

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55189; File No. SR-NYSE-2006-67)

January 29, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendments No. 1 and 2 Thereto to List and Trade Exchange-Traded Notes of Barclays Bank PLC Linked to the Performance of the British pound/U.S. Dollar Exchange Rate

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 24, 2006 the New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 15, 2006, the Exchange submitted Amendment No. 1.<sup>3</sup> On January 23, 2007, the Exchange submitted Amendment No. 2.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to list and trade exchange-traded notes (“Notes”) of Barclays Bank PLC (“Barclays”) linked to the performance of the British pound/U.S. dollar exchange rate (the “GBP/USD exchange rate”).

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

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

<sup>3</sup> Amendment No. 1 replaced and superseded the Exchange’s original submission in its entirety.

<sup>4</sup> Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

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 IV below. The NYSE 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 Notes

Under Section 703.19 of the Listed Company Manual (the "Manual"), the Exchange may approve for listing and trading securities not otherwise covered by the criteria of Sections 1 and 7 of the Manual, provided the issue is suited for auction market trading. The Exchange proposes to list and trade, under Section 703.19 of the Manual, the Notes, which are linked to the performance of the GBP/USD exchange rate. Barclays intends to issue the Notes under the name "iPath<sup>SM</sup> Exchange Traded Notes."

The Exchange believes that the Notes will conform to the initial listing standards for equity securities under Section 703.19, as Barclays is an affiliate of Barclays PLC, which is a listed company in good standing, the Notes will have a minimum life of one year, the minimum public market value of the Notes at the time of issuance will exceed \$4 million, there will be at least one million Notes outstanding, and there will be at least 400 holders at the time of issuance. The Notes are a series of medium-term debt securities of Barclays that provide for a cash payment at maturity or upon earlier redemption at the holder's option, based on the performance of the GBP/USD exchange rate subject to the adjustments described below. The original issue

price of each Note will be \$25. The Notes will trade on the Exchange's equity trading floor, and the Exchange's existing equity trading rules will apply to trading in the Notes.

The GBP/USD exchange rate is a foreign exchange spot rate that measures the relative values of two currencies, the British pound and the U.S. dollar. When the British pound appreciates relative to the U.S. dollar, the GBP/USD exchange rate (and the value of the Notes) increases; when the British pound depreciates relative to the U.S. dollar, the GBP/USD exchange rate (and the value of the Notes) decreases. The GBP/USD exchange rate is expressed as a rate that reflects the number of U.S. dollars that can be exchanged for one British pound in the interbank market for settlement in two days, as reported each day shortly after 10:00 a.m. Eastern Time ("ET") on Reuters page 1FED or any successor page.

The Notes will not have a minimum principal amount that will be repaid and, accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes. In fact, the GBP/USD exchange rate must increase for the investor to receive at least the \$25 original issue price per Note at maturity or upon redemption. If the GBP/USD exchange rate decreases or does not increase sufficiently to offset any negative effect of the adjustment factor (described below), the investor will receive less, and possibly significantly less, than the \$25 original issue price per Note. In addition, holders of the Notes will not receive any interest payments from the Notes. The Notes will have a term of 30 years. The Notes are not callable.

If the Notes are held to maturity, the holder will receive a cash payment at maturity that is linked to the percentage change in the GBP/USD exchange rate between the inception date and the final valuation date. The cash payment at maturity will be equal to (1) the reference currency amount times (2) the GBP/USD exchange rate on the final valuation date times (3) the

adjustment factor as determined on the final valuation date. The reference currency amount is the original issue price of the Notes divided by the GBP/USD exchange rate on the inception date.

The adjustment factor will be calculated on a daily basis in the following manner: The adjustment factor on the inception date will equal one. On each subsequent business day until the final valuation date, the adjustment factor will equal (1) the adjustment factor on the immediately preceding business day times (2) the sum of one plus (a) the Sterling Overnight Index Average, as reported on Reuters page SONIA or any successor page on the immediately preceding business day (the "SONIA") minus (b) 0.27% minus (c) the investor fee times (3) the relevant daycount fraction. The SONIA is the weighted average rate to four decimal places of all unsecured sterling overnight cash transactions brokered in London by the Wholesale Markets Brokers' Association (WMBA) member firms between midnight and 4:15 p.m. (London time) with all counterparties in a minimum deal size of £25 million. The investor fee is equal to 0.40% of the reference currency amount per year and is the only fee payable by investors in connection with an investment in the Notes. The daycount fraction on any business day will be the number of calendar days that have elapsed since the immediately preceding business day divided by 365. If the maturity date is not a business day, the maturity date will be the next following business day. If the fifth business day before this day does not qualify as a valuation date (as described below), then the maturity date will be the fifth business day following the final valuation date. In such event penalty interest will not accrue or be payable with respect to that deferred payment.

