

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57041; File No. SR-NYSE-2007-99)

December 26, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval to Proposed Rule Change to Permit Issuers of Index-Linked Securities to Submit a Letter From the Issuer's Authorized Executive Officer Rather Than Provide a Certified Copy of the Resolution Adopted By the Issuers' Board of Directors, When the Issuers Are Voluntarily Delisting the Securities From the Exchange and Transferring the Listing to Another National Securities Exchange

I. Introduction

On October 31, 2007, the 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 proposed rule change to amend Section 806.02 of the NYSE Listed Company Manual. The proposed rule change was published in the Federal Register on November 26, 2007.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend Section 806.02 of the Exchange's Listed Company Manual to amend the voluntary delisting procedures by an issuer of an index-linked security. Currently, any issuer that seek to voluntarily delist a security from the Exchange must provide the Exchange with a certified copy of the resolution adopted by the issuer's board of directors

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56812 (November 19, 2007), 72 FR 66012.

authorizing such delisting and comply with all of the requirements of Rule 12d2-2(c) under the Act.⁴

Under the Exchange's proposal, issuers of index-linked securities would no longer be required to provide a certified copy of the resolution adopted by the issuers' board of directors, when these issuers are voluntarily delisting the securities from the Exchange and transferring the listing of the securities to another national securities exchange. Rather, an issuer who voluntarily delists an index-linked security, listed on the Exchange pursuant to Sections 703.19 or 703.22 of the Listed Company Manual, in connection with the transfer of the listing of the security to another national securities exchange, would need to provide to the Exchange a letter signed by an authorized executive officer of the issuer setting forth the reasons for the delisting. The issuer of an index-linked security is required to comply with all other aspects of Section 806.02 of the Listed Company Manual and Rule 12d2-2(c) under the Act, which requires, among other things, that issuers comply with all applicable laws in effect in the state in which they are incorporated..

In addition, the Exchange is deleting obsolete rule text from Section 806.02 of the Listed Company Manual.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations applicable to a national securities exchange, and in particular, with the requirements of Section 6(b) of the Act.⁵ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ in that it is designed

⁴ 17 CFR 240.12d2-2(c).

⁵ 15 U.S.C. 78f(b). In approving the proposed rule change, as amended, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

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, and 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 requiring a letter from an authorized executive officer instead of a certified copy of the resolutions adopted by the issuer's board of directors is consistent with the requirements of Rule 12d2-2 under the Act⁷ and notes that the proposal is similar to the voluntary withdrawal procedures for dually-listed issuers on NYSE Arca, Inc.⁸ Replacing the board certification requirement with a letter from an authorized executive officer may ease the burden on issuers of index-linked securities who wish to transfer the listing to another national securities exchange. The Commission notes that the security would continue to be listed and traded on a national securities exchange.⁹ Further, the Commission notes that requiring a letter from an authorized executive officer would ensure the issuer properly made the delisting decision and complied with applicable laws in effect in its jurisdiction, consistent with investor protection and the public interest. The Exchange further represented that the issuers informed the Exchange that under the laws of their place of incorporation, no board of directors resolutions are required.

The Commission notes that since the securities would list and trade on another national securities exchange, transparent last sale information will continue to be disseminated on the

⁷ 17 CFR 240.12d2-2.

⁸ See NYSE Arca Equities Rule 5.4(b).

⁹ In its filing, the Exchange represented that it does not plan to list any more index-linked securities and the issuers of all listed index-linked securities have agreed to the Exchange's request to transfer the listing to NYSE Arca, Inc.

securities on an uninterrupted basis. It would also ensure the other protections for trading a security on a national securities exchange remain, such as the periodic reporting obligations under the Act.

Finally, the Commission finds deletion of the obsolete language is consistent with the requirements of the Act. The language to be deleted is no longer in effect since the Commission approved NYSE rules to comply with the July 2005 amendments to Rule 12d2-2 under the Act.

Based on the above reasons, the Commission finds that the proposal is consistent with the requirements of the Act.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-NYSE-2007-99) is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Nancy M. Morris
Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).