

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-58111; File Nos. SR-Amex-2008-40; SR-NASDAQ-2008-046; SR-NYSE-2008-39; SR-NYSEArca-2008-50)

July 7, 2008

Self-Regulatory Organizations; American Stock Exchange LLC, New York Stock Exchange LLC, and NYSE Arca, Inc.: Order Granting Approval of Proposed Rule Changes to Adopt a Trading Halt Rule in Connection with the Dissemination of Net Asset Value and Disclosed Portfolio for Certain Derivative Securities Products; The NASDAQ Stock Market LLC: Order Granting Approval of Proposed Rule Changes, as Modified by Amendment No. 1 Thereto, to Adopt a Trading Halt Rule in Connection with the Dissemination of Net Asset Value and Disclosed Portfolio for Certain Derivative Securities Products

I. Introduction

On May 14, 2008, the American Stock Exchange LLC (“Amex”), The NASDAQ Stock Market LLC (“Nasdaq”), the New York Stock Exchange LLC (“NYSE”), and NYSE Arca, Inc. (“NYSE Arca” and together with Amex, Nasdaq, and NYSE, collectively, the “Exchanges”), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (“NYSE Arca Equities”), each 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 proposed rule changes to amend their respective rules to require a trading halt (“New Trading Halt Rule”) in certain derivative securities products when the respective Exchange becomes aware that the net asset value (“NAV”) and/or disclosed portfolio (“Disclosed Portfolio”),³ as applicable, for

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ “Disclosed Portfolio” is applicable only with respect to a series of Managed Fund Shares and is defined as the identities and quantities of the securities and other assets that: (1) are held by a registered investment company organized as an open-end management investment company or similar entity that invests in a portfolio of securities selected by such investment company’s investment adviser consistent such investment company’s investment objectives and policies; and (2) form the basis for such investment company’s calculation of NAV. See Amex Rule 1002B (setting forth the continued listing standards for Managed Fund Shares and requiring, among other things, that the Disclosed Portfolio be disseminated at least once daily and made available to all market participants at the

such derivative securities product is not being disseminated to all market participants at the same time. The proposed rule changes were published for comment in the Federal Register on June 4, 2008.⁴ On June 17, 2008, Nasdaq filed Amendment No. 1 to its proposed rule change.⁵ The Commission received no comments on the proposals. This order approves the proposed rule changes of Amex, NYSE, and NYSE Arca and approves the proposed rule change of Nasdaq, as modified by Amendment No. 1 thereto.

II. Description of the Proposals

Each Exchange proposes to amend its respective rules⁶ to require a trading halt in certain derivative securities products⁷ that are listed and trading on such Exchange, if such Exchange

same time) and NYSE Arca Equities Rule 8.600 (setting forth the listing standards for Managed Fund Shares and requiring, among other things, that the Disclosed Portfolio be disseminated at least once daily and made available to all market participants at the same time). See infra note 5 (noting Nasdaq's recent adoption of listing standards for Managed Fund Shares).

⁴ See Securities Exchange Act Release No. 57881 (May 29, 2008), 73 FR 31902.

⁵ In Amendment No. 1, Nasdaq revised its proposal to reflect its recent adoption of listing standards for Managed Fund Shares under Nasdaq Rule 4420(o), which requires, among other things, that the Disclosed Portfolio be disseminated at least once daily and made available to all market participants at the same time. See Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR-NASDAQ-2008-039) (approving the adoption of listing standards for Managed Fund Shares and certain other related rule changes). Because Amendment No. 1 to Nasdaq's proposed rule change is technical and conforming in nature, it is not subject to notice and comment.

⁶ Amex seeks to adopt new Amex Rule 117A and Commentary .01 thereto (Net Asset Value/Disclosed Portfolio Dissemination and Trading Halts); Nasdaq seeks to amend Nasdaq Rule 4120 (Trading Halts); NYSE seeks to amend NYSE Rule 123D (Openings and Halts in Trading); and NYSE Arca seeks to amend NYSE Arca Equities Rule 7.34 (Trading Sessions).

⁷ Amex, Nasdaq, and NYSE Arca seek to apply their respective New Trading Halt Rules to certain derivative securities products for which: (1) each such Exchange has listing and trading standards; and (2) an NAV and, in the case of Managed Fund Shares, a Disclosed Portfolio, is disseminated. See proposed Amex Rule 117A (applying Amex's New Trading Halt Rule to Portfolio Depositary Receipts (Amex Rule 1000-AEMI), Index Fund Shares (Amex Rule 1000A-AEMI), Trust Issued Receipts (Commentary .07 to Amex Rule 1202), Managed Fund Shares (Amex Rule 1000B), Commodity-Based Trust

becomes aware that the NAV and/or Disclosed Portfolio, as applicable, for such derivative product is not being disseminated to all market participants at the same time. In addition, each Exchange would resume trading in such halted derivative securities product only when the NAV and/or Disclosed Portfolio, as applicable, is disseminated to all market participants.⁸ Each Exchange represents that, in the event the NAV and/or Disclosed Portfolio, as applicable, for a series of derivative securities product ceases to be disseminated altogether, such Exchange would halt trading in such derivative securities product.

