

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57918; File No. SR-Amex-2008-42)

June 4, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Equity Linked Term Notes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 16, 2008, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. This order provides notice of the proposed rule change and approves it on an accelerated basis.

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

The Exchange proposes to revise Section 107B of the Amex Company Guide (“Company Guide”) to clarify that Rule 19b-4(e) under the Act³ applies to the listing of equity-linked term notes (“ELNs”)⁴ that meet the generic listing criteria of Section 107B. The text of the proposed rule change is available at Amex’s principal office, the Commission’s Public Reference Room, and <http://www.amex.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, Amex included statements concerning the purpose of,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(e).

⁴ ELNs are the non-convertible debt of an issuer, whose value is based, at least in part, on the value of another issuer’s common stock or non-convertible preferred stock.

and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Amex 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

Section 107B of the Amex Company Guide details the Exchange's listing criteria for ELNs. The original listing criteria for Section 107B were approved in 1990 and amended to reflect specific standards for ELNs⁵ prior to the adoption of Rule 19b-4(e) under the Act.⁶ The listing criteria allowed Amex to list ELNs that met the standards set forth in Section 107B of the Company Guide. In this manner, the Exchange was able to list ELNs linked to a basket of up to 30 securities, as long as specified standards were met.⁷

Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to

⁵ See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (SR-Amex-89-29) (approving listing standards to accommodate new securities not readily categorized under Amex's traditional listing guidelines for common and preferred stocks, bonds, debentures, and warrants); Securities Exchange Act Release No. 32343 (May 20, 1993), 58 FR 30833 (May 27, 1993) (SR-Amex-92-42) (approving rules for the listing and trading of ELNs based on a single security).

⁶ See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (New Products Release adopting Rule 19b-4(e)).

⁷ See Securities Exchange Act Release No. 42582 (March 27, 2000), 65 FR 17685 (April 4, 2000) (SR-Amex-99-42) (approving listing standards for ELNs based on a basket of up to 20 equity securities); Securities Exchange Act Release No. 47055 (December 19, 2002), 67 FR 79669 (December 30, 2002) (SR-Amex-2002-110) (amending the standards to allow for the listing of ELNs based on a basket of up to 30 equity securities). Clarified in an e-mail from Jeffrey Burns, Vice President and Associate General Counsel, Amex, to Mitra Mehr, Special Counsel, Division of Trading and Markets, Commission, dated June 2, 2008.

paragraph (c)(1) of Rule 19b-4,⁸ if the Commission has approved, pursuant to Section 19(b) of the Act,⁹ the self-regulatory organization's trading rules, procedures, and listing criteria for the product class that would include the new derivative securities product, and the self-regulatory organization has a surveillance program for the product class.

The Exchange proposes to revise Section 107B of the Company Guide, which sets forth Amex's listing criteria for ELNs, to clarify that the listing and trading of ELNs on Amex is subject to Rule 19b-4(e) under the Act. Section 107B of the Company Guide would provide that income instruments which are linked, in whole or in part, to the market performance of up to 30 common stocks or non-convertible preferred stocks will be considered for listing, pursuant to Rule 19b-4(e) under the Act, as long as the applicable conditions set forth in Section 107B are met. Thus, within five business days after commencement of trading of an ELN in reliance on Section 107B, the Exchange would file a Form 19b-4(e) with the Commission.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act¹¹ 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 a national market system, and, in general, to protect investors and the public interest.

⁸ 17 CFR 240.19b-4(c)(1).

⁹ 15 U.S.C. 78s(b).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

The Exchange submits that the proposal meets the forgoing objectives by clarifying the application of Rule 19b-4(e) under the Act to Section 107B of the Company Guide and providing notice to the Commission of new products listed under Section 107B.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex 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

No written comments were solicited or received with respect to the proposed rule change.

III. 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 (www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2008-42 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-Amex-2008-42. 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 (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-Amex-2008-42 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

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 Section 6(b)(5) of the Act¹³ – which requires that the rules of an exchange be designed, among other things, 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 a national market system, and, in general, to

¹² In approving this rule change, 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).

protect investors and the public interest – because it seeks to clarify that the Exchange’s listing and trading of ELNs is subject to Rule 19b-4(e) under the Act.

The Commission finds good cause for approving this proposal before the 30th day after the publication of notice thereof in the Federal Register. The Commission notes that it has recently approved similar proposals of other exchanges,¹⁴ and Amex’s proposal does not raise any novel regulatory issues.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-Amex-2008-42) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Florence E. Harmon
Acting Secretary

¹⁴ See, e.g., Chicago Board Options Exchange Rule 31.5; Securities Exchange Act Release No. 57758 (May 1, 2008), 73 FR 25814 (May 7, 2008) (SR-CBOE-2008-44).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(12).