

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53105; File No. SR-Amex-2005-059)

January 11, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 3 and 4 Thereto Relating to the Listing and Trading of the DB Commodity Index Tracking Fund

I. Introduction

On May 27, 2005, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade the DB Commodity Index Tracking Fund under new Commentary .07 to Amex Rule 1202. On September 15, 2005, the Amex filed Amendment No. 1 to the proposed rule change. On November 15, 2005, the Amex filed Amendment No. 2 to the proposed rule change. The proposed rule change, as amended by Amendment Nos. 1 and 2, was published for comment in the Federal Register on December 16, 2005 for a 15-day comment period, which ended on January 3, 2006.³ The Commission received no comments on the proposal. On January 5, 2006, the Amex filed Amendment No. 3 to the proposed rule change.⁴ On January 11,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 52940 (December 12, 2005), 70 FR 74850.

⁴ In Amendment No. 3, the Amex: (1) added language to clarify that the composition of the Index may be adjusted in the event that the Index Sponsor is not able to obtain information necessary from the relevant futures exchanges to calculate the daily and/or closing prices for the Index commodities; (2) stated that, in connection with adjustments to the Index, if futures prices are not available, the Index Sponsor will typically use the prior day's futures price and that, in

2006, the Amex filed Amendment No. 4 to the proposed rule change.⁵ This order grants accelerated approval of the proposed rule change, as amended by Amendment Nos. 1 and 2. Simultaneously, the Commission is providing notice of filing of, granting accelerated approval of, and soliciting comments from interested persons on Amendment Nos. 3 and 4.

II. Description of the Proposal

The Exchange proposes to add new Commentary .07 to Amex Rule 1202 for the purpose of permitting the listing and trading of Trust Issued Receipts (“TIRs”) where the trust holds shares (“Investment Shares”) that are issued by a trust, partnership, commodity pool, or other similar entity that holds investments in any combination of securities, futures contracts, options on futures contracts, swaps, forward contracts, commodities or portfolios of investments. For each separate Investment Share, the Exchange would submit a filing pursuant to Section 19(b) of the Act. The Shares will conform to the initial and continued listing criteria under proposed

exceptional cases, the Index Sponsor may employ a "fair value" price; (3) stated that, in the case of a temporary disruption in connection with the trading of the futures contracts comprising the Index, the Exchange believes that it is unnecessary for a filing pursuant to Section 19(b) under the Exchange Act to be submitted to the Commission and represented that if the use of a prior day's price or "fair value" pricing for an Index commodity or commodities is more than of a temporary nature, a rule filing will be submitted pursuant to Section 19(b) of the Exchange Act; (4) represented that, if a successor or substitute Index is used by the Managing Owner, the Exchange will file a proposed rule change pursuant to Rule 19b-4 under the Exchange Act to address, among other things, the listing and trading characteristics of the successor or substitute index and the Exchange's surveillance procedures applicable to the successor or substitute index; and (5) requested accelerated approval of Amendment No. 3.

⁵ In Amendment No. 4, the Amex amended the rule text to require that the Index value will be disseminated through one or more major market data vendors at least every 15 seconds during the time the Shares trade on Amex.

Commentary .07(d) to Amex Rule 1202.⁶ In its proposal, the Amex initially proposes to list and trade the shares (the “Shares”) of a specific trust, DB Commodity Index Tracking Fund (the “Fund”), that invests in the securities of a commodity pool.

The Fund will invest substantially all of its assets in the common units of beneficial interests of DB Commodity Index Tracking Master Fund (the “Master Fund”). The Master Fund is a trust created under Delaware law that will consist primarily of futures contracts on the commodities comprising the Deutsche Bank Liquid Commodity IndexTM – Excess Return (the “DBLCI” or “Index”). Both the Fund and the Master Fund are commodity pools operated by DB Commodity Services LLC (the “Managing Owner”).⁷ The Managing Owner will be registered as a commodity pool operator and commodity trading advisor with the Commodity Futures Trading Commission (“CFTC”) and a member of the National Futures Association (“NFA”).

The Managing Owner will serve as the commodity pool operator and commodity trading advisor of the Fund and the Master Fund. In this particular case, the Managing Owner of the Master Fund will manage only the futures contracts in order to track the performance of the Index. The Master Fund may also include U.S. Treasury securities for margin purposes and other high credit quality short-term fixed income securities.

III. Index Description

DBLCI is intended to reflect the performance of certain commodities. The Index tracks the performance of futures contracts on crude oil, heating oil, aluminum, gold, corn and wheat, and the notional amounts of each commodity included in the Index are approximately in

⁶ Proposed Commentary .07(d) to Rule 1202 for listing the Shares is substantially similar to current Rule 1202A relating to Commodity-Based Trust Shares.

⁷ The Exchange stated that the Fund is not a registered investment company under the Investment Company Act of 1940 (“1940 Act”) and is not required to register under the 1940 Act.

proportion to historical levels of the world's production and supplies of such commodities. The sponsor of the Index is Deutsche Bank AG London ("DB London").

The Index value is calculated by DB London during the trading day on the basis of the most recently reported trade price for the relevant futures contract relating to each of the Index commodities. Therefore, the market value of each Index commodity during the trading day will be equal to the number of futures contracts of each commodity represented in the Index multiplied by the real-time futures contract price (i.e., the most recently reported trade price).⁸ The Index value will be calculated and disseminated at least every 15 seconds during the period the Shares trade on the Exchange. The closing level of the Index is calculated by DB London on the basis of closing prices for the applicable futures contracts relating to each of the Index commodities and applying such prices to the relevant notional amount. For each Index commodity, the market value will be equal to the number of futures contracts represented in the Index multiplied by the futures contract closing price. The Index includes provisions for the replacement of expiring futures contracts. This replacement takes place over a period of time in order to lessen the impact on the market for such Index commodity. Such replacements occur monthly (other than in November) during the first week of the month in the case of futures contracts relating to crude oil and heating oil and annually in November in the case of futures contracts relating to aluminum, gold, corn and wheat.

