

3. Applicants believe they meet the standards for exemption specified in section 9(c). Applicants state that the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe and that the conduct of Applicants has been such as not to make it against the public interest or the protection of investors to grant the requested exemption from section 9(a).

4. Applicants state that the conduct alleged in the Complaint did not involve any of the Applicants acting in their capacity as investment adviser, sub-adviser, depositor or principal underwriter for any of the Funds. Applicants also state that to the best of their knowledge, none of the current directors and officers of the Applicants (other than BAS and BAI) or their employees that engage in Fund Servicing Activities (or any other persons in such roles during the time period covered by the Complaint) participated in the conduct alleged in the Complaint to have constituted the violations that provide a basis for the Injunction. Applicants further state that any personnel at BAS and BAI who participated in the conduct alleged in the Complaint to have constituted the violations that provide a basis for the Injunction have had no, and will not have any future involvement in the Applicants' Fund Servicing Activities.

5. Applicants state that the inability of the Applicants to engage in Fund Servicing Activities would result in potentially severe financial hardships for the Funds they serve and the Funds' shareholders or unitholders. Applicants state that they will distribute written materials, including an offer to meet in person to discuss the materials, to the boards of directors of the Funds (the "Boards"), including the directors who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Funds and their independent legal counsel as defined in rule 0-1(a)(6) under the Act, if any, regarding the Injunction, any impact on the Funds, and the application. Applicants state that they will provide the Boards with all information concerning the Injunction and the application that is necessary for the Funds to fulfill their disclosure and other obligations under the Federal securities laws.

6. Applicants also state that, if they were barred from providing Fund Servicing Activities to the Funds, the effect on their businesses and employees would be severe. Applicants state that they have committed substantial capital and resources to establishing an expertise in providing Fund Servicing Activities. Applicants

further state that prohibiting them from providing Fund Servicing Activities would not only adversely affect their businesses (except for BAI and BAS) but would also adversely affect their employees who are involved in Fund Servicing Activities. Applicants also state that disqualifying KECALP and Ventures from continuing to provide investment advisory services to ESCs is not in the public interest or in furtherance of the protection of investors and would frustrate the expectations of eligible employees who invest in ESCs. Applicants state that it would not be consistent with the purposes of the ESC provisions of the Act to require another entity not affiliated with Merrill Lynch & Co., Inc., or BAC to manage the ESCs.

7. Applicants state that several Applicants and certain of their affiliates have previously received orders under section 9(c), as described in greater detail in the application.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

Temporary Order

The Commission has considered the matter and finds that the Applicants have made the necessary showing to justify granting a temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the Act, that Applicants and any other Covered Persons are granted a temporary exemption from the provisions of section 9(a), solely with respect to the Injunction, subject to the condition in the application, from June 9, 2009, until the Commission takes final action on their application for a permanent order.

By the Commission.

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-14006 Filed 6-12-09; 8:45 am]
BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-9037A; 34-60032A; IC-28757A; File No. 265-25]

Investor Advisory Committee; Notice of Federal Advisory Committee Establishment; Correction

In FR Doc. No. E9-13349, on page 27359 for Tuesday, June 9, 2009, the link for sending electronic comments to the Commission was incorrectly stated in two places. The correct link reads as follows: (<http://www.sec.gov/rules/other.shtml>).

Dated: June 9, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-13934 Filed 6-12-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Friday, June 19, 2009 at 11 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 also may 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), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Friday, June 19, 2009 will be: institution and settlement of injunctive actions; institution and settlement of administrative proceedings; 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: June 10, 2009.

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-14075 Filed 6-11-09; 11:15 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60072; File No. SR-
NYSEArca-2009-46]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Listing and Trading of Safety First Trust Certificates Linked to the S&P 500® Index

June 9, 2009.

