

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57932; File No. SR-Amex-2008-39)

June 5, 2008

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 thereto Relating to the Listing and Trading of Trust Issued Receipts that Directly Hold Investments in Certain Financial Instruments and to Permit the Listing and Trading of Shares of Fourteen Funds of the Commodities and Currency 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 May 9, 2008, 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 June 4, 2008, the Exchange 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.

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

The Exchange proposes to: (1) amend Commentary .07 to Amex Rule 1202 to permit the listing and trading of certain trust issued receipts (“TIRs”) that hold any combination of investments including cash, securities, options on securities and indices, commodities, futures contracts, options on futures contracts, forward contracts, equity caps, collars, and floors, and swap agreements (collectively, “Financial Instruments”); and (2) list and trade the shares (“Shares”) of fourteen funds (“Funds”) of the Commodities and Currency Trust (“Trust”) based on certain commodity indexes, commodities, and currencies pursuant to Commentary .07 to Amex Rule 1202, as proposed to be amended. The text of the proposed rule change is available

at Amex, the Commission’s Public Reference Room, and www.amex.com.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Commentary .07 to Amex Rule 1202 to permit the listing and trading of certain TIRs that directly hold any combination of investments in Financial Instruments.³ In addition, the Exchange proposes to list and trade the Shares of the Funds pursuant to Commentary .07 to Amex Rule 1202, as proposed to be amended.

Proposed Revision to Commentary .07 to Amex Rule 1202

Commentary .07 to Amex Rule 1202 currently permits the Exchange to list and trade TIRs where the underlying trust holds “Investment Shares.”⁴ Investment Shares are defined in Commentary .07(b)(1) to Amex Rule 1202 as securities that are (a) issued by a trust, partnership,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange represents that permissible securities in connection with Financial Instruments would not include foreign equity securities.

⁴ See Commentary .07(a) to Amex Rule 1202. See also Securities Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (SR-Amex 2005-059) (approving, among other things, the adoption of Commentary .07 to Amex Rule 1202).

commodity pool, or other similar entity that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities, swaps or high credit quality short-term fixed-income securities or other securities, and (b) issued and redeemed daily at net asset value (“NAV”) in amounts correlating to the number of receipts created and redeemed in a specified aggregate minimum number. As a result, TIRs that are listed pursuant to current Commentary .07 to Amex Rule 1202 are required to be in the form of a “master-feeder” structure, whereby the listed security holds or invests in the security of the fund that is investing in the prescribed financial instruments.

As a result of a recent interpretation by the staff of the Internal Revenue Service relating to the inability to interpose a grantor trust in order to utilize a certain tax reporting form, the Exchange has been notified that the need for the current master-feeder structure set forth in Commentary .07 to Amex Rule 1202 is no longer necessary. The Exchange represents that there are no substantive differences between the proposed structure (TIRs directly holding Financial Instruments) and the current master-feeder structure (TIRs holding Investment Shares that invest in certain financial instruments). Amex states that its proposal would provide an alternative for issuers so that TIRs may be listed and traded on the Exchange that directly invest in or holds Financial Instruments, rather than through an additional security of a fund.

Specifically, the proposal seeks to expand the application of Commentary .07 to Amex Rule 1202 to both Investment Shares and Financial Instruments. Accordingly, new Commentary .07(b)(4) to Amex Rule 1202 would be added to define “Financial Instrument” as any combination of cash, securities, options on securities and indices, commodities, futures contracts, options on futures contracts, forward contracts, equity caps, collars, and floors, and swap agreements. Amex seeks to add the term “Financial Instrument” to where the term “Investment

Shares” appears throughout Commentary .07 to Amex Rule 1202 to indicate that TIRs directly holding Financial Instruments may be listed and traded on the Exchange.

Description of the Funds and the Shares

The Shares of each Fund will generally be subject to the Amex rules applicable to TIRs. The Shares represent common units of fractional undivided beneficial interests in, and ownership of, each Fund. Each Fund will invest the proceeds of its offering of Shares in various Financial Instruments that will provide exposure to the Funds’ underlying currency, commodity, or commodity index, as applicable. In addition, the Funds will also maintain cash positions in cash or money market instruments for the purpose of collateralizing such positions taken in the Financial Instruments.

Shares of seven of the Funds of the Trust will be designated as Ultra ProShares while the Shares of the other seven Funds of the Trust will be designated as UltraShort ProShares.⁵ Each of the Funds will have a distinct investment objective. The Funds will attempt, on a daily basis, to achieve their investment objective by corresponding to a specified multiple or an inverse multiple of the performance of a particular benchmark commodities index, commodity, or currency (each an “Underlying Benchmark” and collectively, the “Underlying Benchmarks”).

Six Funds will be based on the following Underlying Benchmark indexes: (1) the Dow Jones-AIG Commodity IndexSM; (2) the Dow Jones-AIG Crude Oil Sub-IndexSM; and (3) the Dow Jones-AIG Agriculture Sub-IndexSM (each, an “Underlying Index” and collectively, the

⁵ The Funds are the: (1) Ultra DJ-AIG Commodity ProShares; (2) UltraShort DJ-AIG Commodity ProShares; (3) Ultra DJ-AIG Agriculture ProShares; (4) UltraShort DJ-AIG Agriculture ProShares; (5) Ultra DJ-AIG Crude Oil ProShares; (6) UltraShort DJ-AIG Crude Oil ProShares; (7) Ultra Gold ProShares; (8) UltraShort Gold ProShares; (9) Ultra Silver ProShares; (10) UltraShort Silver ProShares; (11) Ultra Euro ProShares; (12) UltraShort Euro ProShares; (13) Ultra Yen ProShares; and (14) UltraShort Yen ProShares. See Exhibit A to Amex’s proposed rule change.

“Underlying Indexes”). Four Funds will be based on the following Underlying Benchmark commodities: (1) gold; and (2) silver (each, an “Underlying Commodity” and collectively, the “Underlying Commodities”). Lastly, four Funds will be based on the following Underlying Benchmark currencies versus the U.S. dollar: (1) the Euro; and (2) the Japanese Yen (each, an “Underlying Currency” and collectively, the “Underlying Currencies”).

