

that the initial capital investment in an investment company be made without any intention to dispose of the investment. Applicants state that, under this interpretation, a Series would not satisfy section 14(a) because of the Depositor's intention to sell all the Units of the Series.

2. Rule 14a-3 under the Act exempts UITs from section 14(a) if certain conditions are met, one of which is that the UIT invest only in "eligible trust securities," as defined in the rule. Applicants state that they may not rely on rule 14a-3 because certain future Series (collectively, "Equity Series") will invest all or a portion of their assets in equity securities or registered investment company securities pursuant to an exemptive order, which do not satisfy the definition of eligible trust securities.

3. Applicants request an exemption under section 6(c) of the Act to the extent necessary to exempt the Equity Series from the net worth requirement in section 14(a). Applicants state that the Series and the Depositor will comply in all respects with the requirements of rule 14a-3, except that the Equity Series will not restrict their portfolio investments to "eligible trust securities."

#### D. Capital Gains Distribution

1. Section 19(b) of the Act and rule 19b-1 under the Act provide that, except under limited circumstances, no registered investment company may distribute long-term gains more than once every twelve months. Rule 19b-1(c), under certain circumstances, exempts a UIT investing in eligible trust securities (as defined in rule 14a-3) from the requirements of rule 19b-1. Because the Equity Series do not limit their investments to eligible trust securities, however, the Equity Series will not qualify for the exemption in paragraph (c) of rule 19b-1. Applicants therefore request an exemption under section 6(c) from section 19(b) and rule 19b-1 to the extent necessary to permit capital gains earned in connection with the sale of portfolio securities to be distributed to Unitholders along with the Equity Series' regular distributions. In all other respects, applicants will comply with section 19(b) and rule 19b-1.

2. Applicants state that their proposal meets the standards of section 6(c). Applicants assert that any sale of portfolio securities would be triggered by the need to meet Trust expenses, Installment Payments, or by redemption requests, events over which the Depositor and the Equity Series do not have control. Applicants further state

that, because principal distributions must be clearly indicated in accompanying reports to Unitholders as a return of principal and will be relatively small in comparison to normal dividend distributions, there is little danger of confusion from failure to differentiate among distributions.

#### Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

##### A. DSC Relief and Exchange and Rollover Options

1. Whenever the Exchange Option or the Rollover Option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the Exchange Option or the Rollover Option, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Series under section 22(e) of the Act and the rules and regulations promulgated thereunder, or (ii) a Series temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies and restrictions.

2. An investor who purchases Units under the Exchange Option or the Rollover Option will pay a lower sales charge than that which would be paid for the Units by a new investor.

3. The prospectus of each Series offering exchanges or rollovers and any sales literature or advertising that mentions the existence of the Exchange Option or Rollover Option will disclose that the Exchange Option and the Rollover Option are subject to modification, termination or suspension without notice, except in certain limited cases.

4. Any DSC imposed on a Series' Units will comply with the requirements of subparagraphs (1), (2) and (3) of rule 6c-10(a) under the Act.

5. Each Series offering Units subject to a DSC will include in its prospectus the disclosure required by Form N-1A relating to deferred sales charges (modified as appropriate to reflect the differences between UITs and open-end

management investment companies) and a schedule setting forth the number and date of each Installment Payment.

##### B. Net Worth Requirement

1. Applicants will comply in all respects with the requirements of rule 14a-3, except that the Equity Series will not restrict their portfolio investments to "eligible trust securities."

For the Commission, by the Division of Investment Management, under delegated authority.

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55040; File No. SR-Amex-2007-01]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Extension of the Pilot Period Applicable to the Listing and Trading of Options on the iShares MSCI Emerging Markets Index

January 3, 2007.

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 January 3, 2007, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Amex has filed the proposed rule change, pursuant to Section 19(b)(3)(A)(iii) 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.<sup>5</sup> 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 extend the pilot period applicable to the listing and trading of options on the iShares MSCI Emerging Markets Index Fund ("Fund

<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)(iii).

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

<sup>5</sup> The Exchange requested the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay, as specified in Rule 19b(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

Options"). The Amex is not proposing any changes to the rule text.

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

In its filing with the Commission, Amex 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 Amex 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

On May 17, 2006, the Commission approved the Amex proposal<sup>6</sup> to list and trade the Fund Options for a sixty-day pilot period that expired July 2, 2006 (the "Pilot").<sup>7</sup> On June 30, 2006 the Commission approved a 90-day extension to the Pilot that was due to expire October 1, 2006<sup>8</sup> and on September 29, 2006 the Commission approved a 90-day extension to the Pilot that expired on January 2, 2007.<sup>9</sup> The Fund Options will continue to meet substantially all of the listing and maintenance standards in Commentary .06 to Amex Rule 915 and Commentary .07 to Amex Rule 916. For the requirements that are not satisfied, the Exchange continues to represent that sufficient mechanisms exist that would provide the Exchange with adequate surveillance and regulatory information with respect to the Fund Options. Continuation of the Pilot would permit the Exchange to continue to work with the Bolsa Mexicana de Valores ("Bolsa") to develop a surveillance sharing agreement.

Accordingly, the Exchange proposes to extend the Pilot for an additional 180-days, until June 30, 2007.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purpose of the Act or the administration 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

No written comments were solicited or received with respect to the proposed rule change.

