



SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of the Proposed Rule Change**

(a) The American Stock Exchange LLC (“Amex” or “Exchange”) proposes to (i) revise the current generic listing standards for stock index warrants (“Index Warrants”) and (ii) adopt a generic listing standard for currency warrants (“Currency Warrants”)(each, a “warrant” and collectively, “Currency and Index Warrants”). The text of the proposed rule change appears in Exhibit 5.

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Exchange’s Board of Governors on September 10, 1987, December 13, 1990 and December 16, 1993. No further action by the Board or by the membership of the Exchange is required to be taken.

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

(a) *Purpose*

The purpose of the proposed rule change is to enable the listing and trading of Index and Currency Warrants pursuant to Rule 19b-4(e)<sup>1</sup> under the Securities Exchange Act of 1934 (the “1934 Act”).<sup>2</sup> The Exchange proposes to revise the current generic listing standards for Index Warrants set forth in Section 106(i) and (j) of the *Amex Company Guide* (the “*Company Guide*”) by substantially following the current generic listing standards for Index Linked Securities in Section 107D(g) and (h) of the *Company Guide*. This proposal relating to Index Warrants would eliminate current

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<sup>1</sup> 17 CFR 240.19b-4(e).

<sup>2</sup> 15 U.S.C. 78a.

subparagraph (j) to Section 106 of the *Company Guide*. In addition, the Exchange proposes to adopt Section 106(j) of the *Company Guide* for Currency Warrants that is substantially similar to the initial and continued listing standards for Currency-Linked Securities in Section 107F(g) and (h) of the *Company Guide*.

Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") shall not be deemed a proposed rule change, pursuant to section (c)(1) of Rule 19b-4,<sup>3</sup> if the Commission has approved, pursuant to Section 19(b) of the Act,<sup>4</sup> the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.<sup>5</sup> As a result, the Amex is proposing to (i) revise the generic listing standards for Index Warrants in Section 106(i) and (j) of the *Company Guide* and (ii) add a new generic listing standard for Currency Warrants, pursuant to which it will be able to trade the Warrants without individual Commission approval of each product pursuant to Section 19(b)(2) of the Act.<sup>6</sup> The Exchange represents that within five (5) business days after commencement of trading of a Warrant in reliance on Section 106 of the *Company Guide*, the Exchange will file a Form 19b-4(e).<sup>7</sup>

## **Introduction**

*Index Warrants.* The Exchange pursuant to Section 106 of the *Company Guide* is permitted to list and trade Index Warrants based on both broad-based and narrow-based stock indexes. The listing standard in connection with an Index Warrant based on a

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<sup>3</sup> 17 CFR 240.19b-4(c)(1).

<sup>4</sup> 17 U.S.C. 78s(b).

<sup>5</sup> See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998)(the "19b-4(e) Order").

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 240.19b-4(e)(2)(ii); 17 CFR 249.820.

broad-based stock index currently provides that the Exchange may list and trade such Index Warrant without filing a proposed rule change pursuant to Section 19(b)(2) of the 1934 Act with the Commission as long as the underlying broad-based stock index has been previously approved for option or warrant trading by the Commission.<sup>8</sup>

With respect to an Index Warrant based on a narrow-based stock index, the Exchange is permitted to list such Index Warrant pursuant to Rule 19b-4(e) under the 1934 Act provided the procedures and criteria set forth in Commentary .03 to Rule 901C are satisfied.<sup>9</sup> This criteria is currently set forth in Section 106(j) of the *Company Guide*.

The Exchange believes that the proposal to adopt a “generic” listing standard for all underlying stock indexes is appropriate and consistent with current generic options listing rules as well as the listing criteria for Index-Linked Securities. *Currency Warrants*. The Exchange pursuant to Section 106 of the *Company Guide* is permitted to list Currency Warrants based on a single foreign currency, foreign currency basket or foreign currency index.

Issuances of Currency Warrants overlying a single foreign currency or basket of foreign currencies may currently be listed for trading without a rule filing provided that the underlying foreign currency or currencies is approved for options trading. Issuances of other Currency Warrants overlying any other foreign currency would require a rule filing pursuant to Section 19(b) of the 1934 Act. In addition, Currency Warrants based on a foreign currency index may be listed without a proposed

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<sup>8</sup> See Securities Exchange Act Release No. 36168 (August 29, 1995), 60 FR 46637 (September 7, 1995)(the “1995 Warrant Order”).

<sup>9</sup> See Securities Exchange Act Release No. 42498 (March 6, 2000), 65 FR 13350 (March 13, 2000). Prior to November 2005, Commentary .03 to Rule 901C was set forth in Commentary .02 to Rule 901C. See Securities Exchange Act Release No. 52781 (November 16, 2005), 70 FR 70898 (November 23, 2005)(SR-Amex-2005-069). Section 106(j) continues to incorrectly refer to existing Commentary .02 to Rule 901C relating to broad-based index standards not narrow-based index standards.

rule change pursuant to Section 19(b)(2) of the 1934 Act if the underlying index has been previously approved by the Commission.<sup>10</sup>

The Exchange believes that the proposal to clarify and modernize the currency warrant listing standards set forth in Section 106 is consistent with the listing of both currency options as well as Currency-Linked Securities.

### **General Issuer and Issue Eligibility**

The general criteria set forth in Section 106 of the *Company Guide* will continue to apply to all issues of Currency and Index Warrants.

The Exchange will apply the following requirements to all issuers of the Warrants:

- The issuer will be expected to have a minimum tangible net worth of \$250,000,000. In the alternative, the issuer will be expected: (i) To have a minimum tangible net worth of \$150,000,000 and (ii) not to issue warrants where the original issuer price of all of the issuer's Currency and Index Warrant offerings (including Currency and Index Warrants offerings of the issuer's affiliates), listed on a national securities exchange, exceeds 25% of the issuer's net worth.
- The issuer must be in compliance with Rule 10A-3 under the Act.<sup>11</sup>

The Exchange will apply the following requirements to each issue of the Warrants:

- The issue must have a minimum public distribution of at least 1,000,000 warrants with a minimum of 400 public warrant holders, and an aggregate market value of at least \$4 million. In the alternative, the issue may have a minimum public distribution of 2,000,000 warrants together with a minimum number of public warrant holders determined on a case-by-case basis, an aggregate market value of at least \$12 million and an initial warrant price of at least \$6.
- The issue must have a term of at least one (1) year but not greater than ten (10) years from the date of issuance.

