

securities exchange. In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5)¹¹ which requires, among other things, that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, not to permit unfair discrimination among customers, issuers, brokers or dealers, and, in general, to protect investors and the public interest.

Additionally, the Commission believes that the revised Forms U-4 and U-5 will assist the Exchange in its registration and oversight functions by providing the Exchange with more relevant information about persons associated with members and member organizations. Moreover, in the future, it is anticipated that non-NASD members of the NYSE will be able to file the forms electronically through Web CRD. Electronic filing should help expedite the registration process for non-NASD members.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the forms have previously been approved by the Commission and are currently in effect.¹² The Commission also notes that the previous filing was submitted for the requisite notice and comment period, and the commission received no public comments. Furthermore, the proposed rule change raises no new issue of regulatory concern. The Commission believes, therefore, that granting accelerated approval to the proposed rule change is appropriate and consistent with Section 6¹³ of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-NYSE-99-37) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

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centralized and efficient means of maintaining information on member firms and their associated persons. 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

¹² See *supra* note 4.

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41992; File No. SR-NYSE-99-22]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Equity-Linked Debt Securities

October 7, 1999.

I. Introduction

On May 28, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change amending Paragraph 703.21 of its Listed Company Manual ("Manual"), the listing of equity-linked debt securities ("ELDS").

The proposed rule change was published for comment in the **Federal Register** on July 14, 1999.³ No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The Exchange is proposing to amend its listing criteria for ELDS. The amendment deals with the minimum required term of such securities, and substitutes a one-year minimum for all ELDS (domestic and non-U.S.) for the current requirement that the securities have a term of two to seven years (three year maximum for non-U.S. securities).

ELDS are non-convertible debt of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock or non-convertible preferred stock. Because ELDS are a derivative product related to the underlying stock, the Exchange trades ELDS on the equity trading floor together with the underlying stock (if such stock is listed).

Paragraph 703.21 of the Manual details the Exchange's listing standards for ELDS. Among other things, these standards require that the ELDS have a term of two to seven years, but not more than three years for ELDS based on the price of a non-U.S. issuer. The Exchange initially proposed these limits as a conservative measure to help ensure that the trading of ELDS does not have an adverse effect on the liquidity of the underlying stock, and is not used in a

manipulative manner. The limits on the terms for ELDS contrast with the Exchange's general requirements for derivative instruments. Specifically, for warrants (Paragraph 703.12 of the Manual), foreign currency and currency index warrants (Paragraph 703.15 of the Manual), contingent value rights (Paragraph 703.18 of the Manual) and "other securities" (Paragraph 703.19 of the Manual), the Exchange requires only that the security have a minimum life of one year.

III. Discussion

After careful review, 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,⁴ and in particular, with the requirements of Section 6(b)(5).⁵ Specifically, the Commission finds that providing for a minimum one year term for all ELDS is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that it will be less confusing for issuers and investors alike and beneficial to the mechanism of a free and open market, if the listing standards for ELDS conform to the listing standards of the Exchange's other hybrid products found in Section 703 of the Manual.⁶ Generally those securities share the following listing criteria: 1 million of the applicable security outstanding, at least 400 holders, at least \$4 million aggregate market value, and a minimum life of one year.⁷

The Commission notes that in the nearly six years that the Exchange has traded ELDS, the Exchange has not discovered any adverse effects of this instrument. In addition, the Exchange has verified that it has adequate surveillance procedures to monitor for possible manipulation of ELDS as well as the related equity securities.⁸ The Exchange has also agreed to notify the Commission in advance if the Exchange intends to list ELDS of a non-U.S. company issuer and the issue has a term

⁴ In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

⁶ See Manual Paragraphs 703.12 (warrants), 703.15 (foreign currency and currency index warrants), 703.18 (contingent value rights), and 703.19 (other securities).

⁷ *Id.* Other requirements may also apply.

⁸ Telephone conversation between Vincent Patton, Assistant Vice-President, Structured Securities, NYSE, Judy Bryngil, Vice-President, Market Trading Analysis, NYSE, and Terri Evans, Attorney, Division of Market Regulation ("Division"), Commission, on July 23, 1999.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 41608 (July 8, 1999), 64 FR 38063 (July 14, 1999).

of more than three years.⁹ The Exchange believes that this rule change will provide issuers with more flexibility in developing ELDS and thus provide greater investment choices in the market. The Commission believes that this added flexibility will encourage innovation without having an adverse effect on investor protection.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-NYSE-99-22) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41983; International Series Release No. 1206; File No. SR-PCX-98-29]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change Relating to the Listing and Trading of Investment Company Units, Including World Equity Benchmark Shares ("WEBS")

October 6, 1999.

