

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54770; File No. SR-Amex-2006-76)

November 16, 2006

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendments No. 1 and 2 Thereto Relating to the Listing and Trading of the DB Multi-Sector Commodity Trust

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 16, 2006, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Amex. The Amex filed Amendment No. 1 to the proposal on October 12, 2006.<sup>3</sup> The Amex filed Amendment No. 2 to the proposal on November 3, 2006.<sup>4</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 pursuant to Commentary .07 to Amex Rule 1202 proposes to list and trade shares of: (1) the PowerShares DB Energy Fund (the “Energy Fund”); (2) the PowerShares DB Oil Fund (the “Oil Fund”); (3) the PowerShares DB Precious Metals Fund (the “Precious Metals

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Amendment No. 1 (“Amendment No. 1”) supersedes and replaces the original filing in its entirety.

<sup>4</sup> In Amendment No. 2 (“Amendment No. 2”), Amex made clarifying changes to, including among others, details regarding the dissemination of the indicative value, and net asset value of the Investment Shares.

Fund”); (4) the PowerShares DB Gold Fund (the “Gold Fund”); (5) the PowerShares DB Silver Fund (the “Silver Fund”); (6) the PowerShares DB Base Metals Fund (the “Base Metals Fund”); and (7) the PowerShares DB Agriculture Fund (the “Agriculture Fund”) (collectively the “Funds”).

The text of the proposed rule change is available on the Amex’s Web site at <http://www.amex.com>, at the principal office of 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

Pursuant to Commentary .07 to Amex Rule 1202, the Exchange may approve for listing and trading Trust Issued Receipts (“TIRs”) investing in shares or securities (the “Investment Shares”) that hold investments in any combination of securities, futures contracts, options on futures contracts, swaps, forward contracts, commodities, or portfolios of investments. The Amex proposes to list for trading the shares of: (1) the Energy Fund (the “Energy Fund Shares”); (2) the Oil Fund (the “Oil Fund Shares”); (3) the Precious Metals Fund (the “Precious Metals Fund Shares”); (4) the Gold Fund (the “Gold Fund Shares”); (5) the Silver Fund (the

“Silver Fund Shares”); (6) the Base Metals Fund (the “Base Metals Fund Shares”); and (7) the Agriculture Fund (the “Agriculture Fund Shares”) (collectively, the “Shares”), which represent beneficial ownership interests in the corresponding Master Fund’s net assets, consisting solely of the common units of beneficial interests of the DB Energy Master Fund, the DB Oil Master Fund, the DB Precious Metals Master Fund, the DB Gold Master Fund, the DB Silver Master Fund, the DB Base Metals Master Fund, and the DB Agriculture Master Fund, respectively (collectively, the “Master Funds”).

The DB Multi-Sector Commodity Trust (the “Trust”) is organized as a Delaware statutory trust with each of the Funds representing a series of the Trust. DB Multi-Sector Commodity Master Trust (the “Master Trust”) is also organized as a Delaware statutory trust with each of the Master Funds representing a series of the Master Trust.

The Master Funds will hold primarily<sup>5</sup> futures contracts<sup>6</sup> on the commodities comprising the: (1) Deutsche Bank Liquid Commodity Index – Optimum Yield Energy Excess Return™ (“Energy Index”); (2) Deutsche Bank Liquid Commodity Index – Optimum Yield Crude Oil Excess Return™ (“Oil Index”); (3) Deutsche Bank Liquid Commodity Index – Optimum Yield Precious Metals Excess Return™ (“Precious Metals Index”); (4) Deutsche Bank Liquid

<sup>5</sup> Other holdings of the Master Fund will include cash and U.S. Treasury securities for deposit with futures commission merchants as margin and other high credit quality short-term fixed income securities.

<sup>6</sup> Following is a list of futures contracts in which the respective Master Fund may invest and the exchanges on which they trade: Energy Index – sweet light crude (New York Mercantile Exchange (“NYMEX”)); heating oil (NYMEX), Brent crude oil (IntercontinentalExchange, Inc. (“ICE Futures”)), RBOB gasoline (NYMEX), natural gas (NYMEX); Oil Index – sweet light crude (NYMEX); Precious Metals Index – gold (New York Commodities Exchange (“COMEX”), a division of NYMEX), silver (COMEX); Gold Index – gold (COMEX); Silver Index – silver (COMEX); Base Metals Index – aluminum (London Metals Exchange (“LME”)), zinc (LME), copper-grade A (LME); Agriculture Index – corn (Chicago Board of Trade (“CBOT”)), wheat (CBOT), soybeans (CBOT), sugar (Board of Trade of the City of New York (“NYBOT”)).

Commodity Index – Optimum Yield Gold Excess Return™ (“Gold Index”); (5) Deutsche Bank Liquid Commodity Index – Optimum Yield Silver Excess Return™ (“Silver Index”); (6) Deutsche Bank Liquid Commodity Index – Optimum Yield Industrial Metals Excess Return™ (“Base Metals Index”); and (7) Deutsche Bank Liquid Commodity Index – Optimum Yield Agriculture Excess Return™ (“Agriculture Index”) (collectively, the “Indexes”), as the case may be. Each of the Funds and each of the Master Funds are commodity pools operated by DB Commodity Services LLC (the “Managing Owner”). The Managing Owner is registered as a commodity pool operator (“CPO”)<sup>7</sup> and commodity trading advisor (“CTA”)<sup>8</sup> with the Commodity Futures Trading Commission (“CFTC”) and a member of the National Futures Association (“NFA”).

The Managing Owner will serve as the CPO and CTA of each of the Funds and each of the Master Funds. The Managing Owner of the Master Funds will manage the futures contracts in order to track the performance of the respective Index. The Master Funds will include U.S.

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<sup>7</sup> The Exchange states that a CPO means any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility, except that the term does not include such persons not within the intent of the definition of the term as the Commodity Futures Trading Commission may specify by rule, regulation, or order.

<sup>8</sup> Subject to certain exclusions set forth in Section 1a(6) of the Commodity Exchange Act, the Exchange states that the term CTA means any person who: (1) for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in (a) any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility; (b) any commodity option authorized under Section 4c; or (c) any leverage transaction authorized under Section 19; or (2) for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the activities referred to in clause (1).

Treasury securities for margin purposes and other high credit quality short-term fixed income securities. The Master Funds are not “actively managed,” which typically involves effecting changes in the composition of a portfolio on the basis of judgment relating to economic, financial and market considerations with a view to obtaining positive results under all market conditions, but instead, seeks to track the performance of their respective Indexes.

The Exchange submits that Commentary .07 to Amex Rule 1202 accommodates the listing and trading of the Shares.

### **Introduction**

The Exchange recently received approval to list and trade shares of the DB Commodity Index Tracking Fund<sup>9</sup> and the PowerShares DB G10 Harvest Fund (formerly the DB Currency Index Value Fund)<sup>10</sup> pursuant to this Commentary .07 to Amex Rule 1202. In the instant proposal, the Exchange proposes to list and trade the Shares pursuant to such Rules.

Under Commentary .07(c) to Amex Rule 1202, the Exchange may list and trade TIRs investing in Investment Shares such as the Shares. The Shares will conform to the initial and continued listing criteria under Commentary .07(d) to Amex Rule 1202. Each of the Funds will be formed as a separate series of a Delaware statutory trust pursuant to a Certificate of Trust and a Declaration of Trust and Trust Agreement among Wilmington Trust Company, as trustee, the Managing Owner and the holders of the Shares.<sup>11</sup>

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<sup>9</sup> See Securities Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (SR-Amex-2005-059).

