

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55767; File No. SR-NASDAQ-2007-051)

May 15, 2007

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Trade Shares of the PowerShares DB Commodity Index Tracking Fund Pursuant to Unlisted Trading Privileges

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 10, 2007, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. This notice and order provides notice of the proposed rule change and approves the proposal on an accelerated basis.

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

Nasdaq proposes to trade, pursuant to unlisted trading privileged (“UTP”), shares (“Shares”) of the PowerShares DB Commodity Index Tracking Fund (the “Fund”).

The text of the proposed rule change is available from Nasdaq’s Web site at nasdaq.complinet.com, at Nasdaq’s principal office, and at the Commission's Public Reference Room.

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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to trade the Shares on a UTP basis. The Shares are currently trading on Nasdaq on a three-month pilot basis.³ Approval of this filing will allow the Shares to continue to trade after the expiration of the pilot. The Commission previously approved the listing and trading of the Shares on the American Stock Exchange (“Amex”).⁴

The Shares of the Fund represent beneficial ownership interests in the Fund's net assets, consisting solely of the common units of beneficial interests of the DB Commodity Index Tracking Master Fund (“Master Fund”). Each Share of the Fund correlates with a Master Fund share issued by the Master Fund and held by the Fund. The investment objective of each of the Fund and the Master Fund is to reflect the performance of the Deutsche Bank Liquid Commodity Index™ (“DBLCI” or “Index”), less the expenses of the operations of the Fund and the Master Fund. The Fund pursues its investment objective by investing substantially all of its assets in the Master Fund. The Fund holds no investment assets other than Master Fund shares. The Master Fund pursues its investment objective by investing primarily in a portfolio of futures contracts

³ Securities Exchange Act Release No. 55386 (March 2, 2007), 72 FR 10801 (March 9, 2007) (SR-NASDAQ-2007-016).

⁴ See Securities Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (SR-Amex-2005-059) (the “Amex Order”).

in the commodities comprising the Index, which are crude oil, heating oil, aluminum, gold, corn, and wheat (“Index commodities”). The Master Fund also holds cash and U.S. Treasury securities for deposit with futures commission merchants for margin purposes, and other high-credit-quality short-term fixed income securities.

A description of the DBLCI, commodity futures contracts and related options, operation of the Fund, and the Shares is set forth in the Amex Order. To summarize, an issuance of Shares is made only in a basket of 200,000 Shares (“Basket Aggregation” or “Basket”) or multiples thereof. The Fund issues and redeems the Shares on a continuous basis, by or through participants that have entered into participant agreements (each, an “Authorized Participant”)⁵ with the Fund and its Managing Owner,⁶ at the net asset value (“NAV”) per Share determined shortly after 4:00 p.m. Eastern Time (“ET”) or the closing of the last to close of the 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.

Shortly after 4:00 p.m. ET each business day, The Bank of New York (“Administrator”) determines the NAV for the Fund and Master Fund, utilizing the current day's settlement value of the particular commodity futures contracts in the Master

⁵ 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 Depository Trust Company participant or indirect participant; and (iii) has in effect a valid Participant Agreement with the Fund issuer.

⁶ The Managing Owner is DB Commodity Services LLC, a Delaware limited liability company that is registered with the Commodity Futures Trading Commission as a commodity pool operator and commodity trading advisor. The Managing Owner is an affiliate of Deutsche Bank AG, the sponsor of the Fund and Master Fund. The Managing Owner serves as the commodity pool operator and commodity trading advisor of the Fund and the Master Fund and manages and controls all aspects of the business of the Funds.

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 would 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 typically uses that day's futures settlement price for determining the NAV. The calculation methodology for the NAV is described in more detail in the Amex Order.

A Basket is issued in exchange for an amount of cash equal to the NAV per Share times 200,000 Shares ("Basket Amount") on the purchase order date. The Basket Amount and NAV are usually determined on each business day by the Administrator shortly after 4:00 p.m. ET. Baskets are issued as of 12 noon ET, on the business day immediately following the purchase order date (T+1) at the NAV per Share on the purchase order date if the required payment has been timely received. An Authorized Participant that wishes to purchase a Basket must transfer the Basket Amount to the Fund in exchange for a Basket. A Basket is then separable upon issuance into the Shares that will be traded on Nasdaq on a UTP basis.

The Shares are not individually redeemable but are redeemable only in Baskets. To redeem Shares, an Authorized Participant is required to accumulate enough Shares to constitute a Basket (i.e., 200,000 Shares). An Authorized Participant that wishes to redeem a Basket would receive the Basket Amount in exchange for each Basket

surrendered. The operation of the Fund and creation and redemption process is described in more detail in the Amex Order.

The value of the Index is calculated and published by its sponsor, Deutsche Bank AG London (“DB London”), at least every 15 seconds from 9:30 a.m. to 4:15 p.m. ET through Bloomberg, Reuters, and other market data vendors. In addition, the Index value is available on DB London's Web site at <https://index.db.com> and on the Fund's Web site at <http://www.dbcfund.db.com> on a 20-minute delayed basis.⁷ The closing Index level is similarly provided by DB London and the Fund. In addition, any adjustments or changes to the Index are also provided by DB London and the Fund on their respective Web sites.⁸

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--Board of Trade of the City of Chicago, Inc.

⁷ Nasdaq provides a hyperlink from its Web site at <http://www.nasdaq.com> to the Fund's Web site at <http://www.dbcfund.db.com> and the DB London Web site at <https://index.db.com>. The Fund also maintains a Web site at www.powershares.com, to which Nasdaq also provides a link from its Web site.

⁸ According to the Amex Order, DB London, the sponsor of the Index, 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 DB London, 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.

