

VIA E-MAIL AND FEDERAL EXPRESS

August 23, 2012

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. SR-NYSEArca-2012-28: Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to List and Trade Shares of the JPM XF Physical Copper Trust Pursuant to NYSE Arca Equities Rule 8.201

Dear Ms. Murphy:

NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) submits this letter in connection with the order of the Securities and Exchange Commission (“Commission”) instituting proceedings to determine whether to approve or disapprove a proposed rule change to list and trade shares (“Shares”) of the JPM XF Physical Copper Trust (“Trust”) pursuant to NYSE Arca Equities Rule 8.201 (“Order”).¹ The Exchange would like to comment, in particular, on surveillance procedures that will be implemented in connection with trading in the Shares.

In its Order, the Commission referred to the statement of a commenter on the proposed rule change questioning whether NYSE Arca’s surveillance procedures are adequate to prevent fraudulent and manipulative trading in the Shares.² The Exchange strongly disagrees with statements by the commenter (V&F) regarding surveillance (among other matters), to which the Exchange responded in its June 19, 2012 letter to the Commission.³ While V&F’s statements in the V&F Letter regarding surveillance adequacy are unsubstantiated, this is not surprising, as Exchange surveillance procedures applicable to trading any Exchange-listed products are not generally publicly disclosed, in the interest of protecting the integrity of the surveillance process.

¹ Securities Exchange Act Release No. 67470 (July 19, 2012), 77 FR 43620 (July 25, 2012) (SR-NYSEArca-2012-28). The Commission published notice of the proposed rule change in Securities Exchange Act Release No. 66816 (April 16, 2012), 77 FR 23772 (April 20, 2012) (SR-NYSEArca-2012-28) (“Notice”).

² See Order at note 97 and accompanying text, referring to a letter from Vandenberg & Feliu, LLP (“V&F”), received May 9, 2012 (“V&F Letter”).

³ See letter from Janet McGinness, Executive Vice President and Corporate Secretary, NYSE Markets, to Elizabeth M. Murphy, Secretary, Commission, dated June 19, 2012.

The Exchange notes that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.⁴ These surveillances generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. In addition, FINRA will augment existing surveillances with a product specific review designed to identify potential manipulative trading activity through the use of the creation and redemption process.⁵ NYSE Regulation, Inc. has submitted a description of the new product- specific surveillance to the Commission staff on a confidential basis.

FINRA, on behalf of the Exchange, intends to utilize its existing surveillance procedures applicable to derivative products (including Commodity-Based Trust Shares) to monitor trading in the Shares.⁶ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

Further, NYSE Arca Equities Rule 8.201 sets forth certain restrictions on Equity Trading Permit ("ETP") Holders acting as registered Market Makers in the Shares to facilitate surveillance. Pursuant to NYSE Arca Equities Rules 8.201(g),⁷ 10.2(d), (e) and (f), as appropriate, the Exchange is able to obtain

⁴ Pursuant to a regulatory services agreement, FINRA performs surveillance, investigation, examination and related enforcement functions for the Exchange.

⁵ The creation and redemption process is described in the Notice and the Trust's registration statement on Amendment No. 5 to Form S-1, filed with the Commission on July 12, 2011 (No. 333-170085).

⁶ See note 4, supra.

⁷ NYSE Arca Equities Rule 8.201 (g) ("Market Maker Accounts") provides as follows:

An ETP Holder acting as a registered Market Maker in Commodity-Based Trust Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the Market Maker may have or over which it may exercise investment discretion. No Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

In addition to the existing obligations under Exchange rules regarding the production of books and records, the ETP Holder acting as a Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity

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information regarding trading in the Shares and the underlying copper, copper futures contracts, options on copper futures, or any other copper derivative, through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders that they effect on any relevant market. Commentary .04 of NYSE Arca Equities Rule 6.3 requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

Moreover, the Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges that are members of the ISG, including the COMEX, a division of the CME Group, Inc. The Exchange also has entered into a comprehensive surveillance sharing agreement with the London Metal Exchange that applies with respect to trading in copper. In addition, an individual or firm that is acquiring a large position would also be required to disclose this fact as required by existing securities laws.

In addition to the surveillance procedures referenced above, the Exchange has discretion to halt trading in its listed securities in the interest of promoting a fair and orderly market and protecting the interests of investors. As stated in the Notice, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares, and trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Because the Exchange would be calculating the Intraday Indicative Values ("IIVs") for the Shares (as described in the Notice), the Exchange would monitor IIVs for the Shares, and could suspend trading if the IIVs are not available on at least a 15-second delayed basis, as provided by NYSE Arca Equities Rule 8.201(e)(2).

Very truly yours,



for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.