

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54177; File No. SR-NYSE-2006-19)

July 19, 2006

Self-Regulatory Organizations; New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC); Order Granting Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto to List and Trade Index-Linked Notes of Barclays Bank PLC Linked to the Performance of the Goldman Sachs Crude Oil Total Return IndexTM

I. Introduction

On March 13, 2006, the New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC) (“NYSE” or “Exchange”) 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 proposal to list and trade Index-Linked Securities (the “Notes”) of Barclays Bank PLC (“Barclays”) linked to the performance of the Goldman Sachs Crude Oil Total Return IndexTM (the “Index”). On March 27, 2006, NYSE filed Amendment No. 1 to the proposed rule change.³ On May 26, 2006, NYSE filed Amendment No. 2 to the proposed rule change.⁴ The proposed rule change, as amended was published for comment in the Federal Register on June 16,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange noted Supplementary Material to NYSE Rule 1301B, which set forth the guidelines in NYSE Rules 1300B(b) and 1301 for specialists applicable to this product. The Exchange also made clarifying and technical change to this proposal in Amendment No. 1.

⁴ In Amendment No. 2, the Exchange inserted in the “Purpose” section of the Form 19b-4: (i) a description of the process by which the West Texas Intermediate (“WTI”) crude oil futures contract traded on the New York Mercantile Exchange (the “NYMEX”) that is included in the Index changes on a monthly basis to the contract with the closest expiration date; and (ii) a continued listing standard stating that the Exchange will delist the Notes if the Index ceases in whole or in part to be based on the WTI Crude Oil futures contract traded on the NYMEX.

2006 for a 15-day comment period.⁵ The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The NYSE proposes to list and trade the Notes that will track the performance of the Index pursuant to Section 703.19 (“Other Securities”) of the NYSE Listed Company Manual (“Manual”). Barclays intends to issue the Notes under the name “iPathSM Exchange-Traded Notes.” The Exchange believes that the Notes will conform to the initial listing standards for equity securities under Section 703.19 of the Manual because Barclays is an affiliate of Barclays PLC,⁶ an Exchange listed company in good standing. Under Section 703.19 of 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.⁷ 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.

⁵ See Securities Exchange Act Release No. 53967 (June 9, 2006), 71 FR 34976 (June 16, 2006) (SR-NYSE-2006-19) (“Notice”).

⁶ The issuer of the Notes, Barclays, is an affiliate of an Exchange-listed company (Barclays PLC) and not an Exchange-listed company itself. However, Barclays, though an affiliate of Barclays PLC, would exceed the Exchange’s earnings and minimum tangible net worth requirements in Section 102 of the Manual. Additionally, the Exchange states that the Notes, when combined with the original issue price of all other Note offerings of the issuer that are listed on a national securities exchange (or association), does not exceed 25% of the issuer’s net worth. Telephone conference between Florence E. Harmon, Senior Special Counsel, Division of Market Regulation (“Division”), Commission, and John Carey, Assistant General Counsel, Exchange, on April 11, 2006 (“April 11 Telephone Conference”).

⁷ See Securities Exchange Act Release No. 28217 (July 18, 1990), 55 FR 30056 (July 24, 1990) (SR-NYSE-90-30).

The Notes are a series of medium-term debt securities of Barclays that provide for a cash payment at maturity or upon earlier exchange at the holder's option, based on the performance of the Index. The principal amount of each Note is \$50. 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 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 value of the Index must increase for the investor to receive at least the \$50 principal amount per Note at maturity or upon exchange or redemption. If the value of the Index decreases or does not increase sufficiently to offset the investor fee (described below), the investor will receive less, and possibly significantly less, than the \$50 principal amount 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.⁸

Description of "GSCI" and the Index

The investment objective of the Notes is to track the Index. The Index is a sub-index of the Goldman Sachs Commodity Index® (the "GSCI®") and reflects the excess returns that are potentially available through an unleveraged investment in the contracts comprising the relevant components of the Index (which currently includes only the WTI Crude Oil futures contract traded on the NYMEX), plus the Treasury Bill rate of interest that could be earned on funds committed to the trading of the underlying contracts.⁹

Both indexes are described below and in more detail in the Notice.¹⁰

⁸ April 11 Telephone Conference.

