

U.S. Office of Personnel Management.  
**Tricia Hollis,**  
*Chief of Staff.*  
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 BILLING CODE 6325-38-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of May 29, 2007:

A Closed Meeting will be held on Wednesday, May 30, 2007 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (8), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (8), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Wednesday, May 30, 2007 will be:

Formal orders of investigations  
 Institution and settlement of injunctive actions  
 Institution and settlement of administrative proceedings of an enforcement nature  
 Resolution of litigation claims  
 Regulatory matter regarding a financial institution;  
 Adjudicatory matters; and  
 Other matters related to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: May 23, 2007.

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55794; File No. SR-Amex-2007-45]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend the Generic Listing Standards for Index-Linked Securities and Adopt New Generic Listing Standards for Commodity-Linked Securities and Currency-Linked Securities

May 22, 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 May 4, 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 substantially prepared by the Exchange. On May 9, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. This order provides notice of the proposed rule change, as modified by Amendment No. 1, and approves the proposed rule change, as amended, on an accelerated basis.

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

The Exchange proposes to adopt generic listing standards for commodity-linked securities ("Commodity-Linked Securities") and currency-linked securities ("Currency-Linked Securities") under new Sections 107E and 107F of the *Amex Company Guide*, respectively, and make changes with respect to trading halts and trading rules for index-linked securities ("Index-Linked Securities") under Section 107D of the *Amex Company Guide*. The text of the proposed rule change is available at Amex, the Commission's Public Reference Room, and <http://www.amex.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, the Exchange 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.

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

##### 1. Purpose

The purpose of the proposed rule change is to enable the listing and trading of Commodity-Linked Securities and Currency-Linked Securities pursuant to Rule 19b-4(e) under the Act.<sup>3</sup> The Exchange proposes to add new Sections 107E and 107F to the *Amex Company Guide* to provide generic listing standards for Commodity-Linked Securities and Currency-Linked Securities, respectively. In addition, the Exchange proposes to make changes to Section 107D with respect to trading halts and rules governing the trading of Index-Linked Securities.<sup>4</sup>

Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4,<sup>5</sup> if the Commission has approved, pursuant to Section 19(b) of the Act,<sup>6</sup> the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivative securities product, and the SRO has a surveillance program for such product class.<sup>7</sup> Amex is proposing to adopt generic listing standards under new Sections 107E and 107F of the *Company Guide* pursuant to which it will be able to trade Commodity-Linked Securities and Currency-Linked Securities<sup>8</sup> without individual Commission approval of each such product pursuant to Section 19(b)(2) of the Act.<sup>9</sup> The Exchange represents that within five (5) business days after commencement of trading of a

<sup>3</sup> 17 CFR 240.19b-4(c).

<sup>4</sup> E-mail from Jeffrey P. Burns, Associate General Counsel, Amex, to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated May 21, 2007 (confirming the scope of the proposed rule change).

<sup>5</sup> 17 CFR 240.19b-4(c)(1).

<sup>6</sup> 17 U.S.C. 78s(b).

<sup>7</sup> See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (S7-13-98).

<sup>8</sup> Commodity-Linked Securities and Currency-Linked Securities are similar to Index-Linked Securities. See Section 107D of the *Amex Company Guide*.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

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

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

Commodity-Linked Security or Currency-Linked Security in reliance on Section 107E and 107F of the Amex Company Guide, respectively, the Exchange will file a Form 19b-4(e).<sup>10</sup>

#### *General Issuer and Issue Eligibility*

The general criteria set forth in Section 107D of the Company Guide for Index-Linked Securities will equally apply to Commodity-Linked Securities and Currency-Linked Securities, respectively, in proposed Sections 107E(a)-(f) and 107F(a)-(f).<sup>11</sup> As with Index-Linked Securities, Commodity-Linked Securities and Currency-Linked Securities will not give the holder thereof any right to receive a portfolio component or any other ownership right or interest in the portfolio or underlying components comprising the Commodity Reference Asset<sup>12</sup> or Currency Reference Asset,<sup>13</sup> as applicable.

