

(2) Devote the appropriate resources and personnel to support such alternate net capital treatment and supervision on a consolidated basis, including any additional conditions the Commission may find to be necessary or appropriate in the public interest or for the protection of investors.

In addition, Barclays Capital stated in its letter that, based on a pro-forma net capital computation, it would have in excess of \$6.5 billion in Tentative Net Capital, as defined.

In order to facilitate both a smooth transition of the Lehman assets and liabilities to Barclays Capital and continued oversight of this business, the Commission believes some additional conditions are necessary, as follows:

(1) Until such time as the Commission determines otherwise, Barclays Capital must maintain at least \$6 billion in Tentative Net Capital;

(2) Until such time as the Commission determines otherwise, the basic market risk and credit risk computations for the positions Barclays Capital acquires from Lehman must be done using the modeling infrastructure used by Lehman prior to the transfer of Lehman's assets and liabilities to Barclays Capital; and

(3) Until such time as the Commission determines otherwise, the basic market risk and credit risk computations must be supervised by individuals who fully understand the operation of Lehman's models (including the inputs and techniques unique to Lehman's models) and the securities that Lehman has been permitted to model, and that have at least one year of experience working with Lehman's models. According to Barclays Capital's letter, it has agreed to acquire substantially all personnel of Lehman, such that it should have employees that meet these requirements on its staff to continue to meet this condition for the exemption.

Barclays Capital will need to maintain Tentative Net Capital of at least \$6 billion. By increasing its Tentative Net Capital to at least \$6 billion, Barclays Capital will significantly improve its financial position. In addition, the movement of these accounts from Lehman to Barclays Capital will further protect customers by providing for a seamless transfer of customers' accounts from Lehman to a financially sound broker-dealer. Further, this temporary relief is specific to the business Barclays Capital purchases from Lehman, using models already reviewed and approved by the Commission, and the computations will be performed by persons familiar to Lehman's models and processes. This relief will extend only until the Commission acts on

Barclays Capital's application to compute market and credit risk capital charges pursuant to Appendix E, which Barclays Capital has agreed to submit within 180 days of the bankruptcy court's approval of Barclays Capital's acquisition of Lehman's assets. As such, because of the special nature of Barclays Capital's business, its financial position, and the safeguards it has established for the protection of customers' funds and securities, the Commission finds that approval of this request, subject to the fulfillment by Barclays Capital and its ultimate holding company Barclays Group of these representations and conditions, is appropriate in the public interest or for the protection of investors.

Accordingly,

*It is ordered*, under paragraph (b)(3) of Rule 15c3-1 (17 CFR 240.15c3-1) under the Exchange Act, that Barclays Capital may calculate capital charges for the positions it purchases from Lehman Brothers Inc. using the market risk standards of Appendix E to compute a deduction for market risk on some or all of the positions, instead of the provisions of paragraphs (c)(2)(vi) and (c)(2)(vii) of Rule 15c3-1, and using the credit risk standards of Appendix E to compute a deduction for credit risk on the credit exposures arising from transactions in derivatives instruments, instead of the provision of paragraph (c)(2)(iv) of Rule 15c3-1, subject to the fulfillment by Barclays Capital and Barclays Group of the representations and conditions set forth above.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

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**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 28386; File No. 812-13576]**

### **The Reserve Fund, on Behalf of Two of Its Series, the Primary Fund and the U.S. Government Fund; Order Temporarily Suspending Redemption of Investment Company Shares and Postponing Payment for Investment Company Shares Which Have Been Submitted for Redemption for Which Payment Has Not Been Made Pursuant to Section 22(E)(3) of the Investment Company Act of 1940**

September 22, 2008.

The Reserve Fund (the "Trust" or the "Applicant"), an open-end management investment company registered with the Commission under the Investment

Company Act of 1940 (the "Act"), has filed an application on behalf of two of its series, the Primary Fund and the U.S. Government Fund (the "Funds"), for a temporary order pursuant to section 22(e)(3) of the Act permitting (a) suspension of the right of redemption of their outstanding redeemable securities, and (b) postponement of payment for shares which have been submitted for redemption for which payment has not been made.

Section 22(e) of the Act provides, in relevant part, that no registered investment company shall suspend the right of redemption, or postpone the date of payment upon redemption except "(3) for such \* \* \* periods as the Commission may by order permit for the protection of security holders of the company."

Applicant represents that: (1) The board, including a majority of directors that are not interested persons of the Trust: (a) Determined, on September 17, 2008, that a suspension of redemption is in the best interest of each Fund's shareholders, and (b) determined, on September 17, 2008, that a postponement of payment for shares which have been submitted for redemption for which payment has not been made is in the best interest of each Fund's shareholders, and (c) will create a plan for the orderly liquidation of each Fund's assets to meet redemption requests and for the appropriate payments to each Fund's shareholders, including those whose redemption orders have been received but not yet paid, which plan is subject to Commission supervision; (2) the Funds have suspended sales; and (3) the Funds will make and keep appropriate records surrounding these events.

