

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56998; File No. SR-Amex-2007-104)

December 19, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Shares of Eleven Funds of the ProShares Trust

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 18, 2007, 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 substantially prepared by the Exchange. On December 18, 2007, Amex filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares (“Shares”) of 11 funds (“Funds”) of the ProShares Trust (“Trust”) based on a domestic stock index and several fixed income indexes.

The text of the proposed rule change is available at <http://www.amex.com>, at the Exchange 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, Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4

rule change. The text of these statements may be examined at the places specified in Item III below. 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

The Exchange proposes to list under amended Rule 1000A-AEMI, shares of 10 new funds of the Trust that are designated as Short Funds or UltraShort Funds, and one new fund designated as an Ultra Fund. Amex Rules 1000A-AEMI and Rule 1001A through 1005A provide standards for the listing of Index Fund Shares, which are securities issued by an open-end management investment company for exchange trading. These securities are registered under the Investment Company Act of 1940 ("1940 Act") as well as the Act. Index Fund Shares are defined in Rule 1000A-AEMI(b)(1) as securities based on a portfolio of stocks or fixed income securities that seek to provide investment results that correspond generally to the price and yield of a specified foreign or domestic stock index or fixed income securities index.

Rule 1000A-AEMI(b)(2) permits the Exchange 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. The Commission has recently approved the listing and trading of certain Ultra Funds, Short Funds and UltraShort Funds based on a variety of underlying indexes.³

³ See Securities Exchange Act Release No. 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR-Amex-2004-62)("Original Order"); see also Securities Exchange Act Release Nos. 54040 (June 23, 2006), 71 FR 37669 (June 30, 2006) (SR-Amex 2006-41); 55117 (January 17, 2007), 72 FR 3442 (January 25, 2007) (SR-Amex-2006-101).

Each of the Funds will have a distinct investment objective.⁴ Each Fund will attempt, on a daily basis, to achieve its investment objective by corresponding to a specified multiple of the performance, the inverse performance, or an inverse multiple of the performance of a particular fixed income or equity securities index (individually referred to as the “Underlying Index” and collectively referred to as the “Underlying Indexes”) as briefly described below. The Funds will be based on the following benchmark indexes:

- Lehman Brothers 7-10 Year U.S. Treasury Index;
- Lehman Brothers 20+ Year U.S. Treasury Index;
- iBoxx \$ Liquid Investment Grade Index;
- iBoxx \$ Liquid High Yield Index; and
- Dow Jones U.S. Select Telecommunications Index (together, the “Underlying Indexes”).⁵

⁴ The Funds are as follows: (1) Short Lehman Brothers 7-10 Year U.S. Treasury ProShares; (2) Short Lehman Brothers 20+ Year U.S. Treasury ProShares; (3) Short iBoxx \$ Liquid Investment Grade ProShares; (4) Short iBoxx \$ Liquid High Yield ProShares; (5) Short Dow Jones Select Telecommunications ProShares; (6) UltraShort Lehman Brothers 7-10 Year U.S. Treasury ProShares; (7) UltraShort Lehman Brothers 20+ Year U.S. Treasury ProShares; (8) UltraShort iBoxx \$ Liquid Investment Grade ProShares; (9) UltraShort iBoxx \$ Liquid High Yield ProShares; (10) UltraShort Dow Jones Select Telecommunications ProShares; and (11) Ultra Dow Jones Select Telecommunications ProShares.

⁵ The Statement of Additional Information (“SAI”) for the Funds discloses that each Fund reserves the right to substitute a different Index. Substitution could occur if the Index becomes unavailable, no longer serves the investment needs of shareholders, the Fund experiences difficulty in achieving investment results that correspond to the Index or for any other reason determined in good faith by the Board of Trustees of the Trust. In such instance, the substitute index would attempt to measure the same general market as the current index. Consistent with applicable law, shareholders will be notified (either directly or through their intermediary) in the event a Fund’s current index is replaced.

Short Funds:

The Exchange proposes to list and trade shares of the Funds that seek daily investment results, before fees and expenses, that correspond to the inverse or opposite of the daily performance (-100%) of the Underlying Indexes (“Short Funds”). If each of these Funds is successful in meeting its objective, the net asset value (“NAV”) of shares of each Fund should increase approximately as much, on a percentage basis, as the respective Underlying Index loses when the prices of the securities in the Index decline on a given day, or should decrease approximately as much as the respective Index gains when the prices of the securities in the index rise on a given day, before fees and expenses.

UltraShort Funds:

The Exchange also proposes to list and trade shares of the Funds that seek daily investment results, before fees and expenses that correspond to twice the inverse (-200%) of the daily performance of the Underlying Indexes (“UltraShort Funds”). If each of these Funds is successful in meeting its objective, the NAV of shares of each Fund should increase approximately twice as much, on a percentage basis, as the respective Underlying Index loses when the prices of the securities in the Index decline on a given day, or should decrease approximately twice as much as the respective Underlying Index gains when the prices of the securities in the index rise on a given day, before fees and expenses.

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.”

Ultra Fund:

Finally, the Exchange proposes to list and trade shares of one Fund⁶ that seeks daily investment results, before fees and expenses, that corresponds to twice (200%) the daily performance of the Underlying Index (“Ultra Fund” or “Bullish Fund”). This Fund, if successful in meeting its investment objective, should gain, on a percentage basis, approximately twice as much as the Fund’s Underlying Index when the price of the securities in such Index increase on a given day, and should lose approximately twice as much when such prices decline on a given day.

Underlying Indexes

According to Rule 1000A-AEMI(b)(2), the Exchange may not list and trade Index Fund Shares under its generic listing standards adopted pursuant to Rule 19b-4(e) if the Index Fund Shares are leveraged, that is, they seek to provide investment results that either exceed or correspond to the inverse of the performance of a specified foreign or domestic stock index by a specified multiple.⁷ While the Exchange is proposing to list and trade the Funds pursuant to Section 19(b)(1) of the Act, the Exchange represents that the indexes and their respective components (as described below) comply with the generic listing standards set forth in Commentary .02 and Commentary .03 to Amex Rule 1000A-AEMI.⁸

Lehman Brothers 7-10 Year U.S. Treasury Index

The index is market capitalization weighted and includes all publicly issued U.S. Treasury Securities that have a remaining maturity of between 7 and 10 years and have more than \$250 million par outstanding. The index value is calculated and published daily by 10:00

⁶ The Ultra Fund will be based on the Dow Jones U.S. Select Telecommunications Index.

⁷ See Rule 1000A-AEMI(b)(2)(iii) and Commentary .02 thereto.

