

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-00-42 and should be submitted by November 9, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Jonathan G. Katz,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43427; File No. SR-AMEX-00-40]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange LLC Relating to the Listing and Trading of Inflation Indexed Securities

October 10, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 3, 2000, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

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

The Exchange proposes to approve for listing and trading under Section 107A of the Amex *Company Guide*, index linked debt securities based in whole or

in part on changes in the value of the U.S. Consumer Price Index. The text of the proposed rule change is available at the Office of the Secretary, Amex, 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, 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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Under Section 107A of the Amex *Company Guide*, the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.<sup>3</sup> Under Section 107A, in March of 1995, the Commission approved the Exchange's proposed rule change relating to the listing and trading of commodity linked notes ("COINS").<sup>4</sup> And in February of 1996, the Commission approved the Exchange's proposed rule change relating to the listing and trading of commodity indexed securities ("ComPS").<sup>5</sup> The Amex now proposes to list for trading under Section 107A of the *Company Guide*, indexed linked debt securities ("Securities") whose value in whole or in part will be based upon the non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers (the "CPI-U" or "Index"), published monthly by the U.S. Department of Labor Bureau of

Labor Statistics ("BLS"). Holders of the Securities receive at maturity a payment linked to the value of the Index based on the following formula: Face Value + (Ending Index Value—Beginning Index Value), but not less than zero.

The "Beginning Index Value," which is approximately equal to the forward value of the CPI-U on the pricing date, will be announced at the time of the offering. The "Ending Index Value" will be equal to the ending level of the CPI-U, as published by the BLS and used by the U.S. Treasury for its Treasury Inflation Protected Securities ("TIPS").

##### CPIS Description

The Securities will be non-convertible and will conform to the listing guidelines under Section 107A of the *Company Guide*, which provide that such issues have: (1) Assets in excess of \$100 million and stockholders' equity of at least \$10 million; (2) a minimum public distribution of 1 million trading units with a minimum of 400 public shareholders; except, if traded in thousand dollar denominations, then no minimum number of holders; (3) a market value of not less than \$4 million.

Although a specific maturity date will not be established until the time of the offering, the Securities will provide for maturity of not less than one year from the date of issue. The Securities may provide for periodic payments and/or payments at maturity based in whole or in part on changes in the value of the Index. At maturity holders of the Securities may receive less than 100% of the initial issue price.

The redemption price of the Securities will be based on, in part, the ending Reference CPI-U level for the maturity date. At redemption, holders will receive Face Value *plus* (Ending Index Value *minus* Beginning Index Value); but not less than zero. Thus, at redemption, the holder could receive less than the Face Value or the Issue Price of the Securities, but never less than zero.<sup>7</sup> The denomination will be at least \$1000 and the redemption will be multiplied by a gross-up factor to produce a \$1000 face value, *i.e.* Gross-up  $\times$  Face Value *plus* (Ending Index Value *minus* Beginning Index Value). Equity margin rules will apply to the trading of the Securities. The Securities are designed to produce an ever-

<sup>3</sup> See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990).

<sup>4</sup> See Securities Exchange Act Release No. 35518 (March 21, 1995), 60 FR 15804 (March 27, 1995).

<sup>5</sup> See Securities Exchange Act Release No. 36885 (February 26, 1996), 61 FR 8315 (March 4, 1996).

<sup>6</sup> When the Amex originally filed its proposed rule change with the SEC, the Amex was uncertain as to whether the Securities would trade as preferred equity securities or debt securities. The Amex has since determined that the Securities will trade as debt securities. As per telephone conversation between Scott Van Hatten, Legal Counsel, Derivative Securities, and Heather Traeger, Attorney, Division of Market Regulation, SEC, on September 29, 2000.

<sup>7</sup> The underwriter has advised the Amex that the Securities will comply with the "hybrid exemption" of the Commodity Futures Trading Commission ("CFTC"), 17 CFR Part 34. The underwriter further advised that it has presented a description of the structure and sample termsheet of the Securities to the staff of the CFTC in order to facilitate the approval of the registration and listing of the Securities.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

increasing return as inflation rises. The Exchange represents that because inflation returns historically have been negatively correlated with financial assets, the ownership of the Securities (although their return is uncertain) are intended to diversify a portfolio of financial instruments.