Based on the representations in the application, including those relating to the current extraordinary market conditions, the Commission finds that the temporary suspension of the right of redemption and postponement of payment for shares which have been submitted for redemption for which payment has not been made by the Funds is necessary for the protection of their security holders.

Accordingly, *it is ordered*, pursuant to section 22(e)(3) of the Act, that the requested exemption from section 22(e) of the Act is granted until the markets are liquid to a degree that enables each Fund to liquidate portfolio securities without impairing the net asset value of each Fund, or the Commission, on its own initiative, rescinds the order granted herein. This order shall be in effect as of September 17, 2008.

By the Commission.

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-22547 Filed 9-24-08; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58606; File No. SR-Amex-2008-72]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the American Stock Exchange LLC Temporarily Suspending the Requirements of Its Rules Concerning the Approval of New Member Organizations in Order To Approve Barclays Capital Inc. Immediately and Provisionally as a New Member Organization

September 19, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 19, 2008, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 Exchange is proposing to temporarily suspend the requirements of Article IV, Section 2 of the Amex Constitution and related Amex rules concerning the approval of new member organizations in order to approve Barclays Capital Inc. (“BCI”) as a new associate member organization, subject

to BCI complying with Exchange rules for a new member organization within 60 days of the date that BCI is provisionally approved.

The text of the proposed rule change is available on the Amex’s Web site at <http://www.amex.com>, the Office of the Secretary, the Amex and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Amex 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 Amex 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes this rule filing to temporarily suspend the requirements of Article IV, Section 2 of the Amex Constitution and related Amex rules concerning the approval of new member organizations in order to immediately approve as an Amex associate member organization BCI, which is the entity acquiring the assets of Lehman Brothers Inc. (“LBI”).<sup>6</sup> The Exchange proposes this temporary suspension on an emergency basis to ensure that BCI will be able to expeditiously complete its proposed acquisition of certain LBI assets and begin operating former LBI business lines by September 22, 2008. This proposed temporary suspension is contingent upon BCI complying with all requirements of a new Amex member organization applicant within 60 days of the date that BCI is provisionally approved as an Amex member organization under this rule filing.

###### a. Background

###### (i) Lehman Files for Bankruptcy

On September 15, 2008, Lehman Brothers Holding Inc. (“Lehman”), after a precipitous decline in its financial condition, filed for bankruptcy protection in the United States Bankruptcy Court for the Southern

District of New York under Chapter 11 of the U.S. bankruptcy code. Lehman is the parent holding company of LBI, which is a registered broker dealer and Amex member organization. Although LBI did not file for bankruptcy protection at that time, Lehman’s Chapter 11 status impacted the ability of LBI to continue operations.

On September 17, 2008, Barclays Bank PLC (“Barclays”), a global financial services provider, announced that it had agreed to acquire the LBI investment banking and capital markets operations and supporting infrastructure for \$1.75 billion (the “proposed acquisition”). As part of the proposed acquisition, Barclays would be acquiring the LBI fixed income and equities sales, trading and research, and investment banking businesses (the “LBI businesses”). Barclays would also be acquiring approximately 10,000 LBI employees, the Lehman headquarters located at 745 Seventh Avenue in New York City, and two data centers located in New Jersey. The proposed acquisition is subject to a number of conditions, including approval by the United States Bankruptcy Court for the Southern District of New York and other regulatory approvals and antitrust review. Moreover, if the proposed acquisition is not completed by September 24, 2008, Barclays may terminate the agreement to acquire LBI businesses.

###### (ii) Barclays Will Transfer LBI Assets to BCI

On September 19, 2008, Barclays announced that certain LBI assets, including its employees and businesses, will be transferred to its wholly-owned subsidiary, BCI. BCI is a registered U.S. broker dealer and FINRA member, but not currently approved as an Amex member organization.

The Exchange understands that LBI will likely file for some form of bankruptcy protection on Friday, September 19, 2008, and thus by the close of business on Friday, LBI will be in the control of a trustee. The Exchange further understands that, subject to approval by the bankruptcy court, as part of the bankruptcy proceeding, LBI assets will be sold to Barclays and transferred to BCI. Accordingly, as early as September 19, 2008, BCI may own and control the LBI businesses.

<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).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> Amex gave the Commission written notice of its intention to file the proposed rule change on September 19, 2008. The Commission reviewed the proposed rule change and gave Amex permission to file the proposed rule change on the same day. Amex asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> LBI also was an associate member organization. “Associate” denotes that the member organization has no floor presence and only accesses the Exchange electronically.