The Exchange will apply the following requirements to all issuers of Commodity-Linked and Currency-Linked Securities:

- The issuer will be expected to have a minimum tangible net worth of \$250,000,000. In the alternative, the issuer will be expected: (1) To have a minimum tangible net worth of \$150,000,000 and (ii) not to issue index-linked note offerings (including Commodity-Linked and Currency-Linked Securities), the original issue price of which, combined with all the issuer's other index-linked note offerings listed on a national securities exchange, exceeds 25% of the issuer's tangible net worth at the time of issuance; and
- The issuer must be in compliance with Rule 10A-3 under the Act.<sup>14</sup>

The Exchange will also apply the following requirements to each issue of Commodity-Linked and Currency-Linked Securities:

- The issue must have a minimum public distribution of at least one million trading units and a minimum of 400 public shareholders. This minimum

public distribution and minimum public shareholders requirement will not be applicable to an issue traded in thousand dollar denominations. In addition, the minimum public shareholders requirement will not apply if the securities are redeemable at the option of the holders thereof on at least a weekly basis;

- The issue must have a principal amount/aggregate market value of not less than \$4 million;
- The issue must have a term of at least one year, but not greater than thirty years;
- The issue must be the non-convertible debt of the issuer; and
- The issue must not base its payment at maturity on a multiple of the negative performance of the Commodity Reference Asset or Currency Reference Asset, as applicable, although the payment at maturity may or may not provide for a multiple of the positive performance of such Commodity Reference Asset or Currency Reference Asset.

#### *Commodity-Linked Securities*

Commodity-Linked Securities will also be subject to the specific criteria proposed in new Section 107E of the *Company Guide* for initial and continued listing. Commodity-Linked Securities will be securities that provide for the payment at maturity of a cash amount based on the performance of the Commodity Reference Asset.<sup>15</sup> Such securities may or may not provide for the repayment of the original principal investment amount.

An issue of Commodity-Linked Securities must meet either of the following initial listing standards:

- The Commodity Reference Asset to which the Commodity-Linked Security is linked must have been reviewed and approved for the trading of Commodity-Based Trust Shares, options, or other derivatives by the Commission under Section 19(b)(2) of the Act<sup>16</sup> and rules thereunder, and the conditions set forth in the Commission's order approving such Commodity Reference Asset, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied; or
- The pricing information for each component of a Commodity Reference Asset must be derived from a market (1) that is a SRO member or affiliate member of the Intermarket Surveillance Group ("ISG") or (2) with which the Exchange has a comprehensive surveillance sharing agreement. Pricing information for gold and silver bullion,

however, may be derived from the London Bullion Market Association in connection with Commodity-Linked Securities, without regard to provisions (1) and (2) above.

In addition, an issue of Commodity-Linked Securities must also meet the following initial listing criteria:

- The value of the Commodity Reference Asset must be calculated and widely disseminated on at least a 15-second basis during the time the corresponding Commodity-Linked Securities trade on the Exchange; and
- In the case of Commodity-Linked Securities that are periodically redeemable, the indicative value of the subject Commodity-Linked Securities must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the time such Commodity-Linked Securities trade on the Exchange.

The Exchange submits that it will commence delisting or removal proceedings if any of the foregoing initial listing criteria are not continuously maintained. However, a particular issue of Commodity-Linked Securities will not be delisted for a failure to have comprehensive surveillance sharing agreements in place if the underlying Commodity Reference Asset has at least 10 components, and the Exchange has comprehensive surveillance sharing agreements with respect to at least 90% of the dollar weight of the Commodity Reference Asset. The Exchange will also commence delisting or removal proceedings:

- If the aggregate market value or the principal amount of the Commodity-Linked Securities publicly held is less than \$400,000;
- The value of the Commodity Reference Asset is no longer calculated or available and a new Commodity Reference Asset is substituted, unless the new Commodity Reference Asset meets the requirements of Section 107E of the *Company Guide*; or
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

#### *Currency-Linked Securities*

Currency-Linked Securities will also be subject to the specific criteria in proposed new Section 107F of the *Company Guide* for initial and continued listing. Currency-Linked Securities will be securities that provide for the payment at maturity of a cash amount based on the performance of the

<sup>10</sup> See 17 CFR 240.19b-4(e)(2)(ii); 17 CFR 249.820.

