

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55117; File No. SR-Amex-2006-101)

January 17, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval to a Proposed Rule Change as Modified by Amendments No. 1 and 2 Thereto Relating to the Listing and Trading of Shares of Funds of the ProShares Trust

I. Introduction

On October 24, 2006, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder.² On November 22, 2006, Amex filed Amendment No. 1 to the proposed rule change.³ On December 8, 2006, Amex filed Amendment No. 2 to the proposed rule change.⁴ The proposed rule change, as amended, was published for comment in the Federal Register on December 27, 2006 for a 15-day comment period.⁵ The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendments No. 1 and 2, on an accelerated basis.

II. Description of the Proposal

Amex Rules 1000A et seq. provide standards for the listing of Index Fund Shares, which are securities issued by an open-end management investment company for exchange trading.⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 supersedes and replaces the original filing in its entirety.

⁴ Amendment No. 2 supersedes and replaces Amendment No. 1 in its entirety.

⁵ See Securities Exchange Act Release No. 54961 (December 18, 2006), 71 FR 77823 (“Notice”).

⁶ Index Fund Shares are defined in Amex Rule 1000A(b)(1) as securities based on a portfolio of stocks or fixed income securities that seek to provide investment results that

Index Fund Shares are registered under the Investment Company Act of 1940 (“1940 Act”), as well as under the Act. Under Amex Rule 1000A(b)(2), the Exchange proposes to list and trade Index Fund Shares that seek to provide investment results that exceed the performance of an underlying securities index by a specified multiple or that seek to provide investment results that correspond to a specified multiple of the inverse or opposite of the index’s performance.

Pursuant to these rules, the Exchange proposes to list the shares (the “Shares”) of eighty-one (81) new funds (the “Funds”) of the ProShares Trust (the “Trust”). In its proposal, the Exchange provided detailed descriptions regarding the Underlying Indexes,⁷ as well as the structure and operation of the Funds and the listing and trading of the Shares. Key features of the proposal are noted below.

Product Description

The Funds are based on the following equity securities indexes: (1) S&P Small Cap 600 Index; (2) S&P 500/Citigroup Value Index; (3) S&P 500/Citigroup Growth Index; (4) S&P MidCap 400/Citigroup Value Index; (5) S&P MidCap 400/Citigroup Growth Index; (6) S&P SmallCap 600/Citigroup Value Index; (7) S&P SmallCap 600/Citigroup Growth Index; (8) Dow Jones US Basic Materials Index; (9) Dow Jones US Consumer Services Index; (10) Dow Jones US Consumer Goods Index; (11) Dow Jones US Oil and Gas Index; (12) Dow Jones US Financials Index; (13) Dow Jones US Health Care Index; (14) Dow Jones US Industrials Index; (15) Dow Jones US Real Estate Index; (16) Dow Jones US Semiconductor Index; (17) Dow Jones US Technology Index; (18) Dow Jones US Utilities Index; (19) Russell 2000® Index; (20) Russell Midcap® Index; (21) Russell Midcap® Growth Index; (22) Russell Midcap® Value Index; (23)

correspond generally to the price and yield of a specified foreign or domestic stock index or fixed income securities index.

⁷ See Notice, supra note 5, 71 FR at 77825-77827 (describing the general design and composition of each Underlying Index).

Russell 1000® Index; (24) Russell 1000® Growth Index; (25) Russell 1000® Value Index; (26) Russell 2000® Growth Index; and (27) Russell 2000® Value Index (each index individually referred to as the “Underlying Index,” and all Underlying Indexes collectively referred to as the “Underlying Indexes”).

Each of the Funds is designated as an Ultra Fund, Short Fund, or UltraShort Fund, based on its investment objective. Each Ultra Fund or “Bullish Fund” seeks a daily investment result, before fees and expenses, which corresponds to twice (200%) the daily performance of its Underlying Index. Accordingly, the NAV of the Shares of each Ultra Fund, if successful in meeting its objective, should increase, on a percentage basis, approximately twice as much as the corresponding Underlying Index gains when the prices of the securities in such Underlying Index increase on a given day, and should decrease approximately twice as much as the respective Underlying Index loses when such prices decline on a given day. The Bullish Funds generally will hold at least 85% of their assets in the component equity securities of the relevant Underlying Index. The remainder of assets will be devoted to certain financial instruments⁸ and money market instruments⁹ that are intended to create the additional needed exposure to such Underlying Index necessary to pursue its investment objective.