<sup>10</sup> See Securities Exchange Act Release No. 54450 (September 14, 2006), 71 FR 55230 (September 21, 2006) (SR-Amex-2006-44).

<sup>11</sup> The Trust and the Funds will not be subject to registration and regulation under the Investment Company Act of 1940 (the “1940 Act”).

## Description of Indexes

The Energy Index is intended to reflect the performance of the energy sector and is comprised of sweet light crude oil, heating oil, brent crude oil, RBOB gasoline, and natural gas. The Oil Index is intended to reflect the performance of crude oil and is comprised of sweet light crude oil.<sup>12</sup> The Precious Metals Index is intended to reflect the performance of the precious metals sector and is comprised of gold and silver. The Gold Index is intended to reflect the performance of gold and is comprised of gold. The Silver Index is intended to reflect the performance of silver and is comprised of silver. The Base Metals Index is intended to reflect the performance of the base metals sector and is comprised of aluminum, zinc, and copper-grade A. The Agriculture Index is intended to reflect the performance of the agriculture sector and is comprised of corn, wheat, soybeans, and sugar.

The sponsor of the Indexes is Deutsche Bank AG London (the “Index Sponsor”).<sup>13</sup>

The Indexes are calculated by the Index Sponsor during the trading day on the basis of the most recently reported trade price for the relevant futures contract relating to the respective Index commodities and then applying such prices to the relevant notional amount. The market

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<sup>12</sup> The Exchange notes that the commodities industry utilizes single-component indices because the purpose of a commodities index is generally to reflect the current market price of the index components by including the front-month futures contract with respect to each component, necessitating a continuous monthly roll-over to a new front-month contract. As the underlying commodity is not static but rather is represented by constantly changing contracts, a single commodity index actually contains a changing series of components and is regarded by commodities industry professionals as a valuable tool in tracking the change in the value of the underlying commodity over time.

<sup>13</sup> The Index Sponsor has in place procedures to prevent the improper sharing of information between different affiliates and departments. Specifically, an information barrier exists between the personnel within DB London that calculate and reconstitute the Indexes and other personnel of the Index Sponsor, including but not limited to the Managing Owner, sales and trading, external or internal fund managers, and bank personnel who are involved in hedging the bank’s exposure to instruments linked to the

value of each Index commodity during the trading day will be equal to the number of futures contracts of each Index commodity represented in an Index multiplied by the real-time futures contract price. As described below in the section “Dissemination of the Index and Underlying Futures Contract Information,” the Indexes will be calculated and disseminated at least every 15 seconds from 9:21 a.m. to 4:15 p.m Eastern Time (“ET”) during the time the Shares trade on Amex.<sup>14</sup> The closing level of each Index is calculated by Deutsche Bank AG London on the basis of closing prices for the applicable futures contracts relating to the respective Index commodities and applying such prices to the relevant notional amount. The futures contract of each applicable Index commodity that is closest to expiration is used in the calculation of the respective Indexes. While the Index is calculated and disseminated by the Index Sponsor a number of independent sources may verify both the intraday and closing Index values and the Index Sponsor uses independent feeds from Reuters to verify all pricing information used to calculate the Index.

The Indexes include provisions for the replacement of expiring futures contracts. This replacement takes place over a period of time in order to lessen the impact on the market for the respective Index commodity. The replacement of a particular existing futures contract at any point in time is based on whether the existing contract is within a predetermined number of months of its expiration and the historical liquidity of the particular commodity as it approaches expiration. The new futures contract will be the contract with the maximum implied roll yield

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Indexes, in order to prevent the improper sharing of information relating to the composition of the Indexes.

<sup>14</sup> See Telephone Conference between Jeffrey Burns, Associate General Counsel, Amex; Sudhir Bhattacharyya, Assistant General Counsel, Amex; and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on November 15, 2006 (“Telephone Conference”)

over the next 13 months. The maximum implied roll yield is determined by inputting the prices of the contracts expiring in future months and the price of the existing contract into a formula that compares the prices and accounts for the time value associated with those prices based on the time-to-expiration of each contract. If two (2) contracts for a particular commodity have the same maximum implied roll yield, the contract with the maximum yield and minimum time to expiration will be selected. Once the contract is selected, the monthly index roll will unwind the old futures contract and enter a position in the new contract. This will occur between the 2<sup>nd</sup> and 6<sup>th</sup> business days of the month. Rebalancing occurs annually in November during the first week in the case of futures contracts relating to all Index commodities.

The Exchange states that the Indexes, other than the Oil Index, the Gold Index and the Silver Index, are adjusted annually in November to rebalance their composition in order to ensure that for each Index, the respective Index Commodities are weighted in the same proportion (the “Base Weight”) that such Index Commodities were weighted on the applicable base date (the “Base Date”). The Indexes have been calculated back to their respective Base Dates. On the Base Date, the respective closing level for each Index was 100.

The following table reflects the index base weights and Base Date of each Index:

<u>Index Commodity by Index</u>	<u>Base Weight (%)</u>	<u>Base Date</u>
<b>Energy Index</b>		June 4, 1990
Sweet Light Crude Oil	22.5	
Heating Oil	22.5	
Brent Crude Oil	22.5	
RBOB Gasoline	22.5	

Natural Gas	10.0	
<b>Energy Index Closing Level</b>		100
<b>Oil Index</b>		December 2, 1988
Sweet Light Crude Oil	100	
<b>Oil Index Closing Level</b>		100
<b>Precious Metals Index</b>		December 2, 1988
Gold	80.0	
<u>Index Commodity by Index</u>	<u>Base Weight (%)</u>	<u>Base Date</u>
Silver	20.0	
<b>Precious Metals Index Closing Level</b>		100
<b>Gold Index</b>		December 2, 1988
Gold	100	
<b>Gold Index Closing Level</b>		100
<b>Silver Index</b>		December 2, 1988
Silver	100	
<b>Silver Index Closing Level</b>		100
<b>Base Metals Index</b>		September 3, 1997

Aluminum	33.3	
Zinc	33.3	
Copper-Grade A	33.3	
<b>Base Metals Index Closing Level</b>		100
<b>Agriculture Index</b>		December 2, 1988
Corn	25.0	
Wheat	25.0	
Soybeans	25.0	
Sugar	25.0	
<b>Agriculture Index Closing Level</b>		100

The composition of any Index may be adjusted in the event that the Index Sponsor is not able to obtain information necessary from the relevant futures exchanges<sup>15</sup> to calculate the daily and/or closing price for the Index commodity or commodities in such Index. In connection with adjustments to the Indexes, if futures prices are not available, the Index Sponsor will typically use the prior day's futures prices. In exceptional cases (such as when a daily price limit is reached on a futures exchange), the Index Sponsor may employ a "fair value" price (i.e., the price for unwinding the futures position by OTC dealers).<sup>16</sup> This is similar to the case for index

<sup>15</sup> See section "Dissemination of the Index and Underlying Futures Contracts Information," infra.

<sup>16</sup> The Exchange submits that for a temporary disruption of said futures contracts, the Index Sponsor will typically use the prior day's price for any Index commodity or commodities. However, the Exchange represents that if the use of a prior day's price or "fair value" pricing for an Index commodity or commodities is more than of a temporary nature, the Exchange will submit a proposed rule change pursuant to Rule 19b-4 under the Act

options when prices are unavailable or unreliable.<sup>17</sup>

The Managing Owner represents that it will seek to arrange to have the Indexes calculated and disseminated through a third party if the Index Sponsor ceases to calculate and disseminate the Indexes. If, however, the Managing Owner is unable to arrange the calculation and dissemination of any Index (or a Successor Index to such Index), the Exchange will undertake to delist the Shares related to said Index.<sup>18</sup>

### **Commodity Futures Contracts and Related Options**

**Sweet Light Crude Oil.** The price of sweet light crude oil is volatile with fluctuations expected to affect the value of the Energy Fund Shares and the Oil Fund Shares. Sweet light crude oil is the world's most actively traded commodity. The Sweet Light Crude Oil futures contract traded on the NYMEX is the world's most liquid forum for crude oil trading, as well as the world's

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seeking Commission approval to continue to trade the Shares of a Fund. Unless approved for continued trading, the Exchange would commence delisting procedures.

