

manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest, because the proposed rule change modifies the Exchange's ANTE system to systematically prevent a specialist from trading ahead of public customer orders except in those limited circumstances that are enumerated in the proposed rule.

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,<sup>16</sup> for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** as the proposal does not significantly affect the protection of investors or the public interest, and does not impose any significant burden on competition. The Commission notes that the proposed rule change codifies the system changes made in response to certain undertakings made by the Amex.<sup>17</sup> Moreover, the Commission believes that granting accelerated approval to this proposed rule change will allow these changes to be effective without delay and to remain in effect during the transition to the ABC program.<sup>18</sup>

## V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>19</sup> that the proposed rule change (SR-Amex-2007-46), as amended, be, and is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56969; File No. SR-Amex-2007-53]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3 Thereto, and Notice of Amendment No. 3 to the Proposed Rule Change Relating to the Listing and Trading of the GreenHaven Continuous Commodity Index Fund

December 14, 2007.

On May 29, 2007, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> list and trade shares ("Shares") of the GreenHaven Continuous Commodity Index Fund ("Fund") pursuant to Commentary .07 to Amex Rule 1202. On July 31, 2007, Amex filed Amendment No. 1 to the proposed rule change, and on November 16, 2007, Amex filed Amendment No. 2 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on November 26, 2007 for a 15-day comment period.<sup>3</sup> The Commission did not receive any comments regarding the proposal. On December 13, 2007, Amex filed Amendment No. 3 to the proposed rule change.<sup>4</sup> This order approves the proposed rule change, as modified by Amendment Nos. 1, 2, and

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

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

<sup>3</sup> See Securities Exchange Act Release No. 56802 (November 16, 2007), 72 FR 65994 ("Notice").

<sup>4</sup> Amendment No. 3 would amend the proposed rule change by: (a) Clarifying that only Reuters determines the composition of the Index (defined *infra*), and stating that Reuters: (i) considers information about changes to the Index and related matters to be potentially market-moving, material, and confidential; and (ii) has policies and procedures in place to ensure to prevent the use and dissemination of such information; (b) stating that the Web sites for the Fund and/or the Exchange will disseminate information the information discussed *infra* (including the composition of the portfolio of the Fund) to everyone at the same time; (c) adding information concerning halting of trading in the Shares; (d) adding information about applicable existing rules that would govern specialists' potential conflicts of interest; and (e) stating that the Information Circular (described *infra*) would discuss the regulatory jurisdiction over the physical trading of commodities or the futures contracts on which the value of the Shares is based, and that there is no regulated source of last sale information regarding physical commodities.

The text of Amendment No. 3 to the proposed rule change is available at the Commission's Public Reference Room, at the Exchange, and at <http://www.amex.com>.

3 thereto, on an accelerated basis. Simultaneously, the Commission is providing notice of and soliciting comments from interested persons regarding Amendment No. 3.

## I. Description

As described in the Exchange's proposal,<sup>5</sup> the Fund's primary investment objective is to reflect the performance of the Continuous Commodity Total Return Index (the "Index" or "CCI-TR"), over time, less the expenses of the operations of the Fund and the Master Fund. The Master Fund will invest in a portfolio of exchange-traded futures ("Commodity Futures Contracts") on the commodities comprising the Index.<sup>6</sup>

GreenHaven Commodity Services LLC, a Delaware limited liability company, will serve as Managing Owner of the Fund and the Master Fund. The Managing Owner will serve as the commodity pool operator and commodity trading advisor of the Fund and the Master Fund. The Managing Owner is registered as a commodity pool operator and commodity trading advisor with the Commodity Futures Trading Commission ("CFTC") and with the National Futures Association ("NFA").<sup>7</sup>

## II. Commission Findings and Accelerated Approval

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>8</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>9</sup> which requires that the rules of an exchange be designed, among other things, to promote just and

<sup>5</sup> Substantially all of the assets of the Fund will be invested in the Master Fund. For a more detailed description of the Fund and Master Fund, including their structure, holdings, applicable exchange listing and trading rules, disclosure of pricing information, surveillance, and other regulation, see Notice at 65997-66001. Terms not otherwise defined herein have the same meaning as the meaning given in the Notice.

