Proposed Rule Change by Philadelphia Stock Exchange

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial Amendment Withdrawal Section 19(b)(2) Section 19(b)(3)(A) Section 19(b)(3)(B) Rule

Pilot Extension of Time Period for Commission Action Date Expires

Section 19(b)(2) Section 19(b)(3)(A) Section 19(b)(3)(B)

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date 05/09/2007

By John Dayton Director and Counsel

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.
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**

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\) and Rule 19b-4 thereunder,\(^2\) proposes to amend Phlx Rule 803 – Criteria for Listing – Tier 1, for the purpose of adopting generic listing standards pursuant to Rule 19b-4(e)\(^3\) under the Act in connection with index-linked securities ("Index Securities").

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit I and the text of the proposed Exchange Rule is set forth below:

Underlining indicates additions; brackets indicate deletions.

**Rule 136. Trading Halts in Certain Exchange Traded Funds**

(a)-(b) No Change

(c) The Exchange will halt trading in all Derivative Securities Products if the circuit breaker parameters of Phlx Rule 133 have been reached. In exercising its discretion to halt or suspend trading in a Derivative Securities Product pursuant to Phlx Rule 164(a), the Exchange may consider factors such as the extent to which trading in the underlying securities is not occurring or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, in addition to other factors that may be relevant. In particular, when the Exchange is the listing market for a Derivative Securities Product, if the Required Value applicable to that Derivative Securities Product is not being calculated and disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Required Value occurs. If the interruption to the dissemination of the Required Value persists past the trading day in which it occurred the Exchange will halt trading no later than the beginning of the trading day following the interruption.

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\(^3\) 17 CFR 240.19b-4(e).
(d) Trading Halts for Trading of Certain Derivative Securities Products on XLE Pursuant to Unlisted Trading Privileges

(1) During Pre Market Session. If a Derivative Securities Product begins trading on XLE in the Pre Market Session and subsequently a temporary interruption occurs in the calculation or wide dissemination of an applicable Required Value, XLE may continue to trade the Derivative Securities Product for the remainder of the Pre Market Session.

(2) During Core Session. During the Core Session, if a temporary interruption occurs in the calculation or wide dissemination of an applicable Required Value, and the listing market halts trading in the Derivative Securities Product, Phlx, upon notification by the listing market of a halt due to such temporary interruption, also shall immediately halt trading in the Derivative Securities Product on XLE.

(3) Post Market Session and Next Trading Day.

(A) If an applicable Required Value continues not to be calculated or widely disseminated after the close of the Core Session, XLE may trade the Derivative Securities Product in the Post Market Session only if the listing market traded the Derivative Securities Product until the close of its regular trading session without a halt.

(B) If an applicable Required Value continues not to be calculated or widely disseminated as of the beginning of the Pre Market Session on the next trading day, XLE shall not commence trading of the Derivative Securities Product in the Pre Market Session that day. If an interruption in the calculation or wide dissemination of an applicable Required Value continues, XLE may resume trading in the Derivative Securities Product only if calculation and wide dissemination of the applicable Required Value resumes or trading in the Derivative Securities Product resumes in the listing market.

(e) For purposes of this Rule:

(1) “Derivative Securities Product” means a series of Index-Linked Securities (Phlx Rule 803(n)).

(2) “Required Value” shall mean (i) the value of any index underlying a Derivative Securities Product, and (ii) the Intraday Indicative Value (as defined in Rule 803).

Rule 803 Criteria for Listing – Tier I

* * * * *
(a)-(m) No Change.

(n) Index-Linked Securities

Index-linked securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes. Such securities may or may not provide for the repayment of the original principal investment amount. The Exchange may submit a rule filing pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 to permit the listing and trading of index-linked securities that do not otherwise meet the standards set forth below in paragraphs (1) through (11). The Exchange will consider for listing and trading pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934, index-linked securities provided:

(1) Both the issue and the issuer of such security meet the criteria set forth above in (f). The minimum public distribution and minimum public shareholders requirement will not be applicable to an issue traded in thousand dollar denominations. In addition, the minimum public shareholders requirement will not apply if the securities are redeemable at the option of the holders thereof on at least a weekly basis.

(2) The issue has a minimum term of one (1) year but not greater than thirty (30) years.

(3) The issue must be the non-convertible debt of the issuer.

(4) The payment at maturity may or may not provide for a multiple of the positive performance of an underlying index or indexes; however, in no event will payment at maturity be based on a multiple of the negative performance of an underlying index or indexes.

(5) The issuer will be expected to have a minimum tangible net worth in excess of $250,000,000, and to otherwise substantially exceed the earnings requirements set forth in Rule 803(a)(2). In the alternative, the issuer will be expected: (A) to have a minimum tangible net worth of $150,000,000 and to otherwise substantially exceed the earnings requirement set forth in Rule 803(a)(2), and (B) not to have issued securities where the original issue price of all the issuer's other index-linked note offerings (combined with index-linked note offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the issuer's net worth.


(7) Initial Listing Criteria—Each underlying index is required to have at least ten (10) component securities. In addition, the index or indexes to which the security
is linked shall either (1) 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 (2) the index or indexes meet the following criteria:

(A) 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;

(B) 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;

(C) 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;

(D) 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);

(E) 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 Rule 1009;

(F) All component securities shall be either (A) securities (other than foreign country securities and American Depository Receipts ("ADRs")) that are (i) issued by a Securities Exchange Act of 1934 reporting company which is listed on a national securities exchange and an NMS Stock or (B) be 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 or parties to comprehensive surveillance sharing agreements with the
Exchange will not in the aggregate represent more than 20% of the dollar weight of the index.

(8) Continued Listing Criteria—(A) The Exchange will commence delisting or removal proceedings, if any of the standards set forth above in paragraph (7) 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) the total number of components in the index may not increase or decrease by more than 33-1/3% from the number of components in the index at the time of its initial listing, and in no event may 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 an index-linked security that is listed pursuant to paragraph (7)(1) above, the Exchange will commence delisting or removal proceedings 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, under any of the following circumstances:
(i) if the aggregate market value or the principal amount of the securities publicly held is less than $400,000;

(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 during the time the security is traded on the Exchange; 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.

(9) Index Methodology and Calculation—(A) There must be disseminated for each series of Index-linked security an estimate, updated at least every 15 seconds, of the value of a unit of each series (the “Intraday Indicative Value”). (B) Indexes based upon the equal-dollar or modified equal-dollar weighting method will be rebalanced at least quarterly. (C) If the index is maintained by a broker-dealer, the broker-dealer shall erect a “firewall” around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer. (D) The current value of an index will be widely disseminated at least every 15 seconds by one or more major market data vendors or over the consolidated tape. (E) If the value of an index-linked security is based on more than one (1) index, then the composite value of such indexes must be widely disseminated at least every 15 seconds. (F) Any advisory committee, supervisory board, or similar entity that advises an Index Licensor or Administrator or a major market data vendor or that makes decisions on 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. An Index Licensor or Administrator includes any person who licenses to the Exchange the right to use an index or portfolio that is the basis for determining the inclusion and relative representation of an index-linked securities’ component stocks, or any trademark or service mark associated with such an index or portfolio; collects, calculates, compiles, reports and/or maintains such an index or portfolio, or index and index-linked securities information relating to such an index; provides facilities for the dissemination of index and index-linked securities information; and/or is responsible for any of the activities described above.