Each Short Fund seeks a daily investment result, before fees and expenses, that corresponds to the inverse or opposite of the daily performance (-100%) of its Underlying Index. Accordingly, the NAV of the Shares of each Short Fund should increase approximately as much,

⁸ The financial instruments to be held by any of the Funds may include stock index futures contracts, options on futures contracts, options on securities and indices, equity caps, collars and floors, as well as swap agreements, forward contracts, repurchase agreements, and reverse repurchase agreements (the “Financial Instruments”).

⁹ Money market instruments include U.S. government securities and repurchase agreements (the “Money Market Instruments”). Repurchase agreements held by the Funds will be consistent with Rule 2a-7 of the 1940 Act, *i.e.*, remaining maturities of 397 days or less and rated investment-grade.

on a percentage basis, as the corresponding Underlying Index loses when the prices of the securities in the Underlying Index decline on a given day, or should decrease approximately as much as that Underlying Index gains when the prices of the securities in the Underlying Index rise on a given day.

Finally, each UltraShort Fund seeks a daily investment result, before fees and expenses, that corresponds to twice the inverse (-200%) of the daily performance of its Underlying Indexes. Accordingly, the NAV of the Shares of each UltraShort Fund should increase approximately twice as much, on a percentage basis, as the corresponding Underlying Index loses when the prices of the securities in the Underlying Index decline on a given day, or should decrease approximately twice as much as that Underlying Index gains when the prices of the securities in the Underlying Index rise on a given day.

The Short Funds and UltraShort Funds each have investment objectives that seek investment results corresponding to an inverse performance of the Underlying Indexes and are collectively referred to as the “Bearish Funds.” Each of these Bearish Funds will not invest directly in the component securities of the relevant Underlying Index, but instead, will create short exposure to such Underlying Index. Each Bearish Fund will rely on establishing positions in Financial Instruments that provide, on a daily basis, the inverse or opposite of, or twice the inverse or opposite of, as the case may be, the performance of the relevant Underlying Index. Normally, 100% of the value of the portfolios of each Bearish Fund will be devoted to Financial Instruments and Money Market Instruments.¹⁰

¹⁰ To the extent, applicable, each Fund will comply with the requirements of the 1940 Act with respect to “cover” for Financial Instruments and thus may hold a significant portion of its assets in liquid instruments in segregated accounts.

As advisor to the Funds, ProShare Advisors LLC (the “Advisor”) will implement a mathematical investment strategy known as “Portfolio Investment Methodology,” to establish an investment exposure in each portfolio corresponding to each Fund’s investment objective. The Portfolio Investment Methodology takes into account a variety of specified criteria and data, the most important of which are: (1) net assets (taking into account creations and redemptions) in each Fund’s portfolio at the end of each trading day; (2) the amount of required exposure to the Underlying Index; and (3) the positions in equity securities, Financial Instruments, and/or Money Market Instruments at the beginning of each trading day. Each day, the methodology will determine for each Fund, the end-of-day positions to establish the required amount of exposure to the Underlying Index (the “Solution”), which will consist of equity securities, Financial Instruments, and/or Money Market Instruments. The difference between the start-of-day positions and the required end-of-day positions is the actual amount of equity securities, Financial Instruments, and/or Money Market Instruments that must be bought or sold for the day. The Solution represents the required exposure and, when necessary, is converted into an order or orders to be filled that same day.¹¹

The Funds are expected to have a daily tracking error of less than 5% (500 basis points) relative to the specified multiple or inverse multiple of the performance of the relevant Underlying Index.

Creation and Redemption of Shares

¹¹ Generally, portfolio trades effected pursuant to the Solution are reflected in the NAV on the first business day (T+1) after the date the relevant trade is made. Therefore, the NAV calculated for a Fund on a given day should reflect the trades executed pursuant to the prior day’s Solution. For example, trades pursuant to the Solution calculated on a Monday afternoon are executed on behalf of the Fund in question on that day. These trades will then be reflected in the NAV for that Fund that is calculated as of 4:00 p.m. Eastern Time (“ET”) on Tuesday.