The Index is adjusted annually in November to rebalance its composition to ensure that each of the Index commodities are weighted in the same proportion that such commodities were weighted on December 1, 1988 (the "Base Date"). The Index has been calculated back to the Base Date. On the Base Date, the closing level was 100.

⁸ Quote information and last sale information is available from the applicable futures markets and from data vendors.

The following table reflects the index base weights (“Index Base Weights”) of each Index commodity on the Base Date:

Index Commodity	Index Base Weight (%)
Crude Oil	35.00
Heating Oil	20.00
Aluminum	12.50
Gold	10.00
Corn	11.25
Wheat	11.25
Closing Level on Base Date:	100.00

The composition⁹ of the Index may be adjusted in the event that the Index Sponsor is not able to obtain information necessary from the relevant futures exchanges to calculate the daily and /or closing prices for the Index commodities. If futures prices are not available, the Index Sponsor will typically use the prior day's futures price. In exceptional cases (such as when a daily price limit is reached on a futures exchange), the Index Sponsor may employ a "fair value" price (i.e., the price for unwinding the futures position by dealers OTC).¹⁰ In the case of a temporary disruption in connection with the trading of the futures contracts comprising the Index, the Exchange believes that it is

⁹ The Exchange represents that should the Index Sponsor replace or delete the current Index components, the Exchange will submit a rule filing, for Commission approval, pursuant to Section 19(b) of the Exchange Act. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 10, 2006.

¹⁰ The Exchange notes that this is similar to the case for index options when prices are unavailable or unreliable. Article XVII, Section 4 of OCC’s By-Laws permits it to use the prior day’s closing price to fix an index option’s exercise settlement value. In addition, OCC may also use the next day’s opening price, a price or value at such other time as determined by OCC or an average of prices or values as determined by OCC.

unnecessary for a filing pursuant to Section 19(b) under the Exchange Act to be submitted to the Commission. However, the Exchange represents that if the use of a prior day's price or "fair value" pricing for an Index commodity or commodities is more than of a temporary nature, a rule filing will be submitted pursuant to Section 19(b) of the Exchange Act.

The Managing Owner has represented that it will seek to arrange to have the Index calculated and disseminated on a daily basis through a third party if DB London ceases to calculate and disseminate the Index. If, however, the Managing Owner is unable to arrange the calculation and dissemination of the Index (or a Successor Index), the Exchange will undertake to delist the Shares.¹¹

IV. Commodity Futures Contracts and Related Options

The Index Sponsor will calculate each day the closing level of the Index on the basis of the closing prices for the futures contracts on the relevant primary markets, indicated below.

Crude Oil. Crude oil is the world's most actively traded commodity. The Light Sweet Crude Oil futures contract traded on the New York Mercantile Exchange ("NYMEX") is the world's most liquid forum for crude oil trading, as well as the world's most liquid futures

¹¹ If the Index is discontinued or suspended, Managing Owner, in its sole discretion, may substitute the Index with an index substantially similar to the discontinued or suspended Index (the "Successor Index"). The Successor Index may be calculated and/or published by any other third party. The Exchange represents that if a successor or substitute Index is used by the Managing Owner, the Exchange will file a proposed rule change pursuant to Rule 19b-4 under the Exchange Act to address, among other things, the listing and trading characteristics of the successor or substitute index and the Exchange's surveillance procedures applicable to the successor or substitute index. See also infra note 32 and accompanying text.

contract on a physical commodity.¹² Due to the excellent liquidity and price transparency of the futures contract, it is used as a principal international pricing benchmark.

Heating Oil. The heating oil futures contract, listed and traded at the NYMEX, trades in units of 42,000 gallons (1,000 barrels) and is based on delivery in New York harbor, the principal cash market center.¹³ The heating oil futures contract is also used to hedge diesel fuel and jet fuel, both of which trade in the cash market at an often stable premium to the heating oil futures contract.

Gold. NYMEX is the world's largest physical commodity futures exchange and the dominant market for the trading of energy and precious metals.¹⁴

Aluminum. Aluminum is the most heavily produced and consumed non-ferrous metal in the world. Its low density and malleability has been recognized and championed by the industrial world. In 2001, world primary refined production totaled over 24 million tonnes. The total turnover for the London Metal Exchange ("LME") primary aluminum futures and options

¹² In 2004, ADTV on NYMEX for futures contracts on light sweet crude oil were 212,382 (with each contract representing 1,000 barrels); ADTV through August 2005 was 241,673. Annual contracts traded on NYMEX on light sweet crude oil in 2004 were 52.8 million; annual contracts traded through August 2005 were 40.6 million.

¹³ In 2004, ADTV on NYMEX for futures contracts on heating oil were 51,745 (with each contract representing 1,000 barrels); ADTV through August 2005 was 52,413. Annual contracts traded on NYMEX on heating oil in 2004 were 12.8 million; annual contracts traded through August 2005 were 8.8 million.