<sup>17</sup> The Options Clearing Corporation ("OCC"), pursuant to Article XVII, Section 4 of its By-Laws, is permitted to use the prior day's closing price to fix an index options exercise settlement value. In addition, OCC may also use the next day's opening price, a price or value at such other time as determined by OCC or an average of prices or values as determined by OCC.

<sup>18</sup> If an Index is discontinued or suspended, the Managing Owner, in its sole discretion, may substitute an index substantially similar to the discontinued or suspended Index (the "Successor Index"). The Successor Index may be calculated and/or published by any other third party. The Exchange represents that it would file and obtain approval of a proposed rule change pursuant to Rule 19b-4 under the Act if a successor Index is used by the Managing Owner. The filing would address, among other things, the listing and trading characteristics of the Successor Index and the Exchange's surveillance procedures applicable to the Successor Index. In addition, the Exchange would file a proposed rule change pursuant to Rule 19b-4 under the Act when a new component to an Index is added using pricing information from a market with which the Exchange does not have a previously existing information sharing agreement or switches to using pricing information from such market with respect to an existing component when such component constitutes more than 10% of the weight of the Index. Unless approved for continued trading, the Exchange would commence delisting proceedings.

most liquid futures contract on a physical commodity. Due to the excellent liquidity and price transparency of the futures contract, it is used as a principal international pricing benchmark.

Sweet light crude oil is preferred by refiners because of the relatively low sulfur content and high yields of high-value products such as gasoline, diesel fuel, heating oil and jet fuel. The futures contract trades in units of 1,000 barrels with a delivery point of Cushing, Oklahoma. The contract provides for delivery of several grades of domestic and internationally traded foreign crudes, and serves the diverse needs of the physical market.

**Heating Oil.** The price of crude oil is volatile with fluctuations expected to affect the value of the Energy Fund Shares. Heating oil, also known as No. 2 fuel oil, accounts for about 25% of the yield of a barrel of crude oil, the second largest “cut” from oil after gasoline. The heating oil futures contract, listed and traded at the NYMEX, trades in units of 42,000 gallons (1,000 barrels) and is based on delivery in New York harbor, the principal cash market center. The heating oil futures contract is also used to hedge diesel fuel and jet fuel, both of which trade in the cash market at an often stable premium to the heating oil futures contract.

**Brent Crude Oil.** The price of Brent crude oil is volatile with fluctuations expected to affect the value of the Energy Fund Shares. The Brent crude oil futures contract is listed and traded at the ICE Futures, an electronic marketplace for energy trading and price discovery. In Europe, Brent crude oil is the standard for futures contracts traded on the ICE Futures. Brent crude oil is the price reference for two-thirds of the world’s traded oil.

**RBOB Gasoline.** The price of RBOB (reformulated gasoline blendstock for oxygen blending) Gasoline is volatile with fluctuations expected to affect the value of the Energy Fund Shares. The RBOB Gasoline futures contract is listed and traded at the NYMEX. Gasoline is the largest single volume refined product sold in the United States and accounts for almost half of national

oil consumption. It is a highly diverse market, with hundreds of wholesale distributors and thousands of retail outlets, making it subject to intense competition and price volatility. The NYMEX Division New York harbor RBOB futures contract trades in units of 42,000 gallons (1,000 barrels). It is based on delivery at petroleum products terminals in the harbor, the major East Coast trading center for imports and domestic shipments from refineries in the New York harbor area, or from the Gulf Coast refining centers.

**Natural Gas.** The price of Natural Gas is volatile with fluctuations expected to affect the value of the Energy Fund Shares. The Natural Gas futures contract is listed and traded at the NYMEX. Natural gas accounts for almost a quarter of U.S. energy consumption. The NYMEX natural gas futures contracts trade in units of 10,000 million British Thermal Units and are based on delivery at the Henry Hub in Louisiana, the nexus of 16 intra- and inter-state natural gas pipeline systems that draw supplies from the region's prolific gas deposits. The pipelines serve markets throughout the U.S. East Coast, the Gulf Coast, the Midwest, and up to the Canadian border.

**Gold.** The price of gold is volatile with fluctuations expected to affect the value of the Gold Fund Shares and the Precious Metals Fund Shares. The price movement of gold may be influenced by a variety of factors, including announcements from central banks regarding reserve gold holdings, agreements among central banks, political uncertainties, and economic concerns. NYMEX is the world's largest physical commodity futures exchange and the dominant market for the trading of energy and precious metals. The COMEX Division of the NYMEX commenced the trading of gold futures contracts on December 31, 1974.

The trading unit of COMEX gold futures contracts is 100 troy ounces. Gold bars tendered for delivery can be cast in the form of either one bar or three one-kilogram bars. In either form, the gross weight of the bar or bars tendered for each contract must be within a five

percent tolerance of the 100 oz. contract, and the bars must assay at not less than 995 fineness, i.e., 99.5% pure gold.

**Silver.** The price of silver is volatile with fluctuations expected to affect the value of the Silver Fund Shares and the Precious Metals Fund Shares. The largest industrial users of silver are the photographic, jewelry, and electronic industries and developments in these industries among other factors may influence the price of silver.

The trading unit of COMEX silver futures contracts is 5,000 troy ounces. Silver bars tendered for delivery can be cast in the form of either 1,000 or 1,100 troy ounce cast bars. In either form, the gross weight of the bar or bars tendered for each contract must be within a six percent tolerance of the 5,000 troy ounce contract, and the bars must assay at not less than .999 fineness, i.e., 99.9% pure silver.

**Aluminum.** Changes in the price of aluminum are expected to affect the value of the Base Metals Fund Shares. The price movement of aluminum may be influenced by a variety of factors, including industry demands, production, political uncertainties, and economic concerns. Aluminum is the most heavily produced and consumed non-ferrous metal in the world. Its low density and malleability has been recognized and championed by the industrial world. Aluminum has many diverse applications ranging from beverage cans to cars. In 2001, world primary refined production totaled over 24 million tonnes. The total turnover for LME primary aluminum futures and options in 2001 was over 25 million lots or 625 million tonnes. The LME has the most liquid aluminum contracts in the world.

Despite being the most prolific metal on earth, aluminum only began to be used extensively once an inexpensive method for distilling it by means of electrolytic reduction was discovered in the mid-19th century. It is extremely light, pliable, has high conductivity and is

resistant to rust. As a result, it has become the most extensively used metal in the world and more recently, the largest contract traded on the LME. LME introduced the aluminum futures contract in 1978.

World production of aluminum is as follows: (1) Europe – 33%; (2) United States – 29%; (3) Asia – 24%; (4) Oceania – 9%; and (5) Africa – 5%. Industry consumption of aluminum is as follows: (1) transportation – 26%; (2) packaging – 22%; (3) construction – 22%; (4) machinery – 8%; (5) electrical – 8%; (6) consumer durables – 7%; and (7) others – 7%.

**Zinc.** Zinc is commonly mined as a co-product with standard lead, and both metals have growing core markets for their consumption. For zinc, the main market is galvanizing, which accounts for almost half its modern-day demand. Zinc's electropositive nature enables metals to be readily galvanized, which gives added protection against corrosion to building structures, vehicles, machinery, and household equipment.