## 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)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6)<sup>13</sup> thereunder because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from 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 pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

Amex has requested that the Commission waive both the five-day

pre-filing requirement and the 30-day delayed operative delay.<sup>16</sup> The Commission is exercising its authority to waive the five-day pre-filing notice requirement and believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the five-day pre-filing and 30-day operative periods will extend the Pilot, which expired on January 2, 2007, and allow the Amex to continue in its efforts to obtain a surveillance agreement with Bolsa. The Commission notes that another self-regulatory organization recently adopted a substantially similar rule change that was effective upon filing.<sup>17</sup> Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>18</sup>

At any time within sixty (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.<sup>19</sup>

## 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-Amex-2007-01 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-Amex-2007-01. This file number should be included on the subject line if e-mail is used. To help the

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> See Securities Exchange Act Release No. 54876 (December 5, 2006), 71 FR 74968 (December 13, 2006) (order approving File No. SR-CBOE 2006-103).

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>19</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

<sup>6</sup> See SR-Amex-2006-43.

<sup>7</sup> See Securities Exchange Act Release No. 53824 (May 17, 2006), 71 FR 30003 (May 24, 2006).

<sup>8</sup> See Securities Exchange Act Release No. 54081 (June 30, 2006), 70 FR 131 (July 10, 2006).

<sup>9</sup> See Securities Exchange Act Release No. 54553 (September 29, 2006), 71 FR 59561 (October 10, 2006). The Commission notes that the Amex inadvertently stated in its filing that the Pilot was to expire on December 31, 2006. Rather, the Pilot was to expire on January 2, 2007. Telephone conference between Jeffrey Burns, Vice President and Associate General Counsel, Amex and Geoffrey Pemble, Special Counsel, Commission, on January 3, 2007.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. 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-Amex-2007-01 and should be submitted on or before February 1, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>20</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-233 Filed 1-10-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55034; File No. SR-CBOE-2006-112]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to Its Non-option Security Trading Rules

December 29, 2006.

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 December 29, 2006, the Chicago Board Options Exchange, Incorporated ("CBOE" 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 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 submits this rule change filing to modify its non-option security trading rules. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and [www.cboe.com](http://www.cboe.com).

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

In its filing with the Commission, CBOE 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

In September 2006, the Commission approved Exchange Chapters 50-55 governing the trading of non-option securities on the Exchange.<sup>3</sup> Also in September 2006, the Commission approved modifications<sup>4</sup> to the Exchange's non-option trading rules to conform those rules to aspects of Regulation NMS.<sup>5</sup> Thus, the Exchange currently operates a purely electronic stock trading platform that has in place certain rules required by Regulation NMS in order to qualify as a market center with protected quotations. The Exchange now proposes to further modify Chapters 50-55 in connection with the establishment of the CBOE Stock Exchange ("CBSX"). CBSX would be a facility of the Exchange and serve as the Exchange's vehicle for trading non-option securities. CBSX would be a separate legal entity (a Delaware Limited Liability Company) owned by the Exchange and several strategic partners (the Exchange owns roughly

half of CBSX). The Exchange has submitted a separate rule filing proposing to establish CBSX as a facility of the Exchange.<sup>6</sup> This filing changes certain portions of the Exchange's non-option trading rules to fit the market model envisioned for CBSX. These changes are described below.

###### a. Agency Function

Under the current rules, DPMs on the system serve as agent for certain orders that must be processed "manually." More specifically, in the event the Exchange is not the NBBO at the time a marketable order is received and no market-makers on the Exchange step up to match the NBBO price, the order is routed to the DPM for manual handling. As part of this manual handling, the DPM determines whether to provide price improvement for the order or whether to route it to the NBBO market for execution. During this time, and during any time that the order is routed, the DPM acts as agent for the order. The other instance in which DPMs perform an agency function is in the execution of pre-opening orders at the opening price of the primary market for stocks in which the Exchange is not the primary market. The Exchange now proposes to eliminate all agency functions for CBSX DPMs.

The Exchange intends for the CBSX system (it's the same system as the current system—just a new name) to automatically route marketable non-IOC orders to other market centers when CBSX is not the NBBO and no market-makers have stepped up to match the NBBO. This routing logic is contained in the CBSX trade engine, and CBSX would use an unaffiliated routing broker pursuant to an agreement to transmit orders on CBSX's behalf to better-priced protected quotations consistent with Regulation NMS. The handling and routing would all be done electronically by the CBSX system without any manual intervention. As far as the opening, the Exchange proposes to eliminate a DPM's agency obligation to manually execute orders in connection with the opening print on the primary market by changing the time in which CBSX will open. CBSX would enter an open state at 8:15 a.m. Chicago time (before the primary market openings). The opening would be automatically performed by the system. That is, the CBSX system would automatically execute pre-opening orders at a price that allows the greatest number of pre-opening shares to trade. This would allow customers that are interested in an

<sup>3</sup> See Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (approving SR-CBOE-2004-21).

<sup>4</sup> See Securities Exchange Act Release No. 54526 (September 27, 2006), 71 FR 58646 (October 4, 2006) (approving SR-CBOE-2006-70).

<sup>5</sup> 17 CFR 242.600 *et seq.*

<sup>6</sup> See SR-CBOE-2006-110 (filed December 26, 2006).

<sup>20</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.