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<sup>10</sup> See 1995 Warrant Order *supra* note 8 and Securities Exchange Act Release Nos. 31627 (December 21, 1991), 57 FR 62399 (December 30, 1991).

<sup>11</sup> See 17 CFR 240.10A-3(c)(7).

## Stock Index Warrants

Each underlying securities index (the “Underlying Index”) of an Index Warrant will either be (i) a securities index meeting the specific criteria set forth below in proposed Section 106(i) that is similar to current Section 107D(g) and Commentary .03 to Amex Rule 901C; or (ii) an index approved for the trading of options or other derivatives securities by the Commission under Section 19(b)(2) of the 1934 Act and rules thereunder. However, in all cases, an Underlying Index must contain at least nine (9) component securities.

The Exchange will require that all changes to an Underlying Index, including the deletion and addition of underlying component securities (the “Underlying Securities” or “Index Securities”), index rebalancings and changes to the calculation of the index, will be made in accordance with the proposed generic criteria or the Commission’s Section 19(b)(2) order which approved the similar derivative product containing the Underlying Index.

If a broker-dealer is responsible for maintaining (or has a role in maintaining) the Underlying Index, such broker-dealer is required to erect and maintain a “firewall,” in a form satisfactory to the Exchange, to prevent the flow of information regarding the Underlying Index from the index production personnel to the sales and trading personnel. In addition, an Underlying Index that is maintained by a broker-dealer is also required to be calculated by an independent third party who is not a broker-dealer. *Eligibility Standards for Underlying Securities.* Index Securities will be subject to the criteria in proposed Section 106(i) for initial and continued listing. For an Underlying Index to be appropriate for the initial listing of an Index Warrant, such Underlying Index

must either have been reviewed and approved for the trading of options or other derivative securities by the Commission under Section 19(b)(2) of the 1934 Act and rules thereunder or meet the following requirements:

- Each component of an Underlying Index must have a minimum market value of at least \$75 million, except that for each of the lowest weighted components that in the aggregate account for no more than 10% of the weight of the Index, the market value can be at least \$50 million;
- Each component of an Underlying Index must have trading volume in each of the last six months of not less than 1,000,000 shares, except that for each of the lowest weighted components in the Underlying Index that in the aggregate account for no more than 10% of the weight of the Index, the trading volume shall be at least 500,000 shares in each of the last six months;
- In the case of a capitalization-weighted index, the lesser of the five highest weight components in the Underlying Index or the highest weighted components in the Index that in the aggregate represent at least 30% of the total number of components, each have an average monthly trading volume of at least 2,000,000 shares over the previous six months;
- No component will represent more than 25% of the weight of the Index, and the five highest weighted components in the Index will not in the aggregate account for more than 50% of the weight of the Index (60% for an Index consisting of fewer than 25 components);
- 90% of the index's numerical value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; an index will not be subject to this requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index and (b) the index has a minimum of 20 components;
- All component must either be: (A) securities (other than foreign country securities and American Depositary Receipts (“ADRs”)) that are: (i) issued by a reporting company under the 1934 Act that is listed on a national securities exchange, and (ii) “NMS stock,” as defined in Rule 600 of Regulation NMS, or (B) foreign country securities or ADRs, provided that the foreign country securities or foreign country securities underlying ADRs having their primary trading market outside the United States on foreign trading markets that are not members of the Intermarket Surveillance Group (“ISG”) or are not parties to comprehensive surveillance sharing agreements with the Exchange will not, in the

aggregate, represent more than 20% of the dollar weight of the underlying index.

The proposed continued listing criteria set forth in proposed Section 106 regarding the underlying components of an Underlying Index provides that the Exchange will commence delisting or removal proceedings of a Warrant (unless the Commission has approved the continued trading of the Warrant) if any of the standards set forth in the initial eligibility criteria of proposed Section 106 are not continuously maintained, except that:

- The criteria that no single component represent more than 25% of the weight of the Index and the five highest weighted components in the Index can not represent more than 50% (or 60% for indexes with less than 25 components) of the weight of the Index, need only be satisfied for capitalization weighted and price weighted indexes as of the first day of January and July in each year;
- There shall be no limit to the amount by which the total number of components in the Index may increase or decrease from the number of components in the Index at the time of its initial listing, but in no event shall any decrease cause the total number of components to be less than nine (9) components;
- The trading volume of each component in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted components in the Index that in the aggregate account for no more than 10% of the weight of the Index, trading volume must be at least 400,000 shares for each of the last six months; and
- In a capitalization-weighted Index, the lesser of the five highest weighted components in the Index or the highest weighted components in the Index that in the aggregate represent at least 30% of the total number of components in the Index have had an average monthly trading volume of at least 1,000,000 shares over the previous six months.

In connection with an Index Warrant based on an underlying Index that has previously been approved by the Commission for options or other derivatives, the Exchange will commence delisting or removal proceedings (unless the Commission has approved the continued trading of the Warrant) if such Underlying Index or Indexes fails

to satisfy the maintenance standards or conditions for such Index or Indexes as set forth by the Commission in its order under Section 19(b)(2) of the 1934 Act approving the Index or Indexes for the trading of options or other derivatives.

As set forth in proposed Section 106, the Exchange will also commence delisting or removal proceedings of a Warrant (unless the Commission has approved the continued trading of the Warrant), under any of the following circumstances:

- If the number of Warrants publicly held is less than 50,000;
- If the value of the Underlying Index or composite value of the Underlying Indexes is no longer calculated and widely disseminated on at least a 15-second basis; or
- If such other event shall occur or condition exists which is the opinion of the Exchange makes further dealings on the Exchange inadvisable.

### **Underlying Currencies or Currency Indexes**

Currency Warrants will be subject to the criteria in proposed new Section 106(j) *Company Guide* for initial and continued listing.

