SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58940; File No. SR-ISE-2008-83)

November 13, 2008

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Market Maker Trading Licenses for 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 November 7, 2008, the International Securities Exchange, LLC ("Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 Exchange proposes to modify its Rule 2213, Market Maker Trading Licenses, related to listing and trading of Foreign Currency Options on the Exchange. 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, 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 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

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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 modify its Rule 2213, Market Maker Trading Licenses, related to listing and trading of Foreign Currency Options ("FX Options") on the Exchange. ISE currently lists for trading FX Options on six of the most active currency pairs.[3] Under the Exchange's current FX options rules, FX primary market makers ("FXPMMs") are required to purchase, through an auction, a three-year trading license, and provide market quality commitments to ISE, to make a market in a particular FX currency pair.[4] At the end of the three-year term, each currency pair is once again auctioned with the incumbent FXPMM of a currency pair retaining the right of first refusal to match the highest bid and market quality commitment to retain its status as a FXPMM in that currency pair.

The Exchange now proposes to amend its FXPMM trading license rule for trading licenses sold on or after January 1, 2009.[5] Specifically, ISE proposes to revise its current auction such that, beginning January 1, 2009, allocation of currency pairs and currency indexes to FX market makers shall be on a permanent basis. The proposed revised auction will be substantially

3 Options on the following currency pairs are currently listed for trading on ISE: USD/AUD, USD/GBP, USD/CAD, USD/EUR, USD/CHF, and USD/JPY.

4 See ISE Rule 2213(f)(1).

5 While the Exchange's current rule for FXPMMs, which applies for trading licenses sold prior to January 1, 2009, shall remain unchanged under this proposal, the Exchange notes that after January 1, 2009, the current rule will no longer be applicable because all foreign currency product auctions after January 1, 2009, shall be conducted pursuant to the rules proposed in this filing. The Exchange will submit a proposed rule change after January 1, 2009 to delete the current rule for FXPMMs.

the same as the existing auction in that the allocation of a FX currency pair will still be based on market quality commitments[6] and dollar bid amount[7] submitted by prospective FXPMMs; the only difference being that currency pairs, going forward, will be permanently allocated to FXPMMs rather than for a three-year term. Under this proposal, FXPMMs that are selected by the Exchange pursuant to the auction process will be required to pay ISE the winning bid amount annually for as long as the member chooses to remain a FXPMM in a currency pair. ISE will continue to measure, as it does now, market quality commitments on a quarterly basis to ensure FXPMMs are in compliance with their stated commitments. Continuous failure to meet stated commitments will result in ISE terminating an allocation and conducting an auction to reallocate the failing FXPMM's currency pair and/or FX index option to another FXPMM.

Under both the current rule and the proposal, a FXPMM cannot terminate its trading license. The Exchange notes, however, that there may be instances when a Member is unable to fulfill its market making obligations. For example, a Member may experience connectivity issues that prevent the Member from being in the market, e.g., the Member is unable to quote and trade in the currency pair in which it makes a market. For those instances, the Exchange will rely on the back-up FXPMM, who is selected at the time of the initial auction, to serve as a FXPMM on a temporary basis until the FXPMM is fully back in the market. Further, there may also be instances where a FXPMM determines that it is unable to fulfill its obligations as a market maker and can no longer serve as a FXPMM. For those instances, ISE will relieve that

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6 A Member seeking a FXPMM trading license will continue to be required to provide, at a minimum, market quality commitments regarding (i) the average quotation size it will disseminate in the foreign currency option, and (ii) the maximum quotation spread it will disseminate in such product at least ninety percent (90%) of the time. See ISE Rule 2213(f)(2).

7 The minimum Reserve Price shall continue to be $5,000 per year. See ISE Rule 2213(f)(1).

FXPMM of its obligation once all open interest in the product to which that Member was appointed has been closed out or the Exchange is able to conduct a successful auction and reallocate the product, whichever occurs first.

All of the currency pairs that are currently trading on the Exchange already have a market maker. Specifically, the four currency pairs listed for trading on April 17, 2007, e.g., USD/EUR, USD/GBP, USD/JPY, and USD/CAD, were allocated to the market maker that currently serves as a FXPMM for a three (3) year term, ending in December 2010. On February 21, 2008, the Exchange launched 2 additional currency pairs, e.g., USD/CHF and USD/AUD, which were allocated to the market maker that currently serves as a FXPMM for a three (3) year term also, ending in December 2011. ISE will allocate USD/GBP, USD/CAD, USD/EUR, and USD/JPY in December 2010 and USD/CHF and USD/AUD in December 2011[8] on a permanent basis, pursuant to proposed rule 2213(f)(ii). Until such time, the instant proposal will not affect the status of those FXPMMs. The Exchange anticipates utilizing the new auction process when it solicits a market maker for additional currency pairs the Exchange will list at a future date and for a proprietary foreign currency index which the Exchange expects to launch in 2009, pending a filing and approval of a proposed rule change by the Commission. In anticipation of creating a foreign currency index, the Exchange is also proposing to amend its current Rule 802 by adding "foreign currency indexes" to the definition of "Index-Based Products."

The Exchange believes giving market makers a trading license on a permanent basis, or as long as a firm wishes to remain a market maker in a currency product, will result in a more competitive market at ISE. A permanent allocation will allow FXPMMs to create and execute a

8 See ISE Rule 2213(f)(7). The auction for USD/EUR was conducted on February 26, 2007; for USD/GBP on March 5, 2007; for USD/JPY on March 12, 2007; for USD/CAD on March 19, 2007; for USD/CHF on February 21, 2008 and for USD/AUD on February 21, 2008 also.

long-term strategy to promote growth and trading in the foreign currency product that has been allocated to it.

The Exchange also proposes to make minor amendments to Rule 2213(g) to include references to foreign currency index options. Specifically, the Exchange proposes to add rule text to indicate that in addition to there being ten (10) FXCMMs for each currency pair listed for trading by the Exchange, there shall also be ten (10) FXCMMs for each foreign currency index option the Exchange may list in the future and that the Exchange will conduct one (1) FXCMM trading license auction per each currency pair and per each foreign currency index option. Finally, members will be limited to holding no more than one (1) FXCMM trading license per currency pair and no more than one (1) FXCMM trading license per foreign currency index option.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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. In particular, the proposed rule change will strengthen the Exchange's foreign currency products by providing them with permanent market making support. A permanent allocation of foreign currency products will also allow FXPMMs to create and execute a long-term strategy to promote growth and trading in the foreign currency product that has been allocated to it.

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

This 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 after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. 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 as required by Rule 19b-4(f)(6).[9] For the foregoing reasons, the Exchange believes the proposed rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 of the Act.

The proposed rule change does not make any substantive changes to the current rule other than to make allocations of FX Options to market makers permanent. In doing so, the proposed rule change will strengthen the Exchange's foreign currency products to the benefit of all market participants. For the foregoing reason, the Exchange believes the proposed rule change is non-

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[9] 17 CFR 240.19b-4(f)(6).

controversial, does not raise any new, unique or substantive issues, and is beneficial for competitive purposes and to promote a free and open market for the benefit of investors.

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. Please include File Number SR-ISE-2008-83 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-ISE-2008-83. 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, on official business days between the hours of 10:00 am and 3:00 pm. 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-2008-83 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.[10]

Florence E. Harmon
Acting Secretary

[10] 17 CFR 200.30-3(a)(12).