#### Index Description

The Securities will be linked to a 3-month lagged version of CPI referred to as "Reference CPI-U." This is the same lagged version of CPI-U used by the U.S. Treasury for its TIPS. The CPI-U is the non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers, published monthly by the BLS. The Index represents prices of all goods and services purchased for consumption by urban households. User fees (such as water and sewer service) and sales and excise taxes paid by the consumer are also included. Income taxes and investment items (such as stocks, bonds, and life insurance) are not included. The CPI-U includes expenditures by urban wage earners and clerical workers, professional, managerial, and technical workers, the self-employed, short-term workers, the unemployed, retirees and others not in the labor force. The CPI-U is widely disseminated by vendors of financial information and quoted in the financial press. It is also available at the BLS's website: <http://www.bls.gov>.

If, while a U.S. Treasury TIPS is outstanding, the CPI-U is (1) discontinued, (2) in the judgment of the Secretary of the Treasury, fundamentally altered in a manner materially adverse to the interests of an investor in U.S. Treasury TIPS, or (3) in the judgment of the Secretary of the Treasury, altered by legislation or Executive Order in a manner materially adverse to the interests of an investor in U.S. Treasury TIPS, the Treasury, after consulting with the BLS, will substitute an appropriate alternative index. Such alternative index will also be used in the Securities.

In calculating the Index, price changes for various items are averaged together with weights that represent their importance in the spending of urban households in the United States. The contents of the market basket of goods and services and the weights assigned to the various items are updated periodically to take into account changes in consumer expenditure patterns. The CPI-U is expressed in relative terms in relation to a time base reference period for which the level is set at 100 (currently the base reference period used by the BLS is

1982-1984). For example, if the CPI-U for the 1982-84 reference period is 100.0, an increase of 16.5 percent from that period would be shown as 116.5.

As a matter of policy the BLS has made numerous improvements and changes to the Index over the last 25 years and it is likely to do so in the future. Technical changes made by the BLS to the Index to improve its accuracy include, but are not limited to, changes in: (1) The specific items (e.g., apples or major appliances) to be priced for inclusion in the Index; (2) the way individual price quotations are aggregated to construct a component price index for these items; (3) the method for combining these component price indices to obtain the comprehensive, all-items CPI-U; and (4) the procedures for incorporating new goods into the Index and making adjustments for quality changes in existing goods. Examples of recent methodological improvements include use of regression models to adjust for the quality improvements in various goods (televisions, personal computers, etc.), introduction of geometric averages to account for consumer substitution within CPI-U categories, and changing the housing/shelter formula to improve rental equivalence estimation. These changes and changes in the future could reduce the level of increase in the CPI-U and could lower the redemption value of the Securities.

Historically, the BLS rebases the CPI-U approximately every 10 years. The current standard reference base period is 1982-1984 = 100. Prior to the release of the CPI-U for January 1988, the standard reference base was 1967 = 100. If the BLS rebases the CPI-U during the time the Securities are outstanding but continues to publish the old CPI-U, the Reference CPI-U for the Securities will continue to be calculated using the existing base period in effect for the CPI-U used at issuance of the Securities. Although numerical comparisons between indices with different base periods cannot be made, the conversion to a new reference base does not affect the measurement of the percent changes in a given index series from one time period to another, except for rounding differences. Thus rebasing will affect the published "headline" number often quoted in the financial press; however, the Reference CPI-U calculation for the Securities should not be adversely affected by any such rebasing as the old-based CPI-U can be calculated by using the percent changes of the new rebased CPI-U to calculate the levels of the old CPI-U series (the two series should have the same percentage change, but at different

levels). However, determinations of the Secretary of Treasury in regard to all reference CPI-U levels, and whether a rebasing constitutes an index contingency, and any index remedies implemented, will be final.

#### Reference CPI-U

Reference CPI-U is a 3 month lagged version of CPI-U. Reference CPI-U for the first day of any calendar month is the CPI-U for the third preceding calendar month, as reported by BLS in the second preceding calendar month. For example, the Reference CPI-U applicable to April 1 in any year is the CPI-U for January of that year, which is reported by the BLS in February of that year. The Reference CPI-U for any date other than the first day of the month is the linear interpolation between the Reference CPI-U for the first day of such month and the first day of the immediately following month. Thus the Reference CPI-U for the stated maturity is lagged 3 months and should be determinable prior to stated maturity.