An issue of Currency Warrants must meet the initial listing standard set forth in either bullet point below:

- A Currency Warrant may consist of an underlying currency, basket of currencies or a currency index that have been reviewed and approved for the trading of Currency Trust Shares, options or other derivatives by the Commission under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order continue to be satisfied; or
- The pricing information for each underlying currency must be (x) the generally accepted spot or forward price for the currency exchange rate in question; or (y) derived from a market which (i) is an ISG SRO member or affiliate member or with which the Exchange has a comprehensive surveillance sharing agreement and (ii) is the pricing source for the underlying currency that has previously been approved by the Commission.

If pricing information is based upon the generally accepted forward price, the currency must be one of the following: US Dollar, Euro, Japanese Yen, British Pound Sterling, Swiss Franc, Canadian Dollar, Australian Dollar, Brazilian Real, Chinese Renminbi, Czech Koruna, Danish Krone, Hong Kong Dollar, Hungarian Forint, Indian Rupee, Indonesian Rupiah, Korean Won, Mexican Peso, Norwegian Krone, New Zealand Dollar, Philippine Peso, Polish Zloty, Russian Ruble, Swedish Krona, South African Rand, Singapore Dollar, Taiwan Dollar, Thai Baht or New Turkish Lira.

The value of an underlying currency, currency basket or currency index must also be calculated and widely disseminated on at least a 15-second basis during the time the Currency Warrants trade on the Exchange

The Exchange submits that it will commence delisting proceedings (unless the Commission has approved the continued trading of the subject Currency Warrant), if any of the initial listing criteria described above are not continuously maintained.

However, in connection with a currency basket or currency index, an issue will not be delisted for a failure to have comprehensive surveillance sharing agreements, if the underlying components do not represent more than 10% of the dollar weight of such underlying asset for which the pricing information is derived from markets that do not meet the requirements of (ii) above; provided, however, that no single component subject to this exception exceeds 7% of the dollar weight of the underlying asset.

The Exchange will also commence delisting proceedings (unless the Commission has approved the continued trading of the subject Currency Warrant), under any of the following circumstances:

- If the number of Warrants publicly held is less than 50,000;

- If the value of the underlying asset is no longer calculated or available and a new underlying asset is substituted, unless the new underlying asset meets the requirements of this Section 106 of the *Company Guide*; or
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

### **Applicable Exchange Rules**

Currency and Index Warrants will be subject to all Exchange rules governing the trading of Currency and Index Warrants. Rules 1100 through 1110 apply to all Currency and Index Warrants listed and traded on the Exchange. These rules govern account approvals, suitability, discretionary accounts, supervision of accounts, customer complaints, advertising and sales literature, position and exercise limits, trading halts and reporting. These rules are substantially similar to comparable rules applicable to standardized options listed and traded on the Amex. The Exchange's margin rules applicable to warrants and the Exchange's regular trading hours (9:30 a.m. to 4 p.m. Eastern Time) will apply to transactions in the Currency and Index Warrants.

### **Information Circular**

Upon evaluating the nature and complexity of each Security, the Exchange represents that it will prepare and distribute, if appropriate, an Information Circular to member organizations describing the product. Accordingly, the particular structure and corresponding risks of Currency or Index Warrant will be highlighted and disclosed. The Information Circular will disclose the applicable trading rules for the Currency or Index Warrant.

The Information Circular will also detail the options suitability rule that is applicable to the trading of Currency or Index Warrants. Rule 923 specifically provides

that a member organization recommending a transaction in Warrants must have a reasonable basis for believing, at the time of making such recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommendation.

**Surveillance**

The Exchange will closely monitor activity in the Currency or Index Warrants to identify and deter any potential improper trading activity. Additionally, the Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Securities. Specifically, the Exchange will rely on its existing surveillance procedures governing options. The Exchange has developed procedures to closely monitor activity in the Currency and Index Warrants and the underlying indexes or currencies to identify and deter potential improper trading activity. To the extent applicable, the Exchange will be able to obtain trading and beneficial holder information from the primary trading markets for the portfolio components in relation to the warrants, either pursuant to bilateral information sharing agreements with those markets or because those markets are SRO members or affiliate members of the ISG.

**Firewall Procedures**

If an underlying index is maintained by a broker-dealer, the broker-dealer is required to erect a “firewall” around the personnel responsible for the maintenance of such underlying index or who have access to information concerning changes and adjustments to the underlying index, and the underlying index shall be calculated by a third party who is not a broker-dealer. Any advisory committee, supervisory board, or

similar entity that advises a Reporting Authority (defined in Amex Rule 1000A—AEMI(b)(3)) or that makes decisions regarding the underlying index or portfolio composition, methodology, and related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable underlying index or portfolio.

Amex Rule 1203B imposes similar restrictions on the ability of the specialist firm for any issue of Currency Trust Shares or its affiliates to make markets in and trade the Currency Reference Asset components, the currencies underlying the Currency Reference Asset components, or options, futures, or options on futures on the Currency Reference Asset, or any other derivatives based on the Currency Reference Asset, any Currency Reference Asset component, or any currency underlying a Currency Reference Asset component. The Exchange submits that Amex Rules 1203A and 1203B would similarly apply to the trading of Currency Warrants, respectively.

### **Trading Halts**

Trading in the Warrants will be halted in the event the market volatility trading halt parameters set forth in Rule 117 have been reached. In addition, Exchange Rule 1109 applies the trading halt provisions of Rule 918C(b) to Index Warrants. Accordingly, the Exchange will consider factors such as those set forth in Rule 918C(b) in exercising its discretion to halt or suspend trading in Index Warrants. These factors would include, but are not limited to, (1) the extent to which trading is not occurring in the underlying securities comprising an Underlying Index; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. (See Amex Rule 918C).

In the case of Currency Warrants, the Exchange would halt trading if trading in an 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.

(b) *Basis*

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>13</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms 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 proposal will facilitate the listing and trading of Index and Currency Warrants thereby enhancing competition among market participants, to the benefit of investors and the marketplace.