Fund Shares will be issued and redeemed on a continuous basis at a price equal to the NAV per Share next determined after an order is received in proper form. Only certain qualified entities (“Authorized Participants”) may create or redeem Shares, and each Fund will issue and redeem Shares only in aggregations of at least 50,000 (“Creation Units”). Additional information about the creation and redemption process is included in Amex’s proposal.¹²

In summary, to create Bullish Fund Shares, an Authorized Participant must properly place a creation order and typically make an in-kind deposit of a basket of equity securities (“Deposit Securities”) consisting of the securities selected by the Advisor from among those securities contained in the Fund’s portfolio,¹³ together with an amount of cash specified by the Advisor (the “Balancing Amount”), plus the applicable transaction fee (together, the “Creation Deposit”).

The Bullish Funds reserve the right to permit or require an Authorized Participant to substitute an amount of cash and/or a different security to replace any prescribed Deposit Security. In certain limited instances, a Bullish Fund may require a purchasing investor to purchase a Creation Unit entirely for cash. For example, on days when a substantial rebalancing of a Fund’s portfolio is required, the Advisor might prefer to receive cash rather than in-kind stocks so that it has liquid resources on hand to make the necessary purchases.

Similarly, Bullish Fund Shares in Creation Unit-size aggregations will be redeemable on any day on which the New York Stock Exchange is open in exchange for a basket of securities

¹² See Notice, supra note 5, 71 FR at 77829-77831.

¹³ The Trust will make available through the Depository Trust Company or SEI Investments Distribution Company (the “Distributor”) on each business day, prior to the opening of trading on the Exchange, the list of names and the required number of shares of each Deposit Security to be included in the Creation Deposit for each Bullish Fund (“Deposit List”). In accordance with the Advisor’s Code of Ethics, personnel of the Advisor with knowledge about the composition of a Creation Deposit will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public.

(“Redemption Securities”), a list of which will be available to Authorized Participants on each business day prior to the opening of trading. To redeem Shares in a Bullish Fund, an Authorized Participant must properly place a redemption order and deliver the Redemption Securities, any required Balancing Amount, and applicable transaction fee.¹⁴

Notably, the Balancing Amount may, at times, represent a significant portion of the aggregate purchase price or, in the case of redemptions, the redemption proceeds. This may occur because the mark-to-market value of the Financial Instruments held by the Bullish Funds, if any, is included in the Balancing Amount.

The Bearish Funds will be purchased and redeemed entirely for cash (“All-Cash Payments”). The use of an All-Cash Payment for the purchase and redemption of Creation Unit aggregations of the Bearish Fund Shares is due to the limited transferability of Financial Instruments.

Dividends and Distributions

As described more fully in the Notice, dividends, if any, from net investment income will be declared and paid at least annually by each Fund in the same manner as by other open-end investment companies. Distributions of realized securities gains, if any, generally will be declared and paid once a year.

Arbitrage

In its proposal, the Exchange stated that it did not expect the Shares to trade at a material discount or premium to the underlying securities held by a Fund based on potential arbitrage opportunities. As is the case for other exchange traded derivative products, the arbitrage process

¹⁴ A Bullish Fund has the right to make redemption payments in cash, in kind, or a combination of each, provided that the value of its redemption payments equals the NAV of the Shares tendered at the time of tender.

should provide market participants the opportunity to profit from differences in the price of Shares and their underlying value, mitigating the occurrence of material discounts or premiums.

Dissemination of Underlying Index Information

The daily closing index value and the percentage change in the daily closing index value for each Underlying Index will be publicly available on various Internet Web sites, such as at www.bloomberg.com. Data regarding each Underlying Index is also available from the respective Underlying Index provider to subscribers. Several independent data vendors also package and disseminate Underlying Index data in various value-added formats (including vendors displaying both securities and index levels and vendors displaying index levels only).

The value of each Underlying Index will be updated intra-day on a real time basis as its individual component securities change in price. These intra-day values of each Underlying Index will be disseminated at least every 15 seconds throughout the trading day by Amex or another organization authorized by the relevant Underlying Index provider in accordance with Commentary .02(c) to Amex Rule 1000A.

Availability of Information Regarding the Shares

1. Indicative Intra-Day Fund Values

During the Exchange's regular trading hours, Amex will calculate and disseminate at least every 15 seconds through the facilities of the Consolidated Tape Association ("CTA"), an Indicative Intra-Day Value ("IIV") for each of the Funds on a per Share basis, representing an estimate of the NAV per Share for each Fund. The Exchange will also make the IIV available on its Web site at www.amex.com.

