

(7) To the Department of Justice and/or the Office of General Counsel of the Commission when the defendant in litigation is: (a) Any component of the Commission or any employee of the Commission or any employee of the Commission in his or her official capacity; (b) the United States where the Commission determines that the claim, if successful, is likely to directly affect the operations of the Commission; or (c) any Commission employee in his or her individual capacity where the Department of Justice and/or the Office of General Counsel of the Commission agree to represent such employee.

(8) To a Congressional office in response to an inquiry from the Congressional office made at the request of an individual but only from the record of that individual.

(9) To inform complainants, victims, and witnesses of the results of an investigation or inquiry.

(10) To qualified individuals or organizations in connection with the performance of a peer review or other study of the Office of Inspector General's audit or investigative functions.

(11) To a Federal agency responsible for considering debarment or suspension action if the record would be relevant to such action.

(12) To the Department of Justice for the purpose of obtaining its advice on Freedom of Information Act matters.

(13) To the Office of Management and Budget for the purpose of obtaining its advice on Privacy Act matters.

(14) To a public or professional licensing organization if the record indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

(15) To the Office of Government Ethics (OGE) to comply with agency reporting requirements established by OGE in 5 CFR part 2638, subpart F.

(16) To the news media and the public when there exists a legitimate public interest (e.g., to provide information on events in the criminal process, such as an indictment).

(17) To the Integrity Committee of the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency, another Federal Office of Inspector General, or other Federal law enforcement office in connection with an investigation, inquiry or review conducted pursuant to Executive Order 12993, or at the request of the SEC Inspector General.

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

##### **STORAGE:**

The Office of Inspector General Investigative Files consists of paper records maintained in folders, binders and logbooks; various records in electronic form; and an automated data base. The folders, binders and logbooks are stored in the Office of Inspector General's file cabinets and offices. The automated data base and electronic records are maintained on a file server and backup tapes in encrypted form.

##### **RETRIEVABILITY:**

The records are retrieved by the name of the subject of the investigation or inquiry, or by a unique control number assigned to each investigation or inquiry.

##### **SAFEGUARDS:**

These records are available only to those persons whose official duties require such access. The records are kept in limited access areas during duty hours and in locked file rooms or locked offices at all other times.

##### **RETENTION AND DISPOSAL:**

The Investigative Files are kept in accordance with the Office of Inspector General's record retention schedule.

##### **SYSTEM MANAGER(S) AND ADDRESS:**

Inspector General, Office of Inspector General, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-2736.

##### **NOTIFICATION PROCEDURES:**

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, U.S. Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-7, Alexandria, VA 22312-2413.

##### **RECORD ACCESS AND CONTESTING PROCEDURES:**

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of this record may contact the Privacy Act Officer, U.S. Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-7, Alexandria, VA 22312-2413.

##### **RECORD SOURCE CATEGORIES:**

Information in these records is supplied by: Individuals including, where practicable, those to whom the information relates; witnesses, corporations and other entities; records of individuals and of the Commission; records of other entities; Federal,

foreign, state or local bodies and law enforcement agencies; documents and correspondence relating to litigation; transcripts of testimony; and miscellaneous other sources.

##### **EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Pursuant to 5 U.S.C. 552a(j)(2), this system of records, to the extent it pertains to the enforcement of criminal laws, is exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i).

Pursuant to 5 U.S.C. 552a(k)(2), this system of records to the extent it consists of investigatory material compiled for law enforcement purposes, is exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) other than material within the scope of the exemption at 5 U.S.C. 552a(j)(2).

These exemptions are contained in 17 CFR 200.313.

Dated: May 24, 2006.

By the Commission.

**Nancy M. Morris,**  
*Secretary.*

[FR Doc. E6-8472 Filed 5-31-06; 8:45 am]

**BILLING CODE 8010-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-53858; File No. SR-Amex-2006-53]**

#### **Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the DB Commodity Index Tracking Fund**

May 24, 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 May 23, 2006, 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 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

<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).

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 revise the manner in which the Deutsche Bank Liquid Commodity Index™—Excess Return (the “DBLCI” or “Index”) is maintained in connection with the listing and trading of the DB Commodity Index Tracking Fund (the “Trust” or “Fund”). The Commission previously approved the listing and trading of the shares of the Fund on the Exchange.<sup>5</sup> The Exchange has designated this proposal as non-controversial and has requested that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>6</sup> The text of the proposed rule change is available on the Amex's Web site (<http://www.amex.com>), at the Amex's Office of the Secretary, 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 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**

The purpose of the proposal is to clarify the manner in which the DBLCI is maintained. In particular, the proposal seeks to provide that the replacement of expiring futures contracts will be based on “Optimal Yield” roll rules for the DBLCI, which are described in detail below. The effect of this change will be to maximize the benefits of rolling in backwardated<sup>7</sup>

markets and minimize the loss from rolling in markets in contango.<sup>8</sup> The Exchange proposes that the proposed change be operative June 1, 2006.