<sup>6</sup> For information regarding the Commodity Futures Contracts, see Notice at 65996-65997.

<sup>7</sup> As a registered commodity pool operator and commodity trading advisor with respect to both the Fund and the Master Fund, the Managing Owner is required to comply with various regulatory requirements under the Commodity Exchange Act and the rules and regulations of the CFTC and the NFA, including investor protection requirements, antifraud prohibitions, disclosure requirements, and reporting and recordkeeping requirements.

<sup>8</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>16</sup> 15 U.S.C. 78s(b)(2).

<sup>17</sup> See Securities Exchange Release No. 55507 (March 22, 2007).

<sup>18</sup> See *supra* note 10 and accompanying text.

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>20</sup> 17 CFR 200.30-3(a)(12).

equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,<sup>10</sup> which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The Exchange represents that futures contract quotes and last sale information for the Commodity Futures Contracts are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represents that complete real-time data for the Commodity Futures Contracts is available by subscription from Reuters and Bloomberg. The relevant futures exchanges also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites. The specific contract specifications for each Commodity Futures Contract are also available from the various futures exchanges on their Web sites as well as other financial informational sources. Further, the Web sites for the Fund and/or the Exchange, which are publicly accessible at no charge, will disseminate the following information to everyone at the same time: (a) The current NAV per Share daily and the prior business day's NAV per Share and the reported closing price; (b) the mid-point of the bid-ask price in relation to the NAV per Share as of the time it is calculated (the "Bid-Ask Price"); (c) calculation of the premium or discount of such price against the NAV per Share; (d) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters; (e) the Prospectus; (f) the composition of the portfolio of the Fund; and (g) other applicable quantitative information.

The Commission believes that the proposal to list and trade Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately. The Commission notes that the Exchange will obtain from the Fund, prior to listing the Shares, a

representation that the NAV per Share will be calculated daily and made available to all market participants at the same time. In addition, as mentioned above, the Exchange represents that the Web site disclosure of the portfolio composition of the Fund will be made to all market participants at the same time. Moreover, the Exchange states that: (1) Only Reuters determines the composition of the Index; and (2) Reuters (a) considers information about changes to the Index and related matters to be potentially market-moving, material, and confidential, and (b) has policies and procedures in place to ensure to prevent the use and dissemination of such information. Further, the trading of the Shares would subject to certain conflict of interest provisions set forth in Commentary .07(e) to Amex Rule 1202.<sup>11</sup> Additionally, Commentary .07(g)(3) to Amex Rule 1202 prohibits the specialist in the Shares from using any material nonpublic information received from any person associated with a member, member organization or employee of such person regarding trading by such person or employee in the Index commodities, related futures or options on futures, or any other related derivatives.

The Commission also believes that the Exchange's trading halt rules are reasonably designed to prevent trading in the Shares when transparency is impaired. The Exchange states that trading in the Shares will be halted in the event the market volatility halt parameters set forth in Amex Rule 117 have been reached. The Exchange also states that it will halt trading in the Shares if trading in the Commodity

<sup>11</sup> Specifically, Commentary .07(e) provides that the prohibitions in Rule 175(c) apply to a specialist in the Shares so that the specialist or affiliated person may not act or function as a market maker in an underlying asset, related futures contract or option or any other related derivative. An affiliated person of the specialist consistent with Rule 193 may be afforded an exemption to act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset, related futures or options or any other related derivative. Commentary .07(e) further provides that an approved person of an equity specialist that has established and obtained Exchange approval for procedures restricting the flow of material, non-public market information between itself and the specialist member organization, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Commentary .07(e) to Rule 1202 also ensures that specialists handling the Shares provide the Exchange with all the necessary information relating to their trading in physical assets or commodities, related futures contracts and options thereon or any other derivative.

Futures Contracts is halted or suspended. Additionally, if the value of the Index or the Indicative Fund Value is not being disseminated on at least a 15-second basis during the hours the Shares trade on the Exchange, the Exchange may halt trading during the day in which the interruption to the dissemination of the value of the Index or the Indicative Fund Value occurs. If the interruption to the dissemination of the value of the Index or the Indicative Fund 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. Further, with respect to a halt in trading that is not specified above, the Exchange may consider other relevant factors and the existence of unusual conditions or circumstances that may be detrimental to the maintenance of a fair and orderly market.