⁸ The Exchange represents that Shares based on the Underlying Indexes would meet the criteria set forth in Commentary .04 through .06, .08 and .09 to Amex Rule 1000A-AEMI.

p.m. Eastern Time (“ET”). The Commission has previously approved the listing and trading on the Amex of an exchange-traded fund based on the iShares Lehman 7-10 Year Treasury Index.⁹

Lehman Brothers 20+ Year U.S. Treasury Index

The index is market capitalization weighted and includes all publicly issued U.S. Treasury Securities that have a remaining maturity greater than 20 years and have more than \$150 million par outstanding. The index value is calculated and published daily by 10:00 p.m. ET. The Commission has previously approved the listing and trading on the Amex of an exchange-traded fund based on the Lehman Brothers 20+ Year U.S. Treasury Index.¹⁰

iBoxx \$ Liquid Investment Grade Index

The index is a rules-based index consisting of up to 100 highly liquid, investment grade, U.S. dollar-denominated corporate bonds with a minimum amount outstanding of \$500 million that seeks to maximize liquidity while maintaining representation of the broader investment grade corporate bond market. The index consists of issuers domiciled in the U.S., Bermuda, Cayman Islands, Canada, Japan or Western Europe. The index is equally priced weighted and is re-balanced monthly. The index value is calculated and published daily by 4:30 p.m. ET. The Commission has previously approved the listing and trading on the Amex of an exchange-traded fund based on the iBoxx \$ Liquid Investment Grade Index.¹¹

⁹ See Securities Exchange Act Release No. 46252 (July 24, 2002), 67 FR 49715 (July 31, 2002) (SR-Amex-2001-35). The iShares Lehman Brothers 7-10 Year Treasury Bond ETF (IEF) is listed and traded on the Exchange.

¹⁰ See id. The iShares Lehman Brothers 20+ Year Treasury Bond ETF (TLT) is listed and traded on the Exchange.

¹¹ See id. The iShares iBoxx \$ Investment Grade Corporate Bond Fund (LQD) (formerly the GS \$ InvesTop Index) is listed and traded on the Exchange.

iBoxx \$ Liquid High Yield Index

The index is a rules-based index consisting of up to 50 of the most liquid, high yield, U.S. dollar-denominated corporate bonds with a minimum amount outstanding of \$200 million that seeks to maximize liquidity while maintaining representation of the broader high yield corporate bond market. The index consists of issuers domiciled in the U.S., Bermuda, Cayman Islands, Canada, Japan, or Western Europe. The index is equally priced weighted and is re-balanced monthly. The index value is calculated and published daily by 4:30 p.m. ET. An exchange-traded fund based on the iBoxx \$ Liquid High Yield Index is listed and trade on the Exchange.¹²

Dow Jones U.S. Select Telecommunications Index

The Dow Jones U.S. Select Telecommunications Index is a float-adjusted market capitalization weighted index designed to measure the performance of the telecommunications economic sector of the U.S. equity market. Component companies include fixed line and mobile telecommunications companies. Component weights are capped for diversification. The universe for the index includes all common stocks of companies in the Dow Jones U.S. Select Telecommunications Index that are categorized as belonging to the telecommunications sector, based on Industry Classification Benchmark (ICB) definitions. The company at the 90% cumulative market capitalization of the index must have a float adjusted market capitalization of at least \$75 million. The Index value is calculated and disseminated every 15 seconds during Amex's trading hours.

¹² The iBoxx High Yield Corporate Bond Fund (HYG) is listed and traded on the Exchange pursuant to the Exchange's generic listing standards. See Commentary .03 to Rule 1000A-AEMI (setting forth standards for indexes based on fixed income securities).

The Exchange represents that the Dow Jones U.S. Select Telecommunications Index meets the Exchange's generic listing standards for Index Fund Shares.¹³

The Funds

ProShare Advisors LLC is the investment advisor ("Advisor") to each Fund. The Advisor is registered under the Investment Advisers Act of 1940.¹⁴ While the Advisor will manage each Fund, the Trust's Board of Trustees ("Board") will have overall responsibility for the Funds' operations. The composition of the Board is, and will be, in compliance with the requirements of Section 10 of the 1940 Act.

SEI Investments Distribution Company ("Distributor"), a broker-dealer registered under the Act, would act as the distributor and principal underwriter of the Shares. JPMorgan Chase Bank, N.A. would act as the index receipt agent ("Index Receipt Agent") for the Bullish Fund for which it will receive fees. The Index Receipt Agent would be responsible for transmitting a list of names and the required number of shares of each deposit basket of equity securities ("Deposit Securities") to be included in the Creation Deposit for the Bullish Fund ("Deposit List") to the National Securities Clearing Corporation ("NSCC") and for the processing, clearance and settlement of purchase and redemption orders through the facilities of the Depository Trust Company ("DTC") and NSCC on behalf of the Trust. When applicable, the Index Receipt Agent will also be responsible for the coordination and transmission of files and purchase and redemption orders between the Distributor and the NSCC.

¹³ See Commentary .02 to Rule 1000A-AEMI.

¹⁴ The Trust, Advisor and Distributor ("Applicants") have filed with the Commission an Application to amend the Order under Sections 6(c) and 17(b) of the 1940 Act (the "Application") for the purpose of exempting the Funds of the Trust from various provisions of the 1940 Act. (File No. 812-13382).

Shares of the Funds issued by the Trust will be a class of exchange-traded securities that represent an interest in the portfolio of a particular Fund.¹⁵ Shares would be registered in book-entry form only and the Trust would not issue individual share certificates. The DTC or its nominee would be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares would be shown on the records of DTC or DTC Participants.

Investment Objective of the Funds

The Bearish Funds would seek daily investment results, before fees and expenses, of the inverse or opposite (-100%) of the Underlying Index while the UltraShort funds would seek daily investment results, before fees and expenses, of twice the inverse or opposite (-200%) of the daily performance of the Underlying Index. The Bearish Funds would not invest directly in the component securities of the relevant Underlying Index, but instead, would create short exposure to such Index. Each Bearish Fund would rely on establishing positions in financial instruments (as defined below) that provide, on a daily basis, the inverse or opposite of, or twice the inverse or opposite of, the performance of the relevant Underlying Index. Normally 100% of the value of the portfolios of each Fund would be devoted to such financial instruments and money market instruments.

The Bullish Fund would seek investment results that corresponds, before fees and expenses, to twice (200%) the daily performance of the Underlying Index and would invest its assets based upon the same strategies as conventional index funds. Rather than holding positions in equity securities and financial instruments intended to create exposure to 100% of the daily performance of an underlying index, the Bullish Fund would hold equity securities and financial instruments positions designed to create exposure equal to twice (200%), before fees and

¹⁵ The Trust is also registered as a business trust under the Delaware Corporate Code.

expenses, the daily performance of the Underlying Index. The Bullish Fund generally would hold 85% to 100% of its assets in the component equity securities of the Underlying Index. The remainder of assets would be devoted to Financial Instruments and Money Market Instruments (as defined below) that are intended to create the additional needed exposure to such Underlying Index necessary to pursue its investment objective.