4. **Self-Regulatory Organization's Statement on Burden on Competition**

The proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the 1934 Act.

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<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

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

No written comments were solicited or received with respect to the proposed rule change.

**6. Extension of Time Period for Commission Action**

The Exchange does not consent to an extension of the time period for Commission consideration of the proposed rule change specified in Section 19(b)(2) of the 1934 Act.<sup>14</sup>

**7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

(a) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) The Exchange requests expedited review and accelerated effectiveness of this proposal since it raises no new or novel issues and is similar to Index-Linked Securities and Currency-Linked Securities currently listed and traded on the Exchange. In addition, the Commission previously approved the listing standards applicable to Index and Currency Warrants. This proposal would provide a more appropriate “generic” listing standard for these Warrants based on the current standards for Index-Linked and Currency-Linked Securities.

**8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change is not based on based on the rules of another self-regulatory organization or of the Commission.

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<sup>14</sup> 15 U.S.C. 78f(b)(2).

9. **Exhibits**

List of Exhibits Filed:

1. Notice of Proposed Rule Change for publication in the **Federal Register**.
2. Not applicable.
3. Not applicable.
4. Not applicable.
5. Text of Proposed Rule Change.

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

**(Release No. 34- ; File No. SR-Amex-2008-43)**

**Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change Related to Index and Currency Warrants**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on , 2008, the American Stock Exchange LLC (the “Amex” or the “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 prepared by the Exchange. 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 (i) revise the current generic listing standards for stock index warrants (“Index Warrants”) and (ii) adopt a generic listing standard for currency warrants (“Currency Warrants”)(each, a “Warrant” and collectively, “Currency and Index Warrants”).

The text of the proposed rule change is available on the Amex’s website at <http://www.amex.com>, the Office of the Secretary, the Amex and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to enable the listing and trading of Index and Currency Warrants pursuant to Rule 19b-4(e)<sup>3</sup> under the Securities Exchange Act of 1934 (the "1934 Act").<sup>4</sup> The Exchange proposes to revise the current generic listing standards for Index Warrants set forth in Section 106(i) and (j) of the *Amex Company Guide* (the "*Company Guide*") by substantially following the current generic listing standards for Index Linked Securities in Section 107D(g) and (h) of the *Company Guide*. This proposal relating to Index Warrants would eliminate current subparagraph (j) to Section 106 of the *Company Guide*. In addition, the Exchange proposes to adopt Section 106(j) of the *Company Guide* for Currency Warrants that is substantially similar to the initial and continued listing standards for Currency-Linked Securities in Section 107F(g) and (h) of the *Company Guide*.

Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") shall not be

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<sup>3</sup> 17 CFR 240.19b-4(e).

<sup>4</sup> 15 U.S.C. 78a.

deemed a proposed rule change, pursuant to section (c)(1) of Rule 19b-4,<sup>5</sup> if the Commission has approved, pursuant to Section 19(b) of the Act,<sup>6</sup> the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.<sup>7</sup> As a result, the Amex is proposing to (i) revise the generic listing standards for Index Warrants in Section 106(i) and (j) of the *Company Guide* and (ii) add a new generic listing standard for Currency Warrants, pursuant to which it will be able to trade the Warrants without individual Commission approval of each product pursuant to Section 19(b)(2) of the Act.<sup>8</sup> The Exchange represents that within five (5) business days after commencement of trading of a Warrant in reliance on Section 106 of the *Company Guide*, the Exchange will file a Form 19b-4(e).<sup>9</sup>

### **Introduction**

*Index Warrants.* The Exchange pursuant to Section 106 of the *Company Guide* is permitted to list and trade Index Warrants based on both broad-based and narrow-based stock indexes. The listing standard in connection with an Index Warrant based on a broad-based stock index currently provides that the Exchange may list and trade such Index Warrant without filing a proposed rule change pursuant to Section 19(b)(2) of the 1934 Act with the Commission as long as the underlying broad-based stock index has been previously approved for option or warrant trading by the Commission.<sup>10</sup>

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<sup>5</sup> 17 CFR 240.19b-4(c)(1).

<sup>6</sup> 17 U.S.C. 78s(b).

<sup>7</sup> See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998)(the "19b-4(e) Order").

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 240.19b-4(e)(2)(ii); 17 CFR 249.820.

<sup>10</sup> See Securities Exchange Act Release No. 36168 (August 29, 1995), 60 FR 46637 (September 7, 1995)(the "1995 Warrant Order").

With respect to an Index Warrant based on a narrow-based stock index, the Exchange is permitted to list such Index Warrant pursuant to Rule 19b-4(e) under the 1934 Act provided the procedures and criteria set forth in Commentary .03 to Rule 901C are satisfied.<sup>11</sup> This criteria is currently set forth in Section 106(j) of the *Company Guide*.

The Exchange believes that the proposal to adopt a “generic” listing standard for all underlying stock indexes is appropriate and consistent with current generic options listing rules as well as the listing criteria for Index-Linked Securities. *Currency Warrants*. The Exchange pursuant to Section 106 of the *Company Guide* is permitted to list Currency Warrants based on a single foreign currency, foreign currency basket or foreign currency index.

Issuances of Currency Warrants overlying a single foreign currency or basket of foreign currencies may currently be listed for trading without a rule filing provided that the underlying foreign currency or currencies is approved for options trading. Issuances of other Currency Warrants overlying any other foreign currency would require a rule filing pursuant to Section 19(b) of the 1934 Act. In addition, Currency Warrants based on a foreign currency index may be listed without a proposed rule change pursuant to Section 19(b)(2) of the 1934 Act if the underlying index has been previously approved by the Commission.<sup>12</sup>

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<sup>11</sup> See Securities Exchange Act Release No. 42498 (March 6, 2000), 65 FR 13350 (March 13, 2000). Prior to November 2005, Commentary .03 to Rule 901C was set forth in Commentary .02 to Rule 901C. See Securities Exchange Act Release No. 52781 (November 16, 2005), 70 FR 70898 (November 23, 2005)(SR-Amex-2005-069). Section 106(j) continues to incorrectly refer to existing Commentary .02 to Rule 901C relating to broad-based index standards not narrow-based index standards.

