(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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 *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2009–86 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEAmex–2009–86. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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–NYSEAmex–2009–86 and should be submitted on or before January 20, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–30916 Filed 12–29–09; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61230; File No. SR–NYSE–2009–124]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Proposing To Amend Section 703.22 of the Listed Company Manual

December 23, 2009.

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 December 14, 2009, New York Stock Exchange LLC (''NYSE'' or the ''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 prepared by NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposed rule change on an accelerated basis.

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

NYSE proposes to amend Section 703.22 of the Exchange's Listed Company Manual (the ''Manual''), the listing standard for Equity Index-Linked Securities, Commodity-Linked Securities and Currency-Linked Securities. The text of the Proposed Rule Change is attached as Exhibit 5. The text of the proposed rule change is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange'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 self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

The Exchange proposes to amend Section 703.22 of the Manual, the Exchange's listing standard for Equity Index-Linked Securities, Commodity-Linked Securities and Currency-Linked Securities pursuant to Rule 19b–4[3] under the Securities and Exchange Act of 1934 (the ''Act''). The Exchange is proposing to amend the current generic listing standards under Section 703.22 and with respect to products that are listed pursuant to the amended standards, the Exchange will within five (5) business days after the commencement of trading of an Equity Index-Linked Securities, Commodity-Linked Securities and Currency-Linked Securities (collectively ''Index-Linked Securities'') pursuant to Section 703.22 of the Manual, file a Form 19b–4(e).[4] The Exchange's proposal will conform Section 703.22 to the current listing standards for Index-Linked Securities on NYSE Arca, Inc. (''NYSE Arca'').[5] Specifically, the proposal will amend the relevant provisions of Section 703.22 so that such provisions mimic the relevant standards in NYSE Arca Equities Rule 5.2(j)(6).

The Exchange proposes to renumber current subsections (C) through (F) of Section 703.22 as a result of the proposed changes. Unless otherwise indicated, references to rules being amended reflect such renumbering.

General Issuer Listing Standards

Consistent with the last sentence of NYSE Arca Equities Rule 5.2(j)(6)(A)(e), the Exchange proposes to amend the issuer listing standard to allow for Index-Linked Securities to be issued by supranational entities, and proposes that such issuers will be evaluated on a case-by-case basis.[6] Specifically Section 703.22(A)(1) will be amended to read as follows:

If the issuer is a New York Stock Exchange-listed company, the entity must be a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(e).

[4] 17 CFR 240.19b–4(e)(2)(ii); 17 CFR 249.820.

[5] *See* NYSE Arca Equities Rule 5.2(j)(6).

[6] *See* Securities and Exchange Release No. 56637 (October 10, 2007), 72 FR 58704 (October 16, 2007) (SR–NYSEArca–2007–92).

company in good standing (i.e., meets Continued Listing Criteria); if an affiliate of an NYSE-listed company, the NYSE-listed company must be a company in good standing; if not listed, the issuer must meet the size and earnings requirements of Sections 102.01–102.03 or Sections 103.01–103.05. (Sovereign issuers and supranational entities will be evaluated on a case-by-case basis.)

Limitation on Leverage

Currently, Section 703.22(B)(6) provides that the payment at maturity may not be based on a multiple of the negative performance of an underlying index or indexes, Commodity Reference Asset or Currency Reference Asset, as the case may be, although the payment at maturity may or may not provide for a multiple of the positive performance of an underlying index or indexes, Commodity Reference Asset or Currency Reference Asset, as the case may be.

Consistent with NYSE Arca Equities Rule 5.2(j)(6)(A)(d), the Exchange proposes to amend Section 703.22(B)(6) to allow the Exchange to consider for listing and trading Index-Linked Securities that provide that in no event will a loss or negative payment at maturity be accelerated by a multiple that exceeds three times the performance of an underlying Reference Asset.[7] Specifically, Section 703.22(B)(6) will be amended to read as follows:

The payment at maturity may or may not provide for a multiple of the direct or inverse performance of an underlying Reference Asset; however, in no event will a loss or negative payment at maturity be accelerated by a multiple that exceeds three times the performance of an underlying Reference Asset.