Changes in the price of zinc are expected to affect the value of the Base Metals Fund Shares. The closing price of zinc is determined by reference to the official U.S. dollar cash settlement price per ton of the zinc futures contract traded on the LME. The price of zinc is primarily affected by the global demand for and supply of zinc. Demand for zinc is significantly influenced by the level of global industrial economic activity. The galvanized steel industrial sector is particularly important given that the use of zinc in the manufacture of galvanized steel accounts for approximately 50% of world-wide zinc demand. The galvanized steel sector is in turn heavily dependent on the automobile and construction sectors. A relatively widespread increase in the demand for zinc by the galvanized steel sector, particularly in China and the United States, has been the primary cause of the recent rise in zinc prices. An additional, but highly volatile, component of demand is adjustments to inventory in response to changes in

economic activity and/or pricing levels. The supply of zinc concentrate (the raw material) is dominated by China, Australia, North America, and Latin America. The supply of zinc is also affected by current and previous price levels, which will influence investment decisions in new mines and smelters. It is not possible to predict the aggregate effect of all or any combination of these factors.

**Copper (Grade A).** Copper was the first mineral that man extracted from the earth and along with tin gave rise to the Bronze Age. As the ages and technology progressed the uses for copper increased. With the increased demand, exploration for the metal was extended throughout the world laying down the foundations for the industry as we know it today. Copper is an excellent conductor of electricity, as such one of its main industrial usage is for the production of cable, wire and electrical products for both the electrical and building industries. The construction industry also accounts for copper's second largest usage in such areas as pipes for plumbing, heating and ventilating, as well as building wire and sheet metal facings.

The price of copper is volatile with fluctuations expected to affect the value of the Base Metals Fund Shares. The closing price of copper is determined by reference to the official U.S. dollar cash settlement price per ton of the copper futures contract traded on the LME. The price of copper is primarily affected by the global demand for and supply of copper.

Demand for copper is significantly influenced by the level of global industrial economic activity. Industrial sectors that are particularly important include the electrical and construction sectors. In recent years, demand has been supported by strong consumption from newly industrializing countries, which continue to be in a copper-intensive period of economic growth as they develop their infrastructure (such as China). An additional, but highly volatile, component of demand is adjustments to inventory in response to changes in economic activity

and/or pricing levels. Apart from the United States, Canada, and Australia, the majority of copper concentrate supply (the raw material) comes from outside the Organization for Economic Cooperation and Development countries. Chile is the largest producer of copper concentrate. In previous years, copper supply has been affected by strikes, financial problems, and terrorist activity. Output has fallen particularly sharply in the “African Copperbelt” and in Bougainville, Papua New Guinea.

**Corn.** The price of corn is expected to fluctuate over time affecting the value of the Agriculture Fund Shares. The price movement of corn may be influenced by a variety of factors, including demand, crop production, political uncertainties, and economic concerns. Corn futures are traded on the CBOT with a unit of trading of 5,000 bushels.

**Wheat.** The price of wheat is expected to fluctuate over time affecting the value of the Agriculture Fund Shares. The price movement of wheat may be influenced by a variety of factors, including demand, crop production, political uncertainties, and economic concerns. Wheat futures are traded on the CBOT with a unit of trading of 5,000 bushels.

**Soybeans.** The price of soybeans is expected to fluctuate over time affecting the value of the Agriculture Fund Shares. The price movement of soybeans may be influenced by a variety of factors, including demand, crop production, political uncertainties, and economic concerns. Soybean futures are traded on the CBOT with a unit of trading of 5,000 bushels.

**Sugar.** The price of sugar is expected to fluctuate over time affecting the value of the Agriculture Fund Shares. The price movement of sugar may be influenced by a variety of factors, including demand, crop production, political uncertainties, and economic concerns. Sugar futures are traded on the NYBOT with a unit of trading of 112,000 lbs.

## **Futures Regulation**

The Commodity Exchange Act (the “CEA”) governs the regulation of commodity interest transactions, markets and intermediaries. The Exchange states that the CFTC administers the CEA, which requires commodity futures exchanges to have rules and procedures to prevent market manipulation, abusive trade practices, and fraud. The Exchange states that the CFTC conducts regular review and inspection of the futures exchanges’ enforcement programs.

The Exchange states that the CEA provides for varying degrees of regulation of commodity interest transactions depending upon the variables of the transaction. In general, these variables include: (1) the type of instrument being traded (e.g., contracts for future delivery, options, swaps, or spot contracts); (2) the type of commodity underlying the instrument (distinctions are made between instruments based on agricultural commodities, energy and metals commodities, and financial commodities); (3) the nature of the parties to the transaction (retail, eligible contract participant, or eligible commercial entity); (4) whether the transaction is entered into on a principal-to-principal or intermediated basis; (5) the type of market on which the transaction occurs; and (6) whether the transaction is subject to clearing through a clearing organization.

The Exchange notes that non-U.S. futures exchanges differ in certain respects from their U.S. counterparts. Importantly, non-U.S. futures exchanges are not subject to regulation by the CFTC, but rather are regulated by their home country regulator. In contrast to U.S. designated contract markets, some non-U.S. exchanges are principals’ markets, where trades remain the liability of the traders involved, and the exchange or an affiliated clearing organization, if any, does not become substituted for any party. Due to the absence of a clearing system, the Exchange states that such exchanges are significantly more susceptible to disruptions. Further,

participants in such markets must often satisfy themselves as to the individual creditworthiness of each entity with which they enter into a trade. Trading on non-U.S. exchanges is often in the currency of the exchange's home jurisdiction. Consequently, each of the Funds may be subject to the additional risk of fluctuations in the exchange rate between such currencies and U.S. dollars and the possibility that exchange controls could be imposed in the future. Trading on non-U.S. exchanges may differ from trading on U.S. exchanges in a variety of ways and, accordingly, may subject the Funds to additional risks.

The Exchange states that CFTC and U.S. designated contract markets have established limits or position accountability rules (i.e., speculative position limits or position limits) on the maximum net long or net short speculative position that any person or group of persons under common trading control (other than a hedger) may hold, own or control in commodity interests. Among the purposes of speculative position limits is to prevent a corner or squeeze on a market or undue influence on prices by any single trader or group of traders.

The Exchange also states that most U.S. futures exchanges limit the amount of fluctuation in some futures contracts or options on futures contract prices during a single trading session. These regulations specify what are referred to as daily price fluctuation limits (i.e., daily limits). The daily limits establish the maximum amount that the price of a futures contract or options on futures contract may vary either up or down from the previous day's settlement price. Once the daily limit has been reached in a particular futures contract or options on futures contract, no trades may be made at a price beyond the limit.

### **Structure of the Funds**

Funds. Each of the Funds is a separate series of a statutory trust formed pursuant to the Delaware Statutory Trust Act and will issue units of beneficial interest or shares that represent

units of fractional undivided beneficial interest in and ownership of the respective Fund. Unless terminated earlier, each of the Funds is of a perpetual duration. The investment objective of each of the Funds is to reflect the performance of its corresponding Index, less the expenses of the operations of such Fund and the related Master Fund. Each of the Funds will pursue its investment objective by investing substantially all of its assets in the respective Master Funds. Each of the Shares will correlate with a corresponding Master Fund unit issued by the relevant Master Fund and held by the respective Funds.

