

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54980; File No. SR-NFA-2006-04]

### Self-Regulatory Organization; National Futures Association; Notice of Filing and Immediate Effectiveness of a Proposed Amendment Relating to the Interpretive Notice Regarding NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products

December 20, 2006.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-7 under the Act,<sup>2</sup> notice is hereby given that on November 27, 2006, National Futures Association (“NFA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change described in Items I, II, and III below, which Items have been prepared by NFA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. NFA also has filed the proposed rule change with the Commodity Futures Trading Commission (“CFTC”).

NFA, on November 21, 2006, submitted the proposed rule change to the CFTC for approval and invoked the “ten-day” provision of Section 17(j) of the Commodity Exchange Act (“CEA”).<sup>3</sup> By letter dated December 4, 2006, the CFTC notified NFA of its determination not to review the proposed rule change.<sup>4</sup>

#### I. Self-Regulatory Organization’s Description of the Proposed Rule Change

In November 2001, NFA’s Board approved an Interpretive Notice allowing current registrants to qualify to engage in security futures activities by taking a training program instead of a test. The Interpretive Notice initially provided for a six-month window after security futures products (“SFPs”) began trading, and the Notice was subsequently amended—as were NASD’s rules—to extend that window until December 31, 2006. The proposed rule change extends the current provisions substituting training for testing until December 31, 2009.

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

In its filing with the Commission, NFA has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. NFA 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

Initially, both NFA and the National Association of Securities Dealers, Inc. (“NASD”) anticipated developing tests for registrants who engage in security futures activities. In the meantime, NFA and NASD jointly developed a web-based training program that complies with the training requirement. To date, just over 13,000 individuals have completed that program. Approximately 9,000 of these individuals were registered with full broker-dealers (some of which are also FCMs), and approximately 4,000 were registered with futures-only firms. The vast majority completed the training within a year after NFA began offering it.

Only 180 individuals completed the training in the first eight months of 2006. Based on the small number of new individuals who desire to sell these products and the fact that SFPs are lightly traded, NFA and NASD staffs have concluded that developing and adopting tests at this time is not cost-effective.

###### 2. Statutory Basis

The rule change is authorized by, and consistent with, Section 15A(k) of the Act.<sup>5</sup>

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

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act and the CEA.

##### C. Self-Regulatory Organization’s Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

NFA did not publish the rule change to the membership for comment. NFA did not receive comment letters concerning the rule change.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

NFA, on November 21, 2006, submitted the proposed rule change to the CFTC for approval and invoked the “ten-day” provision of Section 17(j) of the CEA.<sup>6</sup> By letter dated December 4, 2006, the CFTC notified NFA of its determination not to review the proposed rule change.<sup>7</sup> The proposed rule change has become effective on December 4, 2006.

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.<sup>8</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 No. SR-NFA-2006-04 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 No. SR-NFA-2006-04. 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/>

<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.

<sup>3</sup> 15 U.S.C. 21(j).

<sup>4</sup> See Letter from Lawrence B. Patent, Deputy Director, CFTC, to Thomas W. Sexton, III, General Counsel, NFA (December 4, 2006) (“Letter”).

<sup>5</sup> 15 U.S.C. 78o-3(k).

<sup>6</sup> 15 U.S.C. 21(j).

<sup>7</sup> See Letter, *supra* note 4.

<sup>8</sup> 15 U.S.C. 78s(b)(1).

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 will also be available for inspection and copying at the principal office of the NFA. 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 No. SR-NFA-2006-04 and should be submitted on or before January 29, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6-22658 Filed 1-5-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55029; File No. SR-Amex-2006-76]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval to Proposed Rule Change as Modified by Amendments No. 1, 2, 3, and 4 Thereto and Notice of Filing of Amendments No. 3 and 4 Relating to the Listing and Trading of the DB Multi-Sector Commodity Trust

December 29, 2006.

#### I. Introduction

On August 16, 2006, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to list and trade the DB Multi-Sector Commodity Trust under Commentary .07 to Amex Rule 1202. On October 12, 2006, Amex filed Amendment No. 1 to

the proposal. On November 3, 2006, Amex filed Amendment No. 2 to the proposal. The proposed rule change, as amended, was published for comment in the **Federal Register** on November 24, 2006 for a 15-day comment period.<sup>3</sup> The Commission received no comments regarding the proposal. On December 19, 2006, Amex filed Amendment No. 3 to the proposed rule change.<sup>4</sup> On December 29, 2006, Amex filed Amendment No. 4 to the proposed rule change.<sup>5</sup> This order approves the proposed rule change as modified by Amendments No. 1, 2, 3, and 4 on an accelerated basis and solicits comments from interested persons on Amendments No. 3 and 4.

