IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. [13] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act, [14] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, 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.

The listing of the Fund Options does not satisfy Commentary .06(b)(i) to Amex Rule 915, which requires the Fund to meet the following condition: ''Any non-U.S. component stocks in 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.'' Although the Commission has been willing to allow an exchange to rely on a memorandum of understanding entered into between regulators where the listing SRO finds it impossible to enter into an information sharing agreement, it is not clear that that Amex has exhausted all avenues of discussion with foreign markets, including Bolsa, in order to obtain such an agreement.

Consequently, the Commission has determined to approve Amex's listing and trading of Fund Options for a six-month pilot period during which time Amex may rely on the MOU with respect to Fund components trading on Bolsa. During this period, the Exchange has agreed to use its best efforts to obtain a comprehensive surveillance agreement with Bolsa, which shall reflect the following: (1) Express language addressing market trading activity, clearing activity, and customer identity; (2) the Bolsa's reasonable ability to obtain access to and produce requested information; and (3) based on the CSSA and other information provided by the Bolsa, the absence of existing rules, law or practices that would impede the Exchange from obtaining foreign information relating to market activity, clearing activity, or customer identity, or in the event such rules, laws, or practices exist, they would not materially impede the production of customer or other information.

The Exchange also represents that it will regularly update the Commission on the status of its negotiations with Bolsa. In approving the proposed rule change, the Commission notes that Amex currently has in place surveillance agreements with foreign exchanges that cover 48.89% of the securities in the Fund and that the Index upon which the Fund is based appears to be a broad-based index. The Commission further notes that it recently has approved a proposed rule change by another SRO to list and trade options on the same product on a six-month pilot basis.[15]

The Exchange has requested accelerated approval of the proposed rule change. The Commission finds good cause, consistent with Section 19(b)(2) of the Act,[16] for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register** because it will enable the Exchange to immediately consider listing and trading the Fund Options, similar to products already traded on another SRO, and because it does not raise any new regulatory issues. The Exchange has agreed to use its best efforts to obtain a comprehensive surveillance agreement with the Bolsa during a six-month pilot period in which the Exchange will rely on the MOU.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–2007–09), as modified by Amendment No. 1, be, and it hereby is approved on an accelerated basis for a six-month pilot period ending on October 19, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–7956 Filed 4–25–07; 8:45 am]

BILLING CODE 8010–01–P

[13] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] Securities Exchange Act Release No. 55491 (March 19, 2007), 72 FR 14145 (March 26, 2007).

[16] 15 U.S.C. 78s(b)(2).

[17] *Id.*

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55650; File No. SR–NYSE–2007–10]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Amendments to Interpretation to Rule 311(b)(5) (''Co-Designation of Principal Executive Officers'') as Modified by Amendment No. 1

April 19, 2007.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 2, 2007, the New York Stock Exchange LLC (''NYSE'' or the ''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. On April 16, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change.[4] 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 NYSE is proposing amendments to Interpretation .05 to NYSE Rule 311(b)(5) regarding co-designation of principal executive officers.

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 Exchange included statements concerning the purpose of, and basis for, 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

Rule 311 (''Formation and Approval of Member Organizations'') and specifically Section (b)(5) thereof

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78(a) *et seq.*

[3] 17 CFR 240.19b–4.

[4] Amendment No. 1 replaced the original filing in its entirety.

provide that ''principal executive officers'' shall exercise principal executive responsibility over the various areas of the business of the member corporation. Interpretation .05 to Rule 311(b)(5) (the ''Interpretation'') sets forth the regulatory framework under which member organizations may request approval for assigning two persons as the ''principal executive officers'' [5] for the same function pursuant to Rule 311(b)(5). It presently provides that no understanding or agreement purporting to limit or apportion the joint and several responsibility of each such co-officer will be recognized by the Exchange. The proposed amended Interpretation would qualify that prohibition to permit certain principal executive officers to allocate specific responsibility, subject to Exchange approval.

Background

On September 7, 2005, the Commission approved changes to Rule 311.[6] In promulgating the changes to the Interpretation, the Exchange explained: [7]

Co-Designation of Principal Executive Officers

The Exchange believes that co-designating principal executive officer titles (*i.e.*, assigning or sharing of the same title to two persons) is a potentially troublesome practice in that it can lead to confusion as to which designee is ultimately responsible and accountable for assigned functions. However, there may be instances where such arrangements are supported by valid business reasons, such as when each co-designee has special expertise in critical areas within the purview of the principal executive officer job description or co-principal executive officers have functional responsibility for separate business lines. In light of such circumstances, the Exchange has permitted the co-designation of certain principal executive officer titles at member organizations on a limited basis. Accordingly, the amendments continue to permit such co-designations, but only pursuant to a written request and subject to the prior written approval of the Exchange (*see* new Section /05).

Written requests to the Exchange must set forth the reason for the co-designation and explain how the arrangement is structured. Further, since such co-designations raise issues regarding which person has ultimate authority and accountability, the request must make clear that each co-designee has joint and several responsibility for discharging the duties of the principal executive officer designation and that no understanding or agreement purporting to apportion or limit such responsibility will be recognized by the Exchange.