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 (“Financial Instruments”). Money market instruments include U.S. government securities and repurchase agreements¹⁶ (“Money Market Instruments”).

While the Advisor would attempt to minimize any “tracking error” between the investment results of a particular Fund and the performance (and specified multiple thereof) or the inverse performance (and specified multiple thereof) of its Underlying Index, certain factors may tend to cause the investment results of a Fund to vary from such relevant Underlying Index or specified multiple thereof.¹⁷ The Bullish Fund is expected to be highly correlated to the

¹⁶ Repurchase agreements held by the Funds will be consistent with Rule 2a-7 under the 1940 Act.

¹⁷ Several factors may cause a Fund to vary from the relevant Underlying Index and investment objective including: (1) a Fund’s expenses, including brokerage fees (which may be increased by high portfolio turnover) and the cost of the investment techniques employed by that Fund; (2) less than all of the securities in the benchmark index being held by a Fund and securities not included in the benchmark index being held by a Fund; (3) an imperfect correlation between the performance of instruments held by a Fund, such as futures contracts, and the performance of the underlying securities in the cash market; (4) bid-ask spreads (the effect of which may be increased by portfolio turnover); (5) holding instruments traded in a market that has become illiquid or disrupted; (6) a Fund’s share prices being rounded to the nearest cent; (7) changes to the benchmark index that are not disseminated in advance; (8) the need to conform a Fund’s portfolio holdings to comply with investment restrictions or policies or regulatory or tax law requirements; and (9) early and unanticipated closings of the markets on which the holdings of a Fund trade,

Underlying Index and investment objective (0.95 or greater). The Bearish Funds are expected to be highly inversely correlated to each Underlying Index and investment objective (-.95 or greater).¹⁸ In each case, the Funds are expected to have a daily tracking error of less than 5% (500 basis points) relative to the specified multiple, inverse, or inverse multiple of the performance of the relevant Underlying Index.

The Portfolio Investment Methodology

The Advisor would seek to establish an investment exposure in each portfolio corresponding to each Fund's investment objective based upon its Portfolio Investment Methodology. The Portfolio Investment Methodology is a mathematical model based on well-established principles of finance that are widely used by investment practitioners, including conventional index fund managers.

As set forth in the Application, the Portfolio Investment Methodology was designed to determine for each Fund the portfolio investments needed to achieve its stated investment objectives. The Portfolio Investment Methodology takes into account a variety of specified criteria and data ("Inputs"), 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 (if applicable), Financial Instruments and/or Money Market Instruments at the beginning of each trading day. The Advisor, pursuant to the methodology, would then mathematically determine

resulting in the inability of the Fund to execute intended portfolio transactions.

¹⁸ Correlation is the strength of the relationship between (1) the change in a Fund's NAV and (2) the change in the benchmark index (investment objective). The statistical measure of correlation is known as the "correlation coefficient." A correlation coefficient of +1 indicates a perfect positive correlation while a value of -1 indicates a perfect negative (inverse) correlation. A value of zero would mean that there is no correlation between the two variables.

the end-of-day positions to establish the required amount of exposure to the Underlying Index (“Solution”), which would consist of equity securities (if applicable), 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 (if applicable), 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.

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. For the Bearish Funds described herein, these trades would then be reflected in the NAV for that Fund that is generally calculated as of 3:00 p.m. ET on Tuesday (or earlier as necessary).¹⁹

The timeline for the Methodology is as follows: Authorized Participants (“APs” or “Authorized Participant”) have a 2:00 p.m. ET cut-off (or earlier as necessary) for orders submitted by telephone, facsimile and other electronic means of communication and a 4:00 p.m. ET cut-off for orders received via mail.²⁰ AP orders by mail are exceedingly rare. Orders are

¹⁹ The Bearish Funds are based on the following fixed income indexes: (1) the Lehman Brothers 7-10 Year U.S. Treasury Index; (2) the Lehman Brothers 20+ Year U.S. Treasury Index; (3) the iBoxx \$ Liquid Investment Grade Index; and (4) the iBoxx \$ Liquid High Yield Index.

²⁰ An Authorized Participant is either (1) a broker-dealer or other participant in the continuous net settlement system of the NSCC or (2) A DTC participant, and which has entered into a participant agreement with the Distributor. Orders for the ten Short Funds and UltraShort Funds described herein may not be placed on days where the equity markets are open, but the fixed income markets are closed.

received by the Distributor and relayed to the Advisor within 10 minutes. The Advisor would know by 2:10 p.m. ET the number of creation/redemption orders by APs for that day.

Subsequently, the Advisor generally puts orders into the market between 2:30 p.m. and 2:55 p.m. ET in order to obtain requisite portfolio exposure consistent with the Solution. At 3:00 p.m. ET, the Advisor would again look at the exposure to make sure that the orders placed are consistent with the Solution, and as described above, the Advisor would execute any other transactions in Financial Instruments to assure that the Fund's exposure is consistent with the Solution.

For the Bullish Fund,²¹ 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 would then be reflected in the NAV for that Fund that is calculated as of 4:00 p.m. ET on Tuesday.

The timeline for the Methodology is as follows: Authorized Participants have a 3:00 p.m. ET cut-off for orders submitted by telephone, facsimile and other electronic means of communication and a 4:00 p.m. ET cut-off for orders received via mail. AP orders by mail are exceedingly rare. Orders are received by the Distributor and relayed to the Advisor within 10 minutes. The Advisor would know by 3:10 p.m. ET the number of creation/redemption orders by APs for that day. Orders are then placed at approximately 3:40 p.m. ET as market-on-close (MOC) orders. At 4:00 p.m. ET, the Advisor would again look at the exposure to make sure that the orders placed are consistent with the Solution, and as described above, the Advisor would

²¹ This fund is based on the Dow Jones U.S. Select Telecommunications Index.

execute any other transactions in Financial Instruments to assure that the Fund's exposure is consistent with the Solution.

Description of Investment Techniques

In attempting to achieve its individual investment objectives, a Fund may invest its assets in equity securities, Financial Instruments and Money Market Instruments (collectively, "Portfolio Investments"). The Bullish Fund would hold between 85-100% of its total assets in the equity securities contained in the relevant Underlying Index. The remainder of assets, if any, would be devoted to Financial Instruments and Money Market Instruments that are intended to create additional needed exposure to such Underlying Index necessary to pursue the Bullish Fund's investment objectives. The Bearish Funds generally would not invest in equity securities but rather would hold only Financial Instruments and Money Market Instruments. To the extent, applicable, each Fund would 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.