⁹ The Treasury Bill rate of interest used for purposes of calculating the index on any day is the 91-day auction high rate for U.S. Treasury Bills, as reported on

The value of the Index, on any given day, reflects (i) the price levels of the contracts included in the Goldman Sachs Crude Oil Total Return Index™ (which represents the value of the Goldman Sachs Crude Oil Total Return Index™ (e.g., the WTI Crude Oil contracts)); (ii) the “contract daily return,” which is the percentage change in the total dollar weight of the Goldman Sachs Crude Oil Total Return Index™ (e.g., the WTI Crude Oil contracts) from the previous day to the current day; and (iii) the Treasury Bill rate of interest that could be earned on funds committed to the trading of the underlying contracts.

In addition to the criteria described below, in order to qualify for inclusion in the Index, the contract must be related to WTI Crude Oil. As presently constituted, the only contract used to calculate the Index is the WTI Crude Oil futures contract traded on the NYMEX.¹¹

The WTI Crude Oil futures contract included in the Index changes each month because the contract included in the Index at any given time is currently required to be the WTI Crude Oil futures contract traded on the NYMEX with the closest expiration date (the “front-month contract”). The front-month contract expires each month on the

Telerate page 56, or any successor page, on the most recent of the weekly auction dates prior to such day.

¹⁰ The methodology for determining the composition and weighting of the GSCI® and for calculating its value is described in more detail in the Notice. See, supra, note 5.

¹¹ If the Index Sponsor includes another commodity, other than WTI as described herein, the Exchange will file a proposed rule change pursuant to Rule 19b-4 under the Act. Unless approved for continued trading, the Exchange would commence delisting proceedings. See “Continued Listing Criteria,” infra. Telephone conference between Florence Harmon, Senior Special Counsel, Division, Commission; John Carey, Assistant General Counsel, Exchange; and Michael Cavalier, Assistant General Counsel, Exchange, on April 10, 2006 (“April 10 Telephone Conference”).

third business day prior to the 25th calendar day of the month. The Index incorporates a methodology for rolling into the contract with the next closest expiration date (the "next-month contract") each month. The Index gradually reduces the weighting of the front-month contract and increases the weighting of the next-month contract over a five business day period commencing on the fifth business day of the month, so that on the first day of the roll-over the front-month contract represents 80% and the next-month contract represents 20% of the Index, and on the fifth day of the roll-over period (i.e., the ninth business day of the month) the next-month contract represents 100% of the Index. Over time, this monthly roll-over leads to the inclusion of many different individual WTI Crude Oil futures contracts in the Index. The commodities industry utilizes single-component indices because the purpose of a commodities index is generally to reflect the current market price of the index components by including the front-month futures contract with respect to each component, necessitating a continuous monthly roll-over to a new front-month contract. As the underlying commodity is not static but rather is represented by constantly changing contracts, a single commodity index actually contains a changing series of components and is regarded by commodities industry professionals as a valuable tool in tracking the change in the value of the underlying commodity over time.¹²

The GSCI[®], which includes the WTI Crude Oil futures contract, is a proprietary index on a production-weighted basket of futures contracts on physical commodities traded on futures exchanges in major industrialized countries.¹³ The fluctuations in the

¹² See Amendment No. 2, supra, note 4.