The Exchange proposes to list and trade the Shares of the Funds, that seek daily investment results, before fees and expenses, that correspond to twice (200%) the daily performance of the Underlying Benchmark (the “Ultra Funds”). If each such Fund is successful in meeting its investment objective, the NAV⁶ of the Shares of each such Fund is expected to gain on a percentage basis, approximately twice as much as each such Fund’s respective Underlying Benchmark when the price of the Underlying Benchmark increases on a given day, and should lose approximately twice as much when such price declines on a given day, before fees and expenses.

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 Benchmark (the “UltraShort Funds”). If each such Fund is successful in meeting its objective, the NAV of the Shares of each such Fund is expected to increase approximately twice as much, on a percentage basis, as the respective Underlying Benchmark loses on a given day, or should decrease approximately twice as much as the

⁶ NAV means the total assets of a Fund including, but not limited to, all cash and cash equivalents or other debt securities, less total liabilities of such Fund, each determined on the basis of generally accepted accounting principles in the United States, consistently applied under the accrual method of accounting. In particular, NAV includes any unrealized profit or loss on open swaps and futures contracts and any other credit or debit accruing to a Fund but unpaid or not received by a Fund.

respective Underlying Benchmark gains when the Underlying Benchmark rises on a given day, before fees and expenses.

The Exchange notes that the Commission has permitted the listing and trading on Amex of exchange-traded fund-like products linked to the performance of underlying currencies and commodities.⁷ In addition, the Exchange further notes that the shares of other UltraFunds and UltraShort Funds based on various securities indexes have previously been approved by the Commission.⁸

⁷ See, e.g., Securities Exchange Act Release Nos. 55632 (April 13, 2007), 72 FR 19987 (April 20, 2007) (SR-Amex-2006-112) (approving the listing and trading of the United States Natural Gas Fund, LP); 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (SR-Amex 2005-127) (approving the listing and trading of the United States Oil Fund, LP); 53521 (March 20, 2006), 71 FR 14967 (March 24, 2006) (SR-Amex 2005-072) (approving the listing and trading of the iShares Silver Trust); 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (SR-Amex 2005-059) (approving the listing and trading of the DB Commodity Index Tracking Fund); 53059 (January 5, 2006), 71 FR 2072 (January 12, 2006) (SR-Amex 2005-128) (approving the trading of the Euro Currency Trust pursuant to unlisted trading privileges (“UTP”)); 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR-Amex 2004-38) (approving the listing and trading of the iShares COMEX Gold Trust); and 51446 (March 29, 2005), 70 FR 17272 (April 5, 2005) (SR-Amex-2005-032) (approving the trading of streetTRACKS Gold Shares pursuant to UTP). See also Securities Exchange Act Release Nos. 55029 (December 29, 2006), 72 FR 806 (January 8, 2007) (SR-Amex 2006-76) (approving the listing and trading of the DB Multi-Sector Commodity Trust); 54450 (September 14, 2006), 71 FR 55230 (September 21, 2006) (SR-Amex 2006-44) (approving the listing and trading of shares of the DB Currency Index Value Fund); 55292 (February 14, 2007), 72 FR 8406 (February 26, 2007) (SR-Amex 2006-86) (approving the listing and trading of shares of the PowerShares DB U.S. Dollar Index Bullish Fund and the PowerShares DB U.S. Dollar Index Bearish Fund); 56969 (December 14, 2007), 72 FR 72424 (December 20, 2007) (approving the listing and trading of shares on the GreenHaven Continuous Commodity Index Fund).

⁸ See Securities Exchange Act Release Nos. 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR-Amex-2004-62) (approving the listing and trading of shares of the xtraShares Trust); 54040 (June 23, 2006), 71 FR 37629 (June 30, 2006) (SR-Amex-2006-41) (approving the listing and trading of shares of the ProShares Trust); 55117 (January 17, 2007), 72 FR 3442 (January 25, 2007) (SR-Amex 2006-101) (approving the listing and trading of shares of the ProShares Trust); 56592 (October 1, 2007), 72 FR 57364 (October 9, 2007) (SR-Amex -2007-60) (approving the listing and trading of

The Underlying Indexes. As noted above, six of the Funds will be based on the Underlying Indexes.⁹ The Underlying Indexes are all sub-indexes within the Dow Jones-AIG Commodity Index.¹⁰ The Commission has previously approved for trading certain derivative securities products based on the Dow Jones-AIG Commodity Index and certain of its sub-indexes.¹¹

(1) Dow Jones-AIG Commodity Index Excess Return. This Underlying Index is a proprietary index that AIG Financial Products Corp. (successor to AIG International, Inc. or “AIG-FP”) developed and that Dow Jones, in conjunction with AIG-FP, calculates.¹² The

shares of the ProShares Trust based on international equity indexes); and 56998 (December 19, 2007), 72 FR 73404 (December 27, 2007) (SR-Amex-2007-104) (approving the listing and trading of shares of the ProShares Trust).

⁹ ProShares, Dow Jones & Co. (“Dow Jones”), and AIG-FP (as defined below) have entered into a non-exclusive license agreement providing for the use of the Underlying Indexes in connection with the Funds. The Exchange states that AIG-FP, its subsidiaries, and affiliates are not responsible for and will not participate in the issuance and creation of the Fund Shares.

¹⁰ The Exchange states that it lists and trades exchange-traded notes linked to the performance of the Dow Jones-AIG Commodity Index Total Return. See Securities Exchange Act Release No. 55776 (May 17, 2007), 72 FR 29015 (May 23, 2007) (SR-Amex-2007-29) (approving the listing and trading of floating rate notes linked to the performance of the Dow Jones-AIG Commodity Index Total Return). The Exchange states that it also lists and trades exchange-traded notes linked to the performance of the Dow Jones-AIG ExEnergy Sub-Index. See Securities Exchange Act Release No. 54790 (November 20, 2006), 71 FR 68645 (November 27, 2006) (SR-Amex-2006-01) (approving the listing and trading of principal protected notes linked to the performance of the Dow Jones-AIG ExEnergy Sub-Index).

¹¹ See Securities Exchange Act Release No. 55548 (March 28, 2007), 72 FR 16392 (April 4, 2007) (SR-NYSE-2006-71) (approving the listing and trading of nine series of exchange-traded notes of Barclays Bank PLC linked to the sub-indexes of the Dow Jones-AIG Commodity Index).