Each Fund may engage in transactions in futures contracts on designated contract markets where such contracts trade, and would only purchase and sell futures contracts traded on a U.S. futures exchange or board of trade. Each Fund would comply with the requirements of Rule 4.5 of the regulations promulgated by the Commodity Futures Trading Commission ("CFTC").²²

Each Fund may enter into swap agreements and/or forward contracts for the purposes of attempting to gain exposure to the equity securities of its Underlying Index without actually transacting such securities. The counterparties to the swap agreements and/or forward contracts

²² The CFTC Rule 4.5 provides an exclusion for investment companies registered under the 1940 Act from the definition of a "commodity pool operator" upon the filing of a notice of eligibility with the National Futures Association.

would be major broker-dealers and banks. The creditworthiness of each potential counterparty is assessed by the Advisor's credit committee pursuant to guidelines approved by the Board.

Existing counterparties are reviewed periodically by the Board or its designee. Each Fund may also enter into repurchase and reverse repurchase agreements with terms of less than one year, and would only enter into such agreements with (i) members of the Federal Reserve System, (ii) primary dealers in U.S. government securities, or (iii) major broker-dealers. Each Fund may also invest in Money Market Instruments, in pursuit of its investment objectives, as "cover" for Financial Instruments, as described above, or to earn interest.

The Trust would adopt certain fundamental policies consistent with the 1940 Act and each Fund would be classified as "non-diversified" under the 1940 Act. Each Fund, however, intends to maintain the required level of diversification and otherwise conduct its operations so as to qualify as a "regulated investment company" ("RIC") for purposes of the Internal Revenue Code ("Code"), in order to relieve the Trust and the Funds of any liability for Federal income tax to the extent that its earnings are distributed to shareholders.²³

Availability of Information about the Shares and Underlying Indexes

The Trust's Web site, which is and would be publicly accessible at no charge, would contain the following information for each Fund's Shares: (a) the prior business day's closing

²³ In order for a fund to qualify for tax treatment as a RIC, it must meet several requirements under the Code. Among these is the requirement that, at the close of each quarter of the Fund's taxable year, (i) at least 50% of the market value of the Fund's total assets must be represented by cash items, U.S. government securities, securities of other RICs, and other securities, with such other securities limited for purposes of this calculation in respect of any one issuer to an amount not greater than 5% of the value of the Fund's assets and not greater than 10% of the outstanding voting securities of such issuer, and (ii) not more than 25% of the value of its total assets may be invested in the securities of any one issuer, or two or more issuers that are controlled by the Fund (within the meaning of Section 851(b)(4)(B) of the Internal Revenue Code (and that are engaged in the same or similar trades or businesses or related trades or businesses (other than U.S. government securities or the securities of other regulated investment companies)).

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/or Product Description; and (d) other quantitative information such as daily trading volume. The Prospectus and/or Product Description for each Fund would inform investors that the Trust's Web site has information about the premiums and discounts at which the Fund's Shares have traded.²⁴

The Amex would disseminate for each Fund on a daily basis every 15 seconds by means of the Consolidated Tape Association ("CTA") and CQ High Speed Lines information with respect to an Intra-Day Indicative Value ("IIV") (as defined and discussed below under "Dissemination of Intra-Day Indicative Value (IIV)"), recent NAV, shares outstanding, estimated cash amount and total cash amount per Creation Unit.²⁵ The Exchange would make available on its Web site daily trading volume, closing price, the NAV and final dividend amounts to be paid for each Fund.

Each Fund's total portfolio composition would be disclosed on the Web site of the Trust (www.proshares.com) or another relevant Web site as determined by the Trust and/or the

²⁴ 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 .06 of Amex Rule 1000A-AEMI 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.

²⁵ Quotations and last-sale information for the Funds' Shares are disseminated over the Consolidated Tape.

Exchange (www.amex.com). Web site disclosure of portfolio holdings would be made by the Trust on a daily basis and would include, as applicable, the names and number of shares held of each equity security (if applicable), the specific types of Financial Instruments and characteristics of such instruments, cash equivalents and amount of cash held in the portfolio of each Fund. This public Web site disclosure of the portfolio composition of each Fund would coincide with the disclosure by the Advisor of the “IIV File” (described below) and the “PCF File,” when applicable (described below). Therefore, the same portfolio information (including accrued expenses and dividends) would be provided on the public Web site as well as in the IIV File and PCF File (when applicable) provided to “Authorized Participants” (defined below). The format of the public Web site disclosure and the IIV File and PCF File (when applicable) would differ because the public Web site would list all portfolio holdings while the IIV File and PCF File (when applicable) would similarly provide the portfolio holdings but in a format appropriate for Authorized Participants, *i.e.*, the exact components of a Creation Unit.²⁶ Accordingly, each investor would have access to the current portfolio composition of each Fund through the Trust’s Web site, at www.proshares.com, and/or at the Exchange’s Web site at www.amex.com.

Beneficial owners of Shares (“Beneficial Owners”) would receive all of the statements, notices, and reports required under the 1940 Act and other applicable laws. They would receive, for example, annual and semi-annual fund reports, written statements accompanying dividend payments, proxy statements, annual notifications detailing the tax status of fund distributions, and Form 1099-DIVs. Some of these documents would be provided to Beneficial Owners by their brokers, while others would be provided by the Fund through the brokers.

²⁶ The composition will be used to calculate the NAV later that day.

The daily closing index value and the percentage change in the daily closing index value for each Underlying Index would be publicly available on various websites by independent market data vendors, e.g., www.bloomberg.com. Data regarding each Underlying Index is also available from the respective index provider to subscribers. With respect to the Lehman Brothers 7-10 Year U.S. Treasury Index, the Lehman Brothers 20+ Year U.S. Treasury Index, the iBoxx \$ Liquid Investment Grade Index and the iBoxx \$ Liquid High Yield Index, as noted above, the index value would be calculated once daily. With respect to the Dow Jones U.S. Select Telecommunications Index, the value would be updated intra-day on a real time basis as its individual component securities change in price. This intra-day value of this index would be disseminated at least every 15 seconds throughout the trading day by the Amex or another organization authorized by the relevant Underlying Index provider.

Creation and Redemption of Shares

Each Fund would issue and redeem Shares only in initial aggregations of at least 75,000 (“Creation Units”). Purchasers of Creation Units would be able to separate the Units into individual Shares. Once the number of Shares in a Creation Unit is determined, it would not change thereafter (except in the event of a stock split or similar revaluation). The initial value of a Share for each Fund is expected to be in the range of \$50-\$250.