III. Commission's Findings and Order Granting Approval of the Proposed Rule Changes

Shares (Amex Rule 1200A), Currency Trust Shares (Amex Rule 1200B), Paired Trust Shares (Amex Rule 1400), Partnership Units (Amex Rule 1500), and Trust Units (Amex Rule 1600)); proposed Nasdaq Rule 4120(a)(10) (applying Nasdaq's New Trading Halt Rule to Portfolio Depository Receipts (Nasdaq Rule 4420(i)), Index Fund Shares (Nasdaq Rule 4420(j)), Trust Issued Receipts (Nasdaq Rule 4420(l)), Commodity-Related Securities (as defined in Nasdaq Rule 4630), Managed Fund Shares (Nasdaq Rule 4420(o)), and securities representing interests in unit investment trusts or investment companies); and proposed NYSE Arca Equities Rule 7.34(a)(5) (applying NYSE Arca's New Trading Halt Rule to Investment Company Units (NYSE Arca Equities Rule 5.2(j)(3)), Portfolio Depository Receipts (NYSE Arca Equities Rule 8.100), Trust Issued Receipts (NYSE Arca Equities Rule 8.200), Commodity-Based Trust Shares (NYSE Arca Equities Rule 8.201), Currency Trust Shares (NYSE Arca Equities Rule 8.202), Commodity Index Trust Shares (NYSE Arca Equities Rule 8.203), Commodity Futures Trust Shares (NYSE Arca Equities Rule 8.204), Partnership Units (NYSE Arca Equities Rule 8.300), Paired Trust Shares (NYSE Arca Equities Rule 8.400), Trust Units (NYSE Arca Equities Rule 8.500), and Managed Fund Shares (NYSE Arca Equities Rule 8.600)). NYSE seeks to apply its New Trading Halt Rule to certain derivative securities products for which: (1) NYSE has listing and trading standards; and (2) an NAV is disseminated (NYSE does not have listing standards for Managed Fund Shares). See proposed NYSE Rule 123D(5) (applying NYSE's New Trading Halt Rule to Investment Company Units (NYSE Rule 1100), Trust Issued Receipts (NYSE Rule 1200), Currency Trust Shares (NYSE Rule 1300A), and Commodity Trust Shares (NYSE Rule 1300B)).

⁸ Nasdaq's New Trading Halt Rule also provides that, in the case of a halted Derivative Securities Products (as defined in Nasdaq Rule 4120(b)(4)(A)) trading on Nasdaq pursuant to unlisted trading privileges, Nasdaq would resume trading in such Derivative Securities Product only until such time trading resumes in the listing market for such Derivative Securities Product. The Nasdaq Proposal also seeks to make technical, non-substantive changes to Nasdaq Rules 4120(a) and (c) to incorporate new Nasdaq Rule 4120(a)(10).

After careful consideration, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁹ In particular, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5) of the Act¹⁰ in that they are 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 Exchanges' respective trading halt rules are reasonably designed to prevent trading in certain derivative securities products when the availability of certain information is impaired. Specifically, each Exchange proposes to require a trading halt in certain derivative securities products that are listed and trading on such Exchange, if such Exchange becomes aware that the NAV and/or Disclosed Portfolio, as applicable, for such derivative product is not being disseminated to all market participants at the same time. In addition, each Exchange would resume trading in such halted derivative securities product only when the NAV and/or Disclosed Portfolio, as applicable, is disseminated to all market participants. The Commission believes that the proposed rule changes are intended to protect investors and the public interest when key information relating to the NAV or the Disclosed Portfolio becomes unavailable or available only to some market participants, but not all participants, at the time of dissemination. The Commission notes that individual listing standards for many derivative securities products already include a similar trading halt

⁹ In approving these proposed rule changes, the Commission notes that it has considered the impact on efficiency, competition, and capital formation of each proposed rule. See 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78f(b)(5).

requirement.¹¹ As such, the Commission believes it is reasonable and consistent with the Act for the Exchanges to adopt new trading halt criteria for certain derivative products in the manner described in the respective proposals.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule changes (SR-Amex-2008-40; SR-NYSE-2008-39; SR-NYSEArca-2008-50) and the proposed rule change (SR-NASDAQ-2008-046), as modified by Amendment No. 1 thereto, be, and they hereby are, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon
Acting Secretary

¹¹ See, e.g., Amex Rule 1002B(iv)(d); Nasdaq Rule 4420(o)(4)(B)(iv); and NYSE Arca Equities Rule 8.600(d)(2)(D).

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).