Master Funds. Each of the Master Funds is a separate series of a statutory trust formed pursuant to the Delaware Statutory Trust Act and will issue units of beneficial interest or shares that represent units of fractional undivided beneficial interest in and ownership of the respective Master Fund. Unless terminated earlier, each of the Master Funds is of a perpetual duration. The investment objective of each of the Master Funds is to reflect the performance of its respective Index, less the expenses of the operations of the relevant Fund and such Master Fund. Each of the Master Funds will pursue its investment objective by investing primarily in a portfolio of futures contracts on the commodities comprising its respective Index. In addition, the Master Funds will also hold cash and U.S. Treasury securities for deposit with futures commission merchants (“FCM”) as margin and other high credit quality short-term fixed income securities.

Trustee. Wilmington Trust Company is the trustee (the “Trustee”) of the Trust and the DB Multi-Sector Commodity Master Trust (the “Master Trust”). The Trustee has delegated to the Managing Owner the power and authority to manage and operate the day-to-day affairs of each of the Funds and the Master Funds.

Managing Owner. The Managing Owner is a Delaware limited liability company that is registered with the CFTC as a CPO and CTA and is an affiliate of Deutsche Bank AG, the sponsor of the Funds and Master Funds. The Managing Owner will serve as the CPO and CTA of each Fund and each Master Fund and will manage and control all aspects of the business of the Funds. As a registered CPO and CTA, the Managing Owner is required to comply with various regulatory requirements under the CEA and the rules and regulations of the CFTC and the NFA, including investor protection requirements, anti-fraud prohibitions, disclosure requirements, reporting and recordkeeping requirements and is subject to periodic inspections and audits by the CFTC and NFA.

Commodity Broker or Clearing Broker. Deutsche Bank Securities Inc. (the “Commodity Broker” or the “Clearing Broker”) is an affiliate of the Managing Owner and is registered with the CFTC as a FCM. The Clearing Broker will execute and clear each Master Fund’s futures contract transactions and will perform certain administrative services for each Master Fund.

Administrator. The Bank of New York is the administrator for all of the Funds and the Master Funds (the “Administrator”). The Administrator will perform or supervise the performance of services necessary for the operation and administration of each Fund and each Master Fund. These services include, but are not limited to, accounting, net asset value (“NAV”)<sup>19</sup> calculations and other fund administrative services.

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<sup>19</sup> NAV is the total assets of each Master Fund less total liabilities of such Master Fund, determined on the basis of generally accepted accounting principles. NAV per Master Fund share is the NAV of the relevant Master Fund divided by the number of outstanding Master Fund units. This will be the same for the Shares because of the one-to-one correlation between the Shares and the units of the corresponding Master Fund.

Distributor. ALPS Distributors, Inc. is the distributor and will assist the Managing Owner and the Administrator with certain functions and duties relating to distribution and marketing, including reviewing and approving marketing materials.

## **Product Description**

### **A. Creation and Redemption of Shares**

Issuances of the Shares will be made only in baskets of 200,000 shares or multiples thereof (the “Basket Aggregation” or “Basket”). Each of the Funds will issue and redeem its Shares on a continuous basis, by or through participants that have entered into participant agreements (each, an “Authorized Participant”)<sup>20</sup> with the Managing Owner at the corresponding NAV per share next determined after an order to purchase the relevant Shares in a Basket Aggregation is received in proper form. Following issuance, all of the Shares will be traded on the Exchange similar to other equity securities. Shares will be registered in book entry form through DTC.

Basket Aggregations will be issued in exchange for a cash amount equal to the corresponding NAV (described below) per share times 200,000 Shares (the “Basket Amount”). The Basket Amounts for each of the Funds will be determined on each business day by the Administrator. Authorized Participants that wish to purchase a Basket must transfer the corresponding Basket Amount to the Administrator (the “Cash Deposit Amount”). Authorized Participants that wish to redeem a Basket will receive cash in exchange for each Basket surrendered in an amount equal to the NAV per Basket (the “Cash Redemption Amount”). The

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<sup>20</sup> An “Authorized Participant” is a person, who at the time of submitting to the trustee an order to create or redeem one or more Baskets: (i) is a registered broker-dealer; (ii) is a Depository Trust Company (“DTC”) Participant or an Indirect Participant; and (iii) has in effect a valid Participant Agreement.

Commodity Broker will be the custodian for all of the Master Funds and responsible for safekeeping each of the Master Funds' assets.

All purchase orders received by the Administrator prior to 10:00 a.m. ET will be settled by depositing with the Clearing Broker, the corresponding Cash Deposit Amount disseminated by the Administrator shortly after 10:00 a.m. on the next business day. Thus, the Administrator will disseminate shortly after 4:00 p.m. ET the amount of cash to be deposited for each Basket (200,000 Shares) order properly submitted by Authorized Participants prior to 4:00 p.m. ET that business day.

The Shares will not be individually redeemable but will only be redeemable in Basket Aggregations. To redeem, an Authorized Participant will be required to accumulate enough Shares to constitute a Basket Aggregation (i.e., 200,000 Shares). An Authorized Participant redeeming a Basket Aggregation will receive the Cash Redemption Amount. Upon the surrender of the Shares and payment of applicable redemption transaction fee, taxes or charges, the Administrator will deliver to the redeeming Authorized Participant the Cash Redemption Amount. Redemption orders must be placed by 10:00 a.m., ET. The day on which the Managing Owner receives a valid redemption order is the redemption order date. Redemption orders are irrevocable. The redemption procedures allow Authorized Participants to redeem Baskets. Individual Shareholders may not redeem directly from a Fund. Instead, individual Shareholders may only redeem Shares in integral multiples of 200,000 and only through an Authorized Participant.

The Basket Amount necessary for the creation of a Basket will change from day to day. On each day that the Amex is open for regular trading, the Administrator will adjust each Cash Deposit Amount as appropriate to reflect the prior day's NAV (discussed below) and accrued

expenses for each Fund. The Administrator will determine the Cash Deposit Amounts for a given business day by multiplying the NAV for each Share by the number of Shares in each Basket (200,000).

On each business day, the Administrator will make available immediately prior to the opening of trading on the Amex, through the facilities of the Consolidated Tape Association (“CTA”), the estimated Basket Amount for the creation of a Basket. The Amex will disseminate at least every 15 seconds throughout the trading day, via the facilities of the CTA, amounts representing on a per share basis, the current values of the Basket Amounts for each of the Funds (Indicative Fund Value as described below). It is anticipated that the deposit of the Cash Deposit Amount in exchange for a Basket will be made primarily by institutional investors, arbitrageurs, and the Exchange specialist. Baskets are then separable upon issuance into identical shares that will be listed and traded on the Amex.<sup>21</sup> The Shares are expected to be traded on the Exchange by professionals, as well as institutional and retail investors. Shares may be acquired in two (2) ways: (1) through a deposit of the Cash Deposit Amount corresponding with the Shares to be acquired with the Administrator during normal business hours by Authorized Participants; or (2) through a purchase on the Exchange by investors.

B. Net Asset Value (NAV)

Shortly after 4:00 p.m. ET each business day, the Administrator will determine the NAV for each of the Funds, utilizing the current settlement value of the particular commodity futures contracts. In calculating the NAV, the Administrator will value all futures contracts based on that day’s settlement price. However, if a futures contract on a trading day cannot be liquidated

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<sup>21</sup> The Shares are separate and distinct from the shares of the Master Funds consisting primarily of futures contracts on commodities tracking the DBLCI-OY. The Exchange expects that the number of outstanding Shares will increase and decrease as a result of creations and redemptions of Baskets.

due to the operation of daily limits or other rules of an exchange upon which such futures contract is traded, the settlement price on the most recent trading day on which futures contract could have been liquidated will be used in determining each Master Fund's NAV. Accordingly, for both U.S. and non-U.S. futures contracts, the Administrator will typically use that day's futures settlement price for determining NAV.<sup>22</sup> Also, at or about 4:00 p.m. ET each business day, the Administrator will determine the Basket Amounts for orders placed by Authorized Participants received before 4:00 p.m. ET that day. Thus, although Authorized Participants place orders to purchase Shares throughout the trading day, the actual Basket Amounts are determined at 4:00 p.m. ET or shortly thereafter.