At the end of each business day, the Trust would prepare the list of names and the required number of shares of each Deposit Security to be included in the next trading day’s Creation Unit for the Bullish Fund. The Trust would then add to the Deposit List, the cash information effective as of the close of business on that business day and create a portfolio composition file (“PCF”) for the Fund, which it would transmit to NSCC before the open of

business the next business day. The information in the PCF would be available to all participants in the NSCC system.

Because the NSCC's system for the receipt and dissemination to its participants of the PCF is not currently capable of processing information with respect to Financial Instruments, the Advisor has developed an "IIV File," which it would use to disclose the Funds' holdings of Financial Instruments.²⁷ The IIV File would contain, for the Bullish Fund (to the extent that it holds Financial Instruments) and Bearish Funds, information sufficient by itself or in connection with the PCF File and other available information for market participants to calculate a Fund's IIV and effectively arbitrage the Fund.

For example, the following information would be provided in the IIV File for a Bullish Fund holding equity securities and a Bearish Fund holding swaps and futures contracts (and Bullish Fund to the extent it holds such Financial Instruments): (A) the total value of the equity securities held by such Fund (Bullish Fund only), (B) the notional value of the swaps held by such Fund (together with an indication of the index on which such swap is based and whether the Fund's position is long or short), (C) the most recent valuation of the swaps held by the Fund, (D) the notional value of any futures contracts (together with an indication of the index on which such contract is based, whether the Fund's position is long or short and the contract's expiration date), (E) the number of futures contracts held by the Fund (together with an indication of the index on which such contract is based, whether the Fund's position is long or short and the contract's expiration date), (F) the most recent valuation of the futures contracts held by the

²⁷ The Trust or the Advisor will post the IIV File to a password-protected Web site before the opening of business on each business day, and all Authorized Participants and the Exchange will have access to a password and the Web site containing the IIV File. However, the Fund will disclose each business day to the public identical information, but in a format appropriate to public investors, at the same time the Fund discloses the IIV and PCF files, as applicable, to industry participants.

Fund, (G) the Fund's total assets and total shares outstanding, and (H) a "net other assets" figure reflecting expenses and income of the Fund to be accrued during and through the following business day and accumulated gains or losses on the Fund's Financial Instruments through the end of the business day immediately preceding the publication of the IIV File. To the extent that the Bullish or any Bearish Fund holds cash or cash equivalents about which information is not available in a PCF File, information regarding such Fund's cash and cash equivalent positions would be disclosed in the IIV File for such Fund.

The information in the IIV File would be sufficient for participants in the NSCC system to calculate the IIV for Bearish Funds and, together with the information on equity securities contained in the PCF, would be sufficient for calculation of IIV for the Bullish Fund, during the next business day. The IIV File, together with the applicable information in the PCF in the case of the Bullish Fund, would also be the basis for the next business day's NAV calculation.

Under normal circumstances, the Bullish Fund would be created and redeemed either entirely for cash and/or for Deposit Securities, plus a Balancing Amount, as described below. Under normal circumstances, the Bearish Funds would be created and redeemed entirely for cash. The IIV File published before the open of business on a business day would, however, permit NSCC participants to calculate (by means of calculating the IIV) the amount of cash required to create a Creation Unit, and the amount of cash that would be paid upon redemption of a Creation Unit, for each Bearish Fund for that business day.

For the Bullish Fund, the PCF File would be prepared by the Trust after 4:00 p.m. ET and transmitted by the Index Receipt Agent to NSCC by 6:30 p.m. ET. All Authorized Participants who are NSCC participants, and the Exchange would have access to the Web site containing the IIV File. The IIV File would reflect the trades made on behalf of a Fund that business day and

the creation/redemption orders for that business day. Accordingly, by 6:30 p.m. ET, Authorized Participants would know the composition of the Fund's portfolio for the next trading day.

The Balancing Amount would also be determined shortly after 4:00 p.m. ET each business day. Although the Balancing Amount for most exchange-traded funds is a small amount reflecting accrued dividends and other distributions, for the Bullish Fund it is expected to be larger due to changes in the value of the Financial Instruments, i.e., daily mark-to-market. For example, assuming a basket of deposit securities ("Deposit Basket") of \$5 million for a Bullish Fund, if the market increases 10%, the deposit basket would now be equal to \$5.5 million at 4:00 p.m. ET. The Fund shares would increase in value by 20% or \$1 million to equal \$6 million total. With the Deposit Basket at \$5.5 million, the Cash Balancing Amount would be \$500,000. The next day's Deposit Basket and cash balancing amount is announced generally by 6:30 p.m. ET each business day.

Creation of the Bullish Fund²⁸

Typically, persons²⁹ purchasing Creation Units from a Bullish Fund must make an in-kind deposit of a basket of securities ("Deposit Securities") consisting of the securities selected by the Advisor from among those securities contained in the Fund's portfolio, together with an amount of cash specified by the Advisor ("Balancing Amount"), plus the applicable transaction fee ("Transaction Fee"). The Deposit Securities and the Balancing Amount collectively are referred to as the "Creation Deposit." The Balancing Amount is a cash payment designed to ensure that the value of a Creation Deposit is identical to the value of the Creation Unit it is used

²⁸ This is the Bullish Fund based on the Dow Jones U.S. Telecommunications Index.

²⁹ Authorized Participants are the only persons that may place orders to create and redeem Creation Units. Authorized Participants must be registered broker-dealers or other securities market participants (such as banks and other financial institutions that are exempt from registration as broker-dealers to engage in securities transactions) who are participants in DTC.

to purchase. The Balancing Amount is an amount equal to the difference between the NAV of a Creation Unit and the market value of the Deposit Securities.³⁰ 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 Funds is included in the Balancing Amount. The Transaction Fee is a fee imposed by the Funds on investors purchasing (or redeeming) Creation Units.

The Trust would make available through the DTC or the Distributor on each business day, prior to the opening of trading on the Exchange, a 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”).³¹ The Trust also would make available on a daily basis information about the previous day’s Balancing Amount.

The Bullish Fund reserves 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.³² Substitution might be permitted or required, for example, because one or more Deposit Securities may be unavailable, or may not be available in the quantity needed to make a Creation Deposit. Brokerage commissions incurred by a Fund to acquire any Deposit Security

³⁰ While not typical, if the market value of the Deposit Securities is greater than the NAV of a Creation Unit, then the Balancing Amount would be a negative number, in which case the Balancing Amount would be paid by the Bullish Fund to the purchaser, rather than vice-versa.

³¹ 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.

³² In certain limited instances, a 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.

not part of a Creation Deposit are expected to be immaterial, and in any event the Adviser may adjust the relevant transaction fee to ensure that the Fund collects the extra expense from the purchaser.

