

the calculation of an equity option's net delta would enable eligible market participants to more fully realize the benefit of the delta based equity hedge exemption. The proposed delta-based index hedge exemption would be substantially similar to the delta-based equity hedge exemption under ISE Rule 413. Also, the Commission has previously stated its support for recognizing options positions hedged on a delta neutral basis as properly exempted from position limits.²⁹

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.

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

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³⁰ and Rule 19b-4(f)(6) thereunder.³¹

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.³² However, Rule 19b-4(f)(6)(iii)³³ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that

waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it has approved a substantially similar proposal filed by the Chicago Board Options Exchange, Incorporated,³⁴ and therefore believes that no significant purpose is served by a 30-day operative delay. For these reasons, the Commission designates the proposed rule change to be operative upon filing with the Commission.³⁵

At any time within 60 days of the filing of such proposed rule change the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

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-ISE-2010-97 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-ISE-2010-97. 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 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-ISE-2010-97 and should be submitted on or before November 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63073, File No. SR-MSRB-2010-07]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to Rule G-37, on Political Contributions and Prohibitions on Municipal Securities Business

October 12, 2010.

I. Introduction

On August 25, 2010, the Municipal Securities Rulemaking Board ("MSRB"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change which consists of an interpretive notice regarding Rule G-37, on political contributions and prohibitions on municipal securities business. The proposed rule change was published for comment in the **Federal Register** on September 9, 2010.³ The

²⁹ See Securities Exchange Act Release No. 40594 (October 23, 1998), 63 FR 59362, 59380 (November 3, 1998) (adopting rules relating to OTC Derivatives Dealers).

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4(f)(6).

³² 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

³³ *Id.*

³⁴ See Securities Exchange Act Release No. 62190 (May 27, 2010), 75 FR 31826 (June 4, 2010) (SR-CBOE-2010-21). See also Securities Exchange Act Release No. 62504 (July 15, 2010), 75 FR 42797 (July 22, 2010) (SR-PHLX-2010-93).

³⁵ For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 62830 (September 2, 2010), 75 FR 54930 (the "Commission's Notice").

Commission received no comment letters about the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change consists of an interpretive notice regarding Rule G-37, on political contributions and prohibitions on municipal securities business.⁴ Under Rule G-37, certain contributions to elected officials of municipal securities issuers made by brokers, dealers and municipal securities dealers ("dealers"), municipal finance professionals ("MFPs") associated with dealers, and political action committees ("PACs") controlled by dealers and their MFPs ("dealer-controlled PACs")⁵ may result in prohibitions on dealers from engaging in municipal securities business with such issuers for a period of two years from the date of any triggering contributions.

Rule G-37 requires dealers to disclose certain contributions to issuer officials, state or local political parties, and bond ballot campaigns, as well as other information, on Form G-37 to allow public scrutiny of such contributions and the municipal securities business of a dealer. In addition, dealers and MFPs generally are prohibited from soliciting others (including affiliates of the dealer or any PACs) to make contributions to officials of issuers with which the dealer is engaging or seeking to engage in municipal securities business, or to political parties of a state or locality where the dealer is engaging or seeking to engage in municipal securities business. Dealers and MFPs are prohibited from circumventing Rule G-37 by direct or indirect actions through any other persons or means.⁶

⁴ Rule G-37 defines municipal securities business as: (i) The purchase of a primary offering of municipal securities from an issuer on other than a competitive bid basis; (ii) the offer or sale of a primary offering of municipal securities on behalf of an issuer; (iii) the provision of financial advisory or consultant services to or on behalf of an issuer with respect to a primary offering of municipal securities in which the dealer was chosen to provide such services on other than a competitive bid basis; or (iv) the provision of remarketing agent services to or on behalf of an issuer with respect to a primary offering of municipal securities in which the dealer was chosen to provide such services on other than a competitive bid basis.

⁵ The MSRB has previously stated that the matter of control depends upon whether or not the dealer or the MFP has the ability to direct or cause the direction of the management or policies of the PAC (MSRB Question & Answer No. IV. 24—Dealer Controlled PAC).

⁶ Rule G-37(d) provides that no broker, dealer or municipal securities dealer or any municipal finance professional shall, directly or indirectly, through or by any other person or means, do any act which would result in a violation of sections (b) or (c) of the rule. Section (b) relates to the ban on

Due to changes in the financial markets since the adoption of Rule G-37 and recent market turmoil, many dealers have become affiliated with a broad range of other entities in increasingly diverse organizational structures. Some of these affiliated entities (including but not limited to banks, bank holding companies, insurance companies and investment management companies) have formed or otherwise maintain relationships with PACs ("affiliated PACs") and other political organizations, many of which may make contributions to issuer officials. Such relationships raise questions regarding the extent to which affiliated PACs may effectively be controlled by dealers or their MFPs and thereby constitute dealer-controlled PACs whose contributions are subject to Rule G-37. Further, such relationships raise concerns regarding whether the contributions of such affiliated PACs, even if not viewed as dealer-controlled PACs, may be used by dealers or their MFPs to circumvent Rule G-37 as indirect contributions for the purpose of obtaining or retaining municipal securities business. As a result, the MSRB has filed the proposed rule change to provide additional guidance with regard to the potential for affiliated PACs to be viewed as dealer-controlled PACs. A more complete description of the proposal is contained in the Commission's Notice.

The MSRB has requested an effective date for the proposed rule change of sixty days after Commission approval of the proposed rule change.

III. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB⁷ and, in particular, the requirements of Section 15B(b)(2)(C) of the Exchange Act⁸ and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Exchange Act requires, among other things, that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling,

business and Section (c) relates to the prohibition on soliciting and coordinating contributions.

⁷ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78o-4(b)(2)(C).

processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.⁹ The Commission believes that the proposed rule change is consistent with the Exchange Act because it will help to inhibit practices constituting real and perceived attempts to influence the awarding of municipal securities business through contributions made by or through dealer-affiliated PACs. The Commission also believes that the proposed rule change will facilitate dealer compliance with Rule G-37 and Rule G-27, on supervision. The proposal will become effective sixty days after Commission approval of the proposed rule change, as requested by the MSRB.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,¹⁰ that the proposed rule change (SR-MSRB-2010-07), be, and it hereby is, approved.

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

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63076; File No. SR-NYSEArca-2010-79]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change To List and Trade Shares of Cambria Global Tactical ETF

October 12, 2010.

I. Introduction

On August 23, 2010, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares ("Shares") of the Cambria Global Tactical ETF ("Fund") under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the

⁹ *Id.*

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.