(10) Surveillance Procedures. The Exchange will implement written surveillance procedures for index-linked securities, including adequate comprehensive surveillance sharing agreements for non-U.S. securities, as applicable.

(11) Index-linked securities will be treated as equity instruments.
2. **Procedures of the Self-Regulatory Organization**

The Executive Committee, pursuant to delegated authority, approved parts of the proposal for filing with the Securities and Exchange Commission ("SEC" or "Commission") on August 30, 2006. In addition, senior management has approved parts of the proposal pursuant to delegated authority. No further action is required under the Exchange’s governing documents.

Questions and comments on the proposed rule change may be directed to John Dayton, Director and Counsel, at (215) 496-5162 or Edith Hallahan, Senior Vice President and Deputy General Counsel, at (215) 496-5179.

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 facilitate new products by adding new language to Rule 803 to provide generic listing standards to permit the listing and trading of Index Securities pursuant to Rule 19b-4(e) under the Act.\(^4\) Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4\(^5\) if the Commission has approved, pursuant to Section 19(b) of the Act,\(^6\) the self-regulatory organization’s trading rules, procedures and listing standards for the product class that would include the new derivatives product, and the

\(^4\) See Id.


self-regulatory organization has a surveillance program for the product class. The Exchange believes that adopting generic listing standards for these securities and applying Rule 19b-4(e) should fulfill the intended objective of that Rule by allowing those Index Securities that satisfy the proposed generic listing standards to commence trading, without the need for the public comment period and Commission approval. This has the potential to reduce the time frame for bringing Index Securities to market and thereby reducing the burdens on issuers and other market participants. Of course, the failure of a particular index to comply with the proposed generic listing standards under Rule 19b-4(e), however, would not preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2), requesting Commission approval to list and trade a particular index-linked product.

Under Rule 803(f), the Exchange may approve for listing and trading securities that cannot be readily categorized under the listing criteria for common and preferred securities, bonds, debentures, or warrants. The Phlx proposes in this rule filing to adopt generic listing standard for Index Securities under new section (n) of Rule 803. Index Securities are designed for investors who desire to participate in a specific market segment or combination of market segments through index products. Each Index

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8 The Exchange has previously received Commission approval to list and trade certain index options, exchange-traded funds and trust issued receipts pursuant to Rule 19b-4(e). See Securities Exchange Act Release Nos. 43683 (December 6, 2000), 65 FR 78235 (December 14, 2000) (SR-Phlx-00-67) (Index Options); 45178 (December 20, 2001), 66 FR 67610 (December 31, 2001) (SR-Phlx-00-68) (Trust Shares); and 44826 (September 20, 2001), 66 FR 49990 (October 1, 2001) (SR-Phlx-2001-75) (TIRs).

Security is intended to provide investors with exposure to an identifiable underlying market index. Index Securities may or may not make interest payments to the holder during their term. Despite the fact that Index Securities are linked to an underlying index, each will trade as a single, exchange-listed security.

The Exchange proposes that generic listing standards appropriate for Index Securities provide that each index or combination of indexes (the “Underlying Index” or “Underlying Indexes”) meet the criteria set forth in proposed Rule 803(n) or an index previously approved for the trading of options or other derivative securities by the Commission under Section 19(b)(2) of the Act and rules thereunder. In all cases, an Underlying Index is required to have a minimum of (10) component securities. The specific criteria for each underlying component security in proposed Rule 803(n) is set forth below in the section entitled “Eligibility Standards for Underlying Component Securities.” In general, the criteria for the underlying component securities of an Underlying Index is substantially similar to the requirements for index options set forth in Phlx Rule 1009A(a).

**Description of Index-Linked Securities**

Index Securities are the non-convertible debt of an issuer that have a term of at least one (1) year but not greater than thirty (30) years.\(^{10}\) The issuer of an Index Security may or may not provide for periodic interest payments to holders based on dividends or other cash distributions paid on the securities comprising the Underlying Index or

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\(^{10}\) See Securities Exchange Act Release No. 54844 (November 30, 2006), 71 FR 71000 (December 7, 2006) (SR-Amex-2006-88). This proposed rule change increased the term for Index Securities that trade on the American Stock Exchange from 10 years to 30 years.
Indexes during a prescribed period.\(^{11}\) The holder of an Index Security may or may not be fully exposed to the appreciation and/or depreciation of the underlying component securities. For example, an Index Security may be subject to a “cap” on the maximum principal amount to be repaid to holders or a “floor” on the minimum principal amount to be repaid to holders at maturity. The proposed generic listing standards will not be applicable to Index Securities where the payment at maturity may be based on a multiple of negative performance of an underlying index or indexes. An Index Security may not provide for a minimum guaranteed amount to be repaid, i.e., no “principal protection.” Other Index Securities provide for participation in the positive return or performance of an index with the added protection of receiving a payment guarantee of the issuance price or “principal protection.” Further iterations may also provide “contingent” protection of the principal amount, whereby the principal protection may disappear if the Underlying Index at any point in time during the life of such security reaches a certain pre-determined level. The Exchange believes that the flexibility to list a variety of Index Securities will offer investors the opportunity to more precisely focus their specific investment strategies.

The original public offering price of Index Securities may vary with the most common offering price expected to be $10 or $1,000 per unit. As discussed above, Index Securities entitle the owner at maturity to receive a cash amount based upon the performance of a particular market index or combination of indexes. The structure of an Index Security may provide “principal protection” or provide that the principal amount is fully exposed to the performance of a market index. The Index Securities do not give the holder any right to receive a portfolio security, dividend payments, or any other

\(^{11}\) Interest payments may be based on a fixed or floating rate.
ownership right or interest in the portfolio or index of securities comprising the
Underlying Index. The current value of an Underlying Index or composite value of the
Underlying Indexes will be widely disseminated at least every 15 seconds during the
trading day by one or more major market data vendors or over the consolidated tape.

Index Securities may or may not be structured with accelerated returns, upside or
downside, based on the performance of the Underlying Index. For example, an Index
Security may provide for an accelerated return of 3-to-1 if the Underlying Index achieves
a positive return at maturity. The Exchange submits that Index Securities are “hybrid”
securities whose rates of return are largely the result of the performance of Underlying
Index or Indexes comprised of component securities. In connection with the listing or
trading pursuant to unlisted trading privileges (“UTP”) of Index Securities, the Exchange
will issue an Information Circular to members detailing the special risks and
characteristics of each Index Security that it will list or trade. Accordingly, the particular
structure and corresponding risk of any Index Security traded on the Exchange will be
highlighted and disclosed. In particular, the Information Circular will set forth the
Exchange’s suitability rule that requires every member, either personally or through a
general partner or an officer who is a holder of voting stock in his organization to use due

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(SR-NASD-2003-119). As stated, the proposed generic listing standards will not be applicable to Index
Securities that are structured with “downside” accelerated returns.

