



**Information Circular 09-011**

**Date:** January 28, 2009

**Re: Merrill Lynch & Co., Inc. Index Linked Notes**

The security listed below will commence trading on BATS Exchange, Inc. (the "Exchange") on an unlisted trading privileges (UTP) basis on January 29, 2009. Please forward this Information Circular to other interested persons within your organization.

<b>Index-Linked Notes</b>	<b>Symbol</b>	<b>CUSIP Number</b>
Merrill Lynch & Co., Inc. Accelerated Return Bear Market Notes Linked to the AMEX Energy Select Sector Index	ICT	59023V100

**Background Information on the Notes**

Merrill Lynch & Co., Inc. (the "Issuer") has issued Accelerated Return Bear Market Notes ("Notes") linked to the AMEX Energy Select Sector Index (the "Index"). The Notes were priced at \$10 each and mature on June 29, 2009.

As more fully set forth in the Prospectus Supplement, each \$10 principal amount of the securities will be deemed a "Unit" for purposes of trading and transfer. There will be no payments or redemptions prior to the maturity date. The Notes are designed for investors who believe that the level of the Index will decrease in value throughout the term of the Notes. The Notes are not principal protected and investors must accept that the return may be less than the \$10 principal amount.

At maturity, investors will receive:

- (1) If the Ending Value is less than or equal to the Starting Value of the Index, investors will receive:

$$\$10 + [\$50 * (\text{Ending Value} - \text{Starting Value})/\text{Starting Value}]$$

Subject to the maximum payment at maturity of \$12.00.

- (2) If the Ending Value is greater than the Starting Value, but equal to or less than the Threshold Value, then investors will receive:

\$10

- (3) If the Ending Value is greater than the Starting Value, then investors will receive the greater of:

a) \$0

b)  $\$10 - \$10 \times [(\text{Ending Value} - \text{Threshold Value})/\text{Starting Value}]$

The Starting Value of the Index equals: 805.73. The Threshold Value equals: 886.3030. The Ending Value of the Index will be determined close to the maturity date.

Please see the prospectus for the Notes for more details regarding the calculations.

It is expected that the market value of the Notes will depend substantially on the value of the Index and may be affected by a number of other interrelated factors including, among other things: the general level of interest rates, the volatility of the Index, the time remaining to maturity, the dividend yield of the stocks comprising the Index, and the credit ratings of the Issuer.

### **Exchange Rules Applicable to Trading in the Shares**

Trading in the Shares on BATS is subject to BATS equity trading rules.

### **Trading Hours**

The Shares will trade on BATS between 8:00 a.m. and 4:00 p.m. ET. Please note that trading in the Shares during the Exchange's pre-opening session may result in additional trading risks which include: (1) that the current underlying indicative value may not be updated during the pre-opening session, (2) the indicative value may not be updated during the pre-opening session, (3) lower liquidity in the pre-opening session may impact pricing, (5) higher volatility in the pre-opening session may impact pricing, (6) wider spreads may occur in the pre-opening session, and (7) because the indicative value is not calculated or widely disseminated during the pre-opening session, an investor who is unable to calculate an implied value for the Shares in that session may be at a disadvantage to market professionals.

### **Suitability**

Trading in the Shares on BATS will be subject to the provisions of Exchange Rule 3.7. Members recommending transactions in the Notes to customers should make a determination that the recommendation is suitable for the customer.

### **Trading Halts**

BATS will halt trading in the Shares of a Fund in accordance with BATS Rule 14.1(c)(4). The grounds for a halt under BATS Rule 14.1(c)(4) include a halt by the primary market because the intraday indicative value of the Fund and/or the value of its underlying index are not being disseminated as required, or a halt for other regulatory reasons. In addition, BATS will stop trading the Shares of a Fund if the primary market de-lists the Fund.

### **Delivery of a Prospectus**

BATS Members should be mindful of applicable prospectus delivery requirements under the federal securities laws with respect to transactions in the Funds. Prospectuses may be obtained through the Funds' website. The prospectus for a Fund does not contain all of the information set forth in the Fund's Registration Statement (including the exhibits to the Registration Statement), parts of which have been omitted in accordance with the rules and regulations of the Securities and Exchange Commission ("SEC" or "Commission"). For further information about a Fund, please refer to its Registration Statement.

In the event that the Funds rely upon an order by the SEC exempting the Shares from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and in the future make available a written product description, BATS Rule 14.1(c)(3) requires that BATS Members provide to all purchasers of Shares a written description of the terms and characteristics of such securities, in a form prepared by the Trust for the Fund, no later than the time a confirmation of the first transaction in the Shares is delivered to such purchaser. In addition, BATS Members shall include such a written description with any sales material relating to the Shares that is provided to customers or the public. Any other written materials provided by a BATS member to customers or the public making specific reference to the Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [*the UTP Derivative Securities*] has been prepared by the [*open-ended management investment company name*] and is available from your broker. It is

recommended that you obtain and review such circular before purchasing [*the UTP Derivative Securities*].”

A BATS member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to BATS member under this rule.

Upon request of a customer, BATS Members also shall provide a copy of the Prospectus.

**This Information Circular is not a statutory prospectus. BATS Members should consult the prospectus for a Fund and the Fund’s website for relevant information.**

Please contact Eric Swanson, 212.378.8523, [eswanson@batstrading.com](mailto:eswanson@batstrading.com), with any inquiries regarding this Information Circular.