¹² AIG-FP, a co-sponsor of the Index, represented to the Exchange that it will: (1) implement and maintain firewall procedures reasonably designed to prevent the use and dissemination by relevant personnel of AIG-FP, in violation of applicable laws, rules, and regulations, of material non-public information relating to changes in the composition or method of computation or calculation of the Underlying Indexes; and (2)

methodology for determining the composition and weighting of the Underlying Index and for calculating its level is subject to modification by the sponsors at any time. Dow Jones disseminates the Underlying Index level at least every 15 seconds from 8:00 a.m. to 3:00 p.m. Eastern time (“ET”)¹³ and publishes a daily Underlying Index level at approximately 5:00 p.m. ET each business day on its Web site at www.djindexes.com and through other major market data vendors.

The Underlying Index is re-weighted and rebalanced each year in January on a price-percentage basis. The annual weightings for the Underlying Index are determined each year in June or July by AIG-FP and Dow Jones under the supervision of the Dow Jones-AIG Commodity Index Oversight Committee (“Oversight Committee”),¹⁴ announced after approval by the Oversight Committee and implemented the following January.

periodically check the application of such firewall procedures as they relate to such personnel of AIG-FP directly responsible for such changes. The Exchange states that AIG-FP is not a broker-dealer, but does have affiliated companies that are broker-dealers. Dow Jones has informed the Exchange that, except as noted below, it does not have any affiliates engaged in the securities or commodities trading business and, as such, does not believe that such firewall procedures are necessary. Dow Jones B.D. Services, Inc. (“DJBD”) is a wholly owned subsidiary of Dow Jones and is a registered broker-dealer under the Act. The Exchange represents that DJBD’s business is limited to collecting license fees from financial institutions and exchanges and does not engage in the typical activities of a broker-dealer.

¹³ The Exchange states that any disseminated value after 3:00 p.m. ET is static due to the close of auction trading of various commodities futures contracts.

¹⁴ The Oversight Committee was established by Dow Jones and AIG-FP to assist with the methodology of the Dow Jones-AIG Commodity Index. The Oversight Committee includes prominent members of the financial, academic, and legal communities selected by AIG-FP and meets annually to consider any changes to be made to the Dow Jones-AIG Commodity Index for the coming year. The Oversight Committee may also meet at such other times as may be necessary. The Oversight Committee is subject to written policies that acknowledge their obligations with respect to material, non-public information.

The Underlying Index is designed to track rolling futures positions in a diversified basket of 19 exchange-traded futures contracts on physical commodities. The 19 physical commodities selected for 2008 are natural gas, crude oil, gasoline, heating oil, live cattle, lean hogs, wheat, corn, soybeans, soybean oil, aluminum, copper, zinc, nickel, gold, silver, sugar, cotton, and coffee.

The Underlying Index tracks what is known as a rolling futures position, which is a position where, on a periodic basis, futures contracts on physical commodities specifying delivery on a nearby date must be sold and futures contracts on physical commodities that have not yet reached the delivery period must be purchased. An investor with a rolling futures position is able to avoid delivering underlying physical commodities while maintaining exposure to those commodities. The rollover for each Underlying Index component occurs over a period of five business days each month according to a pre-determined schedule.

The Dow Jones-AIG Commodity Index Excess Return is intended to reflect the overall commodity sector. The Underlying Index tracks the 19 commodities from seven broad sectors such as energy, livestock, grains, industrial metals, precious metals, softs, and vegetable oil. The Underlying Index is composed of notional amounts of the futures contracts for each of the Underlying Index commodities with the weighting of each commodity broadly based in proportion to historical levels of the world's production and supplies of such Underlying Index commodity. The Underlying Index reflects the return of the underlying commodity prices movement only, whether positive or negative. The Exchange states that the Dow Jones-AIG Commodity Index Excess Return is the basis for a listed and traded futures contract on the Board of Trade of the City of Chicago, Inc. ("CBOT"). Futures contracts on the Underlying Index commodities currently trade on U.S. futures exchanges, with the exception of aluminum, nickel,

and zinc, which trade on the London Metal Exchange Ltd. (“LME”).

(2) Dow Jones-AIG Crude Oil Sub-Index Excess Return. The Dow Jones-AIG Crude Oil Sub-Index Excess Return is intended to reflect the performance of crude oil as measured by the price of nearby futures contracts of sweet, light crude oil traded on the New York Mercantile Exchange, Inc. (“NYMEX”), including roll costs, without regard to income earned on cash positions. Dow Jones disseminates this Underlying Index level at least every 15 seconds from 8:00 a.m. to 3:00 p.m. ET and publishes a daily Underlying Index level at approximately 5:00 p.m. ET each business day on its Web site and through other major market data vendors.

The Exchange states that crude oil is the world’s most actively traded commodity and may experience significant volatility. The price of crude oil is established by the supply and demand conditions in the global market overall, and more particularly, in the main refining centers of Singapore, Northwest Europe, and the U.S. Gulf Coast. Demand for petroleum products by consumers, as well as agricultural, manufacturing and transportation industries, determines demand for crude oil by refiners. Since the precursors of product demand are linked to economic activity, crude oil demand will tend to reflect economic conditions. However, other factors such as weather also influence product and crude oil demand.

(3) Dow Jones-AIG Agriculture Sub-Index Excess Return. The Dow Jones-AIG Agriculture Sub-Index Excess Return is intended to reflect the agricultural market. This Underlying Index consists of the following seven commodity futures contracts: coffee, corn, cotton, soybeans, soybean oil, sugar, and wheat. The Underlying Index will reflect the performance of its underlying commodities, including roll costs and without regard to income earned on cash positions. Dow Jones disseminates the Underlying Index level at least every 15 seconds from 8:00 a.m. to 3:00 p.m. ET and publishes a daily Underlying Index level at

approximately 5:00 p.m. ET each business day on its Web site and through other major market data vendors.

The Commodity Underlying Benchmarks. As noted above, four Funds will be based on gold and silver Underlying Benchmark commodities.

(1) Gold. The Ultra Gold Fund and the UltraShort Gold Fund are designed to track a multiple or multiple inverse of the daily performance of gold bullion as measured by the U.S. dollar fixing price for delivery in London. These Funds will not directly or physically hold the underlying gold, but instead, will seek exposure to gold through the use of Financial Instruments based on the price of gold to pursue their respective investment objective.¹⁵ The benchmark price of gold will be the U.S. dollar price of gold bullion as measured by the London afternoon fixing price per troy ounce of unallocated gold bullion for delivery in London through a member of the London Bullion Market Association (“LBMA”) authorized to effect such delivery.