¹³ The criteria for index composition, contract expirations, component replacements, and valuation are set forth in more detail in the Notice. See Notice, supra, note 5.

value of the GSCI[®] are intended generally to correlate with changes in the prices of such physical commodities in global markets. Futures contracts on the GSCI[®], and options on such futures contracts, are currently listed for trading on the Chicago Mercantile Exchange. The index methodology for selection and weighting of the futures contract components of the GSCI is described in the Notice.¹⁴

The value of the GSCI[®] on any given day is equal to the total dollar weight of the GSCI[®] divided by a normalizing constant that assures the continuity of the GSCI[®] over time. The total dollar weight of the GSCI[®] is the sum of the dollar weight of each index component. The dollar weight of each such index component on any given day is equal to:

- the daily contract reference price,
- multiplied by the appropriate contract production weights (“CPWs”), and
- during a roll period, the appropriate “roll weights” (discussed below).¹⁵

Currently, Index components trade on U.S. futures exchanges, the London Metals Exchange (“LME”), or the Intercontinental Exchange (formerly known as the International Petroleum Exchange, which now operates its futures business through ICE Futures), with whom NYSE has comprehensive surveillance sharing arrangements.

¹⁴ See GSCI[®] Manual at www.gs.com/gsci. Goldman, Sachs & Co. is the Index Sponsor for both the Index and the GSCI[®]. Telephone conference between Florence E. Harmon, Senior Special Counsel, Division, Commission, and Michael Cavalier, Assistant General Counsel, Exchange, on April 13, 2006 (“April 13 Telephone Conference”). See Notice, *supra*, note 5.

¹⁵ If the price is not made available or corrected by 4:00 p.m. New York time, the Index Sponsor, if it deems such action to be appropriate under the circumstances, will determine the appropriate daily contract reference price for the applicable futures contract in its reasonable judgment for purposes of the relevant GSCI[®] calculation. If such actions by the Index Sponsor are implemented on more than a temporary basis, the Exchange will contact the Commission staff and, as necessary, file a proposed rule change pursuant to Rule 19b-4, seeking Commission approval to continue to trade the Notes. Unless approved for

These factors, along with the contract daily return for the Index, are described in more detail in the Notice. Additionally, this information is publicly available each business day on the Index Sponsor's Web site at www.gs.com/gsci¹⁶ and the relevant futures exchanges, and/or from major market data vendors.

The composition of the GSCI[®] is reviewed on a monthly basis by the Index Sponsor and, if the multiple of any contract is below the prescribed threshold, the composition of the GSCI is reevaluated, based on the criteria and weighting procedures.¹⁷ In addition, regardless of whether any changes have occurred during the year, the Index Sponsor reevaluates the composition of the GSCI[®] at the conclusion of each year, based on the above criteria. Other commodities that satisfy such criteria, if any, will be added

continued trading, the Exchange would commence delisting proceedings. See "Continued Listing Criteria," infra. April 10 Telephone Conference.

¹⁶ The CPWs are available in the GSCI[®] manual on the GSCI[®] Web site (www.gs.com/gsci) and are published on Reuters. The roll weights are not published but can be determined from the rules in the GSCI Manual. Telephone conference between Florence Harmon, Senior Special Counsel, Division, Commission, John Carey, Assistant General Counsel, Exchange, on May 18, 2006 ("May 18 Telephone Conference").

¹⁷ The Index Sponsor, Goldman, Sachs & Co., which calculates and maintains the GSCI[®] and the Index, is a broker-dealer. Therefore, appropriate firewalls must exist around the personnel who have access to information concerning changes and adjustment to an index and the trading personnel of the broker-dealer. Accordingly, the Index Sponsor has represented that it (i) has implemented and maintained procedures reasonably designed to prevent the use and dissemination by personnel of the Index Sponsor, in violation of applicable 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 (ii) periodically checks the application of such procedures as they relate to such personnel of the Index Sponsor directly responsible for such changes. In addition, the Policy Committee members are subject to written policies with respect to material, non-public information. Telephone conversation between Florence Harmon, Senior Special Counsel, Division, Commission; John Carey, Assistant General Counsel, Exchange; and Michael Cavalier, Assistant General Counsel, Exchange, on April 14, 2006 ("April 14 Telephone Conference") and May 18 Telephone Conference.

to the GSCI[®]. Commodities included in the GSCI[®] which no longer satisfy such criteria, if any, will be deleted.