¹⁴ In 2004, ADTV on NYMEX for futures contracts on gold were 60,079 (with each contract representing 100 troy ounces); ADTV through August 2005 was 61,085. Annual contracts traded on NYMEX on gold in 2004 were 14.9 million; annual contracts traded through August 2005 were 10.2 million.

in 2001 was over 25 million lots or 625 million tonnes. The LME has the most liquid aluminum contracts in the world.¹⁵

Corn. Corn futures are traded on the Chicago Board of Trade (“CBOT”) with a unit of trading of 5,000 bushels.¹⁶

Wheat. Wheat futures are traded on the CBOT with a unit of trading of 5,000 bushels.¹⁷

V. Structure of the Fund

Fund. The Fund is a statutory trust formed pursuant to the Delaware Statutory Trust Act and will issue units of beneficial interest or shares that represent units of fractional undivided beneficial interest in and ownership of the Fund. Unless terminated earlier, the Fund will expire on December 31, 2055. The investment objective of the Fund is to reflect the performance of the DBLCI less the expenses of the operation of the Fund and the Master Fund. The Fund will pursue its investment objective by investing substantially all of its assets in the Master Fund. The Fund will hold no investment assets other than Master Fund Units.¹⁸ Each Share will correlate with a Master Fund share issued by the Master Fund and held by the Fund.

¹⁵ In 2004, ADTV on LME for futures contracts on aluminum were 116,004 (with each contract representing 25 tonnes); ADTV through August 2005 was 113,743. Annual contracts traded on LME on aluminum in 2004 were 29.2 million; annual contracts traded through August 2005 were 18.9 million.

¹⁶ In 2004, ADTV on CBOT for futures contracts on corn were 95,390 (with each contract representing 5,000 bushels); ADTV through August 2005 was 120,237. Annual contracts traded on CBOT on corn in 2004 were 24.038 million; annual contracts traded through August 2005 were 20.19 million.

¹⁷ In 2004, ADTV on CBOT for futures contracts on wheat were 31,568 (with each contract representing 5,000 bushels); ADTV through August 2005 was 41,249. Annual contracts traded on CBOT on wheat in 2004 were 7.95 million; annual contracts traded through August 2005 were 6.92 million.

¹⁸ See Pre-Effective Amendment No. 4 to the Fund’s Form S-1, Registration No. 333-125325, dated October 26, 2005.

Master Fund. The Master Fund is a statutory trust formed pursuant to the Delaware Statutory Trust Act and will issue units of beneficial interest or shares that represent units of fractional undivided beneficial interest in and ownership of the Master Fund. Unless terminated earlier, the Master Fund will expire on December 31, 2055. The investment objective of the Master Fund is to reflect the performance of the DBLCI less the expenses of the operations of the Fund and the Master Fund. The Master Fund will pursue its investment objective by investing primarily in a portfolio of futures contracts on the commodities comprising the DBLCI. In addition, the Master Fund will also hold cash and U.S. Treasury securities for deposit with futures commission merchants (“FCMs”) as margin and other high credit quality short-term fixed income securities.

Trustee. Wilmington Trust Company is the trustee of the Fund and the Master Fund. The trustee has delegated to the Managing Owner the power and authority to manage and operate the day-to-day affairs of the Fund and the Master Fund.

Managing Owner. The Managing Owner is a Delaware limited liability company that will be registered with the CFTC as a commodity pool operator and commodity trading advisor and is an affiliate of Deutsche Bank AG, the sponsor of the Fund and Master Fund. The Managing Owner will serve as the commodity pool operator and commodity trading advisor of the Fund and the Master Fund and will manage and control all aspects of the business of the Funds.

Clearing Broker. Deutsche Bank Securities, Inc., the Clearing Broker, is an affiliate of the Managing Owner and is registered with the CFTC as an FCM. The Clearing Broker will execute and clear each of the Master Fund’s futures contract transactions and will perform certain administrative services for the Master Fund.

Administrator. The Bank of New York is the administrator for both the Fund and the Master Fund (the “Administrator”). The Administrator will perform or supervise the performance of services necessary for the operation and administration of the Fund and the Master Fund. These services include, but are not limited to, investment accounting, financial reporting, broker and trader reconciliation, net asset value (“NAV”) calculation,¹⁹ risk transparency, and receiving and processing orders from Authorized Participants (as defined below), and coordinating the processing of orders with the Managing Owner and the Depository Trust Company (“DTC”).

VI. Product Description

A. Creation and Redemption of Shares

Issuances of the Shares will be made only in baskets of 200,000 Shares or multiples thereof (the “Basket Aggregation” or “Basket”). The Fund will issue and redeem the Shares on a continuous basis, by or through participants that have entered into participant agreements (each, an “Authorized Participant”)²⁰ with the Fund and its Managing Owner at the NAV per Share determined shortly after 4:00 p.m. Eastern Time (“ET”) or the last to close futures exchanges on which the Index commodities are traded, whichever is later, on the business day on which an order to purchase the Shares in one or more Baskets is received in proper form. Following

¹⁹ NAV is the total assets of the Master Fund less total liabilities of the Master Fund, determined on the basis of generally accepted accounting principles. NAV per Master Fund share is the NAV of the Master Fund divided by the number of outstanding Master Fund shares. This will be the same for the Shares of the Fund because of a one-to-one correlation between the Shares and the shares of the Master Fund.

²⁰ An “Authorized Participant” is a person, who at the time of submitting to the trustee an order to create or redeem one or more Baskets, (i) is a registered broker-dealer, (ii) is a DTC Participant, and (iii) has in effect a valid Participant Agreement with the Fund issuer.

issuance, the Shares will be traded on the Exchange similar to other equity securities. The Shares will be registered in book entry form through DTC.