The Exchange states that the price of gold is volatile with fluctuations expected to affect the value of the Shares of these Funds. The price movement of gold may be influenced by a variety of factors, including announcements from central banks regarding reserve gold holdings, agreements among central banks, political uncertainties, and economic concerns. The gold market is a global marketplace consisting of both over-the-counter (“OTC”) transactions and exchange-traded products. The OTC market generally consists of transactions in spot, forwards, options, and other derivatives, while exchange-traded transactions consist of futures and options.

¹⁵ See Securities Exchange Act Release No. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR-Amex-2004-38) (approving, among other things, the listing and trading of shares of the iShares COMEX Gold Trust, which are TIRs representing an interest in the net assets of a trust holding gold bullion). See also Securities Exchange Act Release No. 51446 (March 29, 2005), 70 FR 17272 (April 5, 2005) (SR-Amex-2005-032) (approving the trading of shares of the streetTRACKS Gold Trust pursuant to UTP).

A London gold “fix” is conducted each trading day at 3:00 p.m. London time (“LT”) providing reference gold prices for that day’s trading. The Exchange notes that many long-term contracts are priced on the basis of the London gold fix, and market participants will usually refer to the London gold fix when looking for a basis for valuation. The Exchange believes that the London fix is the most widely used benchmark for daily gold prices and is quoted by various major market data vendors.

(2) Silver. The Ultra Silver Fund and the UltraShort Silver Fund are designed to track a multiple or multiple inverse of the daily performance of silver bullion as measured by the U.S. dollar fixing price for delivery in London. The Funds may purchase Financial Instruments based on the price of silver to pursue their respective investment objective.¹⁶ The benchmark price of silver will be the U.S. dollar price of silver bullion as measured by the London afternoon fixing price per troy ounce of unallocated silver bullion for delivery in London through a member of the LBMA authorized to effect such delivery.

The Exchange states that the price of silver is volatile with fluctuations expected to affect the value of the Shares. The largest industrial users of silver are the photographic, jewelry, and electronic industries, and developments in these industries, among other factors, may influence the price of silver. Like gold, the silver market is a global marketplace consisting of both OTC transactions and exchange-traded products. The OTC market generally consists of transactions in spot, forwards, options, and other derivatives, while exchange-traded transactions consist of futures and options.

¹⁶ See Securities Exchange Act Release No. 53521 (March 20, 2006), 71 FR 14967 (March 24, 2006) (SR-Amex-2005-072) (approving the listing and trading of shares which represent beneficial ownership interests in the net assets of the iShares Silver Trust consisting primarily of silver bullion).

A London silver “fix” is conducted each trading day at 12:00 pm LT providing reference silver prices for that day’s trading. The Exchange notes that many long-term contracts are priced on the basis of the London silver fix, and market participants will usually refer to the London silver fix when looking for a basis for valuation. The Exchange believes that the London fix is the most widely used benchmark for daily silver prices and is quoted by various major market data vendors.

The Currency Underlying Benchmarks. As noted above, four Funds will be based on the following Underlying Benchmark currencies versus the U.S. dollar: (1) the Euro; and (2) the Japanese Yen. These Funds will use the 4:00 p.m. ET euro and Japanese yen exchange rates, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for these Underlying Benchmarks, respectively. The Exchange states that the euro and Japanese yen exchange rates will be provided by Reuters.

(1) Euro. The Ultra Euro Fund and the UltraShort Euro Fund are designed to track a multiple or multiple inverse of the daily change in the spot price of the euro versus the U.S. dollar.¹⁷ The euro is the official currency of the Eurozone, which consists of 13 European states including: Austria, Belgium, Cyprus, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Slovenia, and Spain. The euro is managed and administered by the European Central Bank and the European System of Central Banks. These Funds may purchase Financial Instruments based on the euro to pursue their respective investment objective.

¹⁷ See Securities Exchange Act Release No. 53059 (January 5, 2006), 71 FR 2072 (January 12, 2006) (SR-Amex-2005-128) (approving the trading of shares of the Euro Currency Trust pursuant to UTP).

(2) Japanese Yen. The Ultra Japanese Yen Fund and the UltraShort Japanese Yen Fund are designed to track a multiple or inverse of the daily change in the spot price of the Japanese yen versus the U.S. dollar. These Funds may purchase Financial Instruments based on the Japanese yen to pursue their respective investment objective.

Structure of the Funds. Each Fund is a separate series of the Trust, a Delaware statutory trust.¹⁸ Each Fund will issue common units of beneficial interest, or Shares, which represent units of fractional undivided beneficial interest in and ownership of only that Fund. Each Fund's Shares will be offered separately.

Wilmington Trust Company ("Trustee") is the sole trustee of the Funds. The Trustee has delegated to the Managing Owner (as defined below) all of the power and authority to manage the business and affairs of the Funds. ProShare Capital Management LLC ("Managing Owner") will serve as the commodity pool operator and commodity trading advisor of each Fund. The Managing Owner is registered as a commodity pool operator and commodity trading advisor with the Commodity Futures Trading Commission ("CFTC"), and with the National Futures Association ("NFA"). Prudential Bache Commodities LLC ("Commodity Broker") will execute and clear the Funds' futures contract transactions and will perform certain administrative services for the Funds. The Commodity Broker is registered with the CFTC as a Futures Commission Merchant and is a member of the NFA in such capacity. The Administrator that will be selected prior to the Shares of the Trust being offered to the public ("Administrator") will perform or supervise the performance of services necessary for the operation and administration of the Fund. These services include, but are not limited to, receiving and processing orders from

¹⁸ The Exchange states that the Trust and the Funds will not be subject to registration and regulation under the Investment Company Act of 1940.