For each Bullish Fund, the designated IIV Calculator (Amex) will determine the IIV by:

- (i) calculating the estimated current value of equity securities held by such Fund by (a)

calculating the percentage change in the value of the Deposit Securities indicated on the Deposit List (as provided by the Trust) and applying that percentage value to the total value of the equity securities in the Fund as of the close of trading on the prior trading day (as provided by the Trust) or (b) calculating the current value of all of the equity securities held by the Fund (as provided by the Trust); (ii) calculating the mark-to-market gains or losses from the Fund's total return equity swap exposure based on the percentage change to the Underlying Index and the previous day's notional values of the swap contracts, if any, held by such Fund (which previous day's notional value will be provided by the Trust); (iii) calculating the mark-to-market gains or losses from futures, options, and other Financial Instrument positions by taking the difference between the current value of those positions held by the Fund, if any (as provided by the Trust), and the previous day's value of such positions; (iv) adding the values from (i), (ii), and (iii) above to an estimated cash amount provided by the Trust (which cash amount will include the swap costs), to arrive at a value; and (v) dividing that value by the total Shares outstanding (as provided by the Trust) to obtain current IIV.

For each Bearish Fund, the Exchange will determine the IIV by: (i) calculating the mark-to-market gains or losses from the Fund's total return equity swap exposure based on the percentage change to the Underlying Index and the previous day's notional values of the swap contracts, if any, held by such Fund (which previous day's notional value will be provided by the Trust); (ii) calculating the mark-to-market gains or losses from futures, options, and other Financial Instrument positions by taking the difference between the current value of those positions held by the Fund, if any (as provided by the Trust), and the previous day's value of such positions; (iii) adding the values from (i) and (ii) above to an estimated cash amount provided by the Trust (which cash amount will include the swap costs), to arrive at a value; and

(iv) dividing that value by the total Shares outstanding (as provided by the Trust) to obtain current IIV.

2. Other Information

Amex will disseminate for each Fund on a daily basis through the facilities of the CTA and CQ High Speed Lines and on its Web site at www.amex.com the following information:

- daily trading volume;
- the closing prices of each Fund's Shares and corresponding NAV; and
- the final dividend amounts to be paid for each Fund.

The Exchange will also make available information with respect to recent NAV, Shares outstanding, and the estimated cash amount and total cash amount per Creation Unit.

Additionally, the Trust's Internet Web site (www.proshares.com), which is and will be publicly accessible at no charge, will contain the following information for each Fund's Shares:

(a) the prior business day's closing NAV, the reported closing price, and a calculation of the premium or discount of such price in relation to the closing NAV; (b) data for a period covering at least the four previous calendar quarters (or the life of a Fund, if shorter) indicating how frequently each Fund's Shares traded at a premium or discount to NAV based on the daily closing price and the closing NAV, and the magnitude of such premiums and discounts; (c) its prospectus and product description; and (d) other quantitative information, such as daily trading volume.

The Web site for the Trust and/or the Exchange will also disclose each Fund's total portfolio composition on a daily basis, including, as applicable, the names and number of shares held of each specific equity security, the specific types of Financial Instruments and characteristics of such Financial Instruments, and the cash equivalents and amount of cash held

in the portfolio of each Fund. Importantly, this public Internet Web site disclosure of the portfolio composition of each Fund will coincide with the disclosure by the Advisor of the “IIV File” and the portfolio composition file (“PCF”) to Authorized Participants. Therefore, the same portfolio information (including accrued expenses and dividends) will be provided to all market participants at the same time.

Also, as explained in Amex’s proposal, beneficial owners of Shares (“Beneficial Owners”) will receive all of the statements, notices, and reports required under the 1940 Act and other applicable laws.¹⁵

Criteria for Initial and Continued Listing

The Shares are subject to the criteria for initial and continued listing of Index Fund Shares under Amex Rule 1002A. Pursuant to Amex Rule 1002A(a)(ii), the Exchange has stated that it will obtain a representation from the Trust (for each Fund), prior to listing, that the NAV per Share for each Fund will be calculated daily and made available to all market participants at the same time.