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 May 28, 2009, NYSE Arca, Inc. (“NYSE Arca” or the “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 Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving 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, through its wholly-owned subsidiary NYSE Arca Equities, Inc. (“NYSE Arca Equities” or the “Corporation”), proposes to list under NYSE Arca Equities Rule 5.2(j)(7) (“Trust Certificates”) Safety First Trust Series 2009-3, Principal-Protected Trust Certificates Linked to the S&P 500® Index. The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nyse.com>, at the Exchange’s principal office 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 self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

Trust Certificates are certificates representing an interest in a special purpose trust created pursuant to a trust agreement. The trust only issues Trust Certificates, which may or may not provide for the repayment of the original principal investment amount. The sole purpose of the trust is to invest the proceeds from its initial public offering to provide for a return linked to the performance of specified assets and to engage only in activities incidental to these objectives. Trust Certificates pay an amount at maturity based upon the performance of an underlying index or indexes of equity securities an (“Equity Index Reference Asset”); instruments that are direct obligations of the issuing company, either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style), entitling the holder to a cash settlement in U.S. dollars to the extent that the foreign or domestic index has declined below (for a put warrant) or increased above (for a call warrant) the pre-stated cash settlement value of the index (“Index Warrants”); or a combination of two or more Equity Index Reference Assets or Index Warrants, as set forth in Rule 5.2(j)(7).

The Exchange proposes to list under Rule 5.2(j)(7) the Safety First Trust Series 2009-3, Principal-Protected Trust Certificates Linked to the S&P 500® Index (“Certificates”).³ According to the Registration Statement, the Certificates are preferred securities of Safety First Trust Series 2009-3 (“Trust”) and will mature on a specified date in 2014 (“Maturity Date”).⁴ Investors will receive at maturity for each certificate held intact (that is, that has not been exchanged by the holder, as described below) an amount in cash equal to \$10 plus a “Supplemental Distribution Amount”, which may be positive or

zero. The Supplemental Distribution Amount will be based on the percentage change of the value of the S&P 500 Index (“Index”) during the term of the Certificates. The Supplemental Distribution Amount for each Certificate will equal the product of (a) \$10, (b) the percentage change in the value of the Index and (c) the Participation Rate, which is 90%–100%,⁵ provided that the Supplemental Distribution Amount will not be less than zero.⁶

A holder of the Certificates has an interest in two separate securities—equity index participation securities (“Securities”) and equity index warrants (“Warrants”) of Citigroup Funding Inc.⁷ The assets of the Trust will consist of the Securities and the Warrants. Beginning on the date the Certificates are issued and ending one business day prior to the Valuation Date,⁸ a holder can exercise an “exchange right”. A holder can exercise the exchange right by providing notice to his or her broker and instructing the broker to forward that notice to the institutional trustee for the Certificates (U.S. Bank National Association), on any business day, to exchange the Certificates the investor holds for a pro rata portion of the assets of the Trust, which consist of the Securities and the Warrants. According to the Registration Statement, such holders will lose the benefit of principal protection at maturity, and this could result in their receiving substantially less than the amount of the original investment in the Certificates. In order to exercise the exchange right, the investor’s account must be approved for options trading.⁹

The Securities will mature on the Maturity Date. At maturity, each Security will pay a “Security Payment” equal to \$10 plus a “Security Return Amount”, which could be positive, zero or negative. If the value of the Index on the Valuation Date is greater than its value on the pricing date, the Security Return Amount for each Security will equal the product of (a) \$10, (b) the percentage increase in the Index and (c) the Participation Rate, which equals 90%–100% (*e.g.*, assuming a Participation Rate of 90%, if the Index rises 30%, the Security Return Amount would be \$2.70 (\$10 times 0.30 times

⁵ The Participation Rate will be determined at the time of issuance of the Certificates.

⁶ The Trust payments will not be guaranteed pursuant to a financial guaranty insurance policy.

⁷ The Securities and Warrants will not be exchange-listed and may trade over-the-counter.

⁸ Capitalized terms used but not defined herein have the meanings set forth in the Registration Statements.

⁹ See NYSE Arca Equities Rule 5.2(j)(7), Commentary .08.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See the Registration Statement for Safety First Trust Series 2009-3, dated October 31, 2008 (Nos. 333-154914, 154914-06, 154914-11); Registration Statement for Safety First Trust Series 2009-3, dated February 18, 2009 (Nos. 333-157386 and 333-157386-01) (“Registration Statements”).

⁴ The Certificates will be subject to acceleration to an earlier Maturity Date upon one of the acceleration events described in the Registration Statements.