Authorized Participants (as defined below) to create and redeem baskets of Shares, accounting, NAV, calculations, and other fund administrative services. A marketing agent that will be a registered broker-dealer and that will be selected prior to the Shares of the Trust being offered to the public (“Marketing Agent”) will assist the Managing Owner and the Administrator with certain functions and duties relating to the creation and redemption of baskets of Shares. The Marketing Agent may also distribute prospectuses and consult with the Managing Owner and its affiliates in connection with marketing and sales strategies. A custodian that will be selected prior to the Shares of the Trust being offered to the public (“Custodian”) will serve as custodian of all securities and cash at any time delivered to the Custodian by each respective Fund and hold its securities in its name or the name of its nominees. The Custodian is also expected to serve as each Fund’s transfer agent.

Investment Objective of the Funds. Each Ultra Fund will seek investment results that correspond, before fees and expenses, to twice (200%) the daily performance of the Underlying Benchmark. Each UltraShort Fund will seek daily investment results, before fees and expenses, of twice the inverse or opposite (-200%) of the daily performance of the Underlying Benchmark.

In seeking to achieve each Fund’s investment objective, the Managing Owner determines the type, quantity, and mix of investment positions that it believes in combination should produce daily returns consistent with a Fund’s investment objective. Each Fund will invest principally in any one of, or combinations of, Financial Instruments with respect to the applicable Fund’s Underlying Benchmark to the extent determined appropriate by the Managing Owner. In addition, each Fund may establish long or short positions in Financial Instruments as the Managing Owner believes will further the investment objective of each Fund.

While the Managing Owner will 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 Benchmark, certain factors may tend to cause the investment results of a Fund to vary from such relevant Underlying Benchmark or specified multiple thereof.¹⁹ The Ultra Funds are expected to be highly correlated to the Underlying Benchmark and investment objective (0.95 or greater). The UltraShort Funds are expected to be highly inversely correlated to each Underlying Benchmark and investment objective (-.95 or greater).²⁰ 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 or inverse multiple of the performance of the relevant Underlying Benchmark.

The Exchange states that the Registration Statement for each Fund will provide a detailed description, including, but not limited to, the structure, creation/redemption process, investment

¹⁹ Several factors may cause a Fund to vary from the relevant Underlying Benchmark and applicable investment objective including: (1) a Fund’s expenses, including brokerage and the cost of the investment techniques employed by that Fund; (2) less than all of the components in the Underlying Benchmark being held by a Fund and components not included in the Underlying Benchmark being held by a Fund; (3) an imperfect correlation between the performance of Financial Instruments held by a Fund and the performance of the Underlying Benchmark; (4) bid-ask spreads; (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 Underlying Benchmark 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, resulting in the inability of the Fund to execute intended portfolio transactions.

²⁰ Correlation is the strength of the relationship between (1) the change in a Fund’s NAV and (2) the change in the Underlying Benchmark (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.

objective and strategies, characteristics, tax status, and distributions. Investors are directed to each Fund's Registration Statement for a complete explanation.

The Portfolio Investment Methodology. The Managing Owner will 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.

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, 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 Benchmark; and (3) the positions in Financial Instruments at the beginning of each trading day. The Managing Owner pursuant to the methodology will then mathematically determine the end-of-day positions to establish the required amount of exposure to the Underlying Benchmark ("Solution"), which will consist of Financial Instruments. The difference between the start-of-day positions and the required end-of-day positions is the actual amount of Financial 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. These trades will then be reflected in the NAV for that Fund that is calculated as of the time shown in the chart below.

The timeline for the Portfolio Investment Methodology is as follows and is reflected more specifically in the chart below. Authorized Participants (“APs” or “Authorized Participants”)²¹ have a cut-off of one-hour before the earliest underlying close for orders submitted by telephone, facsimile, and other electronic means of communication. Orders received via mail will be priced at the next NAV. The Exchange states that AP orders by mail are exceedingly rare. Orders are received by the Marketing Agent and relayed to the Managing Owner within ten minutes. As such, the Managing Owner will know by approximately 50 minutes before the earliest underlying close the number of creation/redemption orders by APs for that day. Primary orders are then placed at approximately 30 minutes prior to the earliest underlying close using methods and order types that the Managing Owner believes will most accurately replicate the close of the Underlying Benchmark. Approximately five minutes before the earliest underlying close, the Managing Owner will again look at the exposure to make sure that the orders placed are consistent with the Solution, and as described above, the Managing Owner will execute any other transactions in Financial Instruments (secondary orders) to assure that the Fund's exposure is consistent with the Solution.

Benchmark Create or Managing Primary First Close of NAV

²¹ An Authorized Participant must (1) be a registered broker-dealer or other securities market participant, such as a bank or other financial institution that is not required to register as a broker dealer to engage in securities transactions, (2) be a Depository Trust Corporation participant, and (3) have entered into an agreement with each Fund and the Managing Owner.

<u>or Index</u>	<u>Redeem</u>	<u>Owner</u>	<u>Order Placed</u>	<u>Secondary</u>	<u>Earliest</u>	<u>Calculation</u>
	<u>Cutoff</u>	<u>Notified</u>		<u>Order</u>		<u>Time</u>
	(Earliest Close -60 min)	(Earliest Close -50 min)	(Earliest Close -30 min)	(Earliest Close - 5 min)	Underlying	(Close of last Underlying) ²²
Silver	6:00 a.m.	6:10 a.m.	6:30 a.m.	6:55 a.m.	7:00 a.m.	7:00 a.m.
Gold	9:00 a.m.	9:10 a.m.	9:30 a.m.	9:55 a.m.	10:00 a.m.	10:00 a.m.
DJ-AIG	12:30 p.m.	12:40 p.m.	1:00 p.m.	1:25 p.m.	1:30 p.m.	2:15 p.m.
Agriculture						
DJ-AIG	10:45 a.m.	10:55 a.m.	11:15 a.m.	11:40 a.m.	11:45 a.m.	2:30 a.m.
Commodity						
DJ-AIG	1:30 p.m.	1:40 p.m.	2:00 p.m.	2:25 p.m.	2:30 p.m.	2:30 p.m.
Crude Oil						
Euro	3:00 p.m.	3:10 p.m.	3:30 p.m.	3:55 p.m.	4:00 p.m.	4:00 p.m.
Yen	3:00 p.m.	3:10 p.m.	3:30 p.m.	3:55 p.m.	4:00 p.m.	4:00 p.m.

Description of Investment Techniques. In attempting to achieve its individual investment objectives, a Fund will invest its assets in, and will hold only, Financial Instruments. Each Fund may hold Financial Instruments for the purposes of attempting to gain exposure to the components of its Underlying Benchmark, without actually transacting in such underlying components.