The Commission further believes that the trading rules and procedures to which the Shares will be subject pursuant to this proposal are consistent with the Act. The Exchange has represented that the Shares are equity securities subject to Amex's rules governing the trading of equity securities.

In support of this proposal, the Exchange has made the following representations:

(1) The Exchange's surveillance procedures are adequate to properly monitor the trading of the Shares. Specifically, Amex will rely on its existing surveillance procedures governing Trust Issued Receipts, Portfolio Depository Receipts and Index Fund Shares. The Exchange states that it currently has in place comprehensive surveillance sharing agreements with the InterContinental Exchange, the London Metals Exchange, and the New York Mercantile Exchange for the purpose of providing information in connection with trading in or related to futures contracts traded on their respective exchanges comprising the Indexes. The Exchange also notes that the Chicago Board Options Exchange, Chicago Mercantile Exchange, and New York Board Of Trade are members of the Intermarket Surveillance Group. As a result, the Exchange asserts that market surveillance information is available from relevant futures exchanges, if necessary, due to regulatory concerns that may arise in connection with the Commodity Futures Contracts.

(2) Prior to the commencement of trading, the Exchange will inform its members and member organizations in an Information Circular regarding the prospectus delivery requirements

<sup>10</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

applicable to the Shares. The Information Circular also will highlight the special risks and characteristics of the Fund and Shares, as well as applicable Exchange rules. In addition, the Information Circular will also reference the fact that there is no regulated source of last sale information regarding physical commodities and discuss the relevant regulatory jurisdiction over the trading of physical commodities or the futures contracts on which the value of the Shares is based. This approval order is based on the Exchange's representations.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> for approving the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, prior to the 30th day after the date of publication of notice in the **Federal Register**. Amendment No. 3 made only minor changes to the overall proposal, which was subject to a 15-day comment period.<sup>13</sup> The Commission notes that the present proposal, as amended, is similar to prior proposals that the Commission has approved,<sup>14</sup> and is consistent with current Amex listing requirements. The Commission does not believe that the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, raises any novel regulatory issues. Consequently, the Commission believes that it is appropriate to permit investors to benefit from these additional investment choices without delay. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,<sup>15</sup> to approve the proposal, as modified by Amendment Nos. 1, 2, and 3, on an accelerated basis.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 3, including whether it is consistent with the Act. Comments may be submitted by any of the following methods:

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> As mentioned above, the Commission did not receive any comments regarding the proposed rule change and Amendment Nos. 1 and 2 following publication in the **Federal Register**.

<sup>14</sup> See, e.g., Securities Exchange Act Release No. 55632 (April 13, 2007), 72 FR 19987 (April 20, 2007) (SR-Amex-2006-112) (approving the listing and trading of the United States Natural Gas Fund, LP); Securities Exchange Act Release No. 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (SR-Amex 2005-127) (approving the listing and trading of the United States Oil Fund, LP); and Securities Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (SR-Amex 2005-059) (approving the listing and trading of the DB Commodity Index Tracking Fund).

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

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2007-53 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-Amex-2007-53. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2007-53 and should be submitted on or before January 4, 2008.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>16</sup> that the proposed rule change (SR-Amex-2007-53), as modified by Amendment Nos. 1, 2, and 3 thereto, be, and it hereby is, approved on an accelerated basis.

<sup>16</sup> 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56948; File No. SR-BSE-2007-52]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Fees and Charges

December 12, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 30, 2007, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The BSE is proposing to amend the Fee Schedule of the Boston Options Exchange ("BOX"). The proposed amendment will remove the Minimum Activity Charge ("MAC") from the Fee Schedule of the BOX. The proposed amendment also will increase the number of options classes that will participate in the Liquidity Make or Take Pricing Structure ("Make or Take"). The text of the proposed rule change is available at BSE's principal office, the Commission's Public Reference Room, and <http://www.bostonstock.com>.

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

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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