In connection with Index-Linked Securities that seek to provide a loss or payment at maturity that will be accelerated by an inverse multiple that exceeds three times the performance of an underlying Reference Asset, the Exchange's proposal would continue to require specific Commission approval pursuant to Section 19(b)(2) of the Act.[8] In particular, Section 703.22 would expressly prohibit Index-Linked Securities that seek to provide such results from being approved by the Exchange for listing and trading pursuant to Rule 19b–4(e) under the Act.[9] Fees and expenses are excluded for the purposes of determining whether such results exceed three times the performance of an underlying Reference Asset.

Equity Index-Linked Securities

Equity Index-Linked Securities are linked to the performance of an underlying index or indexes of equity securities. The Exchange proposes to add the following paragraph to the beginning of Section 703.22:

The payment at maturity with respect to Equity Index-Linked Securities, Commodity-Linked Securities and Currency-Linked Securities is based on the performance of:

The Exchange proposes to clarify Section 703.22 by designating that an underlying index or indexes of equity securities will be referred to as an Equity Reference Asset. Section 703.22(i) will define an Equity Reference Asset as:

In the case of Equity Index-Linked Securities, an underlying index or indexes of equity securities (an ''Equity Reference Asset''), or

The Exchange proposed to amend the initial and continued listing standards for Equity Index-Linked Securities. Accordingly, the Exchange proposes to add new Section 703.22(C). The relevant subsections of current Section 703.22(B) will be renumbered and amended as Section 703.22 (C) as discussed below.

1940 Act Securities

Currently, component securities in the underlying equity index for Equity Index-Linked Securities must be either: (1) Securities that are (a) issued by a reporting company under the Act that is listed on a national securities exchange and (b) an ''NMS stock,'' as defined in Rule 600 of Regulation NMS;[10] or (2) foreign country securities or American Depository Shares, subject to limitations.

Consistent with NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1), the Exchange proposes to amend Section 703.22(C)(I)(1) to permit the listing and trading of Equity Index-Linked Securities where the underlying index consists in whole or in part of closed-end fund securities or exchange-traded fund (ETF) securities, which, in each case, are registered under the 1940 Act and are listed on national securities exchanges.[11] Accordingly, Section 703.22(C)(I)(1) for initial listing will be amended as follows:

The Exchange will consider listing Equity Index-Linked Securities that meet the requirements of this subparagraph (C)(I), where the payment at maturity or earlier redemption is based on an index or indexes of equity securities, securities of closed-end management investment companies registered under the Investment Company Act of 1940 (the ''1940 Act'') and/or investment company units. The issue must meet the following initial listing criteria:

Further, Section 703.22(C)(I)(1)(b)(vii)(A) for continued listing will be renumbered to Section 703.22(C)(I)(1)(b)(v)(A) and, consistent with NYSE Arca Rule 5.2(j)(6)(B)(I)(1)(v)(A) will be amended as follows:

Securities (other than foreign country securities and American Depository Receipts (''ADRs'') that are (i) issued by a 1934 Act reporting company or by an investment company registered under the 1940 Act, which in each case is listed on a national securities exchange and (ii) an ''NMS stock'' (as defined in Rule 600 of SEC Regulation NMS); or

Index Weighing Criteria and Notional Volume

Consistent with NYSE Arca Equities Rules 5.2(j)(6)(B)(I)(1)(b)(ii) and 5.2(j)(6)(B)(I)(2)(a)(ii), the Exchange proposes to conform the equity index weighting requirements and adopt criteria based upon the notional volume traded per month to both the listing standards and continued listing standards for Equity Index-Linked Securities.