²² For Silver and Gold, the NAV calculation time may vary due to differences in when daylight savings time is effective between London and New York. The actual times will equate to noon LT for Silver and 3:00 p.m. LT for Gold

The counterparties to the Financial Instruments, such as swap agreements, forward contracts, equity caps, collars, and floors that a Fund may use will be Futures Commission Merchants, major broker-dealers, and banks. To protect itself from the credit risk that arises in connection with swap agreements, forward contracts, equity caps, collars, and floors, each Fund will enter into agreements with each counterparty that provide for the netting of its overall exposure to its counterparty and/or provide collateral or other credit support to address the Fund's exposure. The counterparties to such an agreement will generally be major broker-dealers and banks or their affiliates, although certain institutions, such as large energy companies or other institutions active in the commodities markets, may also be counterparties. The Managing Owner will assess or review, as appropriate, the creditworthiness of each potential or existing counterparty to such an agreement. Furthermore, the Managing Owner for each Fund will only enter into agreements with: (1) members of the Federal Reserve System, foreign banks with branches regulated by the Federal Reserve Board, or foreign banks with representative offices regulated by the Federal Reserve Board; (2) primary dealers in U.S. government securities; (3) broker-dealers; (4) Commodities Futures Merchants; or (5) affiliates of the foregoing.

Creation and Redemption of Shares. The Funds will create and redeem Shares in one or more blocks of at least 50,000 Shares of a Fund ("Creation Units"). The Funds will be purchased and redeemed entirely for cash ("Cash Deposit Amount"). The use of the Cash Deposit Amount for the purchase and redemption of Creation Units is due to the limited transferability of Financial Instruments. The Funds will issue and redeem the Shares on a continuous basis, by or through Authorized Participants at the NAV per Share next determined after an order to purchase the Shares is received in proper form. Creation Units may be created

or redeemed only by Authorized Participants. Except when aggregated in Creation Units, the Shares are not redeemable securities. Authorized Participants may pay a fixed transaction fee of \$500 in connection with each order to create or redeem a Creation Unit, regardless of the number of Creation Units. A variable transaction fee of up to 0.10% of the value of each Creation Unit may also be applicable to each creation/redemption transaction. Authorized Participants may sell the Shares included in the Creation Units they purchase from the Funds to other investors.

On any business day,²³ an Authorized Participant may place an order with the Marketing Agent or Administrator to create one or more Creation Units. For Funds that track an Underlying Benchmark commodity, purchase orders must be placed one hour before the London “fix” for such commodity, *i.e.*, 2:00 p.m. LT (9:00 a.m. ET) for gold and 11:00 a.m. LT (6:00 a.m. ET) for silver. For Funds that are benchmarked against an Underlying Index, purchase orders must be placed one hour prior to the closing of the underlying commodity futures contract on the primary exchange upon which the benchmarked commodity futures contract trades. Where an Underlying Index contains multiple commodities, purchase orders must be placed one hour before the earliest futures contract close contained in the Underlying Index. For Funds that track an Underlying Benchmark currency, purchase orders must be placed one hour before the close of NYSE, normally 4:00 p.m. ET. The day on which the Administrator or Marketing Agent receives a valid purchase order is the purchase order date. Purchase orders are irrevocable by an Authorized Participant. By placing a purchase order, and prior to delivery of such

²³ For purposes of processing both purchase and redemption orders, a “business day” means any day other than a day when any of Amex, the New York Stock Exchange LLC (“NYSE”), the Chicago Mercantile Exchange (“CME”), CBOT, IntercontinentalExchange (“ICE”)/New York Board of Trade (“NYBOT”), LME, or NYMEX is closed for regular trading.

Creation Units, an Authorized Participant's DTC account will be charged the non-refundable transaction fee due for the purchase order.

The procedures by which an Authorized Participant can redeem one or more Creation Units are the same as those for the creation of Creation Units. An Authorized Participant may place an order with the Marketing Agent or Administrator to redeem one or more Creation Units. Redemption orders, which are irrevocable, must be placed one hour prior to the closing of the relevant closing times. The day on which the Marketing Agent or Administrator receives a valid redemption order is the redemption order date. By placing a redemption order, an Authorized Participant agrees to deliver the Creation Units to be redeemed through DTC's book-entry system to the applicable Fund not later than noon ET, on the third business day immediately following the redemption order date. By placing a redemption order, and prior to receipt of the redemption proceeds, an Authorized Participant's DTC account will be charged the non-refundable transaction fee due for the redemption order.

Retail investors seeking to purchase or sell Shares on any day are expected to effect such transactions in the secondary market at the market price per Share, rather than in connection with the creation or redemption of Creation Units. The Exchange believes that the Shares will not trade at a material discount or premium to the value of the assets held by the Funds based on potential arbitrage opportunities. Due to the fact that the Shares can be created and redeemed only in Creation Units at NAV, the Exchange submits that arbitrage opportunities should provide a mechanism to mitigate the effect of any premiums or discounts that may exist from time to time. The Exchange believes that market professionals will have the ability to arbitrage Shares of the Funds in a manner similar to conventional index-based exchange-traded funds. The disclosure of portfolio holdings and the availability of the Indicative Fund Value (as defined

below) and other pricing information about portfolio holdings will permit arbitrageurs to identify when the market price of the Shares is higher or lower than the value of the portfolio. As a result, these market professionals will buy Shares when they are priced lower than the portfolio and sell Shares when they are priced higher than the portfolio, thereby moving prices back in line with the value of the portfolio. Actual and potential arbitrage of this nature should help the secondary market prices of the Shares to remain close to NAV.

Net Asset Value (NAV). The NAV of a Fund is total assets including, but not limited to, all cash and cash equivalents or other debt securities, less total liabilities, each determined on the basis of generally accepted accounting principles. In particular, the NAV includes any unrealized profit or loss on open Financial Instruments and any other credit or debit accruing to a Fund, but unpaid or not received.

The NAV per Share of each Fund is computed by dividing the value of the net assets of such Fund (i.e., the value of its total assets, less total liabilities) by its total number of Shares outstanding. Expenses and fees are accrued daily and taken into account for purposes of determining NAV. The NAV of each Fund is calculated by the Administrator and is determined each business day as set forth in the chart above.