13 The Exchange notes that members that carry customer accounts must be members of the NASD and
would therefore be subject to the rules and regulations of the NASD, including NASD Rule 2310(a) and
(b). Accordingly, NASD Notice to Members 03-71 regarding non-conventional investments or “NCIs”
applies to Exchange members recommending/selling index-linked securities to public customers. This
Notice specifically reminds members in connection with NCIs (such as index-linked securities) of their
obligations to: (1) conduct adequate due diligence to understand the features of the product; (2) perform a
reasonable-basis suitability analysis; (3) perform customer-specific suitability analysis in connection with
any recommended transactions; (4) provide a balanced disclosure of both the risks and rewards associated
with the particular product, especially when selling to retail investors; (5) implement appropriate internal
controls; and (6) train registered persons regarding the features, risk and suitability of these products.
diligence to learn the essential facts relative to every customer and to every order or account accepted by his organization (Phlx Rule 746).

Index Securities are expected to trade at a lower cost than the cost of trading each of the underlying component securities separately (because of reduced commission and custody costs) and are also expected to give investors the ability to maintain index exposure without the corresponding management or administrative fees and ongoing expenses. The initial offering price for an Index Security will be established on the date the security is priced for sale to the public. The final value of an Index Security will be determined on the valuation date at or near maturity consistent with the mechanics detailed in the prospectus for such Index Security.

**Eligibility Standards for Issuers**

The following standards are proposed for each issuer of Index Securities:

1. Both the issue and the issuer of such security meet the criteria set forth in Phlx Rule 803(f) except that the minimum public distribution and minimum public shareholders requirement will not be applicable to an issue traded in thousand dollar denominations. In addition, the minimum public shareholders requirement will not apply if the securities are redeemable at the option of the holders thereof on at least a weekly basis.
2. The issue has a minimum term of one (1) year but not greater than thirty (30) years.
3. The issue must be the non-convertible debt of the issuer.
4. The payment at maturity may or may not provide for a multiple of the positive performance of an underlying index or indexes; however, in no event will payment at maturity be based on a multiple of the negative performance of an underlying index or indexes.
(5) The issuer will be expected to have a minimum tangible net worth in excess of $250,000,000, and to otherwise substantially exceed the earnings requirements set forth in (a). In the alternative, the issuer will be expected: (A) to have a minimum tangible net worth of $150,000,000 and to otherwise substantially exceed the earnings requirement set forth in (a)(2), and (B) not to have issued securities where the original issue price of all the issuer's other index-linked note offerings (combined with index-linked note offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the issuer's net worth.

(6) The issuer is in compliance with Rule 10A-3 under the Act.

Description of Underlying Indexes

Each Underlying Index will either be (i) an index meeting the specific criteria set forth below in proposed Phlx Rule 803(n) that is similar to the current Phlx Rule 1009A(a); or (ii) an index approved for the trading of options or other derivatives securities by the Commission under Section 19(b)(2) of the Act and rules thereunder. However, in all cases, an Underlying Index must contain at least ten (10) component securities.

The Exchange will require that all changes to an Underlying Index, including the deletion and addition of underlying component 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 approving 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.\textsuperscript{14} 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.

\textit{Eligibility Standards for Underlying Securities}

Index Securities will be subject to the criteria in proposed Rule 803(n)(7) and (8)
for initial and continued listing. For an Underlying Index to be appropriate for the initial
listing of and Index Security, such Index must either be approved for the trading of
options or other derivative securities by the Commission under Section 19(b)(2) of the
Act and rules thereunder or meet the following requirements:

- A minimum market value of at least $75 million, except that for each of the
  lowest weighted Underlying Securities in the index in the aggregate account for
  no more than 10\% of the weight of the index, the market value can be at least $50
  million;

- 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 Underlying 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;

- In the case of a capitalization-weighted index, the lesser of the five highest weight
  Underlying Securities in the index or the highest weighted Underlying Securities

\textsuperscript{14} For certain indexes, an index provider, such as Dow Jones, may select the components and calculate the
index, but overseas broker-dealer affiliates of U.S. registered broker-dealers may sit on an “advisory”
committee that recommends component selections to the index provider. In such case, the Exchange would
ensure that appropriate information barriers and insider trading policies exist for this advisory committee.
(approving NASD 2004-138, pertaining to index linked notes on the Dow Jones Euro Stoxx 50 Index).
in the index that in the aggregate represent at least 30% of the total number of
Underlying Securities in the index, each have an average monthly trading volume
of at least 2,000,000 shares over the previous six months;

• No component security will represent more than 25% of the weight of the index,
and the five highest weighted component securities 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 Underlying Securities);

• 90% of the index’s numerical index value and at least 80% of the total number of
component securities will meet the then current criteria for standardized options
trading set forth in Exchange Rule 1009;

• Each component security shall be (A) securities (other than foreign country
securities and American Depository Receipts (“ADRs”), that are (1) issued by an
Act reporting company which is listed on a national securities exchange and (2)
NMS stocks, as defined in Rule 600 of Regulation NMS, or (B) 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 or parties to comprehensive surveillance sharing agreements
with the Exchange will not, in the aggregate, represent more than 20% of the
dollar weight of the index.

As described above in the Section entitled “Description of Underlying Indexes,” all
Underlying Indexes are required to have at least ten (10) component securities.

15 See 17 CFR 242.600(b)(47).
The proposed continued listing criteria set forth in proposed Rule 803(n)(8)(A) regarding the underlying components of an Underlying Index provides that the Exchange will commence delisting or removal proceedings of an Index Security if any of the standards set forth in the initial eligibility criteria of proposed Rule 803(n)(7) 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;

- The total number of components in the index may not increase or decrease by more than 33-1/3% from the number of components in the index at the time of its initial listing, and in no event may be less than ten (10) components;

- 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

- In a 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.
In connection with an Index Security that is listed pursuant to proposed Rule 803(n)(7)(l), the Exchange will commence delisting or removal proceedings 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 Act approving the index or indexes for the trading of options or other derivatives.

As set forth in proposed Rule 803(n)(8)(C), the Exchange will also commence delisting or removal proceedings of an Index Security, under any of the following circumstances:

- If the aggregate market value or the principal amount of the securities publicly held is less than $400,000;
- 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 during the time the security is traded on the Exchange; or
- If such other event shall occur or condition exists which is the opinion of the Exchange makes further dealings on the Exchange inadvisable.