<sup>11</sup> See Securities Exchange Act Release No. 51563 (April 15, 2005), 70 FR 21257 (April 25, 2005) (SR-Amex-2005-001) (approving the general listing criteria for Index-Linked Securities).

<sup>12</sup> Proposed Section 107E defines "Commodity Reference Asset" to be one or more commodities, commodity futures, options or other commodity derivatives, Commodity-Based Trust Shares (as defined in Amex Rule 1200A), or a basket or index of any of the foregoing.

<sup>13</sup> Proposed Section 107F defines "Currency Reference Asset" to be one or more currencies, commodity futures, options or other commodity derivatives, Currency Trust Shares (as defined in Amex Rule 1200B), or a basket or index of any of the foregoing.

<sup>14</sup> 17 CFR 240.10A-3.

<sup>15</sup> See *supra* note 12.

<sup>16</sup> 15 U.S.C. 78s(b)(2).

Currency Reference Asset.<sup>17</sup> Such securities may or may not provide for the repayment of the original principal investment amount.

An issue of Currency-Linked Securities must meet either of the following initial listing standards:

- The Currency Reference Asset to which the Currency-Linked Security is linked must have been reviewed and approved for the trading of Currency Trust Shares, options, or other derivatives by the Commission under Section 19(b)(2) of the Act<sup>18</sup> and rules thereunder, and the conditions set forth in the Commission's order approving such Currency Reference Asset, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied; or
- The pricing information for each component of the Currency Reference Asset must be (1) the generally accepted spot price for the currency exchange rate in question or (2) derived from a market (a) which is an ISG SRO member or affiliate member or with which the Exchange has a comprehensive surveillance sharing agreement and (b) which is the pricing source for components of a Currency Reference Asset that has previously been approved by the Commission.

In addition, an issue of Currency-Linked Securities must also meet the following initial listing criteria:

- The value of the Currency Reference Asset must be calculated and widely disseminated on at least a 15-second basis during the time the corresponding Currency-Linked Securities trade on the Exchange; and
- In the case of Currency-Linked Securities that are periodically redeemable, the indicative value of the subject Currency-Linked Securities must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the time such Currency-Linked Securities trade on the Exchange.

The Exchange submits that it will commence delisting or removal proceedings if any of the foregoing initial listing criteria are not continuously maintained. An issue of Currency-Linked Securities will not be delisted, however, for a failure to have comprehensive surveillance sharing agreements in place if the underlying Currency Reference Asset has at least 10 components, and the Exchange has comprehensive surveillance sharing agreements with respect to at least 90% of the dollar weight of the Currency Reference Asset. The Exchange will also

commence delisting or removal proceedings under any of the following circumstances:

- If the aggregate market value or the principal amount of the Currency-Linked Securities publicly held is less than \$400,000;
- If the value of the Currency Reference Asset is no longer calculated or available and a new Currency Reference Asset is substituted, unless the new Currency Reference Asset meets the requirements of Section 107F of the *Company Guide*; or
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

#### *Trading Halts*

Proposed Sections 107E(h)(3) and 107F(h)(3) state that if the indicative value, the Commodity Reference Asset value, or Currency Reference Asset value, as the case may be, applicable to a series of Commodity-Linked or Currency-Linked Securities, is not being calculated and disseminated as required, the Exchange may halt trading during the day on which such interruption first occurs. If such interruption persists past the trading day on which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. Similarly, with respect to the proposed changes in Section 107D, if the value of the underlying index is not being disseminated as required, the Exchange may halt trading of Index-Linked Securities during the day on which the interruption first occurs. If such interruption persists past the trading day on which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