Orders to create or redeem Shares of the Bullish Fund must be placed through an Authorized Participant, which is either (1) a broker-dealer or other participant in the continuous net settlement system of the NSCC or (2) a DTC participant, and which has entered into a participant agreement with the Distributor.

As noted below in “Dissemination of Intra-Day Indicative Value (IIV),” the Exchange would disseminate through the facilities of the CTA, at least in 15 second intervals during the Exchange’s regular trading hours, the IIV on a per Share basis. The Funds would not be involved in, or responsible for, the calculation or dissemination of any such amount and would make no warranty as to its accuracy.

Redemption of the Bullish Fund

Bullish Fund Shares in Creation Unit aggregations would be redeemable on any day on which the New York Stock Exchange (“NYSE”) is open in exchange for a basket of securities (“Redemption Securities”). As it does for Deposit Securities, the Trust would make available to Authorized Participants on each business day prior to the opening of trading a list of the names and number of shares of Redemption Securities for each Fund. The Redemption Securities given to redeeming investors in most cases would be the same as the Deposit Securities required of investors purchasing Creation Units on the same day.³³ Depending on whether the NAV of a

³³ There may be circumstances, however, where the Deposit and Redemption Securities could differ. For example, if ABC stock were replacing XYZ stock in a Fund’s Underlying Index at the close of today’s trading session, today’s prescribed Deposit Securities might include ABC but not XYZ, while today’s prescribed Redemption Securities might include XYZ but not ABC.

Creation Unit is higher or lower than the market value of the Redemption Securities, the redeemer of a Creation Unit would either receive from or pay to the Fund a cash amount equal to the difference (“Redemption Balancing Amount”).³⁴ The redeeming investor also must pay to the Fund a transaction fee to cover transaction costs.³⁵

A 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, and the Redemption Balancing Amount. The Adviser currently contemplates that Creation Units of the Bullish Fund would be redeemed principally in kind with respect to the Redemption Securities and a Balancing Amount in cash largely resulting from the value of the Financial Instruments included in the Fund.

In order to facilitate delivery of Redemption Securities, each redeeming Authorized Participant, acting on behalf of such Beneficial Owner or a DTC Participant, must have arrangements with a broker-dealer, bank, or other custody provider in each jurisdiction in which any of the Redemption Securities are customarily traded. If neither the redeeming Beneficial Owner nor the Authorized Participant has such arrangements, and it is not otherwise possible to make other arrangements, the Fund may in its discretion redeem the Shares for cash.

Creation and Redemption of the Bearish Funds

The Bearish Funds would 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 Funds is due to the limited transferability of Financial Instruments.

³⁴ In the typical situation where the Redemption Securities are the same as the Deposit Securities, this cash amount would be equal to the Balancing Amount described above in the creation process.

³⁵ Redemptions in which cash is substituted for one or more Redemption Securities may be assessed a higher transaction fee to offset the transaction cost to the Fund of selling those particular Redemption Securities. This fee is expected to be between \$100 and \$1,000.

The Exchange believes that Shares would not trade at a material discount or premium to the underlying securities held by a Fund based on potential arbitrage opportunities. The arbitrage process, which provides the opportunity to profit from differences in prices of the same or similar securities, increases the efficiency of the markets and serves to prevent potentially manipulative efforts. If the price of a Share deviates enough from the Creation Unit, on a per share basis, to create a material discount or premium, an arbitrage opportunity is created allowing the arbitrageur to either buy Shares at a discount, immediately cancel them in exchange for the Creation Unit and sell the underlying securities in the cash market at a profit, or sell Shares short at a premium and buy the Creation Unit in exchange for the Shares to deliver against the short position. In both instances the arbitrageur locks in a profit and the markets move back into line.³⁶

Creation Unit Aggregation Purchase and Redemption Orders

Creation Unit aggregations of the Funds would be purchased at NAV plus a transaction fee. For the Bearish Funds, the purchaser would make a cash payment by 12:00 p.m. ET on the third business day following the date on which the request was made (T+3) or earlier. For the Bullish Fund, the purchaser would make an in-kind payment and/or all cash payment generally on the third business day following the date on which the request was made (T+3) or earlier.

Purchasers of the Funds in Creation Unit aggregations must satisfy certain creditworthiness

³⁶ In their 1940 Act Application, the Applicants stated that they do not believe that All-Cash Payments will affect arbitrage efficiency. This is because Applicants believe it makes little difference to an arbitrageur whether Creation Unit aggregations are purchased in exchange for a basket of securities or cash. The important function of the arbitrageur is to bid the share price of any Fund up or down until it converges with the NAV. Applicants note that this can occur regardless of whether the arbitrageur is allowed to create in cash or with a Deposit Basket. In either case, the arbitrageur can effectively hedge a position in a Fund in a variety of ways, including the use of market-on-close contracts to buy or sell the Financial Instruments.

criteria established by the Advisor and approved by the Board, as provided in the Authorized Participant Agreement between the Trust and Authorized Participants.

Creation Unit aggregations of the Bullish Fund would be redeemable either in-kind or all in cash equal to the NAV less the transaction fee. Creation Unit aggregations of the Bearish Funds would be redeemable for an All-Cash Payment equal to the NAV less the transaction fee. 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 for redemption at the time of tender.³⁷

Dividends

Dividends, if any, from net investment income would be declared and paid at least annually by each Fund in the same manner as by other open-end investment companies. Certain Funds may pay dividends on a semi-annual or more frequent basis. Distributions of realized securities gains, if any, generally would be declared and paid at least once a year.

Dividends and other distributions on the Shares of each Fund would be distributed, on a pro rata basis to Beneficial Owners of such Shares. Dividend payments would be made through the Depository and the DTC Participants to Beneficial Owners then of record with proceeds received from each Fund.

The Trust would not make the DTC book-entry Dividend Reinvestment Service

³⁷ In the event an Authorized Participant has submitted a redemption request in good order and is unable to transfer all or part of a Creation Unit aggregation for redemption, a Fund may nonetheless accept the redemption request in reliance on the Authorized Participant's undertaking to deliver the missing Fund Shares as soon as possible, which undertaking shall be secured by the Authorized Participant's delivery and maintenance of collateral. The Authorized Participant Agreement will permit the Fund to buy the missing Shares at any time and will subject the Authorized Participant to liability for any shortfall between the cost to the Fund of purchasing the Shares and the value of the collateral.