Shortly after 4:00 p.m. ET each business day, the Administrator, Amex, and Managing Owner will disseminate the NAVs for the Shares and the Basket Amounts (for orders placed during the day). The Basket Amounts and the NAVs are communicated by the Administrator to all Authorized Participants via facsimile or electronic mail message and the NAV will be available on the Fund's Web site at <http://dbfunds.db.com>.<sup>23</sup> The Amex will also disclose the NAVs and Basket Amounts on its Web site.

When calculating NAV for each of the Funds and each of the Master Funds, the Administrator will value U.S. futures contracts held by such Master Fund on the basis of their then current market value. All non-U.S. futures contracts will be calculated based upon the liquidation value.

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<sup>22</sup> In the event the NAV is no longer calculated or disseminated to all market participants at the same time, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances.

<sup>23</sup> Telephone Conference (clarifying the Fund's Web site address). If the NAV is not disseminated to all market participants at the same time, the Exchange will halt trading in the Shares of a Fund. However, if a Fund temporarily does not disseminate the NAV to

The NAV for the Funds are total assets of the corresponding Master Fund less total liabilities of such Master Fund. The NAV is calculated by including any unrealized profit or loss on futures contracts and any other credit or debit accruing to such Master Fund but unpaid or not received by the Master Fund. The NAV is then used to compute all fees (including the management and administrative fees) that are calculated from the value of such Master Fund's assets. The Administrator will calculate the NAV per share by dividing the NAV by the corresponding number of Shares outstanding.

The Exchange believes that none of the Shares will trade at a material discount or premium to the Shares of the corresponding Master Fund held by the corresponding Fund based on potential arbitrage opportunities. Due to the fact that the Shares can be created and redeemed only in Basket Aggregations at NAV, the Exchange submits that arbitrage opportunities should provide a mechanism to mitigate the effect of any premiums or discounts that may exist from time to time.

### **Dissemination of the Index and Underlying Futures Contracts Information**

The Index Sponsor will publish the value of each of the Indexes at least every fifteen (15) seconds through Bloomberg, Reuters, and on the Fund's Web site at <http://dbfunds.db.com>. The Index Sponsor will similarly provide the related closing levels. In addition, the Index Sponsor and the Exchange on their respective Web sites will also provide any adjustments or changes to any of the Indexes.<sup>24</sup>

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all market participants at the same time, the Exchange will immediately contact the Commission staff to discuss measures that may be appropriate under the circumstances.

<sup>24</sup>

See supra footnote 6.

The daily settlement prices for the futures contracts held by each of the Master Funds are publicly available on the Web sites of the futures exchanges trading the particular contracts. The particular futures exchange for each futures contract with Web site information is set forth as follows: (i) aluminum, zinc and copper – grade A –LME at [www.lme.com](http://www.lme.com); (ii) corn, wheat and soybeans – CBOT at [www.cbot.com](http://www.cbot.com); (iii) crude oil, heating oil, RBOB gasoline, natural gas, gold, and silver – NYMEX at [www.nymex.com](http://www.nymex.com); (iv) Brent crude oil – ICE Futures at [www.theice.com](http://www.theice.com); and (v) sugar – NYBOT at [www.nybot.com](http://www.nybot.com). In addition, various data vendors and news publications publish futures prices and data. The Exchange represents that futures quotes and last sale information for the commodities underlying each of the Indexes are widely disseminated through a variety of major market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represents that complete real-time data for such futures is available by subscription from Reuters and Bloomberg. The CBOT, LME, NYMEX, ICE Futures, and NYBOT also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites. The specific contract specifications for the futures contracts are also available from the futures exchanges on their Web sites, as well as other financial informational sources.

### **Availability of Information Regarding the Shares**

The Web site for each of the Funds (<http://dbfunds.db.com>) and/or the Exchange, which are publicly accessible at no charge, will contain the following information: (a) the current NAV per share daily and the prior business day's NAV and the reported closing price; (b) the mid-point of the bid-ask price<sup>25</sup> in relation to the NAV as of the time the NAV is calculated (the "Bid-Ask Price"); (c) calculation of the premium or discount of such price against such NAV; (e)

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<sup>25</sup> The bid-ask price of Shares is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (f) the Prospectus; and (g) other applicable quantitative information.

As described above, the respective NAVs for the Funds will be calculated and disseminated daily to all market participants at the same time. The Amex also intends to disseminate for each of the Funds on a daily basis by means of CTA/CQ High Speed Lines information with respect to the corresponding Indicative Fund Value (as discussed below), recent NAV, and shares outstanding. The Exchange will also make available on its Web site daily trading volume of each of the Shares, closing prices of such Shares, and the corresponding NAV. The closing price and settlement prices of the futures contracts comprising the Indexes and held by the corresponding Master Funds are also readily available from the relevant futures exchanges, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. In addition, the Exchange will provide a hyperlink on its Web site at <http://www.amex.com> to the Fund's Web site at <http://dbfunds.db.com>, which will display all intraday and closing index levels, the intraday Indicative Fund Value (see below), and NAV.<sup>26</sup>

### **Dissemination of Indicative Fund Value**

As noted above, the Administrator calculates the NAV of each of the Funds once each trading day. In addition, the Administrator causes to be made available on a daily basis the corresponding Cash Deposit Amounts to be deposited in connection with the issuance of the respective Shares in Basket Aggregations. In addition, investors can request such information directly from the Administrator.

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<sup>26</sup> Telephone Conference.

In order to provide updated information relating to each of the Funds for use by investors, professionals, and persons wishing to create or redeem the Shares, the Exchange will disseminate through the facilities of CTA and the Fund’s Web site (<http://dbfunds.db.com>) updated Indicative Fund Values (the “Indicative Fund Value”) for each of the Funds. The respective Indicative Fund Values will be disseminated on a per Share basis every 15 seconds during regular Amex trading hours of 9:30 a.m. to 4:15 p.m. ET. The Indicative Fund Values will be calculated based on the cash required for creations and redemptions (i.e., NAV x 200,000) for the respective Funds adjusted to reflect the price changes of the corresponding Index commodities through investments held by the related Master Funds, i.e., futures contracts.<sup>27</sup>

The Indicative Fund Values will not reflect price changes to the price of an underlying commodity between the close of trading of the futures contract at the relevant futures exchange and the close of trading on the Amex at 4:15 p.m. ET. The value of a Share may accordingly be influenced by non-concurrent trading hours between the Amex and the various futures exchanges on which the futures contracts based on the Index commodities are traded. While the Shares will trade on the Amex from 9:00 a.m. to 4:15 p.m. ET, the table below lists the trading hours for each of the Index commodities underlying the futures contracts.

Index Commodity	Futures Exchange	Trading Hours (ET)
Aluminum, Zinc, Copper-Grade A	LME	6:55 a.m. – noon
Gold, Silver	NYMEX	8:20 a.m. – 1:30 p.m.
Crude Oil, Heating Oil, RBOB	NYMEX	10:00 a.m. – 2:30 p.m.

<sup>27</sup> Id. (deleting the reference to options on futures).

