction to sell the failing FXPMM's trading license to another firm. Proposed ISE Rule 2213(f) also states that a FXPMM generally cannot terminate its trading license and that in

¹⁵ The sale of additional market maker trading licenses during the year shall be at a premium to the auction price, pro rated for the amount of time remaining for the year, in order to, among other things, ensure that the supply of market maker trading licenses is adequate to meet demand for market maker trading licenses should conditions change after an auction, and to accommodate new businesses that commence operations after the beginning of the year. The premium will help defray out-of-cycle administrative costs and encourage participation in the annual auction, thereby promoting the optimal price and quantity discovery in the auction. In accordance with proposed ISE Rule 2210(f)(7), market maker trading licenses that are sold at any time except during the fourth quarter of a calendar year shall expire either in December of the 3rd year if the auction is conducted prior to June 30th of the current year, or in December of the 4th year if the auction is conducted after June 30th of the current year. For example, a FXPMM trading license that goes into effect on June 1, 2007 will expire on December 31, 2009, for a total license period of 2 years and 7 months. A FXPMM trading license that goes into effect on August 1, 2007 will expire on December 31, 2010, for a total license period of 3 years and 5 months.

the event a FXPMM is unable to fulfill its obligations, a backup FXPMM shall be designated by the Exchange.

Under proposed ISE Rule 2213(g), which relates specifically to FXCMMs, the Exchange intends to initially sell ten FXCMM trading licenses per currency pair, with each trading license having a term of one year. Based on market demand, the Exchange may increase the number of FXCMM trading licenses available at the next regularly scheduled auction. Proposed ISE Rule 2213(g)(2) sets out the manner in which a “Dutch auction” to sell FXCMM trading licenses will be conducted. A FXCMM shall have the ability to terminate its trading license prior to its scheduled expiration, so long as the FXCMM provides the requisite written notice and a pays a termination fee, as set forth in proposed ISE Rule 2213(g)(4).

The Exchange believes that the procedures under which market maker trading licenses will be made available are calculated to comply with the requirements of Section 6(b)(2) of the Act regarding fair access to the facilities of a registered exchange. The Dutch auction, by which FXCMM trading licenses will be sold, is itself a fair way to determine access, especially given that it is subject to provisions calculated to ensure that market maker trading licenses are widely available, such as the provisions (i) specifying a reasonable minimum Reserve Price, (ii) limiting the number of market maker trading licenses that may be bid by a single Member, and (iii) the ability to sell additional unsold market maker trading licenses during the year at a 10% premium. The sealed bid auction, by which FXPMM trading licenses will be sold, requires potential bidders to provide the Exchange with market quality commitments along with a bid. The Exchange believes that this added measure of qualification will enable the Exchange to sell these market maker trading licenses in an objective manner without solely awarding a trading license

to the highest bidder. The procedures under which market maker trading licenses will be made available are also intended to comply with the requirements of Section 6(b)(4) of the Act, which requires that a registered exchange provide for the equitable allocation of reasonable dues, fees, and charges among its members and issuers and other persons using its facilities. The price of a market maker trading license is reasonable because it will be determined by “the market,” that is, by Members that wish to obtain a market maker trading license. A Dutch auction allows its participants to themselves determine the price, while the sealed bid auction will be conducted with a relatively low Reserve Price established by the Exchange. The auctions are closely related to the way access to the Exchange was traditionally priced, with supply and demand governing the price at which memberships were purchased or leased. The pricing of market maker trading licenses between auctions is also reasonable, as it is based on the auction price, but with a premium to the auction price, which will encourage participation in the regular auctions, which in turn will strengthen the price discovery mechanism that the auctions provide.