<sup>12</sup> See 1995 Warrant Order *supra* note 10 and Securities Exchange Act Release Nos. 31627 (December 21, 1991), 57 FR 62399 (December 30, 1991).

The Exchange believes that the proposal to clarify and modernize the currency warrant listing standards set forth in Section 106 is consistent with the listing of both currency options as well as Currency-Linked Securities.

### **General Issuer and Issue Eligibility**

The general criteria set forth in Section 106 of the *Company Guide* will continue to apply to all issues of Currency and Index Warrants.

The Exchange will apply the following requirements to all issuers of the Warrants:

- The issuer will be expected to have a minimum tangible net worth of \$250,000,000. In the alternative, the issuer will be expected: (i) To have a minimum tangible net worth of \$150,000,000 and (ii) not to issue warrants where the original issuer price of all of the issuer's Currency and Index Warrant offerings (including Currency and Index Warrants offerings of the issuer's affiliates), listed on a national securities exchange, exceeds 25% of the issuer's net worth.
- The issuer must be in compliance with Rule 10A-3 under the Act.<sup>13</sup>

The Exchange will apply the following requirements to each issue of the Warrants:

- The issue must have a minimum public distribution of at least 1,000,000 warrants with a minimum of 400 public warrant holders, and an aggregate market value of at least \$4 million. In the alternative, the issue may have a minimum public distribution of 2,000,000 warrants together with a minimum number of public warrant holders determined on a case-by-case basis, an aggregate market value of at least \$12 million and an initial warrant price of at least \$6.
- The issue must have a term of at least one (1) year but not greater than ten (10) years from the date of issuance.

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<sup>13</sup> See 17 CFR 240.10A-3(c)(7).

## Stock Index Warrants

Each underlying securities index (the “Underlying Index”) of an Index Warrant will either be (i) a securities index meeting the specific criteria set forth below in proposed Section 106(i) that is similar to current Section 107D(g) and Commentary .03 to Amex Rule 901C; or (ii) an index approved for the trading of options or other derivatives securities by the Commission under Section 19(b)(2) of the 1934 Act and rules thereunder. However, in all cases, an Underlying Index must contain at least nine (9) component securities.

The Exchange will require that all changes to an Underlying Index, including the deletion and addition of underlying component securities (the “Underlying Securities” or “Index Securities”), index rebalancings and changes to the calculation of the index, will be made in accordance with the proposed generic criteria or the Commission’s Section 19(b)(2) order which approved the similar derivative product containing the Underlying Index.

If a broker-dealer is responsible for maintaining (or has a role in maintaining) the Underlying Index, such broker-dealer is required to erect and maintain a “firewall,” in a form satisfactory to the Exchange, to prevent the flow of information regarding the Underlying Index from the index production personnel to the sales and trading personnel. In addition, an Underlying Index that is maintained by a broker-dealer is also required to be calculated by an independent third party who is not a broker-dealer. *Eligibility Standards for Underlying Securities.* Index Securities will be subject to the criteria in proposed Section 106(i) for initial and continued listing. For an Underlying Index to be appropriate for the initial listing of an Index Warrant, such Underlying Index

must either have been reviewed and approved for the trading of options or other derivative securities by the Commission under Section 19(b)(2) of the 1934 Act and rules thereunder or meet the following requirements:

- Each component of an Underlying Index must have a minimum market value of at least \$75 million, except that for each of the lowest weighted components that in the aggregate account for no more than 10% of the weight of the Index, the market value can be at least \$50 million;
- Each component of an Underlying Index must have trading volume in each of the last six months of not less than 1,000,000 shares, except that for each of the lowest weighted components in the Underlying Index that in the aggregate account for no more than 10% of the weight of the Index, the trading volume shall be at least 500,000 shares in each of the last six months;
- In the case of a capitalization-weighted index, the lesser of the five highest weight components in the Underlying Index or the highest weighted components in the Index that in the aggregate represent at least 30% of the total number of components, each have an average monthly trading volume of at least 2,000,000 shares over the previous six months;
- No component will represent more than 25% of the weight of the Index, and the five highest weighted components in the Index will not in the aggregate account for more than 50% of the weight of the Index (60% for an Index consisting of fewer than 25 components);
- 90% of the index's numerical value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; an index will not be subject to this requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index and (b) the index has a minimum of 20 components;
- All component must either be: (A) securities (other than foreign country securities and American Depositary Receipts (“ADRs”)) that are: (i) issued by a reporting company under the 1934 Act that is listed on a national securities exchange, and (ii) “NMS stock,” as defined in Rule 600 of Regulation NMS, or (B) foreign country securities or ADRs, provided that the foreign country securities or foreign country securities underlying ADRs having their primary trading market outside the United States on foreign trading markets that are not members of the Intermarket Surveillance Group (“ISG”) or are not parties to comprehensive surveillance sharing agreements with the Exchange will not, in the

aggregate, represent more than 20% of the dollar weight of the underlying index.

The proposed continued listing criteria set forth in proposed Section 106 regarding the underlying components of an Underlying Index provides that the Exchange will commence delisting or removal proceedings of a Warrant (unless the Commission has approved the continued trading of the Warrant) if any of the standards set forth in the initial eligibility criteria of proposed Section 106 are not continuously maintained, except that:

- The criteria that no single component represent more than 25% of the weight of the Index and the five highest weighted components in the Index can not represent more than 50% (or 60% for indexes with less than 25 components) of the weight of the Index, need only be satisfied for capitalization weighted and price weighted indexes as of the first day of January and July in each year;
- There shall be no limit to the amount by which the total number of components in the Index may increase or decrease from the number of components in the Index at the time of its initial listing, but in no event shall any decrease cause the total number of components to be less than nine (9) components;
- The trading volume of each component in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted components in the Index that in the aggregate account for no more than 10% of the weight of the Index, trading volume must be at least 400,000 shares for each of the last six months; and
- In a capitalization-weighted Index, the lesser of the five highest weighted components in the Index or the highest weighted components in the Index that in the aggregate represent at least 30% of the total number of components in the Index have had an average monthly trading volume of at least 1,000,000 shares over the previous six months.