The Index Sponsor has established a Policy Committee to assist it with the operation of the GSCI[®].¹⁸ The principal purpose of the Policy Committee is to advise the Index Sponsor with respect to, among other things, the calculation of the GSCI[®], the effectiveness of the GSCI[®] as a measure of commodity futures market performance, and the need for changes in the composition or the methodology of the GSCI[®]. The Exchange states that the Policy Committee acts solely in an advisory and consultative capacity. All decisions with respect to the composition, calculation and operation of the GSCI[®] and the Index are made by the Index Sponsor.¹⁹

The Index Sponsor makes the official calculations of the GSCI[®]. While the intraday and closing values of the GSCI[®] (and the Index) are calculated by Goldman, Sachs & Co., a broker-dealer, a number of factors provide for the independent verification of these intraday and closing values²⁰ This calculation is performed

¹⁸ The component selections for the GSCI[®] would obviously affect the Index. Telephone conference between Florence Harmon, Senior Special Counsel, Division, Commission, and Michael Cavalier, Assistant General Counsel, Exchange, on April 12, 2006 (“April 12 Telephone Conference”).

¹⁹ The Policy Committee members are subject to written policies with respect to material, non-public information. Telephone conference between Florence Harmon, Senior Special Counsel, Division, Commission, and Michael Cavalier, Assistant General Counsel, Exchange, on May 15, 2006 (“May 15 Telephone Conference”).

²⁰ The Index Sponsor calculates the level of the Index intraday and at the end of the day. The intraday calculation is based on feeds of real-time data relating to the underlying commodities and updates intermittently at least every 15 seconds. In the GSCI market, trades are quoted or settled against the end-of-day value, not against the value at any other particular time of the day. With respect to the end-of-day closing level of the index, the Index Sponsor uses independent feeds from at least two vendors for each of the underlying commodities in the index to verify closing prices and limit moves. A number of commodities market participants

continuously and is reported on Reuters page GSCI[®] (or any successor or replacement page) and will be updated on Reuters at least every 15 seconds during business hours on each day on which the offices of the Index Sponsor in New York City are open for business (a “GSCI Business Day”).²¹ The settlement price for the Index is also reported on Reuters page GSCI[®] (or any successor or replacement page) on each GSCI Business Day between 4:00 p.m. and 6:00 p.m., New York time.

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.²² Additionally, Barclays or an affiliate will calculate and publish the closing Indicative Value of the Notes on each trading day at www.ipathetn.com. In connection with the Notes, the term “Indicative Value” refers to the value at a given time based on the following equation:

$$\text{Indicative Value} = \text{Principal Amount per Unit} \times (\text{Current Index Level} / \text{Initial Index Level}) - \text{Current Investor Fee}$$

where:

independently verify the correctness of the disseminated intraday Index value and closing Index value. Additionally, the closing Index values are audited by a major independent accounting firm. May 18 Telephone Conference.

²¹ Additionally, this intraday index value of the Index will be updated and disseminated at least every 15 seconds by a major market data vendor during the time the Notes trade on the Exchange. April 13 Telephone Conference. The intraday information with respect to the Index (and GSCI[®]) reported on Reuters is derived solely from trading prices on the principal trading markets for the various Index and GSCI components.

²² The Exchange states that the Indicative Value calculation will be provided for reference purposes only.

- Principal Amount per Unit = \$50.
- Current Index Level = The most recent published level of the Index as reported by Index Sponsor.
- Initial Index Level = The Index level on the trade date for the Notes.
- Current Investor Fee = The most recent daily calculation of the investor fee with respect to the Notes, determined as described above (which, during any trading day, will be the investor fee determined on the preceding calendar day).