The procedures for creating a Basket are as follows. On any business day, an Authorized Participant may place an order with the Distributor, ALPS Distributors, Inc. (the “Distributor”), to create one or more Baskets. Purchase orders must be placed by 10:00 a.m. ET and are irrevocable. By placing a purchase order, and prior to delivery of such Basket(s), an Authorized Participant’s DTC account will be charged the non-refundable \$500 transaction fee due for the purchase order, regardless of the number of Baskets to be created in connection with such order.

The total payment required to create a Basket during the continuous offering period is the cash amount equal to the NAV per Share times 200,000 Shares (the “Basket Amount”) on the purchase order date. Thus, the Basket Amount usually will be determined on each business day by the Administrator shortly after 4:00 p.m. ET. Baskets are issued as of 12:00 noon ET, on the business day immediately following the purchase order date (T+1) at NAV per Share on the purchase order date if the required payment has been timely received.

Authorized Participants that have placed a purchase order to create a Basket must transfer the Basket Amount to the Administrator (the “Cash Deposit Amount”) by 10:00 a.m. the next day. Authorized Participants that wish to redeem a Basket will be required to accumulate enough Shares to constitute a Basket Aggregation (i.e., 200,000 Shares) and, upon surrender of the Shares and payment of applicable redemption transaction fee, taxes or charges, the Administrator will deliver to the redeeming Authorized Participant cash in exchange for each Basket surrendered in an amount equal to the NAV per Basket (the “Cash Redemption Amount”). The Shares will not be individually redeemable but will only be redeemable in Basket Aggregations.

Because orders to purchase Baskets must be placed by 10:00 a.m. ET, but the total payment required to create a Basket will not be determined until shortly after 4:00 p.m. ET, on the date the purchase order is properly received, Authorized Participants will not know the total amount of the payment required to create a Basket at the time they submit an irrevocable purchase order. The Exchange states that this is similar to exchange-traded funds and mutual funds. The Fund's prospectus discloses that NAV and the total amount of the payment required to create a Basket could rise or fall substantially between the time an irrevocable purchase order is submitted and the time the amount of the purchase order is determined.

On each business day, the Administrator will make available immediately prior to the opening of trading on the Amex, an estimate of the Cash Deposit Amount for the creation of a Basket. The Amex will disseminate every 15 seconds throughout the trading day, via the facilities of the Consolidated Tape Association ("CTA"), an amount representing, on a per Share basis, the current value (intra-day) of the Basket Amount (the "Indicative Fund Value"). It is anticipated that the deposit of the Cash Deposit Amount in exchange for a Basket will be made primarily by institutional investors, arbitrageurs, and the Exchange specialist. Baskets are then separable upon issuance into identical Shares that will be listed and traded on the Amex.²¹ The Shares are expected to be traded on the Exchange by professionals, as well as institutional and retail investors. Shares may be acquired in two (2) ways: (1) through a deposit of the Cash Deposit Amount with the Administrator during normal business hours by Authorized Participants, or (2) through a purchase on the Exchange by investors.

²¹ The Shares are separate and distinct from the shares of the Master Fund. The Master Fund's assets will consist of long positions in the futures contracts on the commodities comprising the DBLCI. The Exchange expects that the number of outstanding Shares will increase and decrease from time to time as a result of creations and redemptions of Baskets.

B. Net Asset Value

Shortly after 4:00 p.m. ET each business day, the Administrator will determine the NAV for the Fund and Master Fund, utilizing the current day's settlement value of the particular commodity futures contracts in the Master Fund's portfolio and the value of the Master Fund's cash and high-credit quality, short-term fixed income securities. However, if a futures contract on a trading day cannot be liquidated due to the operation of daily limits or other rules of an exchange upon which such futures contract is traded, the settlement price on the most recent trading day on which the futures contract could have been liquidated will be used in determining the Fund's and the Master Fund's NAV. Accordingly, for both U.S. and non-U.S. futures contracts, the Administrator will typically use that day's futures settlement price for determining NAV.

The NAV for the Fund is total assets of the Master Fund less total liabilities of the Master Fund. The NAV is calculated by including any unrealized profit or loss on futures contracts and any other credit or debit accruing to the Master Fund but unpaid or not received by the Master Fund. This preliminary NAV is then used to compute all NAV-based fees (including the management and administrative fees, accrued through and including the date of publication) that are calculated from the value of Master Fund assets. The Administrator will calculate the NAV per Share by dividing the NAV by the number of Shares outstanding. Then once the final, published NAV is determined, shortly after 4:00 p.m. ET each business day, the Administrator also will determine the Basket Amount for orders placed by Authorized Participants received by 10:00 a.m. ET that day.

Shortly after 4:00 p.m. ET each business day, the Administrator, Amex, and Managing Owner will disseminate the NAV for the Shares and the Basket Amount (for orders placed

during the day). The NAV and the Basket Amount are available to all market participants at the same time and will be disseminated accordingly. The Basket Amount and the NAV are communicated by the Administrator to all Authorized Participants via facsimile or electronic mail message and will be publicly available on the Fund's Web site at <http://www.dbcfund.db.com>. The Amex will also publicly disclose via its Web site at <http://www.amex.com> the NAV and Basket Amount (for orders placed that day). The Exchange also will disseminate the Basket Amount by means of CTA/CQ High Speed Lines.

The Exchange stated that it believes that the Shares will not trade at a material discount or premium to NAV due to potential arbitrage opportunities in the event of any discrepancy between the two. Due to the fact that the Shares can be created and redeemed daily only in Basket Aggregations at NAV by Authorized Participants, the Exchange submitted that arbitrage opportunities should provide a mechanism to diminish the effect of any premiums or discounts that may exist from time to time.