Currently for initial listing, Section 703.22(C)(I)(1)(b)(ii) provides that each component security of an equity index shall have trading volume in each of the last six months of not less than 1,000,000 shares per month, 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 will be at least 500,000 shares per month in each of the last six months.

The Exchange is proposing to delete the current requirement and adopt criteria that looks to a minimum global notional volume (''Global Notional Volume'')[12] traded per month averaged over the last six months.[13] Proposed Section 703.22(C)(I)(1)(b)(ii) will be amended as follows:

Component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum global monthly trading volume of 1,000,000 shares, or minimum Global Notional Volume traded per month of $25,000,000, averaged over the last six months.

[7] *See* Securities and Exchange Release No. 59332 (January 30, 2009), 74 FR 6338 (February 6, 2009) (SR–NYSEArca–2008–136).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 240.19b–4(e).

[10] *See* 17 CFR 242.600(b)(47).

[11] *See* Securities and Exchange Release No. 56879 (December 3, 2007), 72 FR 69271 (December 7, 2007) (SR–NYSEArca–2007–110).

[12] Global Notional Volume is defined as the total shares traded globally times the price per share.

[13] *See* Securities and Exchange Release No. 58376 (August 18, 2008), 73 FR 49726 (August 22, 2008) (SR–NYSEArca–2008–70).

With respect to the continued listing criteria, Section 703.22(B)(I)(2)(a)(iii) currently sets forth that 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 dollar weight of the index, trading volume must be at least 400,000 shares for each of the last six months.

The Exchange is proposing to delete the current requirement and adopt criteria that looks to minimum Global Notional Volume traded per month averaged over the last six months. Proposed Section 703.22(C)(I)(2)(a)(iii) will be renumbered to Section 703.22(C)(I)(2)(a)(ii) and will be amended as follows:

Component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum global monthly trading volume of 500,000 shares, or minimum Global Notional Volume traded per month of $12,500,000, averaged over the last six months.

With respect to both the initial and continued listing standards, the Exchange believes that considering the weighting of the bottom 10% component securities is insignificant for determining the liquidity of the index. Rather, the Exchange proposes that focusing on 90% of the top weighed index component securities is a better indication as to whether the index or indexes has sufficient liquidity for listing and trading of the related Equity Index-Linked Security.

Index Rebalancing

Consistent with NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a)(i), the Exchange proposes to (i) conform equity index rebalancing criteria, and (ii) amend the quarterly index rebalancing requirement for equal-dollar or modified equal-dollar weighed indexes and relocate the requirement for initial listing standards to the continued listing standards for Equity Index-Linked Securities.[14]

For Equity Index-Linked Securities, the Exchange proposes to remove, from the current Section 703.22(B)(I)(2)(a)(i), the requirement that only capitalization weighted, modified capitalization weighted and price weighted indexes be reviewed as of the first day of January and July in each year. Instead, the Exchange proposed that Section 703.22(B)(I)(2)(a)(i) will require all Indexes to be subject to the standard at the time the index is rebalanced. Specifically, the newly renumbered Section 703.22(C)(I)(2)(a)(i) will be amended as follows:

The criteria that no single component represent more than 25% of the dollar weight of the index and the five highest dollar weighted components in the index can not represent more than 50% (or 60% for indexes with less than 25 components) of the dollar weight of the index, need only be satisfied at the time the Index is rebalanced; and

Consistent with NYSE Arca Equities Rule 5.6(j)(6)(B)(I)(2)(d), the Exchange proposes to relocate and amend Section 703.22(C)(I)(1)(b)(iii) from the initial listing standards to the continued listing standards to new paragraph Section 703.22(C)(I)(2)(d), which currently requires that equity indexes based upon the equal-dollar, or modified equal-dollar weighting method be rebalanced at least semiannually. Instead, the Exchange proposes that an index be rebalanced at least annually. Specifically, new paragraph Section 703.22(C)(I)(1)(b)(iii) will be relocated and amended as follows:

Index Rebalancing—Indexes will be rebalanced at least annually.