The Exchange believes that adoption of this change to futures replacement will mitigate losses associated with contango conditions and maximize gains associated with backwardated conditions, thereby benefiting investors.<sup>9</sup> A contango condition erodes investor returns/yields because the price of the futures contract being sold, *i.e.*, the nearby futures contract, is less than the price of the futures contract being purchased, *i.e.*, a futures contract expiring in a later month than the nearby futures contract. Conversely, a backwardated condition benefits investors by increasing returns/yields because the price of the futures contract being sold, *i.e.*, the nearby futures contract, is greater than the price of the futures contract being purchased, *i.e.*, a futures contract expiring in a later month than the nearby futures contract.

Currently, the expiring futures contracts are replaced monthly (other than in November) during the first week of the month in the case of futures contracts relating to crude oil and heating oil and annually in November in the case of futures contracts relating to aluminum, gold, corn and wheat. Crude oil and heating oil futures contracts are always replaced with the contract expiring in the next month; aluminum, gold, corn and wheat contracts are always replaced with a contract expiring in one year. The Index Sponsor and the Exchange believe that instituting “Optimal Yield” roll rules for the Index futures contracts, which require the Index Sponsor to replace expiring contracts in the Index with the highest yielding or “optimal” futures contract that will expire in no more than thirteen (13) months, will provide greater flexibility for the Index Sponsor to reduce the effects of contango conditions and increase the benefits of backwardation for the benefit of investors and the marketplace.

Under this proposal, an existing contract must be replaced with a longer-dated contract if the existing contract is within a predetermined number of months of its expiration depending on the particular commodity and based on the historical liquidity of the particular commodity as it approached expiration. The new futures contract will be the

contract with the maximum implied roll yield over the next 13 months. The maximum implied roll yield is determined by inputting the prices of the contracts expiring in future months and the price of the existing contract into a formula that compares the prices and accounts for the time value associated with those prices based on the time-to-expiration of each contract. If two (2) contracts for a particular commodity have the same maximum implied roll yield, the contract with the maximum yield and minimum time to expiration will be selected. Once the contract is selected, the monthly index roll will unwind the old futures contract and enter a position in the new contract. This will occur between the 2nd and 6th business days of the month.

The Exchange in this proposal solely seeks to permit the listing and trading of the shares of the Fund based on the revised Index replacement mechanism. This revision will be fully disclosed to the marketplace and investors through a regulatory filing by the Fund, as well as information on the Fund's Web site at [www.dbcfund.db.com](http://www.dbcfund.db.com).

##### **2. Statutory Basis**

The Exchange believes that 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, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, 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**

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**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public

<sup>5</sup> See Securities Exchange Act Release Nos. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (approving the listing and trading of the DB Commodity Index Tracking Fund).

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

<sup>7</sup> “Backwardated” refers to a condition in which commodity deliveries in the near future have a higher price than those made later on. This occurs when demand for the commodity is greater in the near term.

<sup>8</sup> “Contango” refers to a condition in which distant delivery prices for futures exceed spot prices, often due to the costs of storing and insuring the underlying commodity.

<sup>9</sup> A contango market will tend to cause a drag on the Index while a backwardated market will tend to cause a push on the Index.

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

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

interest; (ii) impose any significant burden on competition; and (iii) 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) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>14</sup> However, Rule 19b-4(f)(6)(iii)<sup>15</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Amex has requested that the Commission waive the 30-day operative delay so that the proposed rule change is operative on June 1, 2006. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal seeks to change the manner in which futures contracts comprising the DBLCI are replaced or "rolled" so that the effects of contango are reduced while the benefits of backwardation are increased to the advantage of investors and the marketplace. For this reason, the Commission designates the proposal to be operative on June 1, 2006, as requested by the Exchange.<sup>16</sup>

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.<sup>17</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-2006-53 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-2006-53. 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 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-Amex-2006-53 and should be submitted on or before June 22, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E6-8438 Filed 5-31-06; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53867; File No. SR-Amex-2006-50]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Regarding Options Quote Size Mitigation

May 25, 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 May 18, 2006, 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 substantially prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

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

The Exchange proposes to extend the operation of the options market data size mitigation pilot program ("Options Size Mitigation" or "Pilot Program") from March 5, 2006 through March 5, 2007.

The text of the proposed rule change is available on the Amex's Web site (<http://www.amex.com>), at the Office of the Secretary, the Amex, 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 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 III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

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

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii). As required by Rule 19b-4(f)(6)(iii), the Amex provided the Commission with written notice of its intent to file this proposed rule change, along with a brief description and text of the proposed change, at least five business days prior to the date of filing of the proposed rule change.

<sup>15</sup> *Id.*

<sup>16</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. See 15 U.S.C. 78c(f).

<sup>17</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

<sup>18</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.