C. Dissemination of the Index and Underlying Futures Contracts Information

DB London as the Sponsor of the Index will publish the value of the Index at least every fifteen (15) seconds during Amex trading hours through Bloomberg, Reuters, and other market data vendors. In addition, the Index value will be available on the DB London (Sponsor) Web site at <https://index.db.com> and Fund's Web site at <http://www.dbcfund.db.com> on a twenty (20) minute delayed basis.²² The closing Index level will similarly be provided by DB London and

²² Amex will provide a hyperlink from its Web site to the Fund's Web site (<http://www.dbcfund.db.com>) and the DB London Web site (<https://index.db.com>). Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 11, 2006.

the Fund. In addition, any adjustments or changes to the Index will also be provided by DB London and the Fund on their respective Web sites.²³

The closing prices and daily settlement prices for the futures contracts held by the Master Fund are publicly available on the Web sites of the futures exchanges trading the particular contracts. The particular futures exchange for each futures contract with Web site information is as follows: (i) aluminum – London Metal Exchange (LME) at <http://www.lme.com>; (ii) corn and wheat – Chicago Board of Trade (CBOT) at <http://www.cbot.com>; and (iii) crude oil, heating oil and gold – New York Mercantile Exchange (NYMEX) at <http://www.nymex.com>. The Exchange on its Web site at <http://www.amex.com> will include a hyperlink to the Index Sponsor's Web site at <https://index.db.com>, which will contain hyperlinks to each of the futures exchanges Web sites for the purpose of disclosing futures contract pricing. In addition, various data vendors and news publications publish futures prices and data. The Exchange has represented that futures quotes and last sale information for the commodities underlying the Index are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange has represented that complete real-time data for such futures is available by subscription from Reuters and Bloomberg. The CBOT, LME, and NYMEX also provide delayed futures information on current and past trading sessions and

²³ The Index Sponsor has in place procedures to prevent the improper sharing of information between different affiliates and departments. Specifically, an information barrier exists between the personnel within DB London that calculate and reconstitute the Index and other personnel of the Index Sponsor, including but not limited to the Managing Owner, sales and trading, external or internal fund managers, and bank personnel who are involved in hedging the bank's exposure to instruments linked to the Index, in order to prevent the improper sharing of information relating to the recomposition of the Index. The Index is not calculated by a broker-dealer. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 11, 2006.

market news free of charge on their respective Web sites. The specific contract specifications for the futures contracts are also available from the futures exchanges on their Web sites as well as other financial informational sources.

D. Availability of Information Regarding the Shares

The Web site for the Fund (<http://www.dbcfund.db.com>), which will be publicly accessible at no charge, will contain the following information: (a) the prior business day's NAV and the reported closing price; (b) the mid-point of the bid-ask price²⁴ in relation to the NAV as of the time the NAV is calculated (the "Bid-Ask Price"); (c) calculation of the premium or discount of such price against such NAV; (d) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (e) the prospectus; and (f) other applicable quantitative information.

As described above, the NAV for the Fund will be calculated and disseminated daily. The Amex also intends to disseminate, during Amex trading hours, for the Fund on a daily basis by means of CTA/CQ High Speed Lines information with respect to the Indicative Fund Value (as discussed below), recent NAV, and Shares outstanding. The Exchange will also make available on its Web site daily trading volume, closing prices, and the NAV.

²⁴ The bid-ask price of Shares is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

E. Dissemination of Indicative Fund Value

As noted above, the Administrator calculates the NAV of the Fund once each trading day. In addition, the Administrator causes to be made available on a daily basis the Cash Deposit Amount to be deposited in connection with the issuance of the Shares in Basket Aggregations. In addition, other investors can request such information directly from the Administrator.

In order to provide updated information relating to the Fund for use by investors, professionals, and persons, the Exchange will disseminate through the facilities of CTA an updated Indicative Fund Value. The Indicative Fund Value will be disseminated on a per Share basis at least every 15 seconds from 9:30 a.m. to 4:15 p.m. ET.²⁵ The Indicative Fund Value will be calculated based on the cash required for creations and redemptions (i.e., NAV x 200,000) adjusted to reflect the price changes of the Index commodities through investments held by the Master Fund, i.e., futures contracts.

The Indicative Fund Value will not reflect price changes to the price of an underlying commodity between the close of trading of the futures contract at the relevant futures exchange and the close of trading on the Amex at 4:15 p.m. ET. The value of a Share may accordingly be influenced by non-concurrent trading hours between the Amex and the various futures exchanges on which the futures contracts based on the Index commodities are traded. While the Shares will trade on the Amex from 9:30 a.m. to 4:15 p.m. ET, the table below lists the trading hours for each of the Index commodities underlying the futures contracts.

²⁵ Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Kate Robbins, Attorney, Division of Market Regulation, Commission, on November 28, 2005.

Index Commodity	Futures Exchange	Trading Hours (ET)
Aluminum	LME	6:55 a.m. – 12:00 p.m.
Gold	COMEX	8:20 a.m. – 1:30 p.m.
Crude Oil	NYMEX	10:00 a.m. – 2:30 p.m.
Heating Oil	NYMEX	10:05 a.m. – 2:30 p.m.
Corn	CBOT	10:30 a.m. – 2:15 p.m.
Wheat	CBOT	10:30 a.m. – 2:15 p.m.