In connection with an Index Warrant based on an Underlying Index that has previously been approved by the Commission for options or other derivatives, that is listed pursuant to proposed Section 106, the Exchange will commence delisting or removal proceedings (unless the Commission has approved the continued

trading of the Warrant) if such Underlying Index or Indexes fails to satisfy the maintenance standards or conditions for such Index or Indexes as set forth by the Commission in its order under Section 19(b)(2) of the 1934 Act approving the Index or Indexes for the trading of options or other derivatives.

As set forth in proposed Section 106, the Exchange will also commence delisting or removal proceedings of a Warrant (unless the Commission has approved the continued trading of the Warrant), under any of the following circumstances:

- If the number of Warrants publicly held is less than 50,000;
- If the value of the Underlying Index or composite value of the Underlying Indexes is no longer calculated and widely disseminated on at least a 15-second basis; or
- If such other event shall occur or condition exists which is the opinion of the Exchange makes further dealings on the Exchange inadvisable.

### **Underlying Currencies or Currency Indexes**

Currency Warrants will be subject to the criteria in proposed new Section 106(j) *Company Guide* for initial and continued listing.

An issue of Currency Warrants must meet the initial listing standard set forth in either bullet point below:

- A Currency Warrant may consist of an underlying currency, basket of currencies or a currency index that have been reviewed and approved for the trading of Currency Trust Shares, options or other derivatives by the Commission under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order continue to be satisfied; or
- The pricing information for each underlying currency must be (x) the generally accepted spot or forward price for the currency exchange rate in question; or (y) derived from a market which (i) is an ISG SRO member or affiliate member or

with which the Exchange has a comprehensive surveillance sharing agreement and (ii) is the pricing source for the underlying currency that has previously been approved by the Commission.

If pricing information is based upon the generally accepted forward price, the currency must be one of the following: US Dollar, Euro, Japanese Yen, British Pound Sterling, Swiss Franc, Canadian Dollar, Australian Dollar, Brazilian Real, Chinese Renminbi, Czech Koruna, Danish Krone, Hong Kong Dollar, Hungarian Forint, Indian Rupee, Indonesian Rupiah, Korean Won, Mexican Peso, Norwegian Krone, New Zealand Dollar, Philippine Peso, Polish Zloty, Russian Ruble, Swedish Krona, South African Rand, Singapore Dollar, Taiwan Dollar, Thai Baht or New Turkish Lira.

The value of the underlying currency, currency basket or currency index must also be calculated and widely disseminated on at least a 15-second basis during the time the Currency Warrants trade on the Exchange

The Exchange submits that it will commence delisting proceedings (unless the Commission has approved the continued trading of the subject Currency Warrant), if any of the initial listing criteria described above are not continuously maintained. However, in connection with a currency basket or currency index, an issue will not be delisted for a failure to have comprehensive surveillance sharing agreements, if the underlying components do not represent more than 10% of the dollar weight of such underlying asset for which the pricing information is derived from markets that do not meet the requirements of (ii) above; provided, however, that no single component subject to this exception exceeds 7% of the dollar weight of the underlying asset.

The Exchange will also commence delisting proceedings (unless the Commission has approved the continued trading of the subject Currency Warrant), under any of the following circumstances:

- If the number of Warrants publicly held is less than 50,000;
- If the value of the underlying asset is no longer calculated or available and a new underlying asset is substituted, unless the new underlying asset meets the requirements of this Section 106 of the *Company Guide*; or
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

### **Applicable Exchange Rules**

Currency and Index Warrants will be subject to all Exchange rules governing the trading of Currency and Index Warrants. Rules 1100 through 1110 apply to all Currency and Index Warrants listed and traded on the Exchange. These rules govern account approvals, suitability, discretionary accounts, supervision of accounts, customer complaints, advertising and sales literature, position and exercise limits, trading halts and reporting. These rules are substantially similar to comparable rules applicable to standardized options listed and traded on the Amex. The Exchange's margin rules applicable to warrants and the Exchange's regular trading hours (9:30 a.m. to 4 p.m. Eastern Time) will apply to transactions in the Currency and Index Warrants.

### **Information Circular**

Upon evaluating the nature and complexity of each Security, the Exchange represents that it will prepare and distribute, if appropriate, an Information Circular to member organizations describing the product. Accordingly, the particular structure and corresponding risks of Currency or Index Warrant will be highlighted and

disclosed. The Information Circular will disclose the applicable trading rules for the Currency or Index Warrant.

The Information Circular will also detail the options suitability rule that is applicable to the trading of Currency or Index Warrants. Rule 923 specifically provides that a member organization recommending a transaction in Warrants must have a reasonable basis for believing, at the time of making such recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommendation.

### **Surveillance**

The Exchange will closely monitor activity in the Currency or Index Warrants to identify and deter any potential improper trading activity. Additionally, the Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Securities. Specifically, the Exchange will rely on its existing surveillance procedures governing options. The Exchange has developed procedures to closely monitor activity in the Currency and Index Warrants and the underlying indexes or currencies to identify and deter potential improper trading activity. To the extent applicable, the Exchange will be able to obtain trading and beneficial holder information from the primary trading markets for the portfolio components in relation to the warrants, either pursuant to bilateral information sharing agreements with those markets or because those markets are SRO members or affiliate members of the ISG.

**Firewall Procedures**

If an underlying index is maintained by a broker-dealer, the broker-dealer is required to erect a “firewall” around the personnel responsible for the maintenance of such underlying index or who have access to information concerning changes and adjustments to the underlying index, and the underlying index shall be calculated by a third party who is not a broker-dealer. Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority (defined in Amex Rule 1000A—AEMI(b)(3)) or that makes decisions regarding the underlying index or portfolio composition, methodology, and related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable underlying index or portfolio.