#### Index Contingencies

The Securities will use the same index contingencies as the US Treasury for its TIPS.<sup>8</sup> Index contingencies include how the Reference CPI-U will be affected by (1) revisions in previously reported CPI-U, (2) rebasing of the CPI-U by the BLS, (3) material adverse changes, in the judgment of the Treasury Secretary, to the CPI-U by legislation or Executive Order, or (4) delays in reporting CPI-U. The Securities will use the index contingency remedies as pronounced by the US Treasury. Determinations of the Secretary of Treasury in this regard will be final.

The Securities will be subject to the Exchange's equity margin rules and the Exchange's debt trading rules.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>9</sup> in general and furthers the objectives of Section 6(b)(5)<sup>10</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, and to remove impediments to and perfect the mechanism of a free and

<sup>8</sup> 31 CFR Part 356 "Department of the Treasury Circular, Public Debt Series No. 1-93", see <http://www.publicdebt.treas.gov>.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

open market and a national market system.

#### *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.

#### *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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-AMEX-00-40 and should be submitted by November 9, 2000.

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

The Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act<sup>11</sup> and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the availability of the Securities will provide an instrument for investors to achieve desired investment objectives through the purchase of an exchange-traded debt product linked to the CPI-U. These objectives include receipt of an increasing real rate of return if inflation rises and the ability for investors to hedge against unanticipated inflation.

For the reasons discussed below, the Commission has concluded that the Amex listing standards applicable to the Securities are consistent with the Act.

The Securities are index-linked debt securities whose value in whole or in part will be based upon the non-seasonally adjusted CPI-U. The Securities are non-convertible and will conform to the Amex listing guidelines under Section 107A of the *Company Guide*. The specific maturity date will not be established until the time of the offering, but will be not less than one year from the date of issue. The Securities may provide for periodic payments and/or payment at maturity based in whole or in part on changes in the value of the Index. Holders of the Securities will receive at maturity a payment linked to the value of the Index based on the following formula: Face Value + (Ending Index Value—Beginning Index Value), but not less than zero. The denomination will be at least \$1000. In structure, the Commission finds that the proposed Securities are similar to previously approved exchange-traded index-linked securities.<sup>12</sup>

In addition, the Amex equity margin rules and debt trading rules will apply to the Securities. The Commission believes that the application of these rules should strengthen the integrity of the Securities. The Commission also believes that the Amex has appropriate surveillance procedures in place to detect and deter potential manipulation for similar index-linked products. By applying these procedures to the Securities, the Commission believes that the potential for manipulation of the Securities is minimal, thereby protecting investors and the public interest. The Commission further notes that the underlying Index is managed by the BLS, an entity independent of both the Exchange and the Issuer, and thus, a factor which the Commission believes should act to minimize the possibility of manipulation. In addition, the CPI-U is widely disseminated by vendors of financial information, quoted in the financial press, and available at the BLS's website.

The Commission also notes that the Amex will issue a circular on the Securities. The circular should include, among other things, a discussion of the risks which may be associated with the Securities in addition to details on the composition of the Index and how the rates of return will be computed. Further, pursuant to Exchange Rule 411, the Exchange will impose a duty of due

diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Securities.

Based on these factors, the Commission finds that the proposal to trade the Securities is consistent with Section 6(b)(5) of the Act.<sup>13</sup>

Amex has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission believes that the proposal raises no new regulatory issues that were not addressed in similar filings for index-linked products. Furthermore, the Commission believes that it is appropriate to permit investors to benefit from the flexibility afforded by Securities by trading them as soon as possible. Accordingly, the Commission finds good cause to accelerate approval of the proposed rule change, as amended.

*It is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (SR-AMEX-00-40) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Jonathan G. Katz,**  
*Secretary.*

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## **DEPARTMENT OF STATE**

[Public Notice 3442]

**Bureau of Educational and Cultural Affairs Request for Proposals (ECA/PE/C/EUR-01-19): Exchanges and Training Programs for the New Independent States (NIS): Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Armenia, Azerbaijan, Georgia, Belarus, Moldova, Ukraine, Russia**

**SUMMARY:** The United States Department of State, Bureau of Educational and Cultural Affairs, Office of Citizen Exchanges, Europe/Eurasia Division, announces an open competition for assistance awards in the areas of Media Training, Women's Leadership, Public Advocacy Training, and Prevention of Trafficking in Women and Girls. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501C may apply to

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> See, e.g., Securities Exchange Act Release No. 41546 (June 22, 1999), 64 FR 35222 (June 30, 1999).

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

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

<sup>15</sup> 17 CFR 200.30-3(a)(12).