I. Introduction

On June 18, 1998, the Pacific Exchange, Inc. ("Exchange" or "PCX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt rules governing the listing and trading of Investment Company Units, including World Equity Benchmark Shares ("WEBSTM").³ The proposed rule change was published for comment in the **Federal Register** on November 3, 1998.⁴ The Commission did not receive any comments on the

proposal. The Exchange submitted Amendment No. 1 to the proposal on May 13, 1999.⁵ This order approves the amended proposed rule change and accelerates approval of Amendment No. 1.

II. Description of the Proposal

A. Standards for Listing and Trading Investment Company Units

The Exchange seeks to adopt new rules to accommodate the trading of Investment Company Units ("Units"), whether by Exchange listing or pursuant to unlisted trading privileges.⁶ A Unit is a security that represents an interest in a registered investment company ("Investment Company"), which Investment Company is organized as a unit investment trust, open-end management investment company, or similar entity.

Under the Exchange's proposed listing standards, an Investment Company that issues Units must: (i) hold securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities; or (ii) hold securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities. An index or portfolio may be revised as necessary or appropriate to maintain the quality and character of the index or portfolio.

In addition, the Investment Company must issue Units in a specified aggregate number in return for a deposit ("Deposit"). The Deposit must consist of: (i) a specified number of shares of securities that comprise the index or portfolio, or are otherwise based on or represent an investment in securities

comprising such index or portfolio, and/or a cash amount; or (ii) shares of a registered investment company, which investment company holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities, and/or a cash amount. Units must be redeemable, directly or indirectly, from the Investment Company for securities and/or cash then comprising the Deposit.⁷ Units must pay holders periodic cash payments corresponding to the regular cash dividends or distributions declared with respect to the securities held by the Investment Company, less applicable expenses and charges. At least 300,000 Units must be outstanding before trading in a series of such Units may begin on the Exchange.

Each series of Units traded on the Exchange must be based on a specified index or portfolio of securities. The value of the index or portfolio must be calculated and disseminated to the public at least once per business day.⁸ However, if the securities representing at least half the value of the index or portfolio are securities of a single country other than the United States, the value of the index or portfolio may be calculated and disseminated to the public at least once per business day in that country. Units may be either certified or issued in the form of a single global certificate.

The Exchange would be permitted to consider suspending trading and delisting (if applicable) a series of Units if: (i) after the initial twelve-month period beginning upon the commencement of trading of a series of Units, there are fewer than 50 record and/or beneficial holders of Units for 30 or more consecutive trading days; (ii) the value of the index or portfolio of securities on which the series is based is no longer calculated or available; or (iii) such other event occurs or condition exists which, in the opinion of the Exchange, makes further dealings

⁷ For example, as discussed below in Section II(B), WEBS are only redeemable from the Foreign Fund, Inc. in "Creation Unit" sizes. See note 11 *infra* and accompanying text for a description of the various Creation Unit sizes.

⁸ The Commission generally believes that updating values on a real-time basis throughout the trading day is essential to any securities product. In this regard, the Commission notes that the Exchange will also disseminate an indicative optimized portfolio value ("Value"), which closely approximates the value of the portfolio of securities comprising each WEBS series, at least every fifteen seconds during regular trading hours. While the Values disseminated by the Exchange will not be the official values for the portfolios of securities comprising each WEBS series, the Values are designed to accurately reflect the value of each WEBS portfolio and to provide investors with timely access to important market information during trading hours.

⁹ Telephone conversation between Vincent Patton, Assistant Vice-President, Structured Securities, NYSE, and Nancy Sanow, Senior Special Counsel, Division, Commission on July 8, 1999.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ "World Equity Benchmark Shares" and "WEBS" are service marks of Morgan Stanley Group, Inc.

⁴ See Securities Exchange Act Release No. 40603 (Oct. 26, 1998), 63 FR 59354 (Nov. 3, 1998).

⁵ In Amendment No. 1, the Exchange: (i) provided confidential surveillance procedures; (ii) stated its intent to trade WEBS pursuant to unlisted trading privileges; (iii) proposed to delay the trading of Malaysian WEBS due to Malaysian currency restrictions; (iv) provided rule language clarifying that Exchange specialists may redeem or create WEBS only on the same terms and conditions as any other investor and only at the net asset value; (v) explained how the Exchange will review the creation or redemption of WEBS by Exchange specialists; (vi) specified how the net asset values for Index Series will be disseminated; and (vii) confirmed that Exchange members may rely on certain exemptive and no-action relief that the Commission previously provided to the American Stock Exchange. See Letter from Robert P. Pacileo, Staff Attorney, Regulatory Policy, Exchange, to Michael A. Walinskas, Associate Director, Division of Market Regulation Commission, dated May 11, 1999 ("Amendment No. 1").

⁶ Pursuant to Section 12(f) of the Act and the rules thereunder, a national securities exchange may extend unlisted trading privileges to a security listed and registered on another national securities exchange if certain conditions are satisfied. See 15 U.S.C. 781(f) and 17 CFR 240.12f-1, 12f-2, 12f-3, 12f-4, and 12f-5.