("CBOT") at <http://www.cbot.com>; and (iii) crude oil, heating oil, and gold--New York Mercantile Exchange ("NYMEX") at <http://www.nymex.com>. DB London's Web site at <https://index.db.com> also contains futures contract pricing information.

The Web site for the Fund at www.powershares.com contains the following information: (a) The prior business day's NAV and the reported closing price; (b) the mid-point of the bid-ask price in relation to the NAV as of the time the NAV is calculated ("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 previous calendar quarters; (e) the prospectus; and (f) other applicable quantitative information. Quotations for and last-sale information regarding the Shares are disseminated via the CTA/CQS.

As described above, the NAV for the Fund is calculated and disseminated daily. Amex also disseminates, from 9:30 a.m. to 4:15 p.m. ET, for the Fund on a daily basis by means of CTA/CQ High Speed Lines information with respect to the Indicative Fund Value ("IFV"), recent NAV, and Shares outstanding. Amex also makes available on its Web site daily trading volume, closing prices, and the NAV.

In addition to calculating the NAV of the Fund on a daily basis, the Administrator causes to be made available on a daily basis the amount of cash to be deposited in connection with the issuance of the Shares in Basket Aggregations. Other investors can request such information directly from the Administrator.

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities,

including Nasdaq Rule 4630. The trading hours for the Shares on Nasdaq will be 9:30 a.m. to 4:15 p.m. ET.

Nasdaq would halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121. The conditions for a halt include a regulatory halt by the listing market. UTP trading in the Shares will also be governed by provisions of Nasdaq Rule 4120 relating to temporary interruptions in the calculation or wide dissemination of the IFV or the value of the Index. Additionally, Nasdaq may cease trading the Shares if other unusual conditions or circumstances exist which, in the opinion of Nasdaq, make further dealings on Nasdaq detrimental to the maintenance of a fair and orderly market. Nasdaq will also follow any procedures with respect to trading halts as set forth in Nasdaq Rule 4120(c). Finally, Nasdaq would stop trading the Shares if the listing market delists them.

Nasdaq believes that its surveillance procedures are adequate to address any concerns about the trading of the Shares on Nasdaq. Trading of the Shares through Nasdaq facilities is currently subject to NASD's surveillance procedures for equity securities in general and ETFs in particular.⁹ Nasdaq is able to obtain information regarding trading in the Shares and the underlying futures contracts through its members in connection with the proprietary or customer trades that such members effect on any relevant market. In addition, Nasdaq may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG, including the CBOT, and Nasdaq has information-sharing agreements in place with NYMEX and LME. Nasdaq has issued an Information Circular to inform its members of the special characteristics and risks associated with trading the Shares.

⁹ NASD surveils trading pursuant to a regulatory services agreement. Nasdaq is responsible for NASD's performance under this regulatory services agreement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act¹⁰ in general and Section 6(b)(5) of the Act¹¹ in particular, in that in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest. In addition, Nasdaq believes that the proposal is consistent with Rule 12f-5 under the Act¹² because it deems the Shares to be an equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 17 CFR 240.12f-5.

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-NASDAQ-2007-051 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-NASDAQ-2007-051. 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 Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to

File Number SR-NASDAQ-2007-051 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁴ which requires that an exchange have rules designed, among other things, 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 Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Shares.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,¹⁵ which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.¹⁶ The Commission notes that it previously approved the listing and trading of the Shares on Amex and the trading of the Shares on

¹³ In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78l(f).

¹⁶ Section 12(a) of the Act, 15 U.S.C. 78l(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange "extends UTP." When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

NYSE Arca pursuant to UTP.¹⁷ The Commission also finds that the proposal is consistent with Rule 12f-5 under the Act,¹⁸ which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,¹⁹ which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last-sale information regarding the Shares are disseminated through the facilities of the CTA and the Consolidated Quotation System. Furthermore, the IFV, updated to reflect changes in currency exchange rates, is calculated by Amex and published via the facilities of the Consolidated Tape Association on a 15-second delayed basis throughout the trading hours for the Shares. In addition, if the listing market halts trading when the IFV is not being calculated or disseminated, the Exchange would halt trading in the Shares.

¹⁷ See supra note 4 (approving listing and trading of Shares on Amex). See also Securities Exchange Act Release No. 53736 (April 27, 2006) 71 FR 26582 (May 5, 2006) (approving UTP trading of Shares on Pacific Exchange, Inc. n/k/a NYSE Arca).

¹⁸ 17 CFR 240.12f-5.

¹⁹ 15 U.S.C. 78k-1(a)(1)(C)(iii).

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

In support of this proposal, the Exchange has represented that its surveillance procedures are adequate to properly monitor Exchange trading of the Shares. This approval order is conditioned on the Exchange's adherence to this representation.

In addition, the Commission recently approved the trading of the Shares on the Exchange pursuant to UTP for a pilot period of three months.²⁰ In the Pilot Order, the Commission noted that exchanges that trade commodity-related securities generally have in place surveillance arrangements with markets that trade the underlying securities. In its proposal to trade the Shares for a pilot period, the Exchange represented that it was in the process of completing these surveillance arrangements and expected to do so "in the near future." The Exchange recently provided the Commission with evidence that it has completed these surveillance arrangements.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the Federal Register. As noted previously, the Commission previously found that the listing and trading of the Shares on Amex and the trading of the Shares on NYSE Arca pursuant to UTP are consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit those findings or would preclude the continued trading of the Shares on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by continuing the additional competition in the market for the Shares.

²⁰ See supra note 3.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²¹ that the proposed rule change (SR-NASDAQ-2007-049), be and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²²

Florence E. Harmon
Deputy Secretary

²¹ 15 U.S.C. 78s(b)(2).

²² 17 CFR 200.30-3(a)(12).