Prior to maturity, holders may, subject to certain restrictions, choose to redeem their Notes on any redemption date during the term of the Notes provided that they present at least 100,000 Notes for redemption. Holders may also act through a broker or other financial

intermediary (such as a bank or other financial institution not required to register as a broker-dealer to engage in securities transactions) that is willing to bundle their Notes for redemption with other investors' securities. Barclays may from time to time in its sole discretion reduce, in part or in whole, the minimum redemption amount of 100,000 Notes. Any such reduction will be applied on a consistent basis for all holders of the Notes at the time the reduction become effective. If holders redeem their Notes on a particular redemption date, they will receive a cash payment on such date in an amount equal to the weekly redemption value, which equals (1) the reference currency amount times (2) the GBP/USD exchange rate on the applicable valuation date times (3) the adjustment factor as determined on the applicable valuation date. Holders must redeem at least 100,000 Notes at one time in order to exercise their right to redeem their Notes on any redemption date. Barclays may from time to time in its sole discretion reduce, in part or in whole, the minimum redemption amount of 100,000 Notes. Any such reduction will be applied on a consistent basis for all holders of Notes at the time the reduction becomes effective. A valuation date is each Thursday from the first Thursday after issuance of the Notes until the last Thursday before maturity of the Notes (the "final valuation date") inclusive or, if such date is not a trading day, the next succeeding trading day, not to exceed five business days. A redemption date is the second business day following a valuation date (other than the final valuation date). The final redemption date will be the second business day following the valuation date immediately prior to the final valuation date.

To redeem their Notes, Holders must instruct their broker or other person with whom they hold their Notes to take the following steps:

- deliver a notice of redemption to Barclays via email by no later than 11:00 a.m. ET on the business day prior to the applicable valuation date. If Barclays receives notice by the time specified in the preceding sentence, it will respond by sending a form of confirmation of redemption;

- deliver the signed confirmation of redemption to Barclays via facsimile in the specified form by 4:00 p.m. ET on the same day. Barclays or its affiliate must acknowledge receipt in order for confirmation to be effective;
- instruct their DTC custodian to book a delivery vs. payment trade with respect to their Notes on the valuation date at a price equal to the applicable Weekly Redemption Value, facing Barclays Capital DTC 5101; and
- cause their DTC custodian to deliver the trade as booked for settlement via DTC at or prior to 10:00 a.m. ET on the applicable redemption date (the third business day following the valuation date).

If holders elect to redeem their Notes, Barclays may request that Barclays Capital Inc. (a broker-dealer) purchase the Notes for the cash amount that would otherwise have been payable by Barclays upon redemption. In this case, Barclays will remain obligated to redeem the Notes if Barclays Capital Inc. fails to purchase the Notes. Any Notes purchased by Barclays Capital Inc. may remain outstanding.

If an event of default occurs and the maturity of the Notes is accelerated, Barclays will pay the default amount in respect of the principal of the Notes at maturity. The default amount for the Notes on any day will be an amount, determined by the calculation agent in its sole discretion, equal to the cost of having a qualified financial institution, of the kind and selected as described below, expressly assume all Barclays' payment and other obligations with respect to the Notes as of that day and as if no default or acceleration had occurred, or to undertake other obligations providing substantially equivalent economic value to the holders of the Notes with respect to the Notes. That cost will equal:

- the lowest amount that a qualified financial institution would charge to effect this assumption or undertaking, plus
- the reasonable expenses, including reasonable attorneys' fees, incurred by the holders of the Notes in preparing any documentation necessary for this assumption or undertaking.