The Indicative Value will not reflect price changes to the price of an underlying commodity (WTI Crude Oil futures contract) between the close of trading of the futures contract at the NYMEX and the close of trading on the NYSE at 4:00 p.m. ET. The value of the Notes may accordingly be influenced by non-concurrent trading hours between the NYSE and the NYMEX. While the Notes will trade on the NYSE from 9:30 a.m. to 4:15 p.m. ET, WTI Crude Oil futures (the futures contracts underlying the Index) will trade on the NYMEX from 10:00 a.m. to 2:30 p.m. ET.

While the market for futures trading WTI Crude Oil futures is open, the Indicative Value can be expected to closely approximate the redemption value of the Notes. However, during the 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. The Indicative Value disseminated during the NYSE trading hours should not be viewed as a real time update of the redemption value.

Valuation and Redemption of Notes

Holders who have not previously redeemed their Notes will receive a cash payment at maturity equal to the principal amount of their Notes times the index factor on the Final Valuation Date (as defined below) minus the investor fee on the Final Valuation Date. The “index factor” on any given day will be equal to the closing value of the Index on that day divided by the initial index level. The index factor on the Final Valuation Date will be equal to the final index level divided by the initial index level. The “initial index level” is the closing value of the Index on the date of issuance of the Notes (the “Trade Date”), and the “final index level” is the closing value of the Index on the Final Valuation Date. The investor fee is equal to 0.75% per year times the principal amount of a holder’s Notes times the index factor, calculated on a daily basis in the following manner: the investor fee on the Trade Date will equal zero. On each subsequent calendar day until maturity or early redemption, the investor fee will increase by an amount equal to 0.75% times the principal amount of a holder’s Notes times the index factor on that day (or, if such day is not a trading day, the index factor on the immediately preceding trading day) divided by 365. The investor fee is the only fee holders will be charged in connection with their ownership of the Notes.

Prior to maturity, holders may redeem their Notes on any Redemption Date (defined below) during the term of the Notes, provided that they present at least 50,000 Notes for redemption, or they act through a broker or other financial intermediaries (such as a bank or other financial institution not required to register as a broker-dealer to engage in securities transactions) that are willing to bundle their Notes for redemption with other investors’ Notes. If a holder chooses to redeem his Notes on a Redemption Date, such holder will receive a cash payment on such date equal to the principal amount

of his Notes times the index factor on the applicable Valuation Date (defined below) minus the investor fee on the applicable Valuation Date. A “Redemption Date” is the third business day following a Valuation Date (other than the Final Valuation Date (defined below)). 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), unless the calculation agent determines that a market disruption event, as described below, occurs or is continuing on that day.²³ In that event, the Valuation Date for the maturity date or corresponding Redemption Date, as the case may be, will be the first following trading day on which the calculation agent determines that a market disruption event does not occur and is not continuing. In no event, however, will a Valuation Date be postponed by more than five trading days.²⁴

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

- Deliver a notice of redemption to Barclays via e-mail by no later than 11:00 a.m. New York time on the business day prior to the applicable Valuation Date. If Barclays receives such notice by the time specified in the preceding sentence, it will respond by sending the holder a confirmation of redemption;

²³ Barclays will serve as the initial calculation agent for the Notes.

²⁴ If a “market disruption event” (which affects the Valuation Date) is of more than a temporary nature, the Exchange will file a proposed rule change pursuant to Rule 19b-4 under the Act. Unless approved for continued trading, the Exchange would commence delisting proceedings. See “Continued Listing Criteria,” *infra*. April 10 Telephone Conference.

- Deliver the signed confirmation of redemption to Barclays via facsimile in the specified form by 4:00 p.m. New York time on the same day. Barclays must acknowledge receipt in order for the confirmation to be effective; and
- Transfer such holder's book-entry interest in its Notes to the trustee, The Bank of New York, on Barclays' behalf at or prior to 10:00 a.m. New York time on the applicable Redemption Date (the third business day following the Valuation Date).²⁵

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 for trading on the Exchange.