While the market for futures trading for each of the Index commodities is open, the Indicative Fund Value can be expected to closely approximate the value per Share of the Basket Amount. However, during Amex 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 Shares and the NAV of the Shares. Indicative Fund Value on a per Share basis disseminated during Amex trading hours should not be viewed as a real time update of the NAV, which is calculated only once a day.

The Exchange stated that it believes that dissemination of the Indicative Fund Value based on the cash amount required for a Basket Aggregation provides additional information that is not otherwise available to the public and is useful to professionals and investors in connection with the Shares trading on the Exchange or the creation or redemption of the Shares.

VII. Criteria for Initial and Continued Listing

The Fund will be subject to the criteria in proposed Commentary .07(d) of Amex Rule 1202 for initial and continued listing of the Shares. The proposed continued listing criteria provides for the delisting or removal from listing of the Shares under any of the following circumstances:

- Following the initial twelve month period from the date of commencement of trading of the Shares: (i) if the Fund has more than 60 days remaining until termination and

there are fewer than 50 record and/or beneficial holders of the Shares for 30 or more consecutive trading days; (ii) if the Fund has fewer than 50,000 Shares issued and outstanding; or (iii) if the market value of all Shares is less than \$1,000,000.

- If the value of the underlying index or portfolio is no longer calculated or available on at least a 15-second basis through one or more major market data vendors during the time the Shares trade on the Exchange.
- The Indicative Fund Value is no longer made available on at least a 15-second basis.
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

It is anticipated that a minimum of 2,000,000 Shares will be required to be outstanding at the start of trading. It is anticipated that the initial price of a Share will be approximately \$25. The Fund expects to accept subscriptions for Shares in Basket Aggregations (i.e., \$5 million) from Authorized Participants during an initial offering period with a finite term of approximately six (6) months, subject to earlier termination. After the initial offering period has closed and trading commences, the Fund will then issue Shares in the normal Basket Aggregations of 200,000 Shares to Authorized Participants. Once the initial offering period has closed and trading commences, the Master Fund will issue shares in Master Fund Baskets (200,000 shares) to the Fund continuously at NAV. The Master Fund will be owned by the Fund and the Managing Owner.²⁶ Each Share issued by the Fund will correlate with a Master Fund share issued by the Master Fund and held by the Fund. The Exchange stated that it believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide

²⁶ The Managing Owner will own 1% or less of the Master Fund and will share pro rata in the income and expenses of the Master Fund.

adequate market liquidity and to further the Fund's objective to seek to provide a simple and cost effective means of accessing the commodity futures markets.

The Exchange has represented that it prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A-3 under the Exchange Act.²⁷

VIII. Trading Rules

The Shares are equity securities subject to Amex Rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities and account opening and customer suitability (Amex Rule 411). Initial equity margin requirements of 50% will apply to transactions in the Shares. Shares will trade on the Amex until 4:15 p.m. ET each business day²⁸ and will trade in a minimum price variation of \$0.01 pursuant to Amex Rule 127. Trading rules pertaining to odd-lot trading in Amex equities (Amex Rule 205) will also apply.

The Amex original listing fee applicable to the listing of the Fund is \$5,000. In addition, the annual listing fee applicable under Section 141 of the Amex Company Guide will be based upon the year-end aggregate number of Shares in all series of the Fund outstanding at the end of each calendar year.

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary

²⁷ See Rule 10A-3(c)(7), 17 CFR 240.10A-3(c)(7) (stating that a listed issuer is not subject to the requirements of Rule 10A-3 if the issuer is organized as a trust or other unincorporated association that does not have a board of directors and the activities of the issuer are limited to passively owning or holding securities or other assets on behalf of or for the benefit of the holders of the listed securities).

²⁸ Commentary .01, .02, and .03 to Exchange Rule 1200 are applicable to transactions in the Shares, however, the Shares will trade from 9:30 a.m. to 4:15 p.m. each business day. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 11, 2006.

thereto) the price of which is derivatively based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c) (i-v). The Exchange has designated the Shares as eligible for this treatment.²⁹

The Shares will be deemed “Eligible Securities,” as defined in Amex Rule 230, for purposes of the Intermarket Trading System Plan and therefore will be subject to the trade through provisions of Amex Rule 236 which require that Amex members avoid initiating trade-throughs for ITS securities.

Specialist transactions of the Shares made in connection with the creation and redemption of Shares will not be subject to the prohibitions of Amex Rule 190.³⁰ Unless exemptive or no-action relief is available, the Shares will be subject to the short sale rule, Rule 10a-1 and Regulation SHO under the Act.³¹ If exemptive or no-action relief is provided, the Exchange will issue a notice detailing the terms of the exemption or relief. The Shares will generally be subject to the Exchange’s stabilization rule, Amex Rule 170, except that specialists may buy on “plus ticks” and sell on “minus ticks,” in order to bring the Shares into parity with the underlying commodity or commodities and/or futures contract price. Proposed Commentary .07(f) to Amex Rule 1202 sets forth this limited exception to Amex Rule 170 to bring the Shares into parity with the underlying Index.

²⁹ See Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) at note 9, regarding the Exchange’s designation of equity derivative securities as eligible for such treatment under Amex Rule 154, Commentary .04(c).

³⁰ See Commentary .05 to Amex Rule 190.

³¹ The Fund expects to seek relief, in the near future, from the Commission in connection with the trading of the Shares from the operation of certain Exchange Act rules.

