



Information Circular 09-041

Date: February 18, 2009

Re: Merrill Lynch & Co., Inc. ETN

Pursuant to Rule 14.1(c)(2) of the Rules of BATS Exchange, Inc. (the "Exchange"), this Information Circular is being issued to advise you that the following securities have been approved for trading on the Exchange as UTP Derivative Securities pursuant to Chapter XIV of the Exchange's Rules.

Security ("Notes")

Symbol

Merrill Lynch & Co., Inc. Capped Leveraged Index Return Notes
Linked to the MSCI Brazil Index

BPF

Commencement of Trading on the Exchange: February 19, 2009

Issuer/Trust: Merrill Lynch & Co., Inc.

Issuer Website: <http://www.totalmerrill.com>

Primary Listing Exchange: NYSE Arca

Primary Exchange Circular: RB-08-279 (November 23, 2008)

The purpose of this information circular is to outline various rules and policies that will be applicable to trading in this new product on the Exchange, as well as to provide certain characteristics and features of the Notes.

Background Information on the Notes

The Issuer has issued Notes linked to the MSCI Brazil Index (the "Index"). The Notes were priced at \$10 each and mature on January 20, 2010.

The Notes are senior, unsecured debt securities of the Issuer that provide a leveraged return for investors, subject to a cap, if the level of the Index increases moderately from the Starting Value to the Ending Value. The Notes do not provide for any interest payment and the maturity payment return is capped. The Notes are not principal protected, therefore investors may receive a maturity payment that is less, and potentially significantly less, than the original public offering price.

Payment at Maturity will equal:

If the Ending Value is greater than the Starting Value, investors will receive:

$$\$10 + [\$10 \times ((\text{Ending Value} - \text{Starting Value}) / \text{Starting Value}) \times 2]$$

Subject to the maximum payment at maturity of \$14.50.

If the Ending Value is less than or equal to the Starting Value, but greater than or equal to the Threshold Value (3,791.835), investors will receive:

\$10

If the Ending Index Value is less than the Threshold Value (3,791.835), investors will receive:

$$\$10 + [\$10 \times ((\text{Ending Value} - \text{Threshold Value}) / \text{Starting Value}) \times 1]$$

The Starting Value of the Index equals: 4,213.15. The Ending Value will be calculated near 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 Notes

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

Trading Hours

The Notes will trade on BATS between 8:00 a.m. and 4:00 p.m. ET.

Please note that trading in the Notes 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, (4) higher volatility in the pre-opening session may impact pricing, (5) wider spreads may occur in the pre-opening session, and (6) 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 Notes in that session may be at a disadvantage to market professionals.

Suitability

Trading in the securities on BATS will be subject to the provisions of Exchange Rule 3.7. Members recommending transactions in the securities to customers should make a determination that the recommendation is suitable for the customer. Members should adopt appropriate procedures for the opening and maintaining of accounts, including the maintaining of records prescribed by any applicable regulatory organization and by the rules and regulations of the Commission.

Trading Halts

BATS will halt trading in the shares of a security 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 security 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 security if the primary market de-lists the security.

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

Please contact Eric Swanson, 212.378.8523, eswanson@batstrading.com, with any inquiries regarding this Information Circular.