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. Additionally, in the event of a disruption, adjustment, discontinuance, or substitution of the Index, the calculation agent has discretion as to the computation methodology and adjustments. However, in such case, the Exchange will file a proposed rule change pursuant to Rule 19b-4 under the Act. Unless approved for continued trading, the Exchange would commence delisting proceedings.²⁶

²⁵ April 10 Telephone Conference.

²⁶ See "Continued Listing Criteria," *infra*. April 10 Telephone Conference.

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.²⁷

The Exchange will delist the Notes:

- 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 (i) there are fewer than 50 beneficial holders of the Notes for 30 or more consecutive trading days; (ii) if fewer than 50,000 Notes remain issued and outstanding; or (iii) if the market value of all outstanding Notes is less than \$1,000,000;
- If the Index value ceases to be calculated or available during the time the Notes trade on the Exchange on at least every 15 second basis through one or more major market data vendors;²⁸
- If, during the time the Notes trade on the Exchange, the Indicative Value ceases to be available on a 15 second delayed basis;
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable; or
- If the Index ceases in whole or in part to be based on the WTI Crude Oil futures contract traded on the NYMEX.²⁹

Exchange Filing Obligations

²⁷ 17 CFR 240.10A-3; see also 15 U.S.C. 78a.

²⁸ The Exchange confirmed that the Index value (along with the GSCI® index value) will be disseminated at least every 15 seconds by one or more major market data vendors during the time the Notes trade on the Exchange. The Exchange also confirmed these indexes have daily settlement values that are widely disclosed. Telephone conference between Florence E. Harmon, Senior Special Counsel, Division, Commission, and Michael Cavalier, Assistant General Counsel, Exchange, on April 13, 2006; telephone conference between Michou H.M. Nguyen, Special Counsel, Division, Commission, and John Carey, Assistant General Counsel, Exchange, on June 8, 2006.

²⁹ See Amendment No. 2, supra, note 4.

The Exchange will file a proposed rule change pursuant to Rule 19b-4³⁰ under the Act, which the Commission must approve, to permit continued trading of the Notes, if:

- The Index Sponsor substantially changes either the Index component selection methodology or the weighting methodology;³¹
- If a new component is added to the Index with whose principal trading market the Exchange does not have a comprehensive surveillance sharing agreement;³²
- If a successor or substitute index is used in connection with the Notes. The filing will address, among other things the listing and trading characteristics of the successor or substitute index and the Exchange's surveillance procedures applicable thereto;³³ or
- If a "market disruption event" occurs that is of more than a temporary nature.

Trading Rules

The Exchange's existing equity 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. New York time and will be subject to the equity margin rules of the Exchange.³⁴

³⁰ 17 CFR 240.19b-4.

³¹ This would include inclusion in the Index of instruments traded on an electronic platform, rather than a traditional futures exchange.

³² The Exchange will contact the Commission staff whenever the Index Sponsor adds a new component to the Index using pricing information from a market with which the Exchange does not have a previously existing information sharing agreement or switches to using pricing information from such a market with respect to an existing component. However, as noted above, since this product is based on the WTI Crude Oil futures contract traded on NYMEX, the Exchange is obligated to commence delisting proceeding if a new Index component is added or substituted, unless otherwise approved for continued trading pursuant to a proposed rule change filed pursuant to Rule 19b-4. April 10 Telephone Conversation.

³³ Id.

³⁴ See NYSE Rule 431.

(1) Trading Halts

The Exchange will cease trading the Notes if there is a halt or disruption in the dissemination of the Index value or the Indicative Value.³⁵ The Exchange will also cease trading the Notes if a “market disruption event” occurs that is of more than a temporary nature.³⁶ In the event that the Exchange is open for business on a day that is not a GSCI Business Day, the Exchange will not permit trading of the Notes on that day.