The Exchange represents that it will obtain a representation (prior to listing the Shares of the Funds) from the Trust that the NAV per Share will be calculated daily and made available to all market participants at the same time.

Availability of Information Regarding the Shares. The Web sites for the Fund and/or the Exchange, which are publicly accessible at no charge, will contain the following information: (1) the daily current NAV per Share, the prior business day's NAV per Share, and the reported closing price; (2) the mid-point of the bid-ask price in relation to the NAV per Share as of the

time it is calculated (the “Bid-Ask Price”);²⁴ (3) calculation of the premium or discount of such price against the NAV per Share; (4) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters; (5) the applicable prospectus; and (6) other applicable quantitative information.

As described above, the NAV per Share will be calculated and disseminated daily. Amex will disseminate for the Funds on a daily basis by means of the Consolidated Tape Association/Consolidated Quotation High Speed Lines information with respect to the corresponding Indicative Fund Value (as discussed below), recent NAVs per Share, and the number of Shares outstanding. The Exchange will also make available on its Web site daily trading volume of the Shares, closing prices of the Shares, and the NAV per Share. The closing and settlement prices of the futures contracts held by the Funds are also readily available from CME, NYMEX, CBOT, ICE/NYBOT, LME, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Real-time dissemination of spot pricing for gold, silver, euro, and Japanese yen is available on a 24-hour basis worldwide from various major market data vendors.

Each Fund’s total portfolio composition will 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 Exchange. The Trust will provide Web site disclosure of portfolio holdings daily and will include, as applicable, the names and number of Financial Instruments and characteristics of such instruments and cash equivalents, and amount of cash held in the portfolio of each Fund.

²⁴ The Bid-Ask Price of Shares is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

This Web site disclosure of the portfolio composition of each Fund will occur at the same time as the disclosure by the Managing Owner of the portfolio composition to Authorized Participants so that all market participants are provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public Web site as well as in electronic files provided to Authorized Participants. Accordingly, each investor will have access to the current portfolio composition of each Fund through the Trust's Web site and/or at the Exchange's Web site at www.amex.com.

The value of each Underlying Benchmark will be updated intra-day on a real time basis as its components change in price. 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 websites, such as www.ino.com and www.finance.yahoo.com. Data regarding each Underlying Index is also available from the respective index provider to subscribers. In addition, data is also available regarding the underlying component commodities of each Underlying Index from those futures exchanges that list and trade futures contracts on those commodities. Several independent data vendors also package and disseminate index data in various value-added formats (including vendors displaying both index constituents and index levels and vendors displaying index levels only).

Data regarding spot pricing of the Underlying Benchmark commodities (gold and silver) is publicly available on a 24-hour basis from various financial information service providers, such as Reuters and Bloomberg. In addition, the daily London fix for gold and silver is also disseminated by various market data vendors and is available from the LBMA Web site at www.lbma.org.uk. Data regarding futures contracts and options on futures contracts in

connection with the Underlying Benchmark commodities is also available from NYMEX at www.nymex.com.

There is considerable public price and data information regarding the Underlying Benchmark currencies (euro and Japanese yen). Spot pricing related to the foreign currency exchange is available to investors and market professionals on a 24-hour basis. A variety of public Web sites and professional and subscription services provide market and price information regarding the euro and the yen. Current spot prices are also generally available from foreign exchange dealers.

Dissemination of Indicative Fund Value. The Administrator calculates and disseminates, once each trading day, the NAV per Share to market participants. The Exchange represents that it will obtain a representation (prior to listing of the Funds) from the Trust that the NAV per Share will be calculated daily and made available to all market participants at the same time. In addition, the Administrator causes to be made available on a daily basis the corresponding Cash Deposit Amounts to be deposited in connection with the issuance of the respective Shares.

To provide updated information relating to the Funds for use by investors, professionals, and persons wishing to create or redeem the Shares, the Exchange will disseminate an updated “Indicative Fund Value.” The Indicative Fund Value will be disseminated on a per-Share basis at least every 15 seconds during regular Amex trading hours of 9:30 a.m. to 4:00 p.m. ET. The Indicative Fund Value will be calculated based on the cash required for creations and redemptions for a Fund, adjusted to reflect the price changes of the Financial Instruments.

The Exchange submits that the Indicative Fund Value on a per-Share basis disseminated during Amex trading hours should not be viewed as a real-time update of the NAV, which is calculated only once a day. The Exchange believes that dissemination of the Indicative Fund

Value based on the cash amount required for a creation/redemption 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 or the creation or redemption of the Shares.

Criteria for Initial and Continued Listing. The Funds will be subject to the criteria in Commentary .07(d) of Amex Rule 1202 for initial and continued listing of the Shares. The Funds will accept subscriptions for Shares in Creation Units from Authorized Participants expected to be in a range from \$20 to \$70 per Share during an initial offering period, commencing with the initial effective date of the prospectus and terminating no later than the ninetieth (90) day following such date, unless (i) the subscription minimum is reached before that date and the Managing Owner determines to end the initial offering period early or (ii) that date is extended by the Managing Owner for up to an additional 90 days.

The anticipated minimum number of Shares for each Fund to be outstanding at the start of trading will be 50,000 Shares.²⁵ The Exchange believes that this anticipated minimum number of Shares for each Fund to be outstanding at the start of trading is sufficient to provide adequate market liquidity and to further the objectives of the Funds. The Exchange represents that, for the initial and continued listing of the Shares, the Shares must be in compliance with Section 803 of the Amex Company Guide and Rule 10A-3 under the Act.²⁶

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

²⁵ E-mail from Jeffrey P. Burns, Vice President and Associate General Counsel, Amex, to Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated June 5, 2008 (confirming the minimum number of Shares for each Fund anticipated to be outstanding at the start of trading on the Exchange).

precedence of orders, specialist responsibilities and account opening, and customer suitability (Amex Rule 411). Initial equity margin requirements of 50% will apply to transactions in the Shares. The Shares will trade on Amex until 4:00 p.m. ET each business day and will trade in a minimum price variation of \$0.01 pursuant to Amex Rule 127- AEMI. Trading rules pertaining to odd-lot trading in Amex equities (Amex Rule 205-AEMI), stop and stop limit orders for securities that are derivatively priced (Amex Rule 154-AEMI), and the prevention of trade-through transactions of protected quotations (Amex Rule 126A-AEMI) will also apply to the Shares.