The Phlx represents that Index Securities listed and traded on the Exchange will be required to be in compliance with rule 10A-3 under the Act.\(^16\)

\[\text{Exchange Rules Applicable to Index-Linked Securities}\]

Index Securities will be treated as equity instruments and will be subject to all Exchange rules governing the trading of equity securities, including, among others, rule governing XLE, the Exchange’s equity trading system, and related trading halt provisions

\(^{16}\) See Rule 10A-3(c)(7), 17 CFR 240.10A-3(c)(7).
pursuant to Phlx Rule 133. Exchange equity margin rules and the trading hours of 8:00 a.m. to 6:00 p.m. will apply to transactions in Index Securities.

In addition, The Exchange represents that it will prepare and distribute, if appropriate, an Information Memorandum that describes the product to each member organization highlighting the particular structure and corresponding risks of an Index Security. In particular, the Memorandum will set forth the Exchange’s suitability rule that sets forth certain requirements for member organizations recommending a transaction in Index Securities. In addition, the Information Memorandum will note that all of the Exchange’s equity trading rules will be applicable to trading in the Index Securities. The Memorandum will also reference the member requirements to deliver a prospectus to each investor purchasing newly issued Index Securities prior to or concurrently with the confirmation of a transaction.

The Exchange will closely monitor activity in Index Securities to identify and deter any potential improper trading activity in Index Securities. The Exchange represents that its surveillance procedures will be adequate to properly monitor the trading of Index Securities. Specifically, the Phlx will rely on its existing surveillance procedures governing equities, options and exchange-traded funds. The Exchange will develop procedures to closely monitor activity in the Index Security and related Underlying Securities to identify and deter potential improper trading activity. Proposed Rule 803(n)(10) provides that the Exchange will implement written surveillance procedures for Index Securities.

The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees. For Index Securities where the Underlying
Index is maintained by a broker-dealer, the broker-dealer will be required to erect a “firewall” around the personnel responsible for the maintenance of the Underlying Index or who have access to information concerning changes and adjustments to the Underlying Index, and the Underlying Index will be calculated by a third party who is not a broker-dealer. Any advisory committee, supervisory board, or similar entity that advises an Index Licensor or Administrator or that makes decisions regarding the Underlying Index or portfolio composition, methodology, and related matters would be required to 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.

Proposed Phlx Rule 136(c)-(e) sets out trading halt parameters for Index Securities. In particular, proposed Phlx Rule 136(c) sets out that, where the Exchange is the listing market for an Index Security, if the Intraday Indicative Value (“IIV”) or the index value applicable to that series of Index Security is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV of the index value occurs. If the interruption to the dissemination of the IIV or the index value persists past the trading day in which it occurred, the Exchange would halt trading no later than the beginning of the trading day following the interruption. Proposed Phlx Rule 136(d) provides how and when the Exchange will halt trading in a series of Index Securities traded pursuant to UTP if the primary listing market halts trading in that series of Shares because the IIV or the index value applicable to that series of Shares is not being disseminated as required. Proposed Phlx Rule 136(e) provides definitions used in Phlx Rule 136.
b. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\(^{17}\) in general, and furthers the objectives of Section 6(b)(5) of the Act\(^{18}\) in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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

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

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

No written comments were either solicited or received.

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

The Exchange does not consent to an extension of the time period for Commission action.

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

The Exchange requests accelerated approval for this proposed rule change as the Phlx believes that it is consistent with the protection of investors and the public interest because accelerated approval would enable the Exchange to begin offering the benefits of

\(^{17}\) 15 U.S.C. 78f(b).

this proposed rule change for Exchange members and member organizations by allowing them to trade Index Securities immediately and should increase competition for Index Securities by allowing, pursuant to Rule 19b-4(e), another trading venue for trading Index Securities.

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

The proposed rule change is based on the rules of the American Stock Exchange, Amex Company Guide Section 107D regarding generic listing standards for Index Securities.\(^\text{19}\)

9. Exhibits

1. Notice of proposed rule for publication in the Federal Register.

4. Amended rule text indicating additions to or deletions from the immediately preceding filing

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No.       ; File No. SR-Phlx-2007-07)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Index Linked Securities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\), and Rule 19b-4\(^2\) thereunder, notice is hereby given that on ______________________ 2007, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Phlx, pursuant to Section 19(b)(1) of the Act\(^3\) and Rule 19b-4 thereunder,\(^4\) proposes to amend Phlx Rule 803 – Criteria for Listing – Tier 1, for the purpose of adopting generic listing standards pursuant to Rule 19b-4(e)\(^5\) under the Act in connection with index-linked securities ("Index Securities").

The text of the proposed Exchange Rule is set forth below:

Underlining indicates additions; brackets indicate deletions.

Rule 136.

Trading Halts in Certain Exchange Traded Funds

(a)-(b) No Change

(c) The Exchange will halt trading in all Derivative Securities Products if the circuit breaker parameters of Phlx Rule 133 have been reached. In exercising its discretion to halt or suspend trading in a Derivative Securities Product pursuant to Phlx Rule 164(a), the Exchange may consider factors such as the extent to which trading in the underlying securities is not occurring or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, in addition to other factors that may be relevant. In particular, when the Exchange is the listing market for a Derivative Securities Product, if the Required Value applicable to that Derivative Securities Product is not being calculated and disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Required Value occurs. If the interruption to the dissemination of the Required Value persists past the trading day in which it occurred the Exchange will halt trading no later than the beginning of the trading day following the interruption.

(d) Trading Halts for Trading of Certain Derivative Securities Products on XLE Pursuant to Unlisted Trading Privileges

(1) During Pre Market Session. If a Derivative Securities Product begins trading on XLE in the Pre Market Session and subsequently a temporary interruption occurs in the calculation or wide dissemination of an applicable Required Value, XLE may continue to trade the Derivative Securities Product for the remainder of the Pre Market Session.

(2) During Core Session. During the Core Session, if a temporary interruption occurs in the calculation or wide dissemination of an applicable Required Value, and the listing market halts trading in the Derivative Securities Product, Phlx, upon notification by the listing market of a halt due to such temporary interruption, also shall immediately halt trading in the Derivative Securities Product on XLE.

(3) Post Market Session and Next Trading Day.

(A) If an applicable Required Value continues not to be calculated or widely disseminated after the close of the Core Session, XLE may trade the Derivative Securities Product in the Post Market Session only if the listing market traded the Derivative Securities Product until the close of its regular trading session without a halt.

(B) If an applicable Required Value continues not to be calculated or widely disseminated as of the beginning of the Pre Market Session on the
next trading day, XLE shall not commence trading of the Derivative Securities Product in the Pre Market Session that day. If an interruption in the calculation or wide dissemination of an applicable Required Value continues, XLE may resume trading in the Derivative Securities Product only if calculation and wide dissemination of the applicable Required Value resumes or trading in the Derivative Securities Product resumes in the listing market.

(e) For purposes of this Rule:

(1) “Derivative Securities Product” means a series of Index-Linked Securities (Phlx Rule 803(n)).

(2) “Required Value” shall mean (i) the value of any index underlying a Derivative Securities Product, and (ii) the Intraday Indicative Value (as defined in Rule 803).

Rule 803 Criteria for Listing – Tier I

* * * * *

(a)-(m) No Change.