Amex Rule 1203B imposes similar restrictions on the ability of the specialist firm for any issue of Currency Trust Shares or its affiliates to make markets in and trade the Currency Reference Asset components, the currencies underlying the Currency Reference Asset components, or options, futures, or options on futures on the Currency Reference Asset, or any other derivatives based on the Currency Reference Asset, any Currency Reference Asset component, or any currency underlying a Currency Reference Asset component. The Exchange submits that Amex Rules 1203A and 1203B would similarly apply to the trading of Currency Warrants, respectively.

**Trading Halts**

Trading in the Warrants will be halted in the event the market volatility trading halt parameters set forth in Rule 117 have been reached. In addition, Exchange Rule 1109 applies the trading halt provisions of Rule 918C(b) to Index

Warrants. Accordingly, the Exchange will consider factors such as those set forth in Rule 918C(b) in exercising its discretion to halt or suspend trading in Index Warrants. These factors would include, but are not limited to, (1) the extent to which trading is not occurring in the underlying securities comprising an Underlying Index; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. (See Amex Rule 918C).

In the case of Currency Warrants, the Exchange would halt trading if trading in an 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.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>15</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms 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 proposal will facilitate the listing and trading of Index and Currency Warrants thereby enhancing competition among market participants, to the benefit of investors and the marketplace.

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<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> 15 U.S.C. 78f(b)(5).

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

The proposed rule change does 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

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

The Amex requests that the proposed rule change be given expedited review and accelerated effectiveness pursuant to Section 19(b)(2) of the Act. 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, and in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the Federal Register as the proposal does not significantly affect the protection of investors or the public interest, and does not impose any significant burden on competition. The Exchange requests expedited review and accelerated effectiveness of this proposal since it raises no novel issues and is substantially similar to the “generic” listing standards available for Index-Linked Securities, Currency-Linked Securities and index options. The Exchange believes there is good cause to grant expedited review and accelerated effectiveness of this proposal. The Exchange’s current proposal relating to Index and Currency Warrants merely seeks to follow the “generic” listing standards that apply to

Index-Linked Securities, Currency-Linked Securities and index options. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) and 19(b)(2) of the Act to approve the proposal on an accelerated basis.

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 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 [rulecomments@sec.gov](mailto:rulecomments@sec.gov). Please include File Number SR-Amex-2008-43 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-2008-43. 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 Section, 100 F Street, NE, Washington, DC 20549. 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-2008-43 and should be submitted on or before [insert date 21 days from date of publication].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

Nancy M. Morris  
Secretary

Dated:

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<sup>16</sup> 17 CFR 200.30-3(a)(12).

**AMERICAN STOCK EXCHANGE LLC**  
**Proposed Rule Change**

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It is proposed that the following provisions of the American Stock Exchange LLC *Company Guide* be amended as set forth below. Additions are underlined and deletions are [bracketed].

**Sec. 106. CURRENCY AND INDEX WARRANTS**

The listing of currency and index warrant issues is considered on a case by case basis. Such warrant issues will be evaluated for listing against the following criteria:

(a) through (g) No Change

[(i) Index Maintenance - The Exchange may approve for listing and trading warrants on stock index groups comprised of nine or more underlying stocks. After approving warrants in respect of a particular stock index group, the Exchange (with respect to indexes developed by the Exchange) or the warrant issuer (with respect to other indexes) may at any time and from time to time change the number of stocks comprising the group by adding or deleting one or more stocks, or replace one or more stocks contained in the group with one or more substitute stocks of its choice, if in the Exchange's or the issuer's discretion such addition, deletion or substitution is necessary or appropriate to maintain the quality and/or character of the index to which the group relates. Such action by the Exchange or the warrant issuer shall not affect the rights of holders of warrants relating to the affected stock index group other than by causing transactions in such warrants (including exercise and settlement) to be based on index values calculated on the basis of the revised stock index group. Once approved for warrant trading, the index must continuously be comprised of nine or more stocks. In the event that an index underlying a listed warrant fails to satisfy the nine stock maintenance criterion, the Exchange shall not list any additional warrants on such index unless such failure is determined by the Exchange not to be significant and the Commission or the Commission's Staff concurs in that determination, or unless the listing of new warrant issues on such index has been arrived by the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934.

(j) The Exchange has received approval, pursuant to the Securities Exchange Act of 1934, to list warrants on stock industry index groups pursuant to Rule 19b-4(e) of the Act

provided the procedures and criteria set forth in Commentary .02 to Rule 901C are satisfied. Notwithstanding the foregoing, the eligibility criteria for index components with respect to warrants on a stock index industry group set forth in Commentary .02 to Rule 901C. First, consistent with paragraph (e) above, an issuer may elect to use closing prices for the securities underlying the index to determine settlement values at all times other than at expiration, or with respect to warrants that are exercised on either of the two business days preceding the day on which the final settlement value is to be determined. In addition, consistent with paragraph (h) above, the stock index industry group shall at all times consist of at least nine securities.]

(i) Stock Index Warrants. (1) Initial Listing Criteria—Each underlying index is required to have nine or more component securities. In addition, the index or indexes to which the security is linked shall either (A) have been reviewed and approved for the trading of options or other derivatives by the Commission under Section 19(b)(2) of the 1934 Act and rules thereunder and the conditions set forth in the Commission's approval order, including comprehensive surveillance sharing agreements for non-U.S. stocks, continue to be satisfied, or (B) the index or indexes meet the following criteria:

(i) Each component security has a minimum market value of at least \$75 million, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, the market value can be at least \$50 million;

(ii) Each component security shall have trading volume in each of the last six months of not less than 1,000,000 shares, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, the trading volume shall be at least 500,000 shares in each of the last six months;

(iii) In the case of a capitalization weighted index or modified capitalization weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of component securities in the index, each have an average monthly trading volume of at least 2,000,000 shares over the previous six months;

(iv) No underlying component security will represent more than 25% of the weight of the index, and the five highest weighted component securities in the index do not in the aggregate account for more than 50% of the weight of the index (60% for an index consisting of fewer than 25 component securities);

(v) 90% of the index's numerical value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; an index will not be subject to this requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index and (b) the index has a minimum of 20 components; and

(vi) All component securities must either be: (A) securities (other than foreign country securities and American Depositary Receipts ("ADRs")) that are: (i) issued by a reporting company under the 1934 Act that is listed on a national securities exchange,

and (ii) "NMS stock" as defined in Rule 600 of Regulation NMS, or (B) foreign country securities or ADRs, provided that the foreign country securities or foreign country securities underlying ADRs having their primary trading market outside the United States on foreign trading markets that are not members of the Intermarket Surveillance Group ("ISG") or are not parties to comprehensive surveillance sharing agreements with the Exchange will not, in the aggregate, represent more than 20% of the dollar weight of the underlying index.