Specialist transactions in the Shares made in connection with the creation and redemption of Shares will not be subject to the prohibitions of Amex Rule 190(a).²⁷ The Shares will generally be subject to the Exchange’s stabilization rule, Amex Rule 170, except that specialists may buy on “plus ticks” and sell on “minus ticks,” in order to bring the Shares into parity with (i) the underlying asset or commodity on which the Shares are based, (ii) the NAV of the Shares, or (iii) the futures contract(s) on the underlying asset or commodity on which the Shares are based. The Exchange notes that Commentary .07(f) to Amex Rule 1202 sets forth this limited exception to Amex Rule 170.

The trading of the Shares will also be subject to certain conflict of interest provisions set forth in Commentary .07(e) to Amex Rule 1202. Lastly, Commentary .07(g)(3) to Amex Rule

²⁶ See 17 CFR 240.10A-3.

²⁷ Amex Rule 190(a) states that no specialist or his member organization, or any member, officer, employee, or approved person therein, may, directly or indirectly, effect any business transaction with a company or any officer, director or 10% stockholder of a company in which stock the specialist is registered. See Commentary .05 to Amex Rule 190 (exempting specialists registered in a security issued by a trust, listed pursuant to, among other rules, Amex Rule 1202, from the requirements of Amex Rule 190(a)).

1202 prohibits the specialist in the Shares from using any material, non-public information received from any person associated with a member, member organization, or employee of such person regarding trading by such person or employee in the Underlying Index commodities, related futures, or options on futures, or any other related derivatives.

Surveillance. The Exchange submits that its surveillance procedures are adequate to detect and deter violations of Exchange rules relating to the trading of the Shares. The surveillance procedures will be similar to those used for other commodity-based TIRs, Commodity-Based Trust Shares, Currency Trust Shares, and exchange-traded funds and will incorporate and rely upon existing Amex surveillance procedures governing options and equities.

The Exchange states that it currently has in place comprehensive surveillance sharing agreements with ICE, LME, and NYMEX for the purpose of providing information in connection with the trading in futures contracts traded on their respective exchanges comprising the Underlying Benchmarks. The Exchange also notes that CBOT, CME, and NYBOT are members of the Intermarket Surveillance Group. As a result, the Exchange asserts that market surveillance information is available from relevant futures exchanges, if necessary, due to regulatory concerns that may arise in connection with the futures contracts

Information Circular. Amex will distribute an Information Circular to its members in connection with the trading of the Shares. The Information Circular, will discuss the special characteristics and risks of trading this type of security, such as commodity or currency fluctuation risk. Specifically, the Information Circular, among other things, will discuss: (1) what the Shares are and how Shares are created and redeemed; (2) the requirement that members and member firms deliver a prospectus to investors purchasing the Shares prior to or concurrently with the confirmation of a transaction, applicable Amex rules; (3) dissemination

information and trading information; (4) applicable suitability rules;²⁸ (5) that the Fund is subject to various fees and expenses described in the Registration Statement; (6) that there is no regulated source of last-sale information regarding physical commodities and currencies, that the SEC has no jurisdiction over the trading of physical commodities or currencies, and that the CFTC has regulatory jurisdiction over the trading of futures contracts and options on futures contracts; (7) the procedures for purchases and redemptions of Shares and that Shares are not individually redeemable but are redeemable only in one or more Creation Units; (8) any relief, if granted, by the Commission from any rules under the Act; (9) that the trading hours of the Shares will be from 9:30 am to 4:00 pm ET and that the NAV for the Shares will be calculated shortly after 4:00 p.m. ET each trading day; and (10) information about the Shares will be publicly available on the Amex Web site and the Funds' Web sites.

Trading Halts. The Exchange states that the Information Circular will also inform members of Exchange policies regarding trading halts in the Shares. Specifically, trading in the Shares will be halted in the event the market volatility trading halt parameters set forth in Amex Rule 117 have been reached. Second, in addition to the parameters set forth in Amex Rule 117, the Exchange will halt trading in the Shares if trading in a significant number of underlying

²⁸ The Exchange notes that pursuant to Amex Rule 411, members and member organizations are required in connection with recommending transactions in the Shares to have a reasonable basis to believe that a customer is suitable for the particular investment given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member. See Commentary .05 to Amex Rule 411 (providing heightened suitability requirements for derivative securities seeking to provide investment results that either exceed the performance of an underlying reference asset by a specified multiple or that correspond to the inverse (opposite) of the performance of an underlying reference asset by a specified multiple). E-mail from Jeffrey P. Burns, Vice President and Associate General Counsel, Amex, to Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated June 5, 2008.

related futures contract(s) is halted or suspended. Third, the Exchange will halt trading if it becomes aware that a Fund's NAV or disclosure of the portfolio composition is not being disseminated or has not been disseminated to all market participants at the same time. Fourth, the Exchange will halt trading in the Shares if the value of an Underlying Benchmark is no longer calculated or available on at least a 15-second basis through one or more major market data vendors during the time the Shares trade on Amex or if an Indicative Fund Value per Share updated every 15 seconds is no longer calculated or available.²⁹ Fifth, with respect to a halt in trading that is not specified above, the Exchange may also consider other relevant factors and the existence of unusual conditions or circumstances that may be detrimental to the maintenance of a fair and orderly market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,³⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,³¹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest. The Exchange believes

²⁹ If the value of the Underlying Benchmark or the Indicative Fund Value is not being disseminated on at least a 15-second basis during the hours the Shares trade on the Exchange, the Exchange may halt trading during the day in which the interruption to the dissemination of the value of the Underlying Benchmark or the Indicative Fund Value occurs. If the interruption to the dissemination the value of the Underlying Benchmark or the Indicative Fund Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

³⁰ 15 U.S.C. 78f(b).

³¹ 15 U.S.C. 78f(b)(5).

that the proposal will facilitate the listing and trading of additional types of commodity- and currency-based investments that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

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

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 with respect to the proposed rule change.

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

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

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

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2008-39 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-Amex-2008-39. 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 Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00

p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2008-39 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Florence E. Harmon
Acting Secretary

³² 17 CFR 200.30-3(a)(12).