(n) Index-Linked Securities

Index-linked securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes. Such securities may or may not provide for the repayment of the original principal investment amount. The Exchange may submit a rule filing pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 to permit the listing and trading of index-linked securities that do not otherwise meet the standards set forth below in paragraphs (1) through (11). The Exchange will consider for listing and trading pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934, index-linked securities provided:

(1) Both the issue and the issuer of such security meet the criteria set forth above in (f). The minimum public distribution and minimum public shareholders requirement will not be applicable to an issue traded in thousand dollar denominations. In addition, the minimum public shareholders requirement will not apply if the securities are redeemable at the option of the holders thereof on at least a weekly basis.

(2) The issue has a minimum term of one (1) year but not greater than thirty (30) years.

(3) The issue must be the non-convertible debt of the issuer.
(4) The payment at maturity may or may not provide for a multiple of the positive performance of an underlying index or indexes; however, in no event will payment at maturity be based on a multiple of the negative performance of an underlying index or indexes.

(5) The issuer will be expected to have a minimum tangible net worth in excess of $250,000,000, and to otherwise substantially exceed the earnings requirements set forth in Rule 803(a)(2). In the alternative, the issuer will be expected: (A) to have a minimum tangible net worth of $150,000,000 and to otherwise substantially exceed the earnings requirement set forth in Rule 803(a)(2), and (B) not to have issued securities where the original issue price of all the issuer's other index-linked note offerings (combined with index-linked note offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the issuer's net worth.


(7) Initial Listing Criteria—Each underlying index is required to have at least ten component securities. In addition, the index or indexes to which the security is linked shall either (1) 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 (2) the index or indexes meet the following criteria:

(A) 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;

(B) 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;

(C) 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;
(D) 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);

(E) 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 Rule 1009;

(F) All component securities shall be either (A) securities (other than foreign country securities and American Depository Receipts ("ADRs")) that are (i) issued by a Securities Exchange Act of 1934 reporting company which is listed on a national securities exchange and an NMS Stock or (B) be 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 or parties to comprehensive surveillance sharing agreements with the Exchange will not in the aggregate represent more than 20% of the dollar weight of the index.

(8) Continued Listing Criteria—(A) The Exchange will commence delisting or removal proceedings, if any of the standards set forth above in paragraph (7) 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) the total number of components in the index may not increase or decrease by more than 33-1/3% from the number of components in the index at the time of its initial listing, and in no event may 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 an index-linked security that is listed pursuant to paragraph (7)(1) above, the Exchange will commence delisting or removal proceedings 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, under any of the following circumstances:

(i) if the aggregate market value or the principal amount of the securities publicly held is less than $400,000;

(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 during the time the security is traded on the Exchange; 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.

(9) Index Methodology and Calculation—(A) There must be disseminated for each series of Index-linked security an estimate, updated at least every 15 seconds, of the value of a unit of each series (the “Intraday Indicative Value”). (B) Indexes based upon the equal-dollar or modified equal-dollar weighting method will be rebalanced at least quarterly. (C) If the index is maintained by a broker-dealer, the broker-dealer shall erect a “firewall” around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer. (D) The current value of an index will be widely disseminated at least every 15 seconds by one or more major market data vendors or over the consolidated tape. (E) If the value of an index-linked security is based on more than one (1) index, then the composite value of such indexes must be widely disseminated at least every 15 seconds. (F) Any advisory committee, supervisory board, or similar entity that advises an Index Licensor or Administrator or a major market data vendor or that makes decisions on 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. An Index Licensor or Administrator includes any person who licenses to the Exchange the right to use an index or portfolio that is the basis for determining the inclusion and relative representation of an index-linked securities’ component stocks, or any trademark or service mark associated with such an index or portfolio; collects, calculates, compiles, reports and/or maintains such an index or portfolio, or index and index-linked securities information relating to such an index; provides facilities for the dissemination of index and index-linked securities information; and/or is responsible for any of the activities described above.

(10) Surveillance Procedures. The Exchange will implement written surveillance procedures for index-linked securities, including adequate comprehensive surveillance sharing agreements for non-U.S. securities, as applicable.

(11) Index-linked securities will be treated as equity instruments.

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 Phlx 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 Phlx 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 purpose of the proposed rule change is to facilitate new products by adding new language to Rule 803 to provide generic listing standards to permit the listing and trading of Index Securities pursuant to Rule 19b-4(e) under the Act.6 Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-

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6 Id.
regulatory organization shall not be deemed a proposed rule change, pursuant to
paragraph (c)(1) of Rule 19b-4\(^7\) if the Commission has approved, pursuant to Section
19(b) of the Act,\(^8\) the self-regulatory organization’s trading rules, procedures and listing
standards for the product class that would include the new derivatives product, and the
self-regulatory organization has a surveillance program for the product class.\(^9\)
Amendment No. 1 replaces and supersedes the original filing in its entirety.

The Exchange believes that adopting generic listing standards for these securities
and applying Rule 19b-4(e) should fulfill the intended objective of that Rule by allowing
those Index Securities that satisfy the proposed generic listing standards to commence
trading, without the need for the public comment period and Commission approval.\(^10\)
This has the potential to reduce the time frame for bringing Index Securities to market
and thereby reducing the burdens on issuers and other market participants. Of course, the
failure of a particular index to comply with the proposed generic listing standards under
Rule 19b-4(e), however, would not preclude the Exchange from submitting a separate
filing pursuant to Section 19(b)(2), requesting Commission approval to list and trade a
particular index-linked product.

Under Rule 803(f), the Exchange may approve for listing and trading securities
that cannot be readily categorized under the listing criteria for common and preferred

\(^7\) 17 CFR 240.19b-4(c)(1).


(the “19b-4(e) Order”).

\(^10\) The Exchange has previously received Commission approval to list and trade certain index options,
exchange-traded funds and trust issued receipts pursuant to Rule 19b-4(e). See Securities Exchange Act
Release Nos. 43683 (December 6, 2000), 65 FR 78235 (December 14, 2000) (SR-Phlx-00-67) (Index
Options); 45178 (December 20, 2001), 66 FR 67610 (December 31, 2001) (SR-Phlx-00-68) (Trust Shares);
and 44826 (September 20, 2001), 66 FR 49990 (October 1, 2001) (SR-Phlx-2001-75) (TIRs).
securities, bonds, debentures, or warrants.\textsuperscript{11} The Phlx proposes in this rule filing to adopt a generic listing standard for Index Securities under new section (n) of Rule 803. Index Securities are designed for investors who desire to participate in a specific market segment or combination of market segments through index products. Each Index Security is intended to provide investors with exposure to an identifiable underlying market index. Index Securities may or may not make interest payments to the holder during their term. Despite the fact that Index Securities are linked to an underlying index, each will trade as a single, exchange-listed security.