Capitalization Weighted Index Methodologies

Consistent with NYSE Arca Equities Rule 5.2(j)(6)(B)(I), the Exchange proposes to (1) eliminate initial and continued listing capitalization weighted and modified capitalization weighted index requirements for Equity Index-Linked Securities.[15] Specifically, the Exchange proposes to eliminate Section 703.22(C))(I)(1)(b)(iv)[sic], the current initial listing requirement, that in the case of a capitalization weighted index or modified capitalization weighted index, the lesser of the five highest dollar weighted component securities in the index or the highest dollar weighted component securities in the index that in the aggregate represent at least 30% of the total number of component securities in the index, must have an average monthly trading volume of at least 2,000,000 shares over the previous six months. The Exchange also proposes to eliminate Section 703.22(C)(I)(2)(a)(iv), the current continued listing requirement, that in the case of a capitalization-weighted index or modified capitalization weighted index, the lesser of the five highest dollar weighted component securities in the index or the highest dollar weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index have an average monthly trading volume of at least 1,000,000 shares over the previous six months.

Consistent with the NYSE Arca Rule, the Exchange proposes that capitalization-weighted index or modified capitalization weighted indexes comply with the initial and continued listing requirements currently applicable to all other equity indexes under Section 703.22(C)(I) regardless of the index methodology.

Index Standardized Option Criteria

Consistent with NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(b)(iv) as well as the criteria applied by options exchanges to securities underlying exchange-traded options,[16] the Exchange also proposes to amend current Equity Index-Linked Securities Section 703.22(C)(I)(1)(b)(vi) to incorporate a limited exception to the requirement that 90% of the index's numerical value and at least 80% of the total number of component securities underlying and Equity Reference Asset, as defined above, must meet the then current criteria for standardized options trading on a national securities exchange. The Exchange proposes that an underlying index would not be subject to such requirement if (1) no underlying component security represents more than 10% of the dollar weight of such index and (ii) such index has a minimum of 20 component securities.[17] Specifically, Section 703.22(C)(I)(1)(b)(vi) for initial listing will be renumbered to Section 703.22(C)(I)(1)(b)(iv) and will be amended as follows:

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 options trading on a national securities exchange; 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

Comprehensive Surveillance Sharing Agreements

Currently, the Exchange's listing standards for Equity Index-Linked Securities limit the permissible aggregate weight of underlying foreign country securities to 20% of the overall index where the primary trading markets of the foreign country securities or American Depository Receipts (''ADRs'') are not members of the

[14] *See* Securities and Exchange Release No. 57634 (April 8, 2008), 73 FR 20081 (April 14, 2008) (SR–NYSEArca–2008–35).

[15] *See* Footnote 13.

[16] *See, e.g.,* Rule 5.3 of NYSE Arca, Inc.; Rule 1009 of the Philadelphia Stock Exchange, Inc.; Rule 5.3 of the Chicago Board Options Exchange, Incorporated: and Rule 502 of the International Securities Exchange, LLC.

[17] *See* Footnote 11.

Intermarket Surveillance Group (''ISG'') or are not otherwise parties to comprehensive surveillance sharing agreements (''CSSA'') with the Exchange. Consistent with NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(b)(1)(v)(B) as well as NYSE Arca Options Rule 5.3(g)(2)(A), the Exchange proposes to amend Section 703.22(C)(I)(1)(b)(vii)(B) to increase the permissible aggregate weight of underlying foreign country securities up to 50% of the overall index. According to the proposal, the Exchange will permit the listing and trading of Equity Index-Linked Securities where the underlying foreign country securities or ADRs, which trade on foreign markets that are not ISG members or are not otherwise subject to a CSSA agreement with the Exchange, account for up to 50% of the aggregate dollar weight of the index, so long as: (i) the securities of any one primary foreign market which is not an ISG member or does not have a CSSA with the Exchange do not represent more than 20% of the dollar weight of the index, and (ii) the securities of any two primary foreign markets which are not ISG members or do not have a CSSA with the Exchange do not represent more than 33% of the dollar weight of the index. Specifically, Section 703.22(C)(I)(1)(b)(vii)(B) will be renumbered to Section 703.22(C)(I)(1)(b)(v)(B) and will be amended as follows:

Foreign country securities or ADRs, provided that 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 parties to comprehensive surveillance sharing agreements with the Exchange will not in the aggregate represent more than 50% of the dollar weight of the index, provided further that:

(i) the securities of any one such market do not represent more than 20% of the dollar weight of the index, and

(ii) the securities of any two such markets do not represent more than 33% of the dollar weight of the index.

Clarify the Applicability of the Continued Listing Criteria

Consistent with NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a), (b) and (c), the Exchange proposes to clarify (1) that the applicable continued listing criteria apply unless the Commission has approved continued trading of the Equity Index-Linked Securities,[18] and (2) which initial listing criteria will continuously be maintained. Specifically, Sections 703.22(C)(I)(2)(a), (b) and (c) will be amended as follows:

(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 initial listing criteria described in paragraphs (1)(a) and (1)(b)(2) above are not continuously maintained, except that:

(b) In connection with an Equity Index-Linked Security that is listed pursuant to Section 703.22, the Exchange will commence delisting or removal proceedings (unless the Commission has approved the continued trading of the subject Index-Linked Security) 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 Index-Linked Security), under any of the following circumstances:

Index Rebalancing After 33⅓ Change to Underlying Components and Greater Than Ten Components Requirement

Consistent with NYSE Arca Equities Rules, the Exchange proposes to delete Section 703.22(B)(I)(2)(a)(ii), the continued listing requirement for Equity Index-Linked Securities that prohibit an index from increasing or decreasing by 33⅓% the number of index components initially listed and also prohibit an index from having less than 10 components.[19]

Index Dissemination Requirements for Foreign Country Securities

Section 703.22(C)(I)(2)(c)(ii) provides that the Exchange will commence delisting proceedings of an issue of Equity Index-Linked Securities (unless the Commission has approved continued trading) if the value of the index or composite value of the indexes underlying such issue is no longer calculated or widely disseminated on at least a 15-second basis. Consistent with NYSE Arca Equities Rules 5.2(j)(6)(B)(I)(2)(c)(ii) and 5.2(j)(3), Commentary .01(b)(2)[20], the Exchange proposes to amend Section 703.22(C)(I)(2)(c)(ii) to distinguish between indexes consisting solely of U.S. equity securities and those consisting of foreign securities or a combination of U.S. and foreign equity securities. The proposed amendment provides that the Exchange will commence delisting proceedings if the underlying index value or values are no longer calculated or widely disseminated on at least a 15-second basis with respect to an index or indexes containing only securities listed on a national securities exchange, or at least a 60-second basis with respect to an index or indexes containing foreign country securities. Specifically, Section 703.22(C)(I)(2)(c)(ii) will be amended as follows:

If the value of the index or composite value of the indexes, if applicable, 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 the countries where such indexes' component stocks trade) then the last calculated official index value must remain available throughout the Exchange's trading hours; or

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[21] of the Securities Exchange Act of 1934 (the ''Act''),[22] in general, and furthers the objectives of Section 6(b)(5)[23] of the Act in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 NYSE's listing requirements for Index-Linked Securities as amended by the proposed rule change remain at least as stringent as those of any other national securities exchange and, consequently, the proposed amendment is consistent with the protection of investors and the public interest.

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.

[18] *See* Securities and Exchange Release No. 52204 (August 3, 2005), 70 FR 46559 (August 10, 2005) (SR–PCX–2006–63) [sic].