During the default quotation period for the Notes (described below), the holders of the Notes and/or Barclays may request a qualified financial institution to provide a quotation of the amount it would charge to effect this assumption or undertaking. If either party obtains a quotation, it must notify the other party in writing of the quotation. The amount referred to in the first bullet point above will equal the lowest – or, if there is only one, the only – quotation obtained, and as to which notice is so given, during the default quotation period. With respect to any quotation, however, the party not obtaining the quotation may object, on reasonable and significant grounds, to the assumption or undertaking by the qualified financial institution providing the quotation and notify the other party in writing of those grounds within two business days after the last day of the default quotation period, in which case that quotation will be disregarded in determining the default amount. The default quotation period is the period beginning on the day the default amount first becomes due and ending on the third business day after that day, unless:

- no quotation of the kind referred to above is obtained, or
- every quotation of that kind obtained is objected to within five business days after the due date as described above.

If either of these two events occurs, the default quotation period will continue until the third business day after the first business day on which prompt notice of a quotation is given as described above. If that quotation is objected to as described above within five business days after that first business day, however, the default quotation period will continue as described in the prior sentence and this sentence.

In any event, if the default quotation period and the subsequent two business day objection period have not ended before the final valuation date, then the default amount will equal the stated principal amount of the Notes.

### Indicative Value

An intraday "Indicative Value" meant to approximate the intrinsic economic value of the Notes will be calculated and published via the facilities of the Consolidated Tape Association ("CTA") every 15 seconds throughout the NYSE trading day on each day on which the Notes are traded on the Exchange.

Additionally, Barclays or an affiliate will calculate and publish the closing Indicative Value of the Notes on each trading day at [www.ipathetn.com](http://www.ipathetn.com). The last sale price of the Notes will also be disseminated over the consolidated tape, subject to a 20 minute delay. In connection with the Notes, the term "Indicative Value" refers to the value at a given time determined based on the following equation:

$$\text{Indicative Value} = \text{Reference Currency Amount} \times \text{Current GBP/USD Exchange Rate} \times \text{Current Adjustment Factor}$$

where:

Current GBP/USD Exchange Rate = The exchange rate as reported on that day.

The Current GBP/USD Exchange Rate used for the calculation of the Indicative Value will be the GBP/USD exchange rate disseminated by Bloomberg L.P. during the course of the trading day on a 15 second delayed basis.

### Continued Listing Criteria

The Exchange prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A-3 under the Act.

The Exchange will delist the Notes:

- If, following the initial twelve month period from the date of commencement of trading of the Notes: (i) the Notes have more than 60 days remaining until maturity and there are fewer than 50 beneficial holders of the Notes for 30 or more consecutive trading days; (ii) if fewer than 100,000 Notes remain issued and

outstanding; or (iii) if the market value of all outstanding Notes is less than \$1,000,000.

- If, during the time the Notes trade on the Exchange, the Indicative Value ceases to be available on a 15 second delayed basis.
- If, during the time the Notes trade on the Exchange, the GBP/USD exchange rate ceases to be calculated or available on at least a 15 second delayed basis from one or more major market data vendors.
- 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

If the Exchange Rate or the Indicative Value is not being disseminated as required, the Exchange may halt trading during the day on which the interruption to the dissemination of the Exchange Rate or the Indicative Value first occurs. If the interruption to the dissemination of the Exchange Rate or the Indicative Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

### Rules Applicable to Specialists in Currency-Related Securities

The Exchange has filed proposed Supplementary Material .10 to Rules 1300A and 1301A, which will apply the provisions of Rule 1300A(b) and Rule 1301A to certain securities listed on the Exchange pursuant to Section 703.19 (“Other Securities”) of the Exchange’s Listed Company Manual.<sup>5</sup> Specifically, Rules 1300A(b) and 1301A will apply to securities listed under Section 703.19 where the price of such securities is based in whole or part on the price of (a) a non-U.S. currency or currencies, (b) any futures contracts or other derivatives based on a non-U.S. currency or currencies, or (c) any index based on either (a) or (b) above. As a result of application of Rule 1300A(b), the specialist in the Notes, the specialist’s member organization

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<sup>5</sup> See SR-NYSE-2006-68.

and other specified persons will be prohibited under paragraph (m) of Exchange Rule 105 Guidelines from acting as market maker or functioning in any capacity involving market-making responsibilities in the British pound, options, futures or options on futures on the British pound, or any other derivatives based on the British pound (collectively, “derivative instruments”). If the member organization acting as specialist in the Notes is entitled to an exemption under NYSE Rule 98 from paragraph (m) of NYSE Rule 105 Guidelines, then that member organization could act in a market making capacity in the British pound or derivative instruments based on the British pound, other than as a specialist in the Notes themselves, in another market center.

