

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56530; File No. SR-Amex-2007-102]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend the Requirements for Listing Commodity-Linked Securities and Currency-Linked Securities

September 25, 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 August 29, 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. This order provides notice of the proposed rule change 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 amend Sections 107E and 107F of the Amex *Company Guide* (the "Company Guide") relating to the listing requirements for commodity-linked securities ("Commodity-Linked Securities") and currency-linked securities ("Currency-Linked Securities"). 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 Exchange proposes to amend sections 107E and 107F of the Company Guide to permit the listing of Commodity-Linked Securities and Currency-Linked Securities, respectively, where the pricing information for up to 10% of the dollar weight of the Commodity Reference Asset,<sup>3</sup> in the case of Commodity-Linked Securities, or the Currency Reference Asset,<sup>4</sup> in the case of Currency-Linked Securities, is derived from markets that do meet the general requirements as set forth in sections 107E(g)(1)(ii) and 107F(g)(1)(ii), respectively.<sup>5</sup> The Exchange further proposes that no single component subject to the foregoing proposed exception may exceed 7% of the dollar weight of the Commodity or Currency Reference Asset, as the case may be.

Commodity-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of the Commodity Reference Asset. Such securities may or may not provide for the repayment of the original principal investment amount. Under section 107E of the Company Guide, an issuance of Commodity-Linked Securities cannot be listed unless either:

- The Commodity Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Commodity Trust Shares or options or other derivatives by the Commission under section 19(b)(2) of the Act<sup>6</sup> and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied; or
- The pricing information for each component of a Commodity Reference

<sup>3</sup> Commodity Reference Asset is defined as one or more commodities, commodity futures, options or other commodity derivatives or Commodity-Based Trust Shares (as defined in Rule 1200A of the Company Guide) or a basket or index of any of the foregoing. See Section 107E of the Company Guide.

<sup>4</sup> Currency Reference Asset is defined as one or more currencies, or options or currency futures or other currency derivatives or Currency Trust Shares (as defined in Rule 1200B of the Company Guide) or a basket or index of any of the foregoing. See Section 107F of the Company Guide.

<sup>5</sup> E-mail from Candice Fordin, Assistant General Counsel, Amex, to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated September 20, 2007 (clarifying the proposed amendments to the generic listing standards for Commodity-Linked and Currency-Linked Securities).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

Asset must be derived from a market which is a self-regulatory organization ("SRO") member or affiliate member of the Intermarket Surveillance Group ("ISG") or with which the Exchange has a comprehensive surveillance sharing agreement ("CSSA"); notwithstanding the foregoing, the pricing information for gold and silver bullion may be derived from the London Bullion Market Association.

The Exchange proposes to amend the listing requirements relating to the source of pricing information for components of Commodity-Linked Securities. Specifically, the proposal seeks to permit the listing of such securities where a maximum of 10% of the dollar weight of the Commodity Reference Asset is comprised of components from markets that are not SRO members or affiliate members of ISG or with which the Exchange does not have a CSSA. In addition, no component subject to this exception may exceed 7% of the dollar weight of the Commodity Reference Asset.<sup>7</sup>

Currency-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of the Currency Reference Asset. Such securities may or may not provide for the repayment of the original principal investment amount. Under Section 107F of the Company Guide, an issuance of Currency-Linked Securities cannot be listed unless either:

- The Currency Reference Asset to which the security is linked shall have previously reviewed and approved for the trading of Currency Trust Shares or options or other derivatives by the Commission under section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied; or
- The pricing information for each component of a 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 either an ISG SRO member or affiliate member or with which the Exchange has a CSSA and (b) is the pricing source for components of a Currency Reference Asset that has previously been approved by the Commission.

The Exchange proposes to amend the listing requirements relating to the source of pricing information for components of Currency-Linked Securities. Specifically, the proposal seeks to permit the listing of such

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

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

<sup>7</sup> See *supra* note 5.

securities where a maximum of 10% of the dollar weight of the Currency Reference Asset is comprised of components (1) For which there is no generally accepted spot price, (2) the pricing of which is derived from markets that are not SRO members or affiliate members of ISG or for which the Exchange does not have a CSSA, and (3) the pricing source of which has not previously been approved by the Commission.<sup>8</sup> In addition, no component subject to this exception may exceed 7% of the dollar weight of the Currency Reference Asset.

The Exchange states that many commodity and currency markets and exchanges are not SRO members or affiliates of ISG. In addition, the Exchange frequently experiences difficulty entering into CSSAs with such commodity and currency markets outside the United States. The Exchange believes, consistent with this proposal, that its surveillance procedures would not be materially hampered as long as it has access to trading information with respect to at least 90% of the dollar weight of the components comprising the Commodity Reference Asset or Currency Reference Asset, as the case may be. With respect to Commodity-Linked Securities, the pricing information for at least 90% of the dollar weight of the Commodity Reference Asset must be derived from ISG member markets or markets with which the Exchange has a CSSA. With respect to Currency-Linked Securities, the Exchange believes that the fact that up to 10% of the dollar weight of the Currency Reference Asset may be comprised of components (1) The pricing information for which is not the generally accepted spot price, (2) the pricing information for which is not derived from a SRO ISG member or affiliate or a market that is a party to a CSSA with the Exchange, or (3) the pricing source of which has not been previously approved by the Commission, should not constitute a material risk to investors.