Gasoline, Natural Gas		
Index Commodity	Futures Exchange	Trading Hours (ET)
Brent Crude Oil	ICE Futures	8:00 p.m. – 5:00 p.m. (next day)
Corn, Wheat, Soybeans	CBOT	10:30 a.m. – 2:15 p.m.
Sugar	NYBOT	9:00 a.m. – noon

While the market for futures trading for each of the Index commodities is open, the respective Indicative Fund Values can be expected to closely approximate the value per share of the corresponding Basket Amount. However, during Amex trading hours when the futures contracts have ceased trading, spreads and resulting premiums or discounts may widen, and therefore, increase the difference between the price of the Shares and the NAV of such Shares. Any Indicative Fund Value on a per Share basis disseminated during Amex trading hours should not be viewed as a real time update of its corresponding NAV, which is calculated only once a day.<sup>28</sup>

The Exchange believes that dissemination of the Indicative Fund Values based on the cash amount required for its corresponding Basket Aggregation provides additional information regarding the Funds that is not otherwise available to the public and is useful to professionals and investors in connection with the related Shares trading on the Exchange or the creation or redemption of such Shares.

### **Termination Events**

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<sup>28</sup> All of the relevant futures contracts trade in US dollars.

The Trust, or, as the case may be, any Fund will dissolve if any of the following circumstances occur: (1) the filing of a certificate of dissolution or revocation of the Managing Owner's charter (subject to 90-day notice period) or upon the withdrawal, removal, adjudication or admission of bankruptcy or insolvency of the Managing Owner, or an event of withdrawal, subject to exceptions; (2) the occurrence of any event which would make unlawful the continued existence of the Trust or any Fund, as the case may be; (3) the event of the suspension, revocation or termination of the Managing Owner's registration as a CPO, or membership as a CPO with the NFA, subject to certain conditions; (4) the Trust or any Fund, as the case may be, becomes insolvent or bankrupt; (5) shareholders holding Shares representing at least 50% of the NAV (excluding the Shares of the Managing Owner) notify the Managing Owner that they wish to dissolve the Trust; (6) the determination of the Managing Owner that the aggregate net assets of a Fund in relation to the operating expenses of such Fund make it unreasonable or imprudent to continue the business of such Fund, or, in the exercise of its reasonable discretion, the determination by the Managing Owner to dissolve the Trust because the aggregate NAV of the Trust as of the close of business on any business day declines below \$10 million; (7) the Trust or any Fund becoming required to register as an investment company under the Investment Company Act of 1940; or (8) DTC is unable or unwilling to continue to perform its functions, and a compatible replacement is unavailable.

If not terminated earlier, the Funds will endure perpetually.

#### **Criteria for Initial and Continued Listing**

Each of the Funds will be subject to the criteria in Commentary .07(d) of Amex Rule 1202 for initial and continued listing of their respective Shares. The continued listing criteria

provides for the delisting or removal from listing of the Shares under any of the following circumstances:

- Following the initial twelve month period from the date of commencement of trading of the Shares: (i) if the Fund has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of the related Shares for 30 or more consecutive trading days; (ii) if the Fund has fewer than 50,000 Shares issued and outstanding; or (iii) if the market value of all Shares issued and outstanding is less than \$1,000,000;
- If the value of the underlying index or portfolio is no longer calculated or available on at least a 15-second delayed basis through one or more major market data vendors during the time the Shares trade on the Exchange;<sup>29</sup>
- The Indicative Fund Value is no longer made available on at least a 15-second delayed basis during the time the Shares trade on the Exchange;<sup>30</sup> or
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Additionally, the Exchange will file a proposed rule change pursuant to Rule 19b-4 under the Act seeking approval to continue trading the Shares of a Fund and, unless approved, the

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<sup>29</sup> If an Index Value is not being disseminated by one or more major market data vendors, the Exchange may halt trading during the day in which the interruption to the dissemination of such Index Value occurs. If the interruption to the dissemination of an Index Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

<sup>30</sup> If an Indicative Fund Value is not being disseminated by one or more major market data vendors, the Exchange may halt trading during the day in which the interruption to the dissemination of such Indicative Fund Value occurs. If the interruption to the dissemination of an Indicative Fund Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Exchange will commence delisting the Shares of such Fund if:

- The Index Sponsor substantially changes either the Index component selection methodology or the weighting methodology;
- A successor or substitute index is used in connection with the Shares;<sup>31</sup>
- More than a temporary disruption exists in connection with the pricing of the futures contracts comprising an Index or the calculation of the NAV or the dissemination of the NAV to all market participants at the same time is more than temporarily disrupted.

Deutsche Bank Securities Inc., as the initial purchaser (the “Initial Purchaser”), will initially purchase and take delivery of 200,000 Shares of each Fund, which comprises the initial Basket of each Fund, at a purchase price of \$25.00 per Share (\$5,000,000 per Basket) pursuant to an Initial Purchaser Agreement. The Initial Purchaser proposes to offer to the public these Shares at a per-share offering price that will vary depending on, among other factors, the respective trading price of the Shares on the Amex, the NAV per Share and the supply of and demand for the Shares at the time of the offer. Shares offered by the Initial Purchaser at different times may have different offering prices. The Initial Purchaser will not receive from any Fund, the Managing Owner or any of their affiliates, any fee or other compensation in connection with the sale of these Shares to the public. The Initial Purchaser may charge a customary brokerage commission.

The Managing Owner has agreed to indemnify certain parties against certain liabilities, including liabilities under the Securities Act of 1933, and to contribute to payments that such

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<sup>31</sup> If the Managing Owner uses a successor or substitute index, the Exchange’s filing will address, among other things, the listing and trading characteristics of the successor or substitute index and the Exchange’s surveillance procedures applicable thereto.

parties may be required to make in respect thereof.

The Exchange believes that the anticipated minimum number of Shares of each of the Funds outstanding at the start of trading is sufficient to provide adequate market liquidity and to further the objectives of the respective Funds.

The Exchange represents that, for the initial and continued listing, the Shares must be in compliance with Section 803 of the Amex Company Guide and Rule 10A-3 under the Act.

### **Original and Annual Listing Fees**

The Amex original listing fee applicable to the listing of the Funds is \$5,000 per Fund. In addition, the annual listing fee applicable under Section 141 of the Amex Company Guide will be based upon the year-end aggregate number of shares in all the Funds outstanding at the end of each calendar year.

### **Disclosure**

The Exchange, in an Information Circular (described below) distributed to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, of the prospectus delivery requirements applicable to the Funds. The Exchange notes that investors purchasing Shares directly from the respective Funds (by delivery of the corresponding Cash Deposit Amounts) will receive a prospectus. Amex members purchasing Shares from the corresponding Funds for resale to investors will deliver a prospectus to such investors.

### **Purchase and Redemptions in Basket Aggregations**

In the Information Circular (described below), members and member organizations will be informed that procedures for purchases and redemptions of Shares in Basket Aggregations are

described in the Prospectus and that Shares are not individually redeemable but are redeemable only in Basket Aggregations or multiples thereof.

### **Trading Rules**

The Shares are equity securities subject to Amex Rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities<sup>32</sup> and account opening and customer suitability (Amex Rule 411). Initial equity margin requirements of 50% will apply to transactions in the Shares. Shares will trade on the Amex until 4:15 p.m. ET each business day and will trade in a minimum price variation of \$0.01 pursuant to Amex Rule 127. Trading rules pertaining to odd-lot trading in Amex equities (Amex Rule 205) will also apply.

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c) (i-v). The Exchange has designated the Shares as eligible for this treatment.<sup>33</sup>

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<sup>32</sup> For example, Commentary .07(e) to Amex Rule 1202 prohibits the specialist in the Shares from being affiliated with a market maker in the Index commodities, related futures or options on futures, or any other related derivatives, unless information barriers are in place that satisfy the requirements of Amex Rule 193. Commentary .07(g)(3) to Amex Rule 1202 also prohibits the specialist in the Shares from using any material nonpublic information received from any person associated with a member, member organization or employee of such person regarding trading by such person or employee in the Index commodities, related futures or options on futures, or any other related derivatives.