#### *Firewall Procedures*

Proposed Sections 107E(i) and 107F(i) state that if an underlying index (or group of commodities or currencies, as the case may be) is maintained by a broker-dealer, the broker-dealer will be required to erect a "firewall" around the personnel responsible for the maintenance of such underlying index or who have access to information concerning changes and adjustments to the underlying index, and the underlying index will be calculated by a third party who is not a broker-dealer. In addition, any advisory committee, supervisory board, or similar entity that advises a Reporting Authority (as defined in Amex Rule 1000A-AEMI(b)(3)) or that makes decisions regarding the underlying index or portfolio composition, methodology,

and related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable underlying index or portfolio. The Exchange submits that Amex Rules 1203A and 1203B, which impose certain restrictions on specialist firms and their affiliates, would also apply to the trading of Commodity-Linked and Currency-Linked Securities, respectively.

#### *Surveillance*

Proposed Sections 107E(j) and 107F(j) state that the Exchange will implement written surveillance procedures for Commodity-Linked and Currency-Linked Securities, respectively, including adequate comprehensive surveillance sharing agreements, as applicable. The Exchange represents that it will closely monitor activity in the Commodity-Linked and Currency-Linked Securities to identify and deter any potential improper trading activity. In addition, the Exchange represents that its surveillance procedures are adequate to properly monitor the trading of such securities. Specifically, the Exchange will rely on its existing surveillance procedures governing equities, options, and exchange-traded funds. The Exchange states that it has developed procedures to closely monitor activity in such securities and the underlying indexes, instruments, and/or portfolios to identify and deter potential improper trading activity. To the extent applicable, the Exchange will also be able to obtain trading and beneficial holder information from the primary trading markets for the components comprising the Commodity Reference Assets or Currency Reference Assets, as the case may be, either pursuant to bilateral information sharing agreements with those markets or because those markets are SRO or affiliate members of ISG.

#### *Applicable Exchange Rules*

Proposed Sections 107D(k), 107E(k), and 107F(k) state that Index-Linked Securities, Commodity-Linked Securities, and Currency-Linked Securities, respectively, traded on the Exchange's equity trading floor will be subject to all Exchange rules governing the trading of equity securities. The Exchange's equity margin rules and the Exchange's regular trading hours (9:30 a.m. to 4 p.m. Eastern Time) will apply to transactions in such securities. Index-Linked Securities, Commodity-Linked Securities, and Currency-Linked Securities listed and traded as bond or debt securities will be subject to the

<sup>17</sup> See *supra* note 13.

<sup>18</sup> 15 U.S.C. 78s(b)(2).

rules applicable to bond or debt securities.

#### Information Circular

Upon evaluating the nature and complexity of a Commodity-Linked or Currency-Linked Security, as the case may be, the Exchange represents that it will prepare and distribute, if appropriate, an Information Circular to member organizations describing each product. Accordingly, the particular structure and corresponding risks of such securities will be highlighted and disclosed. The Information Circular will also disclose whether such securities will trade as equity or debt subject to appropriate trading rules including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities, account opening, margin, and customer suitability requirements.<sup>19</sup> In addition, the Information Circular will reference the requirement that Amex member organizations must deliver a prospectus to investors purchasing newly issued Commodity-Linked or Currency-Linked Securities, as the case may be, prior to or concurrently with the confirmation of a transaction.

#### 2. Statutory Basis

The proposal is consistent with Section 6(b) of the Act,<sup>20</sup> in general, and Section 6(b)(5) of the Act,<sup>21</sup> in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purpose 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.

<sup>19</sup> The Exchange states that the Information Circular will detail the Exchange's suitability rule that requires each member organization recommending a transaction in such securities: (1) To determine that such transaction is suitable for the customer and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics, and is able to bear the financial risks, of such transaction. See Amex Rule 411.

<sup>20</sup> 15 U.S.C. 78f(b).