The Exchange notes that the Commission has previously approved similar approaches to this proposal.<sup>9</sup>

<sup>8</sup> See *id.*

<sup>9</sup> See Section 107D(g)(vi) of the Company Guide (permitting the inclusion of foreign country securities or American Depositary Receipts or "ADRs," provided that such foreign country securities or foreign country securities underlying ADRs having their primary trading market outside the United States on foreign trading markets that are not members of ISG or are not parties to CSSAs with the Exchange will not, in the aggregate, represent more than 20% of the dollar weight of the underlying index. See also Commentary .06(b) to Amex Rule 915 (providing for exceptions to certain eligibility requirements for options trading where

The Exchange states that the proposed amendment would provide Amex with greater flexibility to list Commodity-Linked and Currency-Linked Securities under Sections 107E and 107F of the Company Guide, respectively, and provide issuers with a faster and less cumbersome means of listing such securities, to the benefit of the investing public.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>10</sup> in general, and section 6(b)(5) of the Act,<sup>11</sup> in particular, in that it is 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system in a manner consistent with the protection of 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.

## 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.

the underlying component securities of an index or portfolio are traded on foreign markets); Commentary .02(a)(10) to Amex Rule 901C (allowing the Exchange to trade options on a broad stock index group comprised of non-U.S. component securities as long as the non-U.S. component securities that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than 20% of the weight of the index); and Commentary .03(a)(5) to Amex Rule 901C (permitting the listing of options on stock industry index groups comprised of foreign country securities or ADRs thereon, so long as such foreign country securities of ADRs that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than 20% of the weight of the index).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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-2007-102 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-2007-102. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-2007-102 and should be submitted on or before October 23, 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 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to

a national securities exchange.<sup>12</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>13</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. The Commission believes that the Exchange's surveillance procedures would not be materially hampered as long as the Exchange has access to trading and pricing information of the underlying components that constitute at least 90% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be. In addition, the Commission believes that so long as the pricing information for at least 90% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be, is based on the general pricing information requirements, the proposed amendment to the Exchange's generic listing standards should not constitute a material risk to investors, while potentially benefiting investors by providing the Exchange flexibility to list a broader array of products.

The Commission finds good cause for approving the proposed rule change before the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that it has previously approved similar approaches to the instant proposal, where an underlying equity index may include foreign country securities or foreign country securities underlying American Depositary Receipts having their primary trading market outside the United States on foreign trading markets that are not members or affiliates of ISG or parties to CSSAs with the Exchange, as long as such securities do not, in the aggregate, represent more than 20% of the dollar weight of such underlying index.<sup>14</sup> The Commission further notes that it has approved a substantively identical proposed rule change for another

national securities exchange.<sup>15</sup> The Commission believes that accelerated approval of the proposed rule change should expedite the listing and trading of additional Commodity-Linked Securities and Currency-Linked Securities, subject to the standards discussed herein, to the benefit of the investing public. Therefore, the Commission finds good cause, consistent with section 19(b)(2) of the Act,<sup>16</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>17</sup> that the proposed rule change (SR-Amex-2007-102) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Nancy M. Morris,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56525; File No. SR-NYSE-2007-76]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Accelerated Approval to Proposed Rule Change Relating to Requirements for the Listing and Trading of Commodity-Linked Securities and Currency-Linked Securities

September 25, 2007.

## I. Introduction

On August 22, 2007, the New York Stock Exchange LLC ("NYSE" 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 the generic listing standards for commodity-linked securities ("Commodity-Linked Securities") and currency-linked securities ("Currency-

Linked Securities") under section 703.22 of the NYSE Listed Company Manual ("Manual"). The proposed rule change was published for comment in the **Federal Register** on September 6, 2007 for a 15-day comment period.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change on an accelerated basis.

## II. Description of the Proposal

The Exchange proposed to amend section 703.22(B)(II)(1)(b) and section 703.22(B)(III)(1)(b) of the Manual to permit the listing and trading of Commodity-Linked Securities and Currency-Linked Securities, respectively, where the underlying Commodity Reference Asset<sup>4</sup> or Currency Reference Asset,<sup>5</sup> as the case may be, may include components representing not more than 10% of the dollar weight of such Commodity Reference Asset or Currency Reference Asset, for which the pricing information is derived from markets which do not meet the general requirements of the respective rule, as described below. In addition, the Exchange proposed that no single component of a Commodity Reference Asset or Currency Reference Asset, as the case may be, subject to the foregoing proposed exception may exceed 7% of the dollar weight of such Commodity Reference Asset or Currency Reference Asset, as applicable.

Under section 703.22(B)(II)(1) of the Manual, an issuance of Commodity-Linked Securities currently cannot be listed unless either:

- The Commodity Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Commodity Trust Shares or options or other derivatives by the Commission under Section 19(b)(2)<sup>6</sup> of the Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements ("CSSAs"), continue to be satisfied; or
- The pricing information for each component of a Commodity Reference Asset is derived from a market which is

<sup>3</sup> See Securities Exchange Act Release No. 56332 (August 29, 2007), 72 FR 51285 ("Notice").

<sup>4</sup> Commodity Reference Asset is defined as one or more physical commodities or commodity futures, options or other commodity derivatives or Commodity Trust Shares (as defined in NYSE Rule 1300B) or a basket or index of any of the foregoing. See Section 703.22 of the Manual.

<sup>5</sup> Currency Reference Asset is defined as one or more currencies, options or currency futures or other currency derivatives or Currency Trust Shares (as defined in NYSE Rule 1300A) or a basket or index of any of the foregoing. See *id.*

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>12</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>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See *supra* note 8.

<sup>15</sup> See Securities Exchange Act Release No. 56525 (September 25, 2007) (SR-NYSE-2007-76) (approving the same amendments to the New York Stock Exchange LLC's generic listing standards for Commodity-Linked and Currency-Linked Securities).

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

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

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