The Exchange proposes that generic listing standards appropriate for Index Securities provide that each index or combination of indexes (the “Underlying Index” or “Underlying Indexes”) meet the criteria set forth in proposed Rule 803(n) or an index previously approved for the trading of options or other derivative securities by the Commission under Section 19(b)(2) of the Act and rules thereunder. In all cases, an Underlying Index is required to have a minimum of (10) component securities. The specific criteria for each underlying component security in proposed Rule 803(n) is set forth below in the section entitled “Eligibility Standards for Underlying Component Securities.” In general, the criteria for the underlying component securities of an Underlying Index is substantially similar to the requirements for index options set forth in Phlx Rule 1009A(a).

Description of Index-Linked Securities

Index Securities are the non-convertible debt of an issuer that have a term of at least one (1) year but not greater than thirty (30) years.\textsuperscript{12} The issuer of an Index Security may or may not provide for periodic interest payments to holders based on dividends or other cash distributions paid on the securities comprising the Underlying Index or Indexes during a prescribed period.\textsuperscript{13} The holder of an Index Security may or may not be fully exposed to the appreciation and/or depreciation of the underlying component securities. For example, an Index Security may be subject to a “cap” on the maximum principal amount to be repaid to holders or a “floor” on the minimum principal amount to be repaid to holders at maturity. The proposed generic listing standards will not be applicable to Index Securities where the payment at maturity may be based on a multiple of negative performance of an underlying index or indexes. An Index Security may not provide for a minimum guaranteed amount to be repaid, i.e., no “principal protection.” Other Index Securities provide for participation in the positive return or performance of an index with the added protection of receiving a payment guarantee of the issuance price or “principal protection.” Further iterations may also provide “contingent” protection of the principal amount, whereby the principal protection may disappear if the Underlying Index at any point in time during the life of such security reaches a certain pre-determined level. The Exchange believes that the flexibility to list a variety of Index Securities will offer investors the opportunity to more precisely focus their specific investment strategies.


\textsuperscript{13} Interest payments may be based on a fixed or floating rate.
The original public offering price of Index Securities may vary with the most common offering price expected to be $10 or $1,000 per unit. As discussed above, Index Securities entitle the owner at maturity to receive a cash amount based upon the performance of a particular market index or combination of indexes. The structure of an Index Security may provide “principal protection” or provide that the principal amount is fully exposed to the performance of a market index. The Index Securities do not give the holder any right to receive a portfolio security, dividend payments, or any other ownership right or interest in the portfolio or index of securities comprising the Underlying Index. The current value of an Underlying Index or composite value of the Underlying Indexes will be widely disseminated at least every 15 seconds during the trading day by one or more major market data vendors or over the consolidated tape.

Index Securities may or may not be structured with accelerated returns, upside or downside, based on the performance of the Underlying Index.\(^{14}\) For example, an Index Security may provide for an accelerated return of 3-to-1 if the Underlying Index achieves a positive return at maturity. The Exchange submits that Index Securities are “hybrid” securities whose rates of return are largely the result of the performance of Underlying Index or Indexes comprised of component securities. In connection with the listing or trading pursuant to unlisted trading privileges (“UTP”) of Index Securities, the Exchange will issue an Information Circular to members detailing the special risks and characteristics of each Index Security that it will list or trade. Accordingly, the particular structure and corresponding risk of any Index Security traded on the Exchange will be

\(^{14}\) See e.g. Securities Exchange Act Release No. 48280 (August 1, 2003), 68 FR 47121 (August 7, 2003) (SR-NASD-2003-119). As stated, the proposed generic listing standards will not be applicable to Index Securities that are structured with “downside” accelerated returns.
highlighted and disclosed. In particular, the Information Circular will set forth the Exchange’s suitability rule that requires every member, either personally or through a general partner or an officer who is a holder of voting stock in his organization to use due diligence to learn the essential facts relative to every customer and to every order or account accepted by his organization (Phlx Rule 746).

Index Securities are expected to trade at a lower cost than the cost of trading each of the underlying component securities separately (because of reduced commission and custody costs) and are also expected to give investors the ability to maintain index exposure without the corresponding management or administrative fees and ongoing expenses. The initial offering price for an Index Security will be established on the date the security is priced for sale to the public. The final value of an Index Security will be determined on the valuation date at or near maturity consistent with the mechanics detailed in the prospectus for such Index Security.

*Eligibility Standards for Issuers*

The following standards are proposed for each issuer of Index Securities:

(1) Both the issue and the issuer of such security meet the criteria set forth in Phlx Rule 803(f) except that the minimum public distribution and minimum public shareholders requirement will not be applicable to an issue traded in thousand dollar denominations. In

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15 The Exchange notes that members that carry customer accounts must be members of the NASD and would therefore be subject to the rules and regulations of the NASD, including NASD Rule 2310(a) and (b). Accordingly, NASD Notice to Members 03-71 regarding non-conventional investments or “NCIs” applies to Exchange members recommending/selling index-linked securities to public customers. This Notice specifically reminds members in connection with NCIs (such as index-linked securities) of their obligations to: (1) conduct adequate due diligence to understand the features of the product; (2) perform a reasonable-basis suitability analysis; (3) perform customer-specific suitability analysis in connection with any recommended transactions; (4) provide a balanced disclosure of both the risks and rewards associated with the particular product, especially when selling to retail investors; (5) implement appropriate internal controls; and (6) train registered persons regarding the features, risk and suitability of these products.
addition, the minimum public shareholders requirement will not apply if the securities are redeemable at the option of the holders thereof on at least a weekly basis.

(2) The issue has a minimum term of one (1) year but not greater than thirty (30) years.

(3) The issue must be the non-convertible debt of the issuer.

(4) The payment at maturity may or may not provide for a multiple of the positive performance of an underlying index or indexes; however, in no event will payment at maturity be based on a multiple of the negative performance of an underlying index or indexes.

(5) The issuer will be expected to have a minimum tangible net worth in excess of $250,000,000, and to otherwise substantially exceed the earnings requirements set forth in (a). In the alternative, the issuer will be expected: (A) to have a minimum tangible net worth of $150,000,000 and to otherwise substantially exceed the earnings requirement set forth in (a)(2), and (B) not to have issued securities where the original issue price of all the issuer's other index-linked note offerings (combined with index-linked note offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the issuer's net worth.

(6) The issuer is in compliance with Rule 10A-3 under the Act.

Description of Underlying Indexes

Each Underlying Index will either be (i) an index meeting the specific criteria set forth below in proposed Phlx Rule 803(n) that is similar to the current Phlx Rule 1009A(a); or (ii) an index approved for the trading of options or other derivatives securities by the Commission under Section 19(b)(2) of the Act and rules thereunder.
However, in all cases, an Underlying Index must contain at least ten (10) component securities.