The Exchange is also proposing to amend its Rule 1202 regarding margin requirements by adopting a rule for FCOs that is substantially similar to the PHLX’s margin rules for foreign currency options. Accordingly, under proposed ISE Rule 1202(d), cash-settled FCOs will have the same customer margin requirements as are provided in PHLX Rule 722, “Margin Accounts,” Commentary .16.¹⁶

¹⁶ Similar to PHLX Rule 722, Commentary .16, the Exchange will calculate the margin requirement for customers that assume short FCO positions by adding a percentage of the current market value of the underlying foreign currency contract to the option premium price less an adjustment for the out-of-the-money amount of the option contract. On a quarterly calendar basis, ISE will review five-day price changes over the preceding three-year period for each underlying currency and set the add-on percentage at a level which would have covered those price changes at least 97.5% of the time (the “confidence

Chapter 6 of the Exchange's rules is designed to protect public customer trading and shall apply to trading in FCOs. Specifically, ISE Rules 608(a) and (b) prohibit Members from accepting a customer order to purchase or write an option, including on a cash-settled FCO, unless such customer's account has been approved in writing by a designated Options Principal of the Member.¹⁷ Additionally, ISE's Rule 610 regarding suitability is designed to ensure that options, including cash-settled FCOs, are only sold to customers capable of evaluating and bearing the risks associated with trading in this instrument. Further, ISE Rule 611 permits members to exercise discretionary power with respect to trading options, including trading cash-settled FCOs, in a customer's account only if the Member has received prior written authorization from the customer and the account had been accepted in writing by a designated Options Principal. ISE Rule 611 also requires designated Options Principals or Representatives of a Member to approve and initial each discretionary order, including discretionary orders for cash-settled FCOs, on the

level"). If the results of subsequent reviews show that the current margin level provides a confidence level below 97%, ISE will increase the margin requirement for that individual currency up to a 98% confidence level. If the confidence level is between 97% and 97.5%, the margin level will remain the same but will be subject to monthly follow-up reviews until the confidence level exceeds 97.5% for two consecutive months. If during the course of the monthly follow-up reviews, the confidence level drops below 97%, the margin level will be increased to a 98% level and if it exceeds 97.5% for two consecutive months, the currency will be taken off monthly reviews and will be put back on the quarterly review cycle. If the currency exceeds 98.5%, the margin level will be reduced to a 98% confidence level during the most recent 3 year period. Finally, in order to account for large price movements outside the established margin level, if the quarterly review shows that the currency had a price movement, either positive or negative, greater than two times the margin level during the most recent 3 year period, the margin requirement will be set at a level to meet a 99% confidence level ("Extreme Outlier Test"). The Exchange will inform Members and the public of the margin levels for each currency option immediately following the quarterly reviews described in Rule 1202(d).

¹⁷ Pursuant to ISE Rule 602, Representatives of a Member may solicit or accept customer orders for FCOs.

day the discretionary order is entered. Finally, ISE Rule 609, Supervision of Accounts, Rule 612, Confirmation to Customers, and Rule 616, Delivery of Current Options Disclosure Documents and Prospectus,¹⁸ will also apply to trading in FCOs.

As previously noted, the Exchange represents that it has an adequate surveillance program in place for FCOs, and intends to apply the same program procedures that it applies to the Exchange's index options. The Exchange is also a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement, dated June 20, 1994, and may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG. The members of the ISG include all of the U.S. registered stock and options markets. The ISG members work together to coordinate surveillance and investigative information sharing in the stock and options markets. In addition, the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses. Specifically, ISE can obtain such information from the CME in connection with futures trading on that exchange.¹⁹

Finally, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of cash-settled FCOs. The Exchange has

¹⁸ The OCC, together with the Exchange, has prepared an amendment to the Options Disclosure Document ("ODD"), which ISE expects OCC to shortly submit to the Commission for approval. The amended ODD will include characteristics of the Exchange's FCOs and trading examples.

¹⁹ CME is an affiliate member of ISG.

provided the Commission with system capacity information that supports its system capacity representations.²⁰

2. Statutory Basis

The Exchange believes that this filing is consistent with Section 6(b) under the Act,²¹ in general, and furthers the objectives of Section 6(b)(1)²² in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and 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.

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 written comments from members or other interested parties.

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

²⁰ See Letter from Michael Simon, General Counsel, ISE, to John Roeser, Assistant Director, Commission, dated February 23, 2007.

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(1).

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. Please include File Number SR-ISE-2006-59 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-2006-59. 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. 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-ISE-2006-59 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

Florence E. Harmon
Deputy Secretary

²³ 17 CFR 200.30-3(a)(12).