#### II. Description of the Proposal

Amex Rules 1200, 1201 and 1202 provide for the listing and trading of Trust Issued Receipts ("TIRs"). Amex Rule 1202 sets out listing and trading criteria for TIRs. Pursuant to Commentary .07 to Amex Rule 1202, the Exchange may list and trade TIRs where the trust holds securities ("Investment Shares") issued by an entity that invests in any combination of securities, futures contracts, options on futures contracts, forward contracts, commodities, swaps or high credit quality short-term fixed income securities or other securities. Commentary .07 requires the Exchange to submit a proposal pursuant to Section 19(b) of the Act subject to Commission review and approval for each new series of such TIRs holding Investment Shares.

Accordingly, the Exchange proposes to list and trade shares ("Shares") of: (1) The PowerShares DB Energy Fund (the "Energy Fund"); (2) the PowerShares DB Oil Fund (the "Oil Fund"); (3) the PowerShares DB Precious Metals Fund (the "Precious Metals Fund"); (4) the

<sup>3</sup> See Securities Exchange Act Release No. 54770 (November 16, 2006), 71 FR 67935 ("Notice").

<sup>4</sup> In Amendment No. 3, Amex clarified that (1) relevant Indicative Fund Values calculated by the Index Sponsor between 9:30 a.m. (when trading begins on the Amex) to 10:00 a.m. (when the oil futures open at the NYMEX) will be based on prices obtained from Reuters; (2) the Exchange will obtain a representation for each series of Portfolio Depositary Receipts that the net asset value per share will be calculated daily and will be made available to all market participants at the same time; and (3) the Exchange will require for each Fund that 200,000 Shares be outstanding prior to the commencement of trading on the Exchange.

<sup>5</sup> In Amendment No. 4, Amex clarified that the Exchange will delist or remove the listing of the Shares pursuant to Amex rules if a substitute index or other replacement benchmark is used in connection with the Shares, unless the Exchange files with the Commission a related proposed rule change pursuant to Rule 19b-4 under the Act seeking approval to continue trading the Shares of such Fund and such rule change is approved by the Commission. Amex also corrected a typographical error to clarify that the Shares will begin to trade on the Amex from 9:30 a.m.

PowerShares DB Gold Fund (the "Gold Fund"); (5) the PowerShares DB Silver Fund (the "Silver Fund"); (6) the PowerShares DB Base Metals Fund (the "Base Metals Fund"); and (7) the PowerShares DB Agriculture Fund (the "Agriculture Fund") (collectively the "Funds").

In its proposal, the Exchange provided detailed description regarding the structure of the Funds and the listing and trading of the Shares. In particular, the Exchange addressed (i) the designation and calculation of each Fund's underlying index, (ii) the calculation and dissemination of net asset value ("NAV"), (iii) the application of initial and continued listing criteria specified in Commentary .07 to Amex Rule 1202, (iv) the creation and redemption process, (v) dissemination of pricing and other information pertaining to the Shares, including intraday indicative value, Share price, and underlying index value, (vi) arbitrage of the Shares, (vii) listing fees, (viii) applicable Exchange trading rules, (ix) events triggering trading halts and/or delisting, (x) applicable suitability requirements, (xi) the distribution of an information circular regarding the Shares to Exchange members, and (xii) surveillance procedures.

#### Product Description

Each Fund's Shares represent beneficial ownership interests in a corresponding Master Fund's net assets.<sup>6</sup> These assets consist solely of the common units of beneficial interests of the DB Energy Master Fund, the DB Oil Master Fund, the DB Precious Metals Master Fund, the DB Gold Master Fund, the DB Silver Master Fund, the DB Base Metals Master Fund, and the DB Agriculture Master Fund (collectively, the "Master Funds").

Each of the Funds and each of the Master Funds are commodity pools operated by DB Commodity Services LLC (the "Managing Owner").<sup>7</sup> The Master Funds will hold primarily<sup>8</sup> futures contracts<sup>9</sup> on the commodities

<sup>6</sup> Each of the Funds will be formed as a separate series of the DB Multi-Sector Commodity Trust (the "Trust"), a Delaware statutory trust. Likewise, each of the Master Funds represents a series of the DB Multi-Sector Commodity Master Trust (the "Master Trust"), also a Delaware statutory trust.

<sup>7</sup> The Managing Owner, a subsidiary of DB London, is a commodity pool operator and commodity trading advisor.

<sup>8</sup> Other holdings of the Master Fund will include cash and U.S. Treasury securities for deposit with futures commission merchants as margin and other high credit quality short-term fixed income securities.

<sup>9</sup> The futures contracts in which the respective Master Fund may invest are as follows: Energy Index—sweet light crude (NYMEX), heating oil

<sup>9</sup> 17 CFR 200.30-3(a)(75).

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

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