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

- If, following the initial twelve-month period after commencement of trading on the Exchange of a series of Index Fund Shares, there are fewer than 50 beneficial

¹⁵ The Application requests relief from Section 24(d) of the 1940 Act, which would permit dealers to sell Shares in the secondary market unaccompanied by a statutory prospectus when prospectus delivery is not required by the Securities Act of 1933. Additionally, if a product description is being provided in lieu of a prospectus, Commentary .03 of Amex Rule 1000A requires that Amex members and member organizations provide to all purchasers of a series of Index Fund Shares a written description of the terms and characteristics of such securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time of confirmation of the first transaction in such series is delivered to such purchaser. Furthermore, any sales material will reference the availability of such circular and the prospectus.

holders of the series of Index Fund Shares for 30 or more consecutive trading days; or

- If the value of the applicable 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; or
- The IIV is no longer made available on at least a 15-second delayed basis; 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 Exchange will commence delisting the Shares of such Fund if:

- The Underlying Index provider substantially changes either the Underlying Index component selection methodology or the weighting methodology; or
- A successor or substitute index is used in connection with the Shares.¹⁶

Furthermore, Amex Rule 1002A(b)(ii) establishes that, if the IIV or the Underlying Index value applicable to that series of Index Fund Shares is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the Underlying Index value occurs. If the interruption to the dissemination of the IIV or the Underlying 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.

¹⁶ If the Trust 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.

For each Fund, a minimum of two Creation Units (at least 100,000 Shares) will be required to be outstanding at the commencement of trading on the Exchange. The initial value of a Share for each of the Funds is expected to be in the range of \$50-\$250.

This minimum number of Shares required to be outstanding at the start of trading will be comparable to requirements that have been applied to previously listed series of Portfolio Depository Receipts and Index Fund Shares. The Exchange believes that the proposed minimum number of Shares outstanding at the start of trading is sufficient to provide market liquidity.

The Exchange represents that the Trust is required to comply with Section 803 of the Amex Company Guide and Rule 10A-3 under the Act for the initial and continued listing of the Shares.¹⁷

Amex 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, and account opening and customer suitability (Amex Rule 411). The Shares of the Funds will trade on the Exchange until 4:15 p.m. ET each business day and will trade with a minimum price variation of \$.01.

Trading Halts

Trading in Shares of the Funds will be halted if the circuit breaker parameters under Amex Rule 117 have been reached. The Exchange may also halt trading in consideration of other factors, such as those set forth in Amex Rule 918C(b). These factors include, but are not limited to: (1) the extent to which trading is not occurring in securities comprising an

¹⁷ Telephone conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and Edward Cho, Special Counsel, Division of Market Regulation (“Division”), Commission, on January 9, 2007 (clarifying that the Trust is required to comply with Rule 803 of the Amex Company Guide).

Underlying Index and/or the Financial Instruments of a Fund;¹⁸ or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

Amex Rule 1002A(b)(ii) sets forth the trading halt parameters with respect to Index Fund Shares. Importantly, if the IIV or the Underlying Index value applicable to that series of Index Fund Shares is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the Underlying Index value occurs. If the interruption to the dissemination of the IIV or the Underlying 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.

Suitability and Information Circular

Prior to commencement of trading, the Exchange will issue an Information Circular to its members and member organizations providing guidance with regard to member firm compliance responsibilities (including suitability obligations) when effecting transactions in the Shares and highlighting the special risks and characteristics of the Funds and Shares as well as applicable Exchange rules. In particular, the Information Circular will inform Amex members and member organizations that the procedures for purchases and redemptions of Shares, and that Shares are not individually redeemable, but are redeemable only in Creation Unit aggregations or multiples thereof. In addition, prior to the commencement of trading, the Exchange will inform members and member organizations in such Information Circular of the application of Commentary .03 of

¹⁸ In the case of the Financial Instruments held by a Fund, the Exchange represents that a notification procedure will be implemented so that timely notice from the Advisor is received by the Exchange when a particular Financial Instrument is in default or shortly to be in default. Notification from the Advisor will be made by phone, facsimile, or e-mail. The Exchange would then determine on a case-by-case basis whether a default of a particular Financial Instrument justifies a trading halt of the Shares.

Amex Rule 1000A to the Funds. The Circular will further inform members and member organizations of the prospectus and/or product description delivery requirements that apply to the Funds.

This Information Circular will set forth the requirements relating to Commentary .05 to Amex Rule 411 (Duty to Know and Approve Customers). Specifically, the Information Circular will remind members of their obligations in recommending transactions in the Shares so that members have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member, and (2) that the customer can evaluate the special characteristics, and is able to bear the financial risks, of such investment. In connection with the suitability obligation, the Information Circular will also provide that members make reasonable efforts to obtain the following information: (a) the customer's financial status; (b) the customer's tax status; (c) the customer's investment objectives; and (d) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

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 applicable rules.¹⁹ Specifically, Amex will rely on its existing surveillance procedures governing Index Fund Shares, which have been deemed adequate under the Act. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

¹⁹ Telephone conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and Edward Cho, Special Counsel, Division, Commission, on January 9, 2007 (confirming that the Exchange's surveillance procedures are capable of detecting and deterring violations of applicable rules).