[19] *See* Securities and Exchange Release No. 57132 (January 11, 2008), 73 FR 3300 (January 17, 2008) (SR–NYSEArca–2007–125).

[20] The requirements for Investment Company Units were approved by the Commission in Securities Exchange Act Release No. 34–55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR–NYSEArca–2006–86).

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78a.

[23] 15 U.S.C. 78f(b)(5).

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. 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 *rule-comments@sec.gov*. Please include File Number SR–NYSE–2009–124 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–124. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. 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 publicly available. All submissions should refer to File Number SR–NYSE–2009–124 and should be submitted on or before January 20, 2010.

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

After careful consideration, 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.[24] The Commission believes that the proposal is consistent with Section 6(b)(5) [25] of the Act in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange is proposing to amend provisions of Section 703.22 of the Listed Company Manual to conform certain provisions with corresponding provisions in NYSE Arca Equities Rule 5.2(j)(6). As such, provisions relating to (i) general issuer listing standards; (ii) limitation on leverage; (iii) 1940 Act securities and underlying equity indexes; (iv) index weighing criteria and notional volume; (v) index rebalancing; (vi) capitalization weighted index methologies; (vii) index standardized option criteria; (viii) aggregate weight of underlying foreign country securities where these are no comprehensive surveillance sharing agreements; (ix) the applicability of continued listing criteria; (x) index rebalancing after 33⅓ change to underlying components, and (xi) index dissemination requirements for foreign country securities will be amended in a manner consistent with the corresponding provision in NYSE Arca Equities Rule 5.2(j)(6). The Commission notes that it has previously approved these changes as made to NYSE Arca Equities Rule 5.2(j)(6).[26] The Commission believes that the NYSE's proposal to amend Section 703.22 of the Listed Company Manual is consistent with the Act for the reasons contained in the previous approval orders.[27] In addition, the Commission also believes that the technical changes to Section 703.22 of the Listed Company Manual clarify the format and application of the proposed amendments. In addition, the Commission believes that the Exchange's amendment to Section 703.22 of the Listed Company Manual relating to the listing and trading of Equity Index-Linked Securities should fulfill the intended objective of Rule 19b–4(e) under the Act [28] by allowing such derivative securities products to be listed and traded without separate Commission approval. The Commission believes that the proposed rule change should facilitate the listing and trading of additional types of Equity Index-Linked Securities and reduce the timeframe to bringing these securities to market.

The Commission also finds good cause, pursuant to Section 19(b)(2) of the Act,[29] for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. With this proposal, the Exchange is adopting changes that have previously been approved by the Commission,[30] and that will conform provisions of Section 703.22 of the Listed Company Manual to corresponding provisions of NYSE Arca Equities Rule 5.2(j)(6). The Commission does not believe that this proposal raises any novel regulatory issues. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[31] to approve the proposed rule change on an accelerated basis.

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

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Securities Exchange Act Release Nos. 56637 (October 10, 2007), 72 FR 58704 (October 16, 2007) (SR–NYSEArca–2007–92) (general issuer listing standards); 59332 (January 30, 2009), 74 FR 6338 (February 6, 2009) (SR–NYSEArca–2008–136) (limitation on leverage); 56879 (December 3, 2007), 72 FR 69271 (December 7, 2007) (SR–NYSEArca–2007–110) (1940 Act securities and underlying equity indexes; index standardized option criteria); 58376 (August 18, 2008), 73 FR 49726 (August 22, 2008) (SR–NYSEArca–2008–70) (index weighing criteria and notional volume; capitalization weighted index methodologies); 57634 (April 8, 2008), 73 FR 20081 (April 14, 2008) (SR–NYSEArca–2008–35) (index rebalancing); 59180 (December 30, 2008), 74 FR 754 (January 7, 2009) (SR–NYSEArca–2008–121) (aggregate weight of underlying foreign country securities where there are no comprehensive surveillance sharing agreements); 52204 (August 3, 2005), 70 FR 46559 (August 10, 2005) (SR–PCX–2005–63) (applicability of continued listing criteria); 57132 (January 11, 2008), 73 FR 3300 (January 17, 2008) (SR–NYSEArca–2007–125) (index rebalancing after 33⅓ change to underlying components and ten-component minimum); and 57389 (February 27, 2008) 73 FR 11973 (March 5, 2008) (SR–NYSEArca–2008–06) (index dissemination requirements for foreign country securities).