The Exchange will require that all changes to an Underlying Index, including the deletion and addition of underlying component 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 approving 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 Rule 803(n)(7) and (8) for initial and continued listing. For an Underlying Index to be appropriate for the initial listing of and Index Security, such Index must either be approved for the trading of options or other derivative securities by the Commission under Section 19(b)(2) of the Act and rules thereunder or meet the following requirements:

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16 For certain indexes, an index provider, such as Dow Jones, may select the components and calculate the index, but overseas broker-dealer affiliates of U.S. registered broker-dealers may sit on an “advisory” committee that recommends component selections to the index provider. In such case, the Exchange would ensure that appropriate information barriers and insider trading policies exist for this advisory committee. See Securities Exchange Act Release No. 50501 (October 7, 2004), 69 FR 61533 (October 19, 2004) (approving NASD 2004-138, pertaining to index linked notes on the Dow Jones Euro Stoxx 50 Index).
• A minimum market value of at least $75 million, except that for each of the lowest weighted Underlying Securities in the index in the aggregate account for no more than 10% of the weight of the index, the market value can be at least $50 million;

• 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 Underlying 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;

• In the case of a capitalization-weighted index, the lesser of the five highest weight Underlying Securities in the index or the highest weighted Underlying Securities in the index that in the aggregate represent at least 30% of the total number of Underlying Securities in the index, each have an average monthly trading volume of at least 2,000,000 shares over the previous six months;

• No component security will represent more than 25% of the weight of the index, and the five highest weighted component securities 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 Underlying Securities);

• 90% of the index’s numerical index value and at least 80% of the total number of component securities will meet the then current criteria for standardized options trading set forth in Exchange Rule 1009;

• Each component security shall be (A) securities (other than foreign country securities and American Depository Receipts (“ADRs”), that are (1) issued by an Act reporting company which is listed on a national securities exchange and (2)
NMS stocks, as defined in Rule 600 of Regulation NMS, or (B) 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 or parties to comprehensive surveillance sharing agreements with the Exchange will not, in the aggregate, represent more than 20% of the dollar weight of the index.

As described above in the Section entitled “Description of Underlying Indexes,” all Underlying Indexes are required to have at least ten (10) component securities.

The proposed continued listing criteria set forth in proposed Rule 803(n)(8)(A) regarding the underlying components of an Underlying Index provides that the Exchange will commence delisting or removal proceedings of an Index Security if any of the standards set forth in the initial eligibility criteria of proposed Rule 803(n)(7) 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;

- The total number of components in the index may not increase or decrease by more than 33-1/3% from the number of components in the index at the time of its initial listing, and in no event may be less than ten (10) components;

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17 See 17 CFR 242.600(b)(47).
• 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

• In a 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.

In connection with an Index Security that is listed pursuant to proposed Rule 803(n)(7)(l), the Exchange will commence delisting or removal proceedings 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 Act approving the index or indexes for the trading of options or other derivatives.

As set forth in proposed Rule 803(n)(8)(C), the Exchange will also commence delisting or removal proceedings of an Index Security, under any of the following circumstances:

• If the aggregate market value or the principal amount of the securities publicly held is less than $400,000;

• 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 during the time the security is traded on the Exchange; or
If such other event shall occur or condition exists which is the opinion of the Exchange makes further dealings on the Exchange inadvisable.

The Phlx represents that Index Securities listed and traded on the Exchange will be required to be in compliance with rule 10A-3 under the Act.¹⁸

*Exchange Rules Applicable to Index-Linked Securities*

Index Securities will be treated as equity instruments and will be subject to all Exchange rules governing the trading of equity securities, including, among others, rule governing XLE, the Exchange’s equity trading system, and related trading halt provisions pursuant to Phlx Rule 133. Exchange equity margin rules and the trading hours of 8:00 a.m. to 6:00 p.m. will apply to transactions in Index Securities.

In addition, The Exchange represents that it will prepare and distribute, if appropriate, an Information Memorandum that describes the product to each member organization highlighting the particular structure and corresponding risks of an Index Security. In particular, the Memorandum will set forth the Exchange’s suitability rule that sets forth certain requirements for member organizations recommending a transaction in Index Securities. In addition, the Information Memorandum will note that all of the Exchange’s equity trading rules will be applicable to trading in the Index Securities. The Memorandum will also reference the member requirements to deliver a prospectus to each investor purchasing newly issued Index Securities prior to or concurrently with the confirmation of a transaction.

The Exchange will closely monitor activity in Index Securities to identify and deter any potential improper trading activity in Index Securities. The Exchange represents that

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¹⁸ See Rule 10A-3(c)(7), 17 CFR 240.10A-3(c)(7).
its surveillance procedures will be adequate to properly monitor the trading of Index Securities. Specifically, the Phlx will rely on its existing surveillance procedures governing equities, options and exchange-traded funds. The Exchange will develop procedures to closely monitor activity in the Index Security and related Underlying Securities to identify and deter potential improper trading activity. Proposed Rule 803(n)(10) provides that the Exchange will implement written surveillance procedures for Index Securities.

The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees. For Index Securities where the Underlying Index is maintained by a broker-dealer, the broker-dealer will be required to erect a “firewall” around the personnel responsible for the maintenance of the Underlying Index or who have access to information concerning changes and adjustments to the Underlying Index, and the Underlying Index will be calculated by a third party who is not a broker-dealer. Any advisory committee, supervisory board, or similar entity that advises an Index Licenser or Administrator or that makes decisions regarding the Underlying Index or portfolio composition, methodology, and related matters would be required to 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.

Proposed Phlx Rule 136(c)-(e) sets out trading halt parameters for Index Securities. In particular, proposed Phlx Rule 136(c) sets out that, where the Exchange is the listing market for an Index Security, if the Intraday Indicative Value (“IIV”) or the index value applicable to that series of Index Security is not being disseminated as
required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV of the index value occurs. If the interruption to the dissemination of the IIV or the index value persists past the trading day in which it occurred, the Exchange would halt trading no later than the beginning of the trading day following the interruption. Proposed Phlx Rule 136(d) provides how and when the Exchange will halt trading in a series of Index Securities traded pursuant to UTP if the primary listing market halts trading in that series of Shares because the IIV or the index value applicable to that series of Shares is not being disseminated as required. Proposed Phlx Rule 136(e) provides definitions used in Phlx Rule 136.

2. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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 not necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were either solicited or received.

III. **Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange requests accelerated approval for this proposed rule change as the Phlx believes that it is consistent with the protection of investors and the public interest because accelerated approval would enable the Exchange to begin offering the benefits of this proposed rule change for Exchange members and member organizations by allowing them to trade Index Securities immediately and should increase competition for Index Securities by allowing, pursuant to Rule 19b-4(e), another trading venue for trading Index Securities.

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-Phlx-2007-07 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-Phlx-2007-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission’s Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Phlx. 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-Phlx-2007-07 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.\(^{21}\)

Nancy M. Morris
Secretary

\(^{21}\) 17 CFR 200.30-3(a)(12).
Exhibit 4

Double underlining indicates additions to the language originally filed in SR-Phlx-2007-07; braces indicate deletions from the language originally added in SR-Phlx-2007-07; single underlining indicates additions from the current text and brackets indicate deletions from the current text.

Rule 136.