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.²⁰ In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6(b)(5) of the Act,²¹ which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to 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.

A. Surveillance

The Commission notes that the Exchange has represented that its surveillance procedures are adequate to monitor the trading of the Shares. The shares based on the Underlying Indexes are almost all currently listed and/or traded on the Exchange. Amex stated that it would rely on its existing surveillance procedures governing Index Fund Shares. The Commission believes that these procedures provide a framework for Amex to monitor fraudulent and manipulative practices in the trading of the Shares.

In addition, the Exchange represents that, if a Fund uses a successor or substitute index, or an Underlying Index provider substantially changes either the Underlying Index component selection methodology or the weighting methodology, Amex will file with the Commission a proposed rule change, which addresses, among other things, applicable surveillance procedures. Unless approved by the Commission, the Exchange will commence delisting of the Shares.

²⁰ 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).

²¹ 15 U.S.C. 78f(b)(5).

B. Dissemination of Information

The Commission believes that sufficient venues exist for obtaining reliable information so that investors in the Shares can monitor the values of the Underlying Indexes relative to the IIV of their Shares.

The Exchange has represented that it will calculate and publish the value of the Underlying Indexes at least every 15 seconds during Amex trading hours through the facilities of the CTA in accordance with Commentary .02(c) to Amex Rule 1000A. The Commission notes that the daily closing index value and the percentage change in the daily closing index value for each Underlying Index will be publicly available on various Internet Web sites, such as at www.bloomberg.com, from the respective Underlying Index provider to subscribers, and from various independent data vendors that package and disseminate Underlying Index data in various value-added formats.

Likewise, the Exchange has represented that it will calculate and publish the IIV for each Fund on a per-Share basis at least every 15 seconds during Amex trading hours through the facilities of the CTA and on its Web site at www.amex.com. The Commission believes that dissemination of the IIV provides additional information that is not otherwise available to the public and is useful to professionals and investors in connection with the Shares trading on the Exchange, and the creation and redemption of the Shares. The Commission believes that publication of such information should promote transparency with regard to the Shares.

The Exchange will make additional information available on its Internet Web site at www.amex.com, including daily trading volume, the closing price, the NAV, and the final dividend amounts to be paid for each Fund. The Trust's Web site (www.proshares.com), which is and will be publicly accessible at no charge, will also contain trading and other information

pertaining to the Shares of each Fund. Notably, each Fund's total portfolio composition will be disclosed on the Trust's Web site (or another relevant Internet Web site as determined by the Trust) and/or Amex's Web site (www.amex.com).

In sum, the Commission believes that the availability of information about the Underlying Indexes, the composition and valuation of each Fund, and the Shares should facilitate transparency with respect to the proposed Shares to allow for the maintenance of fair and orderly markets.

C. Listing and Trading

The Commission finds that the Exchange's proposed rules and procedures for the listing and trading of the Shares are consistent with the Act. The Shares will trade as equity securities subject to Amex rules including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities, account opening, and customer suitability requirements.

The Commission believes that the listing and delisting criteria for the Shares should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Shares. Additionally, the Commission finds that Amex Rule 1000A and Commentary thereto are reasonably designed to govern trading in the Shares. Finally, the Commission notes that the Information Circular distributed by the Exchange will inform members and member organizations about the terms, characteristics, and risks in trading the Shares, including their prospectus delivery obligations.

D. Accelerated Approval

The Commission finds good cause to approve the proposed rule change, as modified by Amendments No. 1 and 2 thereto, prior to the thirtieth day after publication for comment in the

Federal Register pursuant to Section 19(b)(2) of the Act.²² Accelerating approval of this proposed rule change should benefit investors who desire to participate, through the Shares of the ProShares Trust Funds, in an investment based on specified investment objectives which correspond to a multiple of the performance, or the inverse performance, of a particular equity securities benchmark index.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-Amex-2006-101), as modified by Amendments No. 1 and 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

Nancy M. Morris
Secretary

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 200.30-3(a)(12).