

declines to accept particular portfolio securities of either of the Old Portfolios for purchase in-kind of shares of the New Portfolio, the applicable Old Portfolio will liquidate portfolio securities as necessary and purchase New Portfolio shares with cash. Consistent with Rule 17a-7(d), Applicants also agree that no brokerage commissions, fees, or other remuneration will be paid in connection with the in-kind transactions.

Conclusions

1. Applicants submit that for the reasons and upon the facts set forth in their application, the requested order meets the standards set forth in Section 26(c) and should, therefore, be granted.

2. Section 17 Applicants represent that the proposed in-kind transactions meet all of the requirements of Section 17(b) of the Act and that an exemption should be granted, to the extent necessary, from the provisions of Section 17(a).

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

Nancy M. Morris,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55018; File No. SR-Amex-2006-109]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Listing Standards for Series of Portfolio Depository Receipts and Index Fund Shares

December 28, 2006.

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 21, 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 Exchange. Amex filed Amendment No. 1 with the Commission on December 20, 2006. This order provides notice of the proposed rule change as modified by Amendment No. 1 and approves the

proposed rule change on an accelerated basis.

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

The Exchange proposes to make clarifying changes to Amex Rules 1000, 1002, 1000A and 1002A and minor, typographical changes to Amex Rules 1000, 1002 and 1002A, relating to listing standards for series of portfolio depository receipts and index fund shares (collectively, "exchange-traded funds" or "ETFs"). The text of the proposed rule change is available at Amex, at <http://www.amex.com>, 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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to clarify the listing standards in Amex Rules 1000, 1002, 1000A and 1002A governing ETFs, amendments to which were approved by the Commission on November 9, 2006.³ In particular, the Commission approved changes to Rules 1000 and 1000A to include generic listing standards for series of ETFs that are based on international or global indexes. Additionally, the Commission approved revisions to Amex Rules 1000 and 1000A to include generic listing standards for ETFs that are based on indexes or portfolios previously approved by the Commission as an underlying benchmark for the trading of ETFs, options or other specified index-based securities. These changes enable the Exchange to list exchange-traded funds pursuant to Rule 19b-4(e) of the Act⁴ if each of the conditions set forth in Commentary .03 to Rule 1000 or

Commentary .02 to Rule 1000A is satisfied.

Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change under Rule 19b-4(c)(1) of the Act⁵ if the Commission has approved, pursuant to Section 19(b) of the Act, the self-regulatory organization's trading rules, procedures and listing standards for the product class that would include the new derivatives securities product and the self-regulatory organization has a surveillance program for the product class.⁶

The Commission also approved other minor clarifying changes to Amex Rules 1000, 1002, 1000A and 1002A.

In connection with those approved changes, the Exchange now proposes to make additional clarifying changes to Rules 1000, 1002, 1000A and 1002A. Specifically, the Exchange proposes to amend the definition of "US Component Stock" in Rules 1000(b)(3) and 1000A(b)(3). The definition of U.S. Component Stock was designed to include any equity security that is registered under Sections 12(b) or 12(g) of the Act, and therefore to comprise all securities that are subject to Commission oversight through registration. This definition was intended to include American Depository Receipts ("ADRs"), the underlying security of which is registered under Section 12(b) or 12(g) of the Act. In the case of listed ADRs, it is the equity security underlying an ADR that is registered pursuant to Section 12 of the Act, not the ADRs.⁷ Under Amex's generic listing standards,⁸ the ADR would also be required to be listed on a national securities exchange and be an NMS Stock as defined in Rule 600 of Regulation NMS.⁹ Consequently, the Exchange proposes to revise the definition of U.S. Component Stock to clarify that, while the ADR would be considered the U.S. Component Stock and therefore the index component for purposes of satisfying the eligibility criteria, the ADR can only qualify as a "US Component Stock" if the equity security underlying that ADR is

⁵ 17 CFR 240.19b-4(c)(1).

⁶ When relying on Rule 19b-4(e), the SRO must submit Form 19b-4(e) to the Commission within five business days after the exchange begins trading the new derivative securities products. See Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

⁷ See 17 CFR 240.12a-8.

⁸ See Amex Rule 1000, Commentary .03(a)(A)(5), (a)(B)(5) and (a)(C), and Amex Rule 1000A, Commentary .02(a)(A)(5), (a)(B)(5) and (a)(C).

⁹ 17 CFR 242.600.

³ See Securities Exchange Act Release No. 54739 (November 9, 2006), 71 FR 66993 (November 17, 2006) (SR-Amex-2006-78).

⁴ 17 CFR 240.19b-4(e).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

registered under Section 12(b) or Section 12(d) of the Act.

The Exchange also proposes to modify Rule 1002(a)(ii) and Rule 1002A(a)(ii) to specify that the ETF issuer must provide the Exchange with a representation that the net asset value per share will be calculated daily and made available to all market participants at the same time.

Finally, the Exchange is proposing to make a number of minor, typographical changes to Rules 1000, 1002 and 1002A.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5),¹¹ 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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

The Exchange did not receive any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form at <http://www.sec.gov/rules/sro.shtml> or send an e-mail to rule-comments@sec.gov. Please include File No. SR-Amex-2006-109 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-2006-109. 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 at <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, 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 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-2006-109 and should be submitted on or before January 30, 2007.

IV. Discussion and Commission's Findings

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹² In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,¹³ which requires that the rules of an exchange be 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 facilitating transactions in securities, and to 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.

The Commission believes that the proposal clarifies the Exchange's listing criteria applicable to ETFs. The definition of "US Component Stock" in

Amex Rules 1000(b)(3) and 1000A(b)(3)1000 and 1000A will be amended to make clear that it is the equity security underlying an ADR that must be registered pursuant to Section 12 of the Act, not the ADR itself. The Commission believes that this change is consistent with the intent that the Exchange's definition of "US Component Stock" includes only securities that publicly disclose information under the federal securities laws.¹⁴ In addition, the Commission believes the Exchange's revisions to its Rules 1002(a)(ii) and 1002A(a)(ii) specifying that the ETF issuer must provide a representation that the net asset value per share will be calculated daily and disseminated to market participants at the same time is consistent with the Act. The Commission further believes that the additional proposed revisions to Amex Rules 1000, 1002 and 1002A are minor, and should serve to clarify the Exchange's listing standards.

Accelerated Approval

The Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹⁵ for approving this proposed rule change, as amended, before the thirtieth day after the publication of notice thereof in the **Federal Register**. The Commission notes that accelerating approval will enable the proposed rule clarifications to be implemented immediately to the benefit of market participants.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change, as amended (SR-Amex-2006-109), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Jill M. Peterson,

Assistant Secretary.

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¹⁴ The Commission notes that, pursuant to the Amex's listing rules, an ADR must also be listed on a national securities exchange and must be an NMS stock under Rule 600 of Regulation NMS. 17 CFR 242.600.

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).