

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55548; File No. SR-NYSE-2006-71)

March 28, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 to List and Trade Nine Series of Exchange-Traded Notes of Barclays Bank PLC Linked to the Performance of Sub-Indices of the Dow Jones - AIG Commodity IndexSM

On August 24, 2006, the New York Stock Exchange LLC (“Exchange” or “NYSE”) 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 list and trade notes linked to the performance of sub-indices of the Dow Jones - AIG Commodity IndexSM. On February 20, 2007, the Exchange submitted Amendment No. 1.³ The proposed rule change was published for comment in the Federal Register on March 2, 2007.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

Under Section 703.19 of NYSE’s Listed Company Manual (the “Manual”),⁵ the Exchange proposes to list and trade nine series of notes (“Notes”) issued by Barclays Bank PLC (“Barclays” or “Issuer”), which are linked to the performance of the following sub-indices (each sub-index herein referred to as the “Index” with respect to the corresponding series of Notes) of the Dow Jones - AIG Commodity IndexSM: the Dow Jones–AIG Petroleum Total Return Sub-

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded the Exchange’s original filing in its entirety.

⁴ See Securities Exchange Act Release No. 55352 (February 26, 2007), 72 FR 9599 (“Notice”).

⁵ Section 703.19 of the Manual provides that 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.

IndexSM; the Dow Jones–AIG Livestock Total Return Sub-IndexSM; the Dow Jones–AIG Agriculture Total Return Sub-IndexSM; the Dow Jones–AIG Grains Total Return Sub-IndexSM; the Dow Jones–AIG Energy Total Return Sub-IndexSM; the Dow Jones–AIG Precious Metals Total Return Sub-IndexSM; the Dow Jones–AIG ExEnergy Total Return Sub-IndexSM; the Dow Jones–AIG Industrial Metals Total Return Sub-IndexSM; and the Dow Jones–AIG Softs Total Return Sub-IndexSM. Barclays intends to issue the Notes under the name “iPathSM Exchange-Traded Notes.”

The Indexes

Each Index is comprised of constituents making up the Dow Jones - AIG Commodity IndexSM, which the Commission has previously reviewed in connection with the listing of exchange-traded notes.⁶ Each Index is comprised of commodity contracts relating to a specific industry or sector.⁷ For example, the Dow Jones–AIG Petroleum Total Return Sub-IndexSM includes those contracts in the Dow Jones - AIG Commodity IndexSM that relate to petroleum-related commodities: crude oil, heating oil and unleaded gasoline. Each Index is determined annually by AIG-FP and calculated daily by Dow Jones. The weightings of each Index component are a function of their weighting in the Dow Jones - AIG Commodity IndexSM, which, in turn, derives from liquidity and world production data.

⁶ See Securities Exchange Act Release No. 53876 (May 25, 2006), 71 FR 32158 (June 2, 2006) (SR-NYSE-2006-16). As set out in that filing, the Dow Jones - AIG Commodity IndexSM is designed to be a diversified benchmark for commodities as an asset class and reflects the returns that are potentially available through an unleveraged investment in the futures contracts on physical commodities comprising the Index plus the rate of interest that could be earned on cash collateral invested Treasury Bills. The Dow Jones - AIG Commodity IndexSM was developed by AIGI International Inc., each year is determined by AIG Financial Products Corp. (“AIG-FP”), and is calculated by Dow Jones. The relative weightings of each component commodity is determined annually according to liquidity and dollar adjusted production data in 2/3 and 1/3 shares, respectively.

⁷ See Notice, supra note 4, 72 FR at 9602-9604.

Dow Jones disseminates the Index value of each sub-index every 15 seconds (assuming the Index value has changed within such 15 second interval) from 8:00 a.m. to 3:00 p.m. ET and publishes a daily Index value at approximately 4:00 p.m. ET on each day on which the Index is calculated. The sub-index values can still be retrieved after 3:00 p.m. until the end of the Exchange trading day but their values are generally static after 3:00 p.m., although they may change if settlement values for Index components become available after that time.

The Notes

The Notes will offer investors exposure to specific commodity sectors. The Notes are debt securities of Barclays with a term of 30 years that provide for a cash payment at maturity or upon earlier exchange at the holder's option, based on the performance of the relevant Index according to a formula set forth in the notice of NYSE's proposal.⁸ Unlike traditional debt securities, the Notes would not have a minimum principal amount that would be repaid prior to or at maturity. Accordingly, the return could be less than the original issue price. Also, holders of the Notes will not receive any interest payments from the Notes. Prior to maturity, Notes may be redeemed in large aggregations as described further in the notice of NYSE's proposal.

Because the Notes will be debt securities of Barclays, the Notes are dependent upon its creditworthiness. This credit risk is addressed by the listing standards in Section 703.19(1) of NYSE's Manual, which provide that a security may not be listed on the Exchange unless its issuer satisfies certain financial requirements.

Section 703.19(2) of NYSE's Manual requires a market value of \$4 million for initial listing of debt securities. In addition, the Notes would have to comply with continued listing standards in Section 802.01D of NYSE's Manual. The Exchange would remove from listing any

⁸ See Notice, supra note 4, 72 FR at 9601.

security where the public distribution or aggregate market value has fallen below the specified thresholds or become so reduced to make further dealings on the Exchange inadvisable, or where such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Pricing Information

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. The last sale price of the Notes will also be disseminated over the consolidated tape, subject to a 20-minute delay.⁹

Trading Rules

The Notes will trade as equity securities, subject to NYSE rules governing, among other things, priority, parity, and precedence of orders; specialist responsibilities; margin;¹⁰ and customer suitability requirements. The Notes will trade between the hours of 9:30 a.m. and 4:00 p.m. ET. The Exchange would halt trading in the Securities if the circuit breaker parameters of Exchange Rule 80B have been reached and may halt trading pursuant to Exchange Rule 123D

⁹ As described in the notice of the NYSE’s proposal, the Indicative Value will not reflect price changes to the price of an underlying commodity between the close of trading of the futures contract at the relevant futures exchange and the close of trading on the NYSE at 4:00 p.m. ET. While the market for futures trading for each of the Index commodities is open, the Indicative Value can be expected to closely approximate the redemption value of the Notes. However, during NYSE trading hours when the futures contracts have ceased trading, spreads and resulting premiums or discounts may widen, and therefore, increase the difference between the price of the Notes and their redemption value.

¹⁰ See NYSE Rule 431.

pending the dissemination of material news with respect to the issuer. If the Index value 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 Index value or the Indicative Value first occurs. If the interruption to the dissemination of the Index value 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.

Surveillance

The NYSE has represented that it would rely on its existing surveillance procedures governing equities, which it represented are adequate to monitor trading of the Notes. Through information sharing agreements and its membership in the Intermarket Surveillance Group, the Exchange stated that it has access to all relevant trading information in connection with commodity futures comprising each Index. Further, the Exchange stated that it 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, commodities, 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.

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.¹¹ 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 reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

Discussion and Commission Findings

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.¹² In particular the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,¹³ which requires among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to facilitate 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 notes that it has previously approved the listing and trading of other index-linked securities that have a structure similar to the Notes.¹⁴

¹¹ NYSE Rule 405 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or account accepted.

¹² In approving the rule, 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).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ See, e.g., Securities Exchange Act Release Nos. 54177 (July 19, 2006), 71 FR 54177 (July 27, 2006) (SR-NYSE-2006-19) (relating to the trading of the Index-Linked Securities of Barclays Bank PLC linked to the Performance of the Goldman Sachs Crude Oil Total Return Index™); 53876 (May 25, 2006), 71 FR 32158 (June 2, 2006) (SR-NYSE-2006-16) (relating to the trading of the Index-Linked Securities of Barclays Bank PLC linked to the performance of the Dow Jones – AIG Commodity Index Total Return); and 53849 (May 22, 2006), 71 FR 30706 (May 30, 2006) (SR-NYSE-2006-20) (relating

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,¹⁵ which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last-sale information regarding the Notes will be disseminated through the facilities of the Consolidated Tape Association ("CTA"). The value of each Index is calculated and disseminated daily and, because the composition of each Index is public and pricing of the constituents is transparent, it may be verified by a number of independent sources. In addition, an intraday Indicative Value for each Note series will be available through the CTA. Furthermore, financial information regarding the Issuer is publicly available, allowing investors to evaluate the creditworthiness of the Issuer. The Commission also believes that sufficient venues exist for obtaining reliable information so that holders of the Notes can track the value of their investment. Accordingly, the Commission finds that NYSE's proposal is reasonably designed to promote transparency in the pricing of the Notes, and to prevent trading when a reasonable degree of transparency cannot be assured.

The proposal also appears reasonably designed to prevent conveyance of inside information from the Index Calculator to market participants who may trade the Notes.

In support of this proposal, the Exchange has made the following representations:

- (1) NYSE has received a representation from AIG-FP, the Index Sponsor, that it will
 - (a) implement and maintain procedures reasonably designed to prevent the use and dissemination by relevant employees of AIG-FP, in violation of applicable

to the trading of the Index-Linked Securities of Barclays Bank PLC linked to the performance of the GSCI[®] Total Return Index).

¹⁵ 15 U.S.C. 78k-1(a)(1)(C)(iii).

laws, rules and regulations, of material non-public information relating to changes in the composition or method of computation or calculation of the Index and (b) periodically check the application of such procedures as they relate to officers and directors of AIG-FP directly responsible for such changes.¹⁶

- (2) NYSE 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 and highlighting the special risks and characteristics of the Notes. In addition, during the initial distribution of the Notes and during any subsequent distribution of the Notes, NYSE member organizations will deliver a prospectus to investors purchasing Notes from distributors.
- (3) NYSE will rely on its existing surveillance procedures governing equities with regard to surveillance of the Notes, which are adequate to properly monitor trading of the Notes and detect violations of Exchange rules, thereby deterring manipulation.
- (4) With regard to the Index components, the Exchange can obtain market all relevant trading information, including customer identity information, with respect to

¹⁶ AIG-FP is a wholly-owned guaranteed subsidiary of American International Group, Inc. It is not a broker-dealer or futures commission merchant; however, AIG-FP may have such affiliates. The Exchange has stated that Dow Jones does not have any affiliates engaged in the securities or commodities trading businesses and, as such, Dow Jones does not believe that such firewall procedures are necessary in its case. Dow Jones and the Dow Jones - AIG Commodity IndexSM Oversight Committee will adopt and maintain policies that acknowledge their obligations with respect to material non-public information. See supra note 6, 71 FR at 32159-32160 nn.10,15.

transactions through agreements with futures exchanges and participation in the Intermarket Surveillance Group.

- (5) NYSE prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A-3 under the Act.¹⁷

This order is conditioned on NYSE's adherence to these representations.

Under the proposal, the Exchange will delist any series of the Notes under the following circumstances:

- (1) (a) If, following the initial twelve month period from the date of commencement of trading of the Notes, 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; (b) if fewer than 100,000 Notes remain issued and outstanding; or (c) if the market value of all outstanding Notes is less than \$1,000,000.
- (2) If the Index value ceases to be calculated or available during the time the Notes trade on the Exchange on at least a 15 second basis through one or more major market data vendors or the sponsors of the Index.
- (3) If, during the time the Notes trade on the Exchange, the Indicative Value ceases to be available on a 15 second delayed basis.

In addition, NYSE has represented that it would delist the Notes (unless the Commission approved a proposed rule change submitted pursuant to Rule 19b-4 under the Act) if: (1) Dow Jones and AIG-FP substantially change either the Index component selection methodology or the weighting methodology; (2) a new component is added to the Index (or pricing information is

¹⁷ See 17 CFR 240.10A-3.

used for a new or existing component) that constitutes more than 10% of the weight of the Index with whose principal trading market the Exchange does not have a comprehensive surveillance sharing agreement; or (3) a successor or substitute index is used in connection with the Notes. The Commission believes that each of these circumstances represents material changes to the characteristics of the Index described herein and on which the Commission is basing its findings. Under these circumstances, the Exchange could not rely on this approval to list and trade the Notes.

Acceleration

The Commission finds good cause to approve the proposal, as amended, prior to the thirtieth day after the amended proposal was published for comment in the Federal Register. Accelerating approval of the proposal should benefit investors who desire to participate in the designated Indexes by expediting the listing and trading of the Notes by the Exchange. The Commission also notes that the proposal is similar to others previously approved by the Commission, and does not appear to raise any new regulatory issues. Thus, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹⁸ to grant accelerated approval of the proposed rule change, as amended.

¹⁸ 15 U.S.C. 78s(b)(2).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSE-2006-71), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Nancy M. Morris
Secretary

¹⁹ 17 CFR 200.30-3(a)(12).