<sup>33</sup> See Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991), at note 9, regarding the Exchange's designation of equity derivative securities as eligible for such treatment under Amex Rule 154, Commentary .04(c).

The Shares will be deemed “Eligible Securities,” as defined in Amex Rule 230, for purposes of the Intermarket Trading System Plan and therefore will be subject to the trade through provisions of Amex Rule 236 which require that Amex members avoid initiating trade-throughs for ITS securities.

Specialist transactions of the Shares made in connection with the creation and redemption of Shares will not be subject to the prohibitions of Amex Rule 190.<sup>34</sup> The Shares will not be subject to the short sale rule pursuant to no-action relief granted in petition to Rule 10a-1 under the Act.<sup>35</sup> The Shares will generally be subject to the Exchange’s stabilization rule, Amex Rule 170, except that specialists may buy on “plus ticks” and sell on “minus ticks,” in order to bring the Shares into parity with the underlying commodity or commodities and/or futures contract price. Commentary .07(f) to Amex Rule 1202 sets forth this limited exception to Amex Rule 170.

The trading of the Shares will be subject to certain conflict of interest provisions set forth in Commentary .07(e) to Amex Rule 1202. Specifically, Commentary .07(e) provides that the prohibitions in Amex Rule 175(c) apply to a specialist in the Shares so that the specialist or affiliated person may not act or function as a market maker in an underlying asset, related futures contract or option or any other related derivative. An affiliated person of the specialist consistent with Amex Rule 193 may be afforded an exemption to act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset, related futures or options or any other related derivative. Commentary .07(e) further provides that an approved

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<sup>34</sup> See Commentary .05 to Amex Rule 190.

<sup>35</sup> See letter to George T. Simon, Esq., Foley & Lardner LLP, from Racquel L. Russell, Branch Chief, Office of Trading Practices and Processing, Division of Market Regulation, (“Division”), Commission, dated July 21, 2006.

person of an equity specialist that has established and obtained Exchange approval for procedures restricting the flow of material, non-public market information between itself and the specialist member organization, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in the Shares on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Commentary .07(g)(1) and (g)(2) to Amex Rule 1202 also ensures that specialists handling the Shares provide the Exchange with all the necessary information relating to their trading in physical assets or commodities, related futures contracts and options thereon or any other derivative.

As a general matter, the Exchange has regulatory jurisdiction over its members, member organizations and approved persons of a member organization. The Exchange also has regulatory jurisdiction over any person or entity controlling a member organization as well as a subsidiary or affiliate of a member organization that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

### **Trading Halts**

Prior to the commencement of trading, the Exchange will issue an Information Circular (described below) to members informing them of, among other things, Exchange policies regarding trading halts in the Shares. First, the circular will advise that trading will be halted in the event the market volatility trading halt parameters set forth in Amex Rule 117 have been

reached. Second, the circular will advise that, in addition to the parameters set forth in Amex Rule 117, the Exchange will halt trading in any of the Shares if trading in the underlying related futures contract(s) is halted or suspended. Third, with respect to a halt in trading that is not specified above, the Exchange may also consider other relevant factors and the existence of unusual conditions or circumstances that may be detrimental to the maintenance of a fair and orderly market. If an Index Value, or an Indicative Fund Value, is not being disseminated, as required, by one or more major market data vendors, the Exchange may halt trading during the day in which the interruption to the dissemination of such Index Value or Indicative Fund Value occurs.<sup>36</sup> If the interruption to the dissemination of an Index Value or Indicative Fund Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.<sup>37</sup>

### **Suitability**

The Information Circular (described below) will inform members and member organizations of the characteristics of the Funds and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).

The Exchange notes that pursuant to Amex Rule 411, members and member organizations are required in connection with recommending transactions in the Shares to have a reasonable basis to believe that a customer is suitable for the particular investment given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member.

### **Information Circular**

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<sup>36</sup> Telephone Conference.

<sup>37</sup> Id.

The Amex will distribute an Information Circular to its members in connection with the trading of the Shares. The Circular, will discuss the special characteristics and risks of trading this type of security, such as currency fluctuation risk. Specifically, the Circular, among other things, will discuss what the Shares are, how a Basket is created and redeemed, the requirement that members and member firms deliver a prospectus to investors purchasing newly issued Shares, applicable Amex rules, dissemination information, trading information, and applicable suitability rules.<sup>38</sup> The Circular will also explain that the Funds are subject to various fees and expenses described in the Registration Statement. The Circular will also reference the fact that the CFTC has regulatory jurisdiction over the trading of futures contracts. The Circular will also reference that there is no regulated source of last sale information regarding physical commodities and that the Commission has no jurisdiction over the trading of physical commodities or related futures contracts on which the value of the Shares is based.<sup>39</sup>

The Circular will also notify members and member organizations about the procedures for purchases and redemptions of Shares in Baskets, and that Shares are not individually redeemable but are redeemable only in one or more Baskets. The Circular will advise members of their suitability obligations with respect to recommended transactions to customers in the Shares. The Circular will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

The Circular will disclose that the trading hours of the Shares of the Funds will be from 9:30 a.m. to 4:15 p.m. ET and that the NAV for the Shares of the Funds will be calculated shortly after 4:00 p.m. ET each trading day. Information about the Shares of each Fund and the

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<sup>38</sup> Id.

<sup>39</sup> Id.

corresponding Indexes will be publicly available on the Amex Web site and each Fund's Web site.

## **Surveillance**

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares and to deter and detect violations of Exchange rules. The Exchange's surveillance procedures for the Shares will be similar to those used for other TIRs (such as the Currency Trust Shares and the DB Commodity Index Tracking Fund) and exchange-traded funds and will incorporate and rely upon existing Amex surveillance procedures governing options and equities. Specifically, the Exchange will rely on its existing surveillance procedures applicable to TIRs, Portfolio Depository Receipts and Index Fund Shares.<sup>40</sup> The Exchange currently has in place a Comprehensive Surveillance Sharing Agreement with the ICE Futures, LME, and NYMEX, for the purpose of providing information in connection with trading in or related to futures contracts traded on their respective exchanges comprising the Indexes.<sup>41</sup> The Exchange also notes that the CBOT and NYBOT are members of the Intermarket Surveillance Group ("ISG"). As a result, the Exchange asserts that market surveillance information is available from ICE Futures, LME, NYBOT, and NYMEX, if necessary, due to regulatory concerns that may arise in connection with the futures contracts.

### 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,<sup>42</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>43</sup> in particular,

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<sup>40</sup>

Id.

<sup>41</sup>

Id.

<sup>42</sup>

15 U.S.C. 78f(b).

<sup>43</sup>

15 U.S.C. 78f(b)(5).

in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange did not receive any written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the Exchange consents, the Commission will:

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The Commission is considering granting accelerated approval of the proposed rule change, as amended, at the end of a 15-day comment period.<sup>44</sup>

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<sup>44</sup> Amex has requested accelerated approval of this proposed rule change, as amended, prior to the 30th day after the date of publication of the notice of the filing thereof, following the conclusion of a 15-day comment period. Telephone Conference.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's Internet comment form at <http://www.sec.gov/rules/sro.shtml> or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-Amex-2006-76 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-Amex-2006-76. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site at <http://www.sec.gov/rules/sro.shtml>. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File No. SR-Amex-2006-76 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>45</sup>

Nancy M. Morris  
Secretary

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<sup>45</sup> 17 CFR 200.30-3(a)(12).