The adoption of Commentary .07(e) to Amex Rule 1202 relating to certain specialist prohibitions will address potential conflicts of interest in connection with acting as a specialist in the Shares. Specifically, Commentary .07(e) provides that the prohibitions in Amex Rule 175(c) apply to a specialist in the Shares so that the specialist or affiliated person may not act or function as a market maker in an underlying asset, related futures contract or option or any other related derivative. An affiliated person of the specialist consistent with Amex Rule 193 may be afforded an exemption to act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset, related futures or options or any other related derivative. In particular, proposed Commentary .07(e) provides that an approved person of an equity specialist that has established and obtained Exchange approval for procedures restricting the flow of material, non-public market information between itself and the specialist member organization, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Adoption of Commentary .07(g) to Amex Rule 1202 will also ensure that specialists handling the Shares provide the Exchange with all the necessary information relating to their trading in physical assets or commodities, related futures contracts and options thereon or any other derivative. As a general matter, the Exchange has regulatory jurisdiction over its members, member organizations, and approved persons of a member organization. The Exchange also has regulatory jurisdiction over any person or entity controlling a member organization, as well as a subsidiary or affiliate of a member organization that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities or futures contracts

would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

IX. Trading Halts

Prior to the commencement of trading, the Exchange will issue an Information Circular (described below) to members informing them of, among other things, Exchange policies regarding trading halts in the Shares. First, the circular will advise that trading will be halted in the event the market volatility trading halt parameters set forth in Amex Rule 117 have been reached. Second, the circular will advise that, in addition to the parameters set forth in Amex Rule 117, the Exchange will halt trading in the Shares if trading in the underlying related futures contract(s) is halted or suspended. Third, with respect to a halt in trading that is not specified above, the Exchange may also consider other relevant factors and the existence of unusual conditions or circumstances that may be detrimental to the maintenance of a fair and orderly market. Additionally, the Exchange has represented that it will cease trading the Shares if the conditions in Commentary .07(d)(2)(ii) or (iii) to Amex Rule 1202 exist (i.e., if there is a halt or disruption in the dissemination of the Indicative Fund Value and/or underlying Index value).³²

³² In the event the Index value or Indicative Fund Value is no longer calculated or disseminated, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on November 22, 2005.

X. Suitability

The Information Circular (described below) will inform members and member organizations of the characteristics of the Fund and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).

The Exchange noted that pursuant to Amex Rule 411, members and member organizations are required in connection with recommending transactions in the Shares to have a reasonable basis to believe that a customer is suitable for the particular investment given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member.

XI. Information Circular

The Amex will distribute an Information Circular to its members in connection with the trading of the Shares. The Information Circular will inform members and member organizations, prior to commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange noted that investors purchasing Shares directly from the Fund (by delivery of the Cash Deposit Amount) will receive a prospectus. Amex members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors.

The Information Circular also will discuss the special characteristics and risks of trading this type of security. Specifically, the Information Circular, among other things, will discuss what the Shares are, how a Basket is created and redeemed, the requirement that members and member firms deliver a prospectus to investors purchasing the Shares prior to or concurrently with the confirmation of a transaction, applicable Amex rules, dissemination of information regarding the per Share Indicative Fund Value, trading information and applicable suitability

rules. The Information Circular will also explain that the Fund is subject to various fees and expenses described in the registration statement.

The Information Circular 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 aluminum, gold, crude oil, heating oil, corn and wheat, or the futures contracts on which the value of the Shares is based.

The Information Circular will also notify members and member organizations about the procedures for purchases and redemptions of Shares in Baskets and that Shares are not individually redeemable but are redeemable only in Basket-size aggregations or multiples thereof. The Information Circular will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

The Information Circular will disclose that the NAV for Shares will be calculated shortly after 4:00 p.m. ET each trading day and that other information will be publicly available about the Shares and underlying Index.

XII. Surveillance

The Exchange has represented that its surveillance procedures are adequate to monitor Exchange trading of the Shares and to detect violations of applicable rules and regulations. Exchange surveillance procedures applicable to trading in the proposed Shares will be similar to those applicable to TIRs, Portfolio Depository Receipts and Index Fund Shares currently trading on the Exchange. The Exchange currently has in place an Information Sharing Agreement with the NYMEX and the CBOT for the purpose of providing information in connection with trading in or related to futures contracts traded on the NYMEX and CBOT, respectively. The Exchange also noted that the CBOT is a member of the Intermarket Surveillance Group (“ISG”). As a result, the Exchange has asserted that market surveillance information is available from the

CBOT, if necessary, due to regulatory concerns that may arise in connection with the CBOT futures. In addition, the Exchange has negotiated a Memorandum of Understanding with the LME for the purpose of providing information in connection with the trading in or related to futures contracts traded on the LME.

XIII. 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.³³ 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,³⁴ which requires, among other things, that the Exchange's rules be designed 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.

A. Surveillance

Information sharing agreements with primary markets trading index components underlying a derivative product 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 Information Sharing Agreement with the NYMEX and the CBOT and the Exchange's Memorandum of Understanding with the LME, along with the Exchange's participation in the ISG, in which the CBOT participates, and Commentaries .07(e), (g)(1), (g)(2) and (g)(3) to

³³ 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).

³⁴ 15 U.S.C. 78f(b)(5).

Amex Rule 1202, create the basis for the Amex to monitor for fraudulent and manipulative practices in the trading of the Shares.