Trading Halts in Certain Exchange Traded Funds

(a)-(b) No Change

(c) The Exchange will halt trading in all Derivative Securities Products if the circuit breaker parameters of Phlx Rule 133 have been reached. In exercising its discretion to halt or suspend trading in a Derivative Securities Product pursuant to Phlx Rule 164(a), the Exchange may consider factors such as the extent to which trading in the underlying securities is not occurring or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, in addition to other factors that may be relevant. In particular, when the Exchange is the listing market for a Derivative Securities Product, if the Required Value applicable to that Derivative Securities Product is not being calculated and disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Required Value occurs. If the interruption to the dissemination of the Required Value persists past the trading day in which it occurred the Exchange will halt trading no later than the beginning of the trading day following the interruption.

(d) Trading Halts for Trading of Certain Derivative Securities Products on XLE Pursuant to Unlisted Trading Privileges

(1) During Pre Market Session. If a Derivative Securities Product begins trading on XLE in the Pre Market Session and subsequently a temporary interruption occurs in the calculation or wide dissemination of an applicable Required Value, XLE may continue to trade the Derivative Securities Product for the remainder of the Pre Market Session.

(2) During Core Session. During the Core Session, if a temporary interruption occurs in the calculation or wide dissemination of an applicable Required Value, and the listing market halts trading in the Derivative Securities Product, Phlx, upon notification by the listing market of a halt due to such temporary interruption, also shall immediately halt trading in the Derivative Securities Product on XLE.

(3) Post Market Session and Next Trading Day.
If an applicable Required Value continues not to be calculated or widely disseminated after the close of the Core Session, XLE may trade the Derivative Securities Product in the Post Market Session only if the listing market traded the Derivative Securities Product until the close of its regular trading session without a halt.

If an applicable Required Value continues not to be calculated or widely disseminated as of the beginning of the Pre Market Session on the next trading day, XLE shall not commence trading of the Derivative Securities Product in the Pre Market Session that day. If an interruption in the calculation or wide dissemination of an applicable Required Value continues, XLE may resume trading in the Derivative Securities Product only if calculation and wide dissemination of the applicable Required Value resumes or trading in the Derivative Securities Product resumes in the listing market.

For purposes of this Rule:

1. “Derivative Securities Product” means a series of Trust Shares, Index Fund Shares or Index-Linked Securities (Phlx Rule 803(i), (l) and (n), respectively).

2. “Required Value” shall mean (i) the value of any index underlying a Derivative Securities Product, and (ii) the Intraday Indicative Value (as defined in Rule 803).

Rule 803 Criteria for Listing – Tier I

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(a)-(m) No Change.

(n) Index-Linked Securities

Index-linked securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes. Such securities may or may not provide for the repayment of the original principal investment amount. The Exchange may submit a rule filing pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 to permit the listing and trading of index-linked securities that do not otherwise meet the standards set forth below in paragraphs (1) through (11). The Exchange will consider for listing and trading pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934, index-linked securities provided:

1. Both the issue and the issuer of such security meet the criteria set forth above in (f), except that the minimum public distribution shall be 1,000,000 units with a minimum of 400 public holders, except, if traded in thousand dollar
denominations, then no minimum number of holders.} The minimum public distribution and minimum public shareholders requirement will not be applicable to an issue traded in thousand dollar denominations. In addition, the minimum public shareholders requirement will not apply if the securities are redeemable at the option of the holders thereof on at least a weekly basis.

(2) The issue has a minimum term of one (1) year but not greater than thirty (30) years.

(3) The issue must be the non-convertible debt of the issuer.

(4) The payment at maturity may or may not provide for a multiple of the positive performance of an underlying index or indexes; however, in no event will payment at maturity be based on a multiple of the negative performance of an underlying index or indexes.

(5) The issuer will be expected to have a minimum tangible net worth in excess of $250,000,000, and to otherwise substantially exceed the earnings requirements set forth in Rule 803(a)(2). In the alternative, the issuer will be expected: (A) to have a minimum tangible net worth of $150,000,000 and to otherwise substantially exceed the earnings requirement set forth in Rule 803(a)(2), and (B) not to have issued securities where the original issue price of all the issuer's other index-linked note offerings (combined with index-linked note offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the issuer's net worth.


(7) Initial Listing Criteria—Each underlying index is required to have at least ten (10) component securities. In addition, the index or indexes to which the security is linked shall either (1) 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 (2) the index or indexes meet the following criteria:

(A) 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;

(B) 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;

(C) 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;

(D) 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);

(E) 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 Rule 1009;

(F) All component securities shall be either (A) securities (other than foreign country securities and American Depository Receipts ("ADRs")) that are (i) issued by a Securities Exchange Act of 1934 reporting company which is listed on a national securities exchange and an NMS Stock or (B) be 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 or parties to comprehensive surveillance sharing agreements with the Exchange will not in the aggregate represent more than 20% of the dollar weight of the index. Each component security shall be a 1934 Act reporting company which is listed on a national securities exchange; and

(G) Foreign country securities or American Depository Receipts ("ADRs") that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 20% of the weight of the index.

(8) 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 (7) 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) the total number of components in the index may not increase or decrease by more than 33-1/3% from the number of components in the index at the time of its initial listing, and in no event may 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 an index-linked security that is listed pursuant to paragraph (7)(A)(1) above, 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:

(i) if the aggregate market value or the principal amount of the securities publicly held is less than $400,000;

(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 during the time the security is traded on the Exchange; 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.

(9) Index Methodology and Calculation—(A) There must be disseminated for each series of Index-linked security an estimate, updated at least every 15 seconds, of the value of a unit of each series (the "Intraday Indicative Value"). Each index will be calculated based on either a capitalization, modified capitalization, price, equal-dollar or modified equal-dollar weighting methodology. (B) Indexes based upon the equal-dollar or modified equal-dollar weighting method will be rebalanced at least quarterly. (C) If the index is maintained by a broker-dealer, the broker-dealer shall erect a "firewall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer. (D) The current value of an index will be widely disseminated at least every 15 seconds by one or more major market data vendors or over the consolidated tape. (E) If the value of an index-linked security is based on more than one (1) index, then the composite value of such indexes must be widely disseminated at least every 15 seconds. (F) Any advisory committee, supervisory board, or similar entity that advises an Index Licensor or Administrator or a major market data vendor or that makes decisions on 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. An Index Licensor or Administrator includes any person who licenses to the Exchange the right to use an index or portfolio that is the basis for determining the inclusion and relative representation of an index-linked securities’ component stocks, or any trademark or service mark associated with such an index or portfolio; collects, calculates, compiles, reports and/or maintains such an index or portfolio, or index and index-linked securities information relating to such an index; provides facilities for the dissemination of index and index-linked securities information; and/or is responsible for any of the activities described above.

(10) Surveillance Procedures. The Exchange will implement written surveillance procedures for index-linked securities, including adequate comprehensive surveillance sharing agreements for non-U.S. securities, as applicable.

(11) Index-linked securities will be treated as equity instruments.