In situations where authority is, by its nature, indivisible, such as in the cases of CEOs and CFOs, the basis for this position is unarguable. The Exchange now believes, however, that there are legitimate situations where other principal executive officers exercise supervisory authority over discrete and naturally separate business functions, consistent with the internal corporate structure of the particular member organization. As an example, the Exchange has seen a reasonable division of supervisory jurisdictions and responsibility between CCOs whereby one is responsible for the member organization's retail brokerage activities and another deals with the firm's investment banking functions. While there are inevitable areas of overlap between the two, as where new offerings are readied for distribution by the retail sales force, and any proposed request for recognition of the differing areas would need to address such overlap, the greater part of the two functions are mutually exclusive, and lend themselves logically to separation.[8]

It can be seen that a joint and several responsibility could expose one of the co-CCOs to regulatory sanctions for actions in an area which he or she did not and could not reasonably supervise. This needs to be balanced against the need to avoid the situation where each such officer attempts to disclaim responsibility for the supervision of the area in question.

Proposed Amendments

Accordingly, the Exchange proposes to amend the Interpretation to permit co-CCOs and co-COO [9] to allocate supervisory responsibility in a fashion acceptable to the Exchange. Where a member organization seeks to divide regulatory responsibility between more than one principal executive officer bearing the same or similar titles without the assumption of joint and several responsibility, it must provide the Exchange with a plan acceptable to the Exchange allocating specific responsibility and making unambiguous provisions, especially for the supervision of areas where the separate functions interact. It should be clearly understood that joint and several responsibility remains in effect for any area not specifically included in the plan approved by the Exchange. In addition, because the CCO of a member organization has unique responsibilities under Rule 342.30 (''Annual Reports''), the revised Interpretation would also require a representation that the certification required by Rule 342.30(e) will further confirm the qualification of each such co-CCO and that the responsibility of the co-CCOs encompasses every aspect of the business of the member organization. Of necessity, each of the co-CCOs would meet with and advise the CEO as part of the Rule 342.30 certification process.

As proposed, the Interpretation would read:

The prior written approval of the Exchange is required to assign [two] *more than one* person[s] *to* a single ''principal executive officer'' designation pursuant to Rule 311(b)(5). Member organizations seeking approval for such co-designations must submit a written request to the Exchange that sets forth the reason for the co-designation, explains how the arrangement is structured, and makes clear that each co-designee has joint and several responsibility for discharging the duties of that principal executive officer designation[;]. *However, the Exchange may approve a specific plan identifying the business need and other justification for an arrangement which does not provide for joint and several responsibility for principal executive officers other than the chief executive officer and chief financial officer. Such a plan must identify the areas and functions subject to separate supervisory responsibility and make specific provisions for the supervisory*

[5] Rule 311(b)(5) provides that the board of directors of each member organization shall designate ''principal executive officers'' who shall have responsibility over the various areas of the business of the member organization. In operation, the Exchange recognizes four such principal executive officers: Chief executive officer (''CEO''), chief operations officer (''COO''), chief finance officer (''CFO'') and chief compliance officer (''CCO'').

[6] *See* Securities Exchange Act Release No. 52391 (September 7, 2005), 70 FR 54429 (September 14, 2005) (SR–NYSE–2005–04).

[7] *See* NYSE Information Memo 05–69 (September 16, 2005).

[8] All present co-designations have involved two persons, and that may be the optimal number for such sharing of responsibility. However, to assure maximum member organization operational flexibility, the proposed interpretation does not limit the number to two, but would allow three co-designees where a compelling case for such allocation is made. The Commission notes that while the Exchange states above that it would allow three co-designees, the proposed change to the Interpretation .05 of rule 311(b)(5) does not specify a limit on the number of co-designees permitted.

[9] Although to date only co-CCOs have chosen to seek separate status, it would not be unreasonable to extend the same treatment to co-COOs where their duties are subject to rational separation.

responsibility of functions, activities and areas which can reasonably be expected to overlap. [no understanding or agreement purporting to apportion or limit such responsibility will be recognized by the Exchange.] *In addition, in the case of co-CCOs, the written approval request submitted in accordance with this Interpretation shall include a representation to the Exchange, to the effect that the CEO's Annual Report and Certification required by Rule 342.30(e) will further state, in addition to the fact that each such CCO has met the qualification requirements set forth at 342.30(d)/01, that the collective authority, accountability, and responsibility of such co-equal CCOs encompasses, without exception, every aspect of the business of such member organization.*

Implementation Date

The proposed amendments would be effective upon SEC approval.

2. Statutory Basis

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Sections 6(b)(5)[10] of the Act. Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, to protect investors and the public interest. The proposed amendments will provide member organizations with organizational flexibility in the allocation of certain regulatory responsibilities.

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 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 neither solicited nor received written comments on the proposed rule change.

[10] 15 U.S.C. 78f(b)(5).

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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.* Please include File Number SR–NYSE–2007–10 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–NYSE–2007–10. 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 will also be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information 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–NYSE–2007–10 and should be submitted by May 17, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–7939 Filed 4–25–07; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board; Public Meeting

The U.S. Small Business Administration National Small Business Development Center Advisory Board will be hosting a public meeting via conference call to discuss such matters that may be presented by members, and the staff of the U.S. Small Business Administration or interested others. The conference call will take place on Tuesday, May 15, 2007 at 1 p.m. Eastern Standard Time.

The purpose of the meeting is to discuss the initial White Paper draft regarding management of the SBDC program, and arrangements for the Board site visit in June to visit the Ohio SBDC network in Columbus.

Anyone wishing to make an oral presentation to the Board must contact Erika Fischer, Senior Program Analyst, U.S. Small Business Administration, Office of Small Business Development Centers, 409 3rd Street, SW., Washington, DC 20416, telephone (202) 205–7045 or fax (202) 481–0681.

Matthew Teague,

Committee Management Officer.

[FR Doc. E7–8021 Filed 4–25–07; 8:45 am]

BILLING CODE 8025–01–P