(2) Specialist Trading Obligations

Pursuant to new Supplementary Material .10 to NYSE Rule 1301B, the provisions of NYSE Rules 1300B(b) and 1301B would be applied to certain securities listed on the Exchange pursuant to Section 703.19 (“Other Securities”) of the Exchange’s Manual. Specifically, NYSE Rules 1300B(b) and 1301B will apply to securities listed under Section 703.19 of the Manual where the price of such securities is based in whole or part on the price of (a) a commodity or commodities; (b) any futures contracts or other derivatives based on a commodity or commodities; or (c) any index based on either (a) or (b) above.

As a result of application of NYSE Rule 1300B(b), the specialist in the Notes, the specialist’s member organization and other specified persons will be prohibited under paragraph (m) of NYSE Rule 105 Guidelines from acting as market maker or functioning in any capacity involving market-making responsibilities in the Index components, the commodities underlying the Index components, or options, futures or options on futures

³⁵ In the event the Index value or Indicative Value is no longer calculated or disseminated, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances.

³⁶ In the event a “market disruption event” occurs that is of more than a temporary nature, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances.

on the Index, or any other derivatives (collectively, “derivative instruments”) based on the Index or based on any Index component or any physical commodity underlying an Index component. 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 Index components, the commodities underlying the Index components, or derivative instruments based on the Index or based on any Index component or commodity underlying an Index component, other than as a specialist in the Notes themselves, in another market center.

Under NYSE Rule 1301B(a), the member organization acting as specialist in the Notes (a) 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); (b) will be required to file with the Exchange and keep current a list identifying all accounts for trading in the Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components, which the member organization acting as specialist may have or over which it may exercise investment discretion; and (c) will be prohibited from trading in the Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components, 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 NYSE Rule 1301B.

Under NYSE Rule 1301B(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 Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components, 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 NYSE Rule 1301B(c), in connection with trading the Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components, 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 Index components or the physical commodities underlying the Index components, or derivative instruments based on the Index or based on the Index components or the physical commodities underlying the Index components.

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Notes and the Index components. The Exchange will rely upon existing NYSE 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, consequently deterring manipulation. In this regard, the Exchange has the authority under NYSE Rules 476 and Rule 1301B 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.

With regard to both the GSCI components and the WTI Crude Oil futures contract (traded on NYMEX) component of the Index, the Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the NYMEX, the Kansas City Board of Trade, ICE Futures, and the LME, pursuant to its comprehensive information sharing agreements with each of those exchanges. All of the other trading venues on which current GSCI and Index components are traded are members of the Intermarket Surveillance Group (“ISG”), and the Exchange therefore has access to all relevant trading information with respect to those contracts without any further action being required on the part of the Exchange. All these surveillance arrangements constitute comprehensive surveillance sharing arrangements.³⁷

Suitability

Pursuant to NYSE 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

³⁷ April 14 Telephone Conference.

to trading the Notes.³⁸ With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (a) to determine that such transaction is suitable for the customer; and (b) 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.

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. Specifically, in the initial distribution of the Notes,³⁹ and during any subsequent distribution of the Notes, NYSE members will deliver a prospectus to investors purchasing from such distributors.⁴⁰

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

³⁸ 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.

³⁹ The Registration Statement reserves the right to do subsequent distributions of these Notes.

⁴⁰ April 10 Telephone Conference.

Exchange rules, dissemination of information regarding the Index value and the Indicative Value, 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 50,000 Notes.

The Information Memorandum will also reference the fact that there is no regulated source of last sale information regarding physical commodities and that the SEC has no jurisdiction over the trading of physical commodities, such as crude oil, or the futures contracts on which the value of the Notes is based, and that the Commodity Futures Trading Commission has no regulatory jurisdiction over the trading of certain foreign based futures contracts.⁴¹

The Information Bulletin will also discuss other exemptive or no-action relief under the Act provided by the Commission staff.⁴²

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴³ In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6(b)(5) of the Act,⁴⁴ which requires, among other things, that the Exchange's rules be designed to promote just

⁴¹ April 14 Telephone Conference.

