

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55240; File No. SR-Amex-2007-07)

February 5, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Amending Existing Rules for Portfolio Depository Receipts and Index Fund Shares

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4² thereunder, notice is hereby given that on January 11, 2007, 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, II, and III below, which Items have been substantially prepared by the Exchange. On January 25, 2007, the Amex submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to amend its existing rules for portfolio depository receipts (Rule 1000) and index fund shares (Rule 1000A) to eliminate the methodology standards for eligible indexes.

The text of the proposed rule change is available at the Amex, the Commission’s Public Reference Room, and www.amex.com.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Amex included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has substantially 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 purpose of this proposed rule change is to amend Amex’s existing generic listing standards pursuant to Rule 19b–4(e) under the Act³ for portfolio depositary receipts (“PDRs”) and index fund shares⁴ to eliminate the requirement that an eligible index be calculated following a specified methodology.

The Exchange currently has generic listing standards (within the meaning of Rule 19b–4(e) under the Act⁵), which permit the listing and trading of various qualifying ETFs subject to the procedures contained in Rule 19b–4(e). The existence of generic listing standards allows qualifying ETFs to list or trade without the need to file a rule change for each security under Rule 19b–4 under the Act.⁶ By amending its generic listing standards pursuant to Rule 19b–4(e), the Exchange intends to reduce the time frame for listing

³ 17 CFR 240.19b-4(e).

⁴ PDRs and index fund shares are registered investment companies under the Investment Company Act of 1940 and are referred to in this filing as exchange traded funds (“ETFs”).

⁵ 17 CFR 240.19b-4(e).

⁶ 17 CFR 240.19b-4.

ETFs that rely on indexes that utilize methodologies not currently identified in the generic listing standards and thereby reduce the burdens on issuers and other market participants.

The generic listing standards for ETFs presently provide that eligible indexes be calculated based on the market capitalization, modified market capitalization, price, equal-dollar, or modified equal-dollar weighting methodology.⁷ The proposed rule change will eliminate this standard and, as a result, the Exchange will no longer consider index methodology in its review of an ETF's eligibility for listing and trading pursuant to Rule 19b-4(e) under the Act.⁸

The Exchange states that as the market for ETFs has grown and the ETF product line matured, the Exchange has witnessed an increase in the number of methodologies used to calculate indexes. In order for an index that employs a novel methodology to satisfy the current generic listing standards, either a traditional methodology must be substituted for the intended methodology, or the Exchange must submit a proposed rule change to the Commission amending the generic listing standards to include the additional methodology. In this regard, the Exchange notes that, recently, both The NASDAQ Stock Market LLC and NYSE Arca, Inc. filed rule changes with the Commission in order to permit eligible indexes to be calculated based on a methodology weighting components based on their particular financial attributes.⁹

⁷ See Commentary .03(b)(i) to Amex Rule 1000 and Commentary .02(b)(i) to Amex Rule 1000A.

⁸ 17 CFR 240.19b-4(e).

⁹ See Securities Exchange Act Release Nos. 54459 (September 15, 2006), 71 FR 55533 (September 22, 2006) (SR-NASDAQ-2006-035); 54490 (September 22, 2006), 71 FR 58034 (October 2, 2006) (SR-NYSEArca-2006-61). Telephone conference among Courtney McBride, Assistant General Counsel, Amex, Brian

The Exchange believes that the proposed elimination of index methodology from its generic listing standards for ETFs would potentially reduce the time frame for bringing ETFs based on indexes with nontraditional weighting techniques to the market, thereby reducing the burdens on issuers and other market participants and promoting competition. The Exchange notes that indexes underlying ETFs would continue to be subject to the other requirements of the generic listing standards pursuant to Rule 19b-4(e) under the Act.¹⁰ For example, the generic listing standards for domestic indexes require, without limitation, that the most heavily weighted component stock of an index not exceed 30% of the weight of the index, and the five most heavily weighted component stocks of an index not exceed 65% of the weight of the index,¹¹ and that an index include a minimum of 13 component stocks.¹² Similarly, the generic listing standards for international or global indexes require, without limitation, that the most heavily weighted component stock of an index not exceed 25% of the weight of the index, and the five most heavily weighted component stocks of an index not exceed 60% of the weight of the index,¹³ and that an index include a minimum of 20 component stocks.¹⁴ The Exchange believes that such requirements will ensure that underlying indexes are sufficiently diversified, and that their components are sufficiently liquid to serve as the basis for an ETF.

Trackman, Special Counsel, and Michou Nguyen, Special Counsel, Division of Market Regulation, Commission on February 2, 2007.

¹⁰ 17 CFR 240.19b-4(e).

¹¹ See Commentary .03(a)(A)(3) to Amex Rule 1000 and Commentary .02(a)(A)(3).

¹² See Commentary .03(a)(A)(4) to Amex Rule 1000 and Commentary .02(a)(A)(4).

¹³ See Commentary .03(a)(B)(3) to Amex Rule 1000 and Commentary .02(a)(B)(3).

¹⁴ See Commentary .03(a)(B)(4) to Amex Rule 1000 and Commentary .02(a)(B)(4).

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act¹⁵ in general, and furthers the objectives of Section 6(b)(5),¹⁶ of the Act in particular, in that it is designed 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. The Exchange believes that the proposed rule change will facilitate the listing and trading of ETFs, thereby reducing the burdens on issuers and other market participants.

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

The Exchange believes that the proposed rule change would not 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 states that no written comments were solicited or received with respect to 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 self-regulatory organization consents, the Commission will:

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The Amex has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission has determined that a 15-day comment period is appropriate in this case.

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 Exchange 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-2007-07 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Amex-2007-07. 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. Copies of the filing also will be available for inspection and copying at the principal office of the Amex. 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-2007-07 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Florence E. Harmon
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).