(2) Continued Listing Criteria—(A) The Exchange will commence delisting or removal proceedings (unless the Commission has approved the continued trading of the subject index-linked security), if any of the standards set forth above in paragraph (1) are not continuously maintained, except that:

(i) the criteria that no single component represent more than 25% of the weight of the index and the five highest weighted components in the index can not represent more than 50% (or 60% for indexes with less than 25 components) of the weight of the Index, need only be satisfied for capitalization weighted, modified capitalization weighted and price weighted indexes as of the first day of January and July in each year;

(ii) there shall be no limit to the amount by which the total number of components in the index may increase or decrease from the number of components in the index at the time of its initial listing, but in no event shall any decrease cause the total number of components to be less than ten (10) components;

(iii) the trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted components in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume must be at least 400,000 shares for each of the last six months; and

(iv) in a capitalization-weighted index or modified capitalization weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index have had an average monthly trading volume of at least 1,000,000 shares over the previous six months.

(B) In connection with a stock index warrant that is listed pursuant to paragraph (i)(1) above, the Exchange will commence delisting or removal proceedings (unless the Commission has approved the continued trading of the subject stock index warrant) if an underlying index or indexes fails to satisfy the maintenance standards or conditions for such index or indexes as set forth by the Commission in its order under Section 19(b)(2) of the 1934 Act approving the index or indexes for the trading of options or other derivatives.

(C) The Exchange will also commence delisting or removal proceedings (unless the Commission has approved the continued trading of the subject stock index warrant), under any of the following circumstances:

(i) if the number of outstanding warrants is less than 50,000;

(ii) if the value of the index or composite value of the indexes is no longer calculated or widely disseminated on at least a 15-second basis with respect to indexes containing only

securities listed on a national securities exchange, or on at least a 60-second basis with respect to indexes containing foreign country securities, provided, however, that if the official index value does not change during some or all of the period when trading is occurring on the Exchange (for example, for indexes of foreign country securities because of time zone differences or holidays in countries where such indexes' component stocks trade) then the last calculated official index value must remain available throughout Exchange trading hours; or

(iii) if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

(j) Currency Warrants. (1) Initial Listing Criteria—The issue must meet initial listing standard set forth in either (A) or (B) below:

(A) The underlying currency, currency basket or currency index to which the security is linked shall have previously been reviewed and approved for the trading of currency warrants, Currency Trust Shares or options or other derivatives by the Commission under Section 19(b)(2) of the 1934 Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied.

(B) The pricing information for each underlying currency must be the generally accepted spot or forward price for the currency exchange rate in question; or derived from a market which is either an SRO ISG member or affiliate member or with which the Exchange has a comprehensive surveillance sharing agreement, and is the pricing source for the underlying currency components that has previously been approved by the Commission.

If pricing information is based upon the generally accepted forward price, the currency must be one of the following: US Dollar, Euro, Japanese Yen, British Pound Sterling, Swiss Franc, Canadian Dollar, Australian Dollar, Brazilian Real, Chinese Renminbi, Czech Koruna, Danish Krone, Hong Kong Dollar, Hungarian Forint, Indian Rupee, Indonesian Rupiah, Korean Won, Mexican Peso, Norwegian Krone, New Zealand Dollar, Philippine Peso, Polish Zloty, Russian Ruble, Swedish Krona, South African Rand, Singapore Dollar, Taiwan Dollar, Thai Baht or New Turkish Lira.

A currency basket or currency index may include components representing not more than 10% of the dollar weight of such currency basket or currency index for which the pricing information is derived from markets that do not meet the requirements of (ii) above; provided, however, that no single component subject to this exception exceeds 7% of the dollar weight of the Currency Reference Asset.

In addition, the value of the underlying currency, currency basket or currency index must be calculated and widely disseminated on at least a 15-second basis during the time the warrants trade on the Exchange.

(2) Continued Listing Criteria—(A) The Exchange will commence delisting or removal proceedings, if any of the initial listing criteria described above is not continuously maintained. However, an issue will not be delisted for a failure to have comprehensive surveillance sharing agreements, if the underlying currencies or currency

index has at least nine (9) components and the Exchange has comprehensive surveillance sharing agreements with respect to at least 90% of the dollar weight of such currency basket or index.

(B) The Exchange will also commence delisting or removal proceedings under any of the following circumstances:

(i) If the number of outstanding warrants is less than 50,000;

(ii) If the value of the underlying currency, currencies or currency index is no longer calculated or available and a new currency, currencies, or currency index is substituted, unless the new underlying asset meets the requirements of this Section 106; or

(iii) If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

(k) Firewalls. (1) If the value of an Index Warrant is based in whole or in part on a stock index or basket of securities maintained by a broker-dealer, the broker-dealer shall erect a "firewall" around the personnel responsible for the maintenance of such index or basket of securities or who have access to information concerning changes and adjustments to the index or basket of securities, and the index or basket of securities shall be calculated by a third party who is not a broker-dealer.

(2) If the value of a Currency Warrant is based in whole or in part on a basket of currencies or currency index maintained by a broker-dealer, the broker-dealer shall erect a "firewall" around the personnel responsible for the maintenance of such index or basket of currencies or who have access to information concerning changes and adjustments to the index or basket of currencies, and the index or basket of currencies shall be calculated by a third party who is not a broker-dealer

(3) Any advisory committee, supervisory board or similar entity that advises an index license provider or that makes decisions regarding the index or portfolio composition, methodology and related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable index or portfolio.

(l) The Exchange will implement written surveillance procedures for Index and Currency Warrants, including adequate comprehensive surveillance sharing agreements, as applicable.