<sup>21</sup> 15 U.S.C. 78f(b)(5).

### III. 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-2007-45 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-2007-45. 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 offices 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-2007-45 and should be submitted on or before June 19, 2007.

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

After careful consideration, 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.<sup>22</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,<sup>23</sup> which requires, among other things, that the Exchange's rules be designed 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.

#### Generic Listing Standards for Commodity-Linked and Currency-Linked Securities

To list and trade Commodity-Linked and Currency-Linked Securities, the Exchange currently must file a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Act<sup>24</sup> and Rule 19b-4 thereunder.<sup>25</sup> However, Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a SRO will not be deemed a proposed rule change pursuant to Rule 19b-4(c)(1) under the Act if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivative securities product, and the SRO has a surveillance program for the product class. The Exchange's proposed rules for the listing and trading of Commodity-Linked Securities and Currency-Linked Securities pursuant to Rule 19b-4(e) fulfill these requirements.

The Exchange's ability to rely on Rule 19b-4(e) to list and trade Commodity-Linked and Currency-Linked Securities that meet the requirements of proposed Sections 107E and 107F of the *Company Guide*, respectively, should reduce the time frame for bringing these securities to the market and thereby reduce the burdens on issuers and other market participants, while also promoting competition and making such securities available to investors more quickly.

The Commission has previously approved generic listing standards that are substantially similar to Amex's

<sup>22</sup> In approving this proposed 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).

<sup>23</sup> 15 U.S.C. 78f(b)(5).

<sup>24</sup> 15 U.S.C. 78s(b)(1).

<sup>25</sup> 17 CFR 240.19b-4.

proposal.<sup>26</sup> The Commission believes that the proposed generic listing standards for Commodity-Linked and Currency-Linked Securities and the proposed changes to the generic listing standards for Index-Linked Securities should fulfill the intended objective of Rule 19b-4(e) and allow securities that satisfy the proposed generic listing standards to commence trading without the need for public comment and Commission approval.<sup>27</sup>

#### *Listing and Trading Index-Linked, Commodity-Linked, and Currency-Linked Securities*

Taken together, the Commission finds that Amex's proposal contains adequate rules and procedures to govern the listing and trading of Index-Linked, Commodity-Linked, and Currency-Linked Securities listed pursuant to Rule 19b-4(e) on the Exchange. All such securities listed under their respective generic standards will be subject to the full panoply of Amex rules and procedures that currently govern the trading of equity or debt securities on the Exchange, as applicable.

As set forth more fully above, Amex has proposed size, earnings, and minimum tangible net worth requirements for each issuer, as well as minimum public distribution and shareholder, principal amount/aggregate market value, and minimum term thresholds for each issuance of Commodity-Linked and Currency-Linked Securities. In addition, the Exchange's proposal requires that the assets (or their derivatives) underlying such securities must either have been reviewed and approved for trading by the Commission or their pricing information must be derived from certain required sources. These requirements are designed to ensure that the trading markets for the underlying components are adequately capitalized and sufficiently liquid. The Commission believes that these requirements should minimize the potential for manipulation.

The Commission also finds that, in the case of Commodity-Linked and Currency-Linked Securities with at least

10 components, the requirement that at least 90% of the dollar weight of the corresponding Commodity Reference Asset or Currency Reference Asset, as the case may be, must have comprehensive surveillance sharing agreements with the Exchange should permit the Exchange to identify potential trading and other violations of its rules. The Commission believes that such a requirement will contribute to the transparency of the Commodity Reference Asset or Currency Reference Asset. The Commission also notes that, by requiring pricing information for the relevant components to be readily available, the proposed listing standards of Sections 107E and 107F of the *Company Guide* should help ensure a fair and orderly market for Commodity-Linked and Currency-Linked Securities listed and traded pursuant to Rule 19b-4(e).