(“Dividend Reinvestment Service”) available for use by Beneficial Owners for reinvestment of their cash proceeds but certain individual brokers may make a Dividend Reinvestment Service available to Beneficial Owners. The SAI would inform investors of this fact and direct interested investors to contact such investor’s broker to ascertain the availability and a description of such a service through such broker. The SAI would also caution interested Beneficial Owners that they should note that each broker may require investors to adhere to specific procedures and timetables in order to participate in the service and such investors should ascertain from their broker such necessary details. Shares acquired pursuant to such service would be held by the Beneficial Owners in the same manner, and subject to the same terms and conditions, as for original ownership of Shares. Brokerage commissions charges and other costs, if any, incurred in purchasing Shares in the secondary market with the cash from the distributions generally would be an expense borne by the individual beneficial owners participating in reinvestment through such service.

Dissemination of Intra-Day Indicative Value (IIV)

In order to provide updated information relating to each Fund for use by investors, professionals, and persons wishing to create or redeem Shares, the Exchange would disseminate through the facilities of the CTA: (i) continuously throughout the trading day, the market value of a Share, and (ii) at least every 15 seconds throughout the trading day, a calculation of the IIV³⁸ as calculated by the Exchange (“IIV Calculator”).³⁹ Comparing these two figures helps an investor to determine whether, and to what extent, the Shares may be selling at a premium or a

³⁸ The intra-day indicative value or IIV is referred to by other issuers for different exchange-traded funds as an “Estimated NAV,” “Underlying Trading Value,” “Indicative Optimized Portfolio Value (IOPV),” and “Intraday Value” in various places such as the prospectus and marketing materials.

³⁹ The Exchange will calculate the IIV for each Fund.

discount to NAV.

The IIV Calculator would calculate an IIV for each Fund in the manner discussed below. The IIV is designed to provide investors with a reference value that can be used in connection with other related market information. The IIV does not necessarily reflect the precise composition of the current portfolio held by each Fund at a particular point in time. Therefore, the IIV on a per Share basis disseminated during Amex trading hours should not be viewed as a real time update of the NAV of a particular Fund, which is calculated only once a day. While the IIV that would be disseminated by the Amex is expected to be close to the most recently calculated Fund NAV on a per Share basis, it is possible that the value of the portfolio held by a Fund may diverge from the IIV during any trading day. In such case, the IIV would not precisely reflect the value of the Fund portfolio.

Calculation of the IIV for the Bullish Fund

The IIV Calculator would disseminate the IIV throughout the trading day for the Fund holding equity securities and Financial Instruments. The IIV Calculator would determine such IIV by: (i) calculating the estimated current value of equity securities held by the Fund (if applicable) by (a) calculating the percentage change in the value of 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 the Fund (which previous day's notional value would 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 would 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.

Calculation of the IIV for the Bearish Funds

The IIV Calculator would disseminate the IIV throughout the trading day for the Bearish Funds. The IIV Calculator would determine such 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 would 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 would 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.

Criteria for Initial and Continued Listing

The Shares are subject to the criteria for initial and continued listing of Index Fund Shares in Rule 1002A. A minimum of two Creation Units (at least 150,000 Shares) would be required to be outstanding at the start of trading. This minimum number of Shares required to be outstanding at the start of trading would be comparable to requirements that have been applied to

previously listed series of 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, pursuant to Rule 1002A(a)(ii), will obtain a representation from the Trust (for each Fund), prior to listing, that the NAV per share for each Fund would be calculated daily and made available to all market participants at the same time. The Exchange represents the Trust is required to comply with Rule 10A-3 under the Act⁴⁰ for the initial and continued listing of the Shares.

The Amex original listing fee applicable to the listing of the Funds is \$5,000 for each Fund. In addition, the annual listing fee applicable to the Funds under Section 141 of the Amex Company Guide would be based upon the year-end aggregate number of outstanding Shares in all Funds of the Trust listed on the Exchange.

Amex Trading Rules and Trading Halts

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. The Funds would trade on the Amex until 4:15 p.m. ET each business day. Shares would trade with a minimum price

⁴⁰ 17 CFR 240.10A-3 (setting forth listing standards relating to audit committees).

variation of \$.01. In addition, Amex Rule 154-AEMI (c)(ii)⁴¹ and Commentary .04 to Amex Rule 190⁴² apply to Index Fund Shares listed on the Exchange, including the Shares.

In addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Amex Rule 918C(b) in exercising its discretion to halt or suspend trading in Index Fund Shares. These factors would include, but are not limited to, (1) the extent to which trading is not occurring in securities comprising an Underlying Index and/or the Financial Instruments of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In the case of the Financial Instruments held by a Fund, the Exchange represents that a notification procedure would 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 would 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. Trading in shares of the Funds would also be halted if the circuit breaker parameters under Amex Rule 117 have been reached.

Amex Rule 1002A(b)(ii) sets forth the trading halt parameters with respect to Index Fund Shares. If the IIV or the Underlying Index value applicable to that series of Index Fund Shares is

⁴¹ Amex Rule 154-AEMI(c)(ii) 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 Amex Rule 950-ANTE(f) and Commentary thereto), the price of which is derivatively priced based upon another security or index of securities, may be elected by a quotation. The Exchange has designated Index Fund Shares, including the Shares, as eligible for this treatment.

⁴² Commentary .04 states that nothing in Amex Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security or securities that can be subdivided or converted into the listed security from the issuer as appropriate to facilitate the maintenance of a fair and orderly market.

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 would halt trading no later than the beginning of the trading day following the interruption.

Information Circular

The Exchange, in an Information Circular to Exchange members and member organizations, prior to the commencement of trading, will inform members and member organizations, regarding the application of Commentary .06 to Amex Rule 1000A-AEMI to the Funds. The Information Circular will further inform members and member organizations of the prospectus and/or Product Description delivery requirements that apply to the Funds.⁴³

The Information Circular will also provide guidance with regard to member firm compliance responsibilities 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 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.

⁴³ The Exchange states that the any product description used in reliance on Section 24(d) of the 1940 Act (15 U.S.C. 80a-24(d)) will comply with all representations and conditions set forth in the Application. See supra note 24.

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. In addition, the Information Circular will disclose that the procedures for purchases and redemptions of Shares in Creation Units are described in each Fund's prospectus and SAI, and that Shares are not individually redeemable, but are redeemable only in Creation Unit aggregations or multiples thereof.

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares. Specifically, Amex would rely on its existing surveillance procedures governing Index Fund Shares. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁴⁴ in general, and furthers the objectives of Section 6(b)(5),⁴⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

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

The Exchange states that the proposed rule change would impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

⁴⁴ 15 U.S.C. 78f(b).

⁴⁵ 15 U.S.C. 78f(b)(5).

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

The Exchange states that no written comments were solicited or received by the Exchange on this proposal.

