

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>28</sup>

Jill M. Peterson,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48226; File No. SR-ISE-2003-19]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange, Inc., To Provide for the Trading of Options on Fixed-Income Exchange-Traded Funds

July 25, 2003.

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 July 22, 2003, the International Securities Exchange, Inc. ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the ISE. ISE filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is proposing to amend Rule 500(h) to allow the listing of options on fixed-income exchange-traded funds. Below is the text of the proposed rule change. New text is in *italics*. Proposed deletions are in [brackets].

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#### Rule 500. Criteria for Underlying Securities

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(h) Securities deemed appropriate for options trading shall include shares or other securities ("Fund Shares") that represent interests in registered investment companies (or series thereof) organized as open-end management

investment companies, unit investment trusts or similar entities that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as "national market" securities, and that hold portfolios of securities comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities) ("Funds"); provided that all of the following conditions are met:

(1) any non-U.S. component *securities* [stocks] of the index or portfolio on which the Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;

(2) *securities* [Stocks] for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index;

(3) *securities* [stocks] for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index; and

(4) the Fund Shares either (i) meet the criteria and guidelines set forth in paragraphs (a) and (b) above; or (ii) the Fund Shares are available for creation or redemption each business day from or through the Fund in cash or in kind at a price related to net asset value, and the Fund is obligated to issue Fund Shares in a specified aggregate number even if some or all of the securities required to be deposited have not been received by the Fund, subject to the condition that the person obligated to deposit the securities has undertaken to deliver the securities as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund, all as described in the Fund's prospectus.

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#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 Exchange states that it proposes to amend its rules to allow the trading of options on fixed-income exchange-traded funds. This rule change is consistent with a change to the rules of the Chicago Board of Options Exchange ("CBOE") previously approved by the Commission.<sup>5</sup> Specifically, under ISE Rule 500(e), the Exchange may list options on Fund Shares provided that certain conditions are met with respect to the components of the underlying exchange-traded fund. The Exchange proposes to amend the conditions contained in Rule 500(h) to refer to the component "securities" of a fund, rather than the component "stocks" of the fund, so that fixed-income funds will be covered by the Rule.

##### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5)<sup>6</sup> to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The 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 ISE provided the SEC with written notice of its intention to file the proposed rule change at least five business days before its filing. Moreover, the ISE has designated the

<sup>28</sup> 17 CFR 200.30-3(a)(12).

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

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

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

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

<sup>5</sup> Release No. 34-46435 (August 29, 2002), 67 FR 57046 (September 6, 2002) (File No. SR-CBOE-2002-47).

<sup>6</sup> 15 U.S.C. 78f(b)(5).