[27] *Id.*

[28] 17 CFR 240.19b–4(e).

[29] 15 U.S.C. 78s(b)(2).

[30] *See supra* note 26.

[31] 15 U.S.C. 78s(b)(2).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (SR–NYSE–2009–124) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61232; File No. SR–CBOE–2009–094]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Increasing the Session Fee for the Regulatory Element of Continuing Education Requirements

December 23, 2009.

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 December 17, 2009, the Chicago Board Options Exchange, Incorporated (''CBOE'' 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 CBOE. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

CBOE proposes to amend its Fees Schedule to increase the session fee for the Regulatory Element of the Continuing Education requirements of Rule 9.3A with an implementation date January 4, 2010. The text of the proposed rule change is available on the Exchange's Web site at *http://www.cboe.org/Legal,* at the Exchange's Office of the Secretary, and at the Commission.

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

In its filing with the Commission, CBOE 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 CBOE 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

The Regulatory Element, a computer-based education program administered by the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) to help ensure that registered persons are kept up-to-date on regulatory, compliance, and sales practice matters in the industry, is a component of the Securities Industry Continuing Education Program (''Program'') under Rule 9.3A. The Securities Industry/Regulatory Council on Continuing Education (''Council'') was organized in 1995 to facilitate cooperative industry/regulatory coordination of the administration and future development of the Program in keeping with applicable industry regulations and changing industry needs. Its roles include recommending and helping develop specific content and questions for the Regulatory Element, defining minimum core curricula for the Firm Element component of the Program, and developing and updating information about the Program for industry-wide dissemination.[5]

It is the Council's responsibility to maintain the Program on a revenue neutral basis while maintaining adequate reserves for unanticipated future expenditures.[6] CBOE members currently pay $75 each time one of their registered persons participates in the Regulatory Element. Following the consolidation of NASD's and NYSE Regulation's member regulation operations and the creation of FINRA, FINRA assumed responsibility for all aspects of the Program and thereafter conducted a financial review and evaluation of the program's budget. Based on this assessment, FINRA determined that an increase in the Regulatory Element session fee is necessary to cover the full costs associated with the Program, including costs associated with the redesign of the Regulatory Element.[7]

CBOE's proposed implementation date is January 4, 2010.[8]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act'')[9], in general, and furthers the objectives of Sections 6(b)(4)[10] and 6(b)(5)[11] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities, and that CBOE rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. CBOE believes that the proposed rule change is designed to accomplish these ends by enabling the Program to be maintained on a revenue neutral basis while maintaining adequate reserves for unanticipated future expenditures.

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

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

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[32] 15 U.S.C. 78s(b)(2).

[33] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The Council currently consists of 20 individuals, 14 of whom are securities industry professionals and six of whom represent self-regulatory organizations, including CBOE.

[6] The Regulatory Element session fee was initially set at $75 when NASD established the continuing education requirements in 1995.

[7] The redesign updates the presentation and content of the Regulatory Element to take advantage of the latest innovations in adult learning theories and technological advances. This is the first such large-scale redesign since the inception of the Program and should result in a significantly improved product and experience for members. FINRA will first implement the redesign of the General Program (S101) and the Series 6 Program (S106). The redesign of the Supervisors Program (S201) will be implemented at a later stage.

[8] The Commission notes that this proposed rule change would increase the Regulatory Element session fee from $75 to $100.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).