The Exchange has also developed delisting criteria that will permit it to suspend trading of Commodity-Linked and Currency-Linked Securities in circumstances that make further dealings in such products inadvisable. The Commission believes that the delisting criteria should help ensure that a minimum level of liquidity exists for each such security to allow for the maintenance of fair and orderly markets. Also, in the event that the value of the underlying index for Index-Linked Securities, or the applicable Commodity Reference Asset or Currency Reference Asset or, in the case of Commodity-Linked and Currency-Linked Securities that are periodically redeemable, the corresponding indicative value, is no longer calculated and widely disseminated on at least a 15-second basis, the Exchange may halt trading during the day on which the interruption first occurs; however, if the interruption persists past the trading day on which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption and will commence delisting proceedings.

#### *Surveillance*

The Commission notes that any Commodity-Linked and Currency-Linked Securities approved for listing and trading would be subject to the Exchange's existing surveillance procedures governing equities, options, and exchange-traded funds, as well as procedures the Exchange represents it has developed to closely monitor activity in such securities and the underlying indexes and/or portfolios. The Exchange also has represented that its surveillance procedures are adequate to properly monitor the trading of

Commodity-Linked and Currency-Linked Securities listed pursuant to the proposed generic listing standards and that it will be able to obtain necessary trading and beneficial holder information from the primary trading markets for the underlying components, either pursuant to bilateral information sharing agreements with those markets or because those markets are full or affiliate members of ISG.

#### *Information Memorandum*

The Exchange has represented that it will distribute, as appropriate, an Information Memorandum to members describing the product, the specific structure of the product, and the corresponding risks of Commodity-Linked and Currency-Linked Securities. In addition, the Information Memorandum will set forth the Exchange's suitability requirements with respect to recommendations in transactions in Commodity-Linked and Currency-Linked Securities to customers and the prospectus delivery requirements. The Memorandum will also identify and describe the applicable Exchange trading rules governing such securities.

#### *Firewall Procedures*

The Exchange has further represented that if the underlying index is maintained by a broker-dealer, such broker-dealer will establish a "firewall" around personnel responsible for the maintenance of such underlying index or who have access to information concerning changes and adjustments to the underlying index. As an added measure, a third-party who is not a broker-dealer will be required to calculate the value of the Commodity Reference Asset or Currency Reference Asset, as applicable. In addition, the Exchange has stated that any advisory committee, supervisory board, or similar entity that advises a Reporting Authority (as defined in Amex Rule 1000A-AEMI(b)(3)) or that makes decisions regarding the underlying index or portfolio composition, methodology, and related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable underlying index or portfolio. With respect to trading on Amex, the Exchange has stated that, with respect to any issue of Commodity-Linked or Currency-Linked Securities, specialists and their affiliates will be restricted from making markets in and trading the components underlying the Commodity Reference Asset or Currency

<sup>26</sup> See Securities Exchange Act Release No. 55687 (May 1, 2007), 72 FR 25824 (May 7, 2007) (SR-NYSE-2007-27) (approving generic listing standards for Equity Index-Linked Securities, Commodity-Linked Securities, and Currency-Linked Securities).

<sup>27</sup> The Commission notes that the failure of a particular product or index to comply with the proposed generic listing standards under Rule 19b-4(e), however, would not preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2), requesting Commission approval to list and trade a particular commodity- or currency-linked product.

Reference Asset, as the case may be, or any derivative instruments thereof.

#### Acceleration

The Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1 thereto, before the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. The Exchange requested accelerated approval of the proposal to facilitate the prompt listing and trading of Commodity-Linked Securities and Currency-Linked Securities based on the specified criteria of proposed Sections 107E and 107F of the Company Guide. The Commission notes that the Exchange's proposed changes to the generic listing standards for Index-Linked Securities and the proposed generic listing standards for Commodity-Linked and Currency-Linked Securities are based on previously approved listing standards for such securities<sup>28</sup> and presently is not aware of any regulatory issue that should cause it to revisit that finding or would preclude the trading of such securities on the Exchange. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for Commodity-Linked Securities and Currency-Linked Securities, subject to the standards and representations discussed herein. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>29</sup> to approve the proposed rule change on an accelerated basis.