⁴² April 10 Telephone Conference.

⁴³ In approving this proposed 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).

⁴⁴ 15 U.S.C. 78f(b)(5).

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.

A. Surveillance

Information sharing agreements with primary markets are an important part of a self-regulatory organization's ability to monitor for trading abuses in derivative products. The Commission believes that the Exchange's comprehensive surveillance sharing agreement with the NYMEX for the purpose of providing information in connection with trading of the Notes and the WTI Crude Oil contracts traded on the NYMEX, currently the only Index component, create the basis for the NYSE to monitor for fraudulent and manipulative practices in the trading of the Notes. In addition, the Exchange represents that it will delist the Notes if a new component is added to the Index (or pricing information is used for a new or existing component), unless otherwise approved for continued trading by the Commission.

Moreover, NYSE Rules 476 and 1301B requires Exchange specialists, upon the Exchange's request, 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. Furthermore, the Exchange believes that it also has the authority to request any other information from its member – including floor brokers, specialists and “upstairs” firms – to fulfill its regulatory obligations. The Commission believes that these rules provide the NYSE with the tools necessary to adequately surveil trading in the Notes.

B. Dissemination of Information

The Commission believes that sufficient venues exist for obtaining reliable information so that investors in the Notes can monitor the underlying Index relative to the Indicative Value of their Notes. There is a considerable amount of information about the Index (and its WTI Crude Oil futures contracts components) available through public Web sites and professional subscription services, including Reuters and Bloomberg. Real time information about the trading of the component futures contracts and their daily settlement prices are available from one or more major market data vendors, and in some cases, the underlying futures exchanges. The official calculation of the Index made by the Index Sponsor is performed continuously and is reported on Reuters page GSCI (or any successor or replacement page) and will be updated on Reuters at least 15 seconds during business hours during the time the Notes trade on the Exchange. The settlement price for the Index is also reported on Reuters page GSCI (or any successor or replacement page) on each GSCI Business Day between 4:00 p.m. and 6:00 p.m., New York time. While the Index is calculated by a broker-dealer, a number of independent sources verify both the intraday and closing Index values. The calculation methodology is public and transparent, and the factors included in the Index calculation, such as the CPWs, are available in the GSCI Manual found on GSCI's Web site at www.gs.com/gsci and are published on Reuters. The roll weights are not published, but can be determined from the rules in the GSCI Manual.⁴⁵

While the Indicative Value will not reflect price changes of an underlying commodity between the close of trading of the futures contract on NYMEX and the close of trading on the NYSE at 4:00 p.m. New York time, the Exchange represents that the Indicative Value will be

⁴⁵ May 18 Telephone Conference.

calculated and published via the facilities of the CTA at least every 15 seconds throughout the NYSE trading day on each day the Notes are traded on the Exchange. In addition, Barclays or an affiliate will calculate and publish the closing Indicative Value of the Notes on each trading day at www.ipathetn.com.

C. Listing and Trading

The Commission finds that the Exchange's proposed rules and procedures for the listing and trading of the proposed Notes are consistent with the Act. The Notes will trade as equity securities subject to NYSE rules including, among others, rules governing equity margins, specialist responsibilities, account opening, and customer suitability requirements. The Commission believes that the listing and delisting criteria for the Notes should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Notes. The Exchange represents that it would file a proposed rule change, pursuant to Rule 19b-4,⁴⁶ (which must be approved for continued trading of the Notes) if the Index Sponsor materially changes the composition of the GSCI[®], the Index, the methodology of calculating the value of the GSCI[®] or the Index, or any other policies relevant to the Index. Finally, the Commission notes that the Information Memorandum that the Exchange will distribute will inform members and member organizations about the terms, characteristics and risks in trading the Notes, including their prospectus delivery obligations.

⁴⁶ 17 CFR 240.19b-4.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSE-2006-19), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴⁷

Nancy M. Morris
Secretary

⁴⁷ 17 CFR 200.30-3(a)(12).