

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62692; File No. SR-NYSEArca-2010-56)

August 11, 2010

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change to List and Trade Shares of the ETFs Precious Metals Basket Trust

I. Introduction

On June 15, 2010, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) 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 ETFs Precious Metals Basket Trust (“Trust”) pursuant to NYSE Arca Equities Rule 8.201. The proposed rule change was published for comment in the Federal Register on July 8, 2010.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade Shares pursuant to NYSE Arca Equities Rule 8.201, which governs the listing and trading of Commodity-Based Trust Shares. ETFs Services USA LLC is the sponsor of the Trust (“Sponsor”), The Bank of New York Mellon is the trustee of the Trust (“Trustee”), and JPMorgan Chase Bank, N.A. is the custodian of the Trust (“Custodian”).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 62402 (June 29, 2010), 75 FR 39292 (“Notice”).

The Shares represent units of fractional undivided beneficial interest in and ownership of the Trust. The investment objective of the Trust is for the Shares to reflect the performance of the price of physical gold, silver, platinum, and palladium in the proportions held by the Trust, less the expenses of the Trust's operations.⁴

The Exchange deems the Shares to be equity securities, which subjects trading in the Shares to the Exchange's existing rules governing the trading of equity securities, and has represented that trading in the Shares on the Exchange will occur in accordance with NYSE Arca Equities Rule 7.34(a). The Exchange has also represented that it has appropriate rules to facilitate transactions in the Shares during all trading sessions.

Additional information regarding the Trust, the Shares, the Trust's investment objectives, strategies, policies, and restrictions, fees and expenses, creation and redemption of Shares, the Bullion markets, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Notice and in the Registration Statement.⁵

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change to list and trade the Shares of the Fund is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section

⁴ See the registration statement for the Trust on Form S-1, filed with the Commission on April 29, 2010 (No. 333-164769) ("Registration Statement").

⁵ See supra notes 3 and 4.

⁶ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

6(b)(5) of the Act,⁷ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,⁸ which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be disseminated through the facilities of the Consolidated Tape Association. In addition, the Trust's Web site will provide an intraday indicative value ("IIV") per Share,⁹ updated at least every 15 seconds, as calculated by the Exchange or a third party financial data provider, during the Exchange's Core Trading Session (9:30 a.m. to 4:00 p.m. E.T.). The Trust's Web site also will provide the following information: (1) the net asset value ("NAV") of the Trust, on a per Share basis, as calculated each business day by the Sponsor and the mid-point of the bid-ask price¹⁰ at the close of trading in relation to such NAV ("Bid/Ask Price"), and a calculation of the premium or discount of such price against such NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78k-1(a)(1)(C)(iii).

⁹ The IIV is calculated by multiplying the indicative spot price of Bullion by the quantity of Bullion backing each Share as of the last calculation date.

¹⁰ The bid-ask price of the Trust is determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters; (3) the Creation Basket Deposit; (4) the Trust's prospectus, and the two most recent reports to stockholders; and (5) the last sale price of the Shares as traded in the US market. Further, the Exchange will make available over the Consolidated Tape trading volume, closing prices and NAV for the Shares from the previous day. There is a considerable amount of Bullion market information available on public Web sites and through professional and subscription services. For example, investors may obtain on a 24-hour basis Bullion pricing information based on the spot price for an ounce of Bullion from various financial information service providers, such as Reuters and Bloomberg. Reuters and Bloomberg provide at no charge on their Web sites delayed information regarding the spot price of Bullion and last sale prices of Bullion futures, as well as information about news and developments in the Bullion market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on Bullion prices directly from market participants. Meanwhile, other public Web sites provide information on Bullion, ranging from those specializing in precious metals to sites maintained by major newspapers, such as The Wall Street Journal. In addition, the London AM Fix and London PM Fix are publicly available at no charge at or www.thebulliondesk.com.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange states that it will obtain a representation from the Trust that the NAV will be calculated daily and made available to all market participants at the same time.¹¹

¹¹ See e-mail from Timothy J. Malinowski, Senior Director, NYSE Euronext, to Christopher W. Chow, Special Counsel, and Daniel T. Gien, Staff Attorney, Commission, dated July 29, 2010.

Following the initial 12-month period following commencement of trading, the Exchange will consider the suspending trading in Shares or removing Shares from listing if, among other things: (1) the value of the Bullion is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the sponsor, Trust, custodian or the Exchange; (2) the Exchange stops providing a hyperlink on its Web site to any such unaffiliated commodity value; or (3) the IIV is no longer made available on at least a 15-second delayed basis.¹² Under NYSE Arca Equities Rule 7.34(a)(5), if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it must halt trading on the NYSE Marketplace until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. These may include: (1) the extent to which conditions in the underlying Bullion markets have caused disruptions and/or lack of trading; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.¹³

Further, NYSE Arca Equities Rule 8.201 sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Pursuant to NYSE Arca Equities Rule 8.201(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the applicable underlying Bullion, related futures or options on futures, or any other related derivatives.

Commentary .04 of NYSE Arca Equities Rule 6.3 requires an ETP Holder acting as a registered Market Maker in Commodity-Based Trust Shares to establish, maintain and enforce written

¹² See NYSE Arca Equities Rules 8.201(e)(2)(iv), (v).

¹³ See NYSE Arca Equities Rule 7.12.

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.

In support of this proposal, the Exchange has made representations, including the following:

- (1) The Shares will be subject to the initial and continued listing criteria under NYSE Arca Equities Rule 8.201.
- (2) The Exchange's surveillance 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.¹⁴ In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members of the ISG.¹⁵
- (3) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to

¹⁴ Pursuant to NYSE Arca Equities Rule 8.201(g), the Exchange is able to obtain information regarding trading in the Bullion, Bullion futures contracts, options on Bullion futures, or any other Bullion derivative, by ETP Holders acting as registered Market Makers.

¹⁵ The Exchange notes that the New York Mercantile Exchange, of which the COMEX is a division, is an ISG member; however, the Tokyo Commodity Exchange, Inc. ("TOCOM") is not an ISG member and the Exchange does not have in place a comprehensive surveillance sharing agreement with such market.

learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of Bullion trading during the Core and Late Trading Sessions after the close of the major world Bullion markets; and (6) trading information.

This approval order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change (SR-NYSEArca-2010-56) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon
Deputy Secretary

¹⁶ 15 U.S.C. 78f(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).