#### V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>30</sup> that the proposed rule change (SR-Amex-2007-45), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>31</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55786; File No. SR-CBOE-2007-15]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change To Amend CBOE's Membership Application Procedures

May 18, 2007.

#### I. Introduction

On February 14, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" 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 amend membership application procedures. The proposed rule change was published for comment in the **Federal Register** on April 10, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

The Exchange proposed to amend Rule 3.9, entitled "Application Procedures and Approval or Disapproval," which requires any person applying to the Exchange to (i) have completed the Exchange's Member Orientation Program ("Orientation Program") and (ii) passed an Exchange Trading Member Qualification Exam ("Qualification Exam"). A person who fulfills these requirements but does not possess an authorized trading function for more than one year must complete the Orientation Program and pass the Qualification Exam again before becoming a member.<sup>4</sup> If that person is not a member of the exchange for up to one year, he can submit an application to become a member again without having to complete the orientation program and the exam again.

CBOE proposed that PAR Officials and Order Book Officials ("OBOs"), as well as others acting in a similar capacity (*i.e.*, an exchange trading floor capacity), be included in the rule, because the functions they perform as

exchange employees are similar to the functions performed by members who are deemed to possess an authorized trading function.

In 2005, CBOE amended its rules to remove a Designated Primary Market-Maker's ("DPM's") obligation to act as an agent or Floor Broker in its allocated securities on the Exchange.<sup>5</sup> At the same time, the Exchange designated a PAR Official to be responsible for handling certain orders in the same manner as they were formerly handled by the DPM.<sup>6</sup> Specifically, the PAR Official is an Exchange employee or independent contractor designated by the Exchange to be responsible for (i) operating the PAR workstation; (ii) when applicable, maintaining the customer limit order book for the assigned option classes;<sup>7</sup> and (iii) effecting proper executions of orders placed with him.

In addition to PAR Officials, the Exchange also employs OBOs whose responsibilities include, among other things, (i) maintaining the book with respect to the classes of options assigned to them, (ii) effecting proper executions of orders placed with them, (iii) displaying bids and offers, and (iv) monitoring the market for the classes of options assigned to them.

The Exchange may employ a former member, who acted in the capacity of a DPM before CBOE established the PAR Official position, to act on behalf of the Exchange in a trading floor capacity. If these PAR Officials and OBOs become members of the Exchange after working for the Exchange in a trading floor capacity for longer than one year, these individuals would have to complete the Orientation Program and pass the Qualification Exam again under current Rule 3.9, since it would have been longer than one year since they had been acting in a capacity that has an authorized trading function.

These PAR Officials and OBOs, while acting in an Exchange trading floor capacity, are ultimately acting in the same capacity as when they were operating in a DPM capacity before the CBOE established the PAR Official trading floor capacity. Therefore, the Exchange believes it is appropriate to amend its procedures to allow for the one-year period under CBOE Rule 3.9(g) to be applied to an individual who has acted in an Exchange trading floor capacity.

<sup>5</sup> See Securities Exchange Act Release No. 52798 (November 18, 2005), 70 FR 71344 (November 28, 2005) (SR-CBOE-2005-46).

<sup>6</sup> *Id.*

<sup>7</sup> This provision will not apply to option classes that are on the CBOE's Hybrid System.

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

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

<sup>3</sup> See Securities Exchange Act Release No. 55570 (April 2, 2007), 72 FR 17961 (April 10, 2007) (the "Notice").

<sup>4</sup> An individual "possesses an authorized trading function" if he is approved to act as a market maker, floor broker, remote market maker ("RMM") or nominee or person registered for an RMM or e-DPM organization.

<sup>28</sup> See *supra* note 26.

<sup>29</sup> 15 U.S.C. 78s(b)(2).

<sup>30</sup> 15 U.S.C. 78s(b)(2).

<sup>31</sup> 17 CFR 200.30-3(a)(12).