III. 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 (<http://www.sec.gov/rules/sro.shtml>); or send an e-mail to rulecomments@sec.gov. Please include File Number SR-Amex-2007-104 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 Number SR-Amex-2007-104. 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 (<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 Section, 100 F

Street, NE, Washington, DC 20549. 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 Number SR-Amex- 2007-104 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

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.⁴⁶ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁴⁷ which requires that an exchange have rules designed, among other things, 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. The Commission notes that it previously approved the original listing and trading of certain inverse leveraged fund shares based on a variety of indexes.⁴⁸ The Commission also notes that it has previously approved the listing and trading of exchange-traded funds based on three of the Underlying Indexes.⁴⁹ The Commission notes that the Exchange has represented that the two remaining Underlying Indexes

⁴⁶ 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).

⁴⁷ 15 U.S.C. 78f(b)(5).

⁴⁸ See Securities Exchange Act Release Nos. 56592 (October 1, 2007), 72 FR 57364 (October 9, 2007) (SR-Amex-2007-60) (approving the listing and trading of eight funds of ProShares Trust based on international equity indexes; see also supra note 3.

⁴⁹ See supra notes 9 to 11.

meet the Exchange's criteria for indexes underlying Index Fund Shares that may be approved for listing and trading under Amex's generic listing standards adopted pursuant to Rule 19b-4(e) under the Act.⁵⁰

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,⁵¹ which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The Exchange has represented that quotations and last-sale information for the Shares will be disseminated over the Consolidated Tape. In addition, the Exchange will disseminate by means of the CTA and CQ High Speed lines, the IIV at least every 15 seconds on a daily basis throughout Amex's trading day, the most recent NAV for each Fund, the number of Shares outstanding for each Fund, and the estimated cash amount and total cash amount per Creation Unit. The Exchange will also make available on its Web site daily trading volume, the closing prices, the NAV, and the final dividend amounts to be paid for each Fund.

The daily closing index value and the percentage change in the daily closing index value for each Underlying Index would be publicly available on various websites by independent market data vendors. Data regarding each Underlying Index is also available from the respective index provider to subscribers. For the Funds based on indexes based on fixed income securities, the index value would be calculated once daily.⁵² With respect to the Dow Jones U.S. Select Telecommunications Index, the value would be updated intra-day on a real time basis as its individual component securities change in price and would be disseminated at least every 15

⁵⁰ See supra notes 12 and 13 and accompanying text.

⁵¹ 15 U.S.C. 78k-1(a)(1)(C)(iii).

⁵² The value for the Underlying Indexes consisting of Fixed Income Securities (i.e., the Bearish Funds) are calculated once daily.

seconds throughout the trading day by the Amex or another organization authorized by the relevant Underlying Index provider.

The Trust's Web site will contain a variety of other quantitative information for the Shares of each Fund. Finally, each Fund's total portfolio composition will be disclosed on the Web site of the Trust or another relevant Web site as determined by the Trust and/or the Exchange. Web site disclosure of portfolio holdings will be made by the Trust on a daily basis and will include, as applicable, the specific types of Financial Instruments and characteristics of such instruments, the cash equivalents and amount of cash held in the portfolio of each Fund.

Furthermore, the Commission believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange 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.⁵³ In addition, the Exchange represents that the Web site disclosure of the portfolio composition of each Fund and the disclosure by the Advisor of the IIV File and the PCF will occur at the same time.

Commentaries .02(b)(i) and .03(b)(i) to Amex Rule 1000A–AEMI provides for “fire wall” procedures with respect to personnel who have access to information concerning changes and adjustments to the Underlying Index, among other things. Commentary .09 to Amex Rule 1000A–AEMI restricts members or persons associated with members who have knowledge of all material terms and conditions of an order being facilitated or orders being crossed to enter, based on such knowledge, an order to buy or sell a Share that is the subject of the order, an order to buy

⁵³ See Amex Rule 1002A(a)(ii).

or sell the overlying option class, or an order to buy or sell any related instrument⁵⁴ until all the terms of the order are disclosed to the trading crowd or the trade is no longer imminent in view of the passage of time since the order was received.

The Commission also believes that the Exchange's trading halt rules are reasonably designed to prevent trading in the Shares when transparency is impaired. Amex Rule 1002A(b)(ii) provides that the Exchange will halt trading in the Shares if the circuit breaker parameters of Amex Rule 117 have been reached. In exercising its discretion to halt or suspend trading in the Shares, the Exchange may consider factors such as those set forth in Amex Rule 918C(b) and other relevant factors. In addition, Amex Rule 1002A(b)(ii) provides 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.

The Commission further believes that the trading rules and procedures to which the Shares will be subject pursuant to this proposal are consistent with the Act. The Exchange has represented that the Shares are equity securities subject to Amex's rules governing the trading of equity securities.

⁵⁴ For purposes of Commentary .09, an order to buy or sell a "related instrument" means an order to buy or sell securities comprising ten percent or more of the component securities in the Underlying Index or an order to buy or sell a futures contract on any economically equivalent index. See Commentary .09 to Amex Rule 1000A–AEMI.

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

1. The Exchange's surveillance procedures are adequate to properly monitor the trading of the Shares. Specifically, Amex will rely on its existing surveillance procedures governing Index Fund Shares.
2. Prior to the commencement of trading, the Exchange will inform its members and member organizations in an Information Circular regarding the application of Commentary .06 to Amex Rule 1000A–AEMI to the Funds and the prospectus and/or product description delivery requirements that apply to the Funds. The Information Circular will also provide guidance with regard to member firm compliance responsibilities 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 addition, the Information Circular will disclose that the procedures for purchases and redemptions of Shares in Creation Units are described in each Fund's prospectus, and that Shares are not individually redeemable, but are redeemable only in Creation Unit aggregations or multiples thereof.
3. The Exchange represents that the Trust is required to comply with Rule 10A-3 under the Act⁵⁵ for the initial and continued listing of the Shares.

⁵⁵ 17 CFR 240.10A-3.

4. This Order is conditioned on Amex's adherence to the foregoing representations.

The Commission finds good cause to approve the proposed rule change, prior to the thirtieth day after publication for comment in the Federal Register pursuant to Section 19(b)(2) of the Act.⁵⁶ The Commission does not believe that the proposed rule change, as modified by Amendment No. 1, raises any novel regulatory issues. Accelerating approval will allow the Shares to trade on the Exchange without undue delay and should generate additional competition in the market for such products.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁵⁷ that the proposed rule change (SR-Amex-2007-104), as modified by Amendment No.1, be and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁸

Florence E. Harmon
Deputy Secretary

⁵⁶ 15 U.S.C. 78s(b)(2).

⁵⁷ 15 U.S.C. 78s(b)(2).

⁵⁸ 17 CFR 200.30-3(a)(12).