

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54693; File No. SR-CBOE-2006-74)

November 2, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Regarding the Initial and Continued Listing and Trading of Options on Units That Represent Interests in a Trust That Holds a Specified Non-U.S. Currency

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 August 31, 2006, the Chicago Board Options Exchange, Incorporated (“CBOE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on October 19, 2006.³ The Exchange filed Amendment No. 2 to the proposed rule change on November 1, 2006.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal on an accelerated basis.

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

The Exchange hereby proposes to amend CBOE Rule 4.18 Interpretation and Policy .01; CBOE Rule 5.3 Interpretation and Policy .06; CBOE Rule 5.4 Interpretation and Policy .08; CBOE Rule 8.9; and CBOE Rule 15.1 Interpretation and Policy .03 to enable the initial and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded the original filing in its entirety.

⁴ In Amendment No. 2, which supplemented the filing as reflected in Amendment No. 1, the Exchange made several clarifying changes to the proposed rule text contained in CBOE Rule 5.3, Interpretation and Policy .06(D) and (E) and CBOE Rule 5.4, Interpretation and Policy .08.

continued listing and trading on the Exchange of options on Units that represents interests in a trust that holds a specified non-U.S. currency. The text of the proposed rule change, as amended, is available on the Exchange's Web site (<http://www.cboe.com>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

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

1. Purpose

The Exchange proposes to amend CBOE Rule 4.18, Interpretation and Policy .01; CBOE Rule 5.3, Interpretation and Policy .06; CBOE Rule 5.4, Interpretation and Policy .08; CBOE Rule 8.9; and CBOE Rule 15.1, Interpretation and Policy .03 to enable the initial and continued listing and trading on the Exchange of options on Units that represent interests in a trust that holds a specified non-U.S. currency.⁵ Currently, the term "Units," as defined under CBOE Rule 5.3, Interpretation and Policy .06, requires that the investment assets held by a trust, investment company, or similar entity consist of portfolios of securities. As proposed, amended CBOE Rule

⁵ The Commission notes that it recently approved a substantially similar rule change for the International Securities Exchange