Under Rule 1301A(a), the member organization acting as specialist in the Notes (1) will be obligated to conduct all trading in the Notes in its specialist account, (subject only to the ability to have one or more investment accounts, all of which must be reported to the Exchange), (2) will be required to file with the Exchange and keep current a list identifying all accounts for trading in the British pound or derivative instruments based on the British pound, which the member organization acting as specialist may have or over which it may exercise investment discretion, and (3) will be prohibited from trading in the British pound or derivative instruments based on the British pound, in an account in which a member organization acting as specialist, controls trading activities which have not been reported to the Exchange as required by Rule 1301.

Under Rule 1301A(b), the member organization acting as specialist in the Notes will be required to make available to the Exchange such books, records or other information pertaining to transactions by the member organization and other specified persons for its or their own accounts in the British pound or derivative instruments based on the British pound, as may be

requested by the Exchange. This requirement is in addition to existing obligations under Exchange rules regarding the production of books and records.

Under Rule 1301A(c), in connection with trading the British pound or derivative instruments based on the British pound, the specialist could not use any material nonpublic information received from any person associated with a member or employee of such person regarding trading by such person or employee in the British pound or derivative instruments based on the British pound.

#### Surveillance

The Exchange's surveillance procedures will incorporate and rely upon existing Exchange surveillance procedures governing equities with respect to surveillance of the Notes. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Notes and to detect violations of Exchange rules, thereby deterring manipulation. In this regard, the Exchange currently has the authority under NYSE Rule 476 to request the Exchange specialist in the Notes to provide NYSE Regulation with information that the specialist uses in connection with pricing the Notes on the Exchange, including specialist, proprietary or other information regarding securities, currencies, futures, options on futures or other derivative instruments. The Exchange believes it also has authority to request any other information from its members – including floor brokers, specialists and “upstairs” firms – to fulfill its regulatory obligations.

The Exchange's current trading surveillances focus on detecting securities trading outside normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange is able to obtain information regarding trading in the Notes, British pound options and British pound futures through NYSE members, in connection with such members' proprietary or customer trades which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG. Specifically, the NYSE can obtain such information from the Philadelphia Stock Exchange (the "Phlx") in connection with British pound options trading on the Phlx and from the Chicago Mercantile Exchange (the "CME") in connection with British pound futures trading on the CME.<sup>6</sup> These markets are the primary trading markets in the world for exchange-traded futures, options and options on futures on the exchange rate between the dollar and the British pound. The Exchange also lists and trades CurrencyShares based on the British pound and can therefore surveil the trading of those CurrencyShares on the Exchange and on NYSE Arca.

#### Trading Rules

The Exchange's existing trading rules will apply to trading of the Notes. The Notes will trade between the hours of 9:30 a.m. and 4:00 p.m. ET and will be subject to the equity margin rules of the Exchange.

#### Suitability

Pursuant to Exchange Rule 405, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) to determine that such transaction is suitable for the customer, and (2) to have a

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<sup>6</sup> The Phlx is a full member and the CME is an affiliate member of the ISG.

reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

#### Information Memorandum

The Exchange will, prior to trading the Notes, distribute an information memorandum to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes. The information memorandum will note to members language in the prospectus used by Barclays in connection with the sale of the Notes regarding prospectus delivery requirements for the Notes. In the initial distribution of the Notes, and during any subsequent distribution of the Notes, NYSE member organizations will deliver a prospectus to investors purchasing from such distributors.

The information memorandum will discuss the special characteristics and risks of trading this type of security. Specifically, the information memorandum, among other things, will discuss what the Notes are, how the Notes are redeemed, applicable Exchange rules, dissemination of information regarding the Indicative Value, the GBP/USD exchange rate, trading information and applicable suitability rules.

The information memorandum will also notify members and member organizations about the procedures for redemptions of Notes and that Notes are not individually redeemable but are redeemable only in aggregations of at least 100,000 Notes. The information memorandum will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act. The information memorandum will also reference that there is no regulated source of last sale information regarding currency exchange rates and that the Commission has no jurisdiction over the trading of currencies on which the value of the Notes is based.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

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

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

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

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

NYSE has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission has determined that a 15-day comment period is appropriate in this case.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2006-67.

##### Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2006-67. 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 the

filing also will be available for inspection and copying at the principal office 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-NYSE-2006-67 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Nancy M. Morris  
Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).