In particular, Commentaries .07(g)(1) and (g)(2) to Amex Rule 1202 require that the specialist handling the Shares provide the Exchange with information relating to its trading in the Shares and the accounts of the member organization acting as specialist, member organization, or approved person of such member organization in the Index components, related futures or options on futures, or any other related derivatives. Commentary .07(g)(3) to Amex Rule 1202 also prohibits the specialist in the Shares from using any material nonpublic information received from any person associated with a member, member organization or employee of such person regarding trading by such person or employee in the Index commodities, related futures or options on futures, or any other related derivatives. In addition, Commentary .07(e) to Amex Rule 1202 prohibits the specialist in the Shares from being affiliated with a market maker in the Index commodities, related futures or options on futures, or any other related derivatives, unless information barriers are in place that satisfy the requirements of Amex Rule 193. Furthermore, as noted above, the Exchange has represented that: (i) its surveillance procedures are adequate to monitor Exchange trading of the Shares and to detect violations of applicable rules and regulations; and (ii) Exchange surveillance procedures applicable to trading in the proposed Shares will be similar to those applicable to TIRs, Portfolio Depository Receipts and Index Fund Shares currently trading on the Exchange. Accordingly, the Commission believes that the Amex can adequately surveil trading in the Shares.

B. Dissemination of Information

The Commission believes that sufficient venues for obtaining reliable futures contract price information exist so that investors in the Shares can monitor the underlying futures contract

markets relative to the NAV of their Shares. There is a considerable amount of futures contract price and market information available through public Web sites and professional subscription services, including Bloomberg and Reuters. In addition, the futures exchanges for the futures contracts held by the Master Fund each have their own Web sites, which will be able to be reached directly from hyperlinks on the Index Sponsor's Web site (<https://index.db.com>).

The Commission notes that information about the Index is also widely available. The Index Sponsor, DB London, will publish the value of the Index at least every 15 seconds during Amex trading hours through Bloomberg, Reuters, and other market data vendors, and the Fund's Web site (<http://www.dbcfund.db.com>) and the Index Sponsor's Web site (<https://index.db.com>) will publish the value of the Index on a 20 minute delayed basis.

The Commission further notes that information about the Shares will also be widely available. The Exchange will disseminate via the CTA/CQ High Speed Lines the NAV, Basket Amount, Shares outstanding and the Indicative Fund Value, which will be disseminated every 15 seconds during Amex trading hours, and will display the NAV, Basket Amount, daily trading volume and closing prices on the Exchange's Web site (<http://www.amex.com>). In addition, the NAV and Basket Amount will be available on the Fund's Web site (<http://www.dbcfund.db.com>). As described in detail above, the Fund's Web site, which will be publicly accessible at no charge, will contain useful information, including a copy of the prospectus. The Commission believes that the wide availability of information about the underlying futures contracts, the Index and the Shares will facilitate transparency with respect to the proposed Shares and diminish the risk of manipulation or unfair informational advantage.

C. Listing and Trading

The Commission finds that the Exchange's proposed rules and procedures for the listing and trading of the proposed Shares are consistent with the Act. Shares will trade as equity securities subject to Amex rules including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities, account opening and customer suitability requirements. The Commission believes that the listing and delisting criteria for the Shares should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Shares. Finally, the Commission notes that the Information Circular the Exchange will distribute will inform members and member organizations about the terms, characteristics and risks in trading the Shares, including their prospectus delivery obligations.

D. Accelerated Approval of the Proposed Rule Change, as Amended by Amendment Nos. 1 and 2 Thereto, and Accelerated Approval of Amendment Nos. 3 and 4 Thereto

The Commission finds good cause for approving the proposed rule change, as amended by Amendment Nos. 1 and 2, prior to the 30th day after the date of publication of the notice of filing thereof in the Federal Register. The Exchange has requested the Commission to approve the proposal, as amended by Amendment Nos. 1 and 2, on an accelerated basis, after a 15-day comment period, to enable investors to begin trading the Shares promptly. The Commission notes that the proposed rule change, as amended by Amendment Nos. 1 and 2, was noticed for a 15-day comment period and no comments were received. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,³⁵ to approve the proposal, as amended by Amendment Nos. 1 and 2, on an accelerated basis.

³⁵ 15 U.S.C. 78s(b)(2).

The Commission finds good cause for approving Amendment Nos. 3 and 4 to the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the Federal Register. The Exchange has requested the Commission to approve Amendment Nos. 3 and 4³⁶ on an accelerated basis so that approval of the proposal is not unnecessarily delayed. In Amendment No. 3, the Exchange made clarifying changes to the purpose section regarding adjustments to the Index, specifically indicating the Index Sponsor will use the prior day's futures price or, in exceptional cases, the "fair value" price if futures prices are not available. In addition, the Exchange stated that it would submit a rule filing pursuant to Section 19(b) of the Exchange Act if the use of a prior day's price or "fair value" pricing for an Index commodity or commodities is more than of a temporary nature or if a successor or substitute Index is used by the Managing Owner. Amendment No. 4 clarifies that the Index value will be disseminated through one or more major market data vendors at least every 15 seconds during the time the Shares trade on Amex. The Commission notes that the changes contained in Amendment Nos. 3 and 4 are necessary to clarify the proposal. Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,³⁷ to approve Amendment Nos. 3 and 4 on an accelerated basis.

³⁶ Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on January 11, 2006 (requesting accelerated approval of Amendment No. 4).

³⁷ Id.

XIV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment Nos. 3 and 4 are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2005-059 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 20549-9303.

All submissions should refer to File Number SR-Amex-2005-059. 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 (<http://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 such 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-2005-059 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

XV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR-Amex-2005-059), as amended by Amendment Nos. 1 and 2, is approved on an accelerated basis and that Amendment Nos. 3 and 4 thereto are approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁸

Nancy M. Morris
Secretary

³⁸ 17 CFR 200.30-3(a)(12).