

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56332; File No. SR-NYSE-2007-76)

August 29, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Relating to Requirements for Listing of Commodity-Linked Securities and Currency-Linked Securities

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 22, 2007, the New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Section 703.22 of the NYSE Listed Company Manual (the “Manual”), which permits the listing of commodity-linked securities (“Commodity-Linked Securities”) and currency-linked securities (“Currency-Linked Securities”), among other securities. The text of the proposed rule change is available at NYSE, the Commission’s Public Reference Room, and [www.nyse.com](http://www.nyse.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

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

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

the proposed rule change. The text of these statements may be examined at the places specified in Item IV 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 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>3</sup> or Currency Reference Asset,<sup>4</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 proposes 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.

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

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<sup>3</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>4</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.

reviewed and approved for the trading of Commodity Trust Shares or options or other derivatives by the Commission under Section 19(b)(2)<sup>5</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 an Intermarket Surveillance Group (“ISG”) member or affiliate or with which the Exchange has a CSSA. Notwithstanding the previous sentence, pricing information for gold and silver may be derived from the London Bullion Market Association.

Similarly, under Section 703.22(B)(III)(1) of the Manual, an issuance of Currency-Linked Securities currently cannot be listed unless either:

- The Currency Reference Asset to which the security is linked shall have been 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 CSSAs, 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 which is (a) an ISG member or affiliate or with which the Exchange has a CSSA and (b) the pricing source for components of a Currency Reference Asset that has previously been approved by the Commission.

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<sup>5</sup> 15 U.S.C. 78s(b)(2).

The Exchange proposes to amend the requirements as to the source of pricing information for components of Commodity-Linked Securities and Currency-Linked Securities so as to permit the listing of such securities where a maximum of 10% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be, is made up of components that do not meet the respective general pricing information requirements. In addition, the Exchange proposes that no single component subject to the proposed exception may exceed 7% of the dollar weight of the Commodity Reference Asset or Commodity Reference Asset, as the case may be.

The Exchange states that many commodity and currency markets are not members or affiliates of ISG, and the Exchange frequently experiences difficulty entering into CSSAs with such markets. The Exchange believes that its surveillance procedures are not materially hampered as long as it has access to trading information of 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, and so long as the remaining 10% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be, is comprised of more than one component. In addition, with respect to Currency-Linked Securities, the Exchange believes that the fact that the pricing information of a Currency Reference Asset is not based on the generally accepted spot price for the relevant currency or the Commission has not approved a particular market as a pricing source for components of a Currency Reference Asset does not constitute a material risk to investors where the pricing information for at least 90% of the dollar weight of the Currency Reference Asset is either based on the generally accepted spot

price or derived from Commission-approved markets.<sup>6</sup>

The Exchange believes that the proposed amendment would provide the Exchange with greater flexibility to list securities under Section 703.22 of the Manual that are linked to a broader range of underlying assets, thereby providing issuers with a faster and less cumbersome means of listing new Commodity-Linked Securities and Currency-Linked Securities and benefiting the investing public. The Exchange notes that the Commission has previously approved similar approaches to the instant proposal, including another provision in Section 703.22 of the Manual permitting the listing of Equity Index-Linked Securities,<sup>7</sup> where the 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>8</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of

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<sup>6</sup> E-mail from John Carey, Assistant General Counsel, NYSE Euronext, to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated August 27, 2007 (confirming the basis of the proposal with respect to Currency-Linked Securities).

<sup>7</sup> Equity Index-Linked Securities are defined as securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities. See Section 703.22 of the Manual.

<sup>8</sup> See Section 703.22(B)(I)(2)(vii) of the Manual. See also Securities Exchange Act Release Nos. 55687 (May 1, 2007), 72 FR 25824 (May 7, 2007) (SR-NYSE-2007-27) (approving the generic listing and trading standards for Index-Linked Securities, including Equity Index-Linked Securities); and 54013 (June 16, 2006), 71 FR 36372 (June 26, 2006) (SR-NYSE-2006-17) (approving the listing and trading of shares of the iShares GSCI Commodity Indexed Trust and providing that if a new component is added to the underlying index that constitutes more than 10% of the overall weight of the index

the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</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, 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.

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 the Exchange 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

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and with whose principal trading market the Exchange does not have a comprehensive surveillance sharing agreement, the Exchange would seek to delist such shares).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30<sup>th</sup> day after the date of publication of the notice of the filing thereof. The Commission is considering granting accelerated approval of the proposed rule change at the end of a 15-day comment period.

#### 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-2007-76 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-NYSE-2007-76. 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 10:00 a.m. and 3:00 p.m. 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-2007-76 and should be submitted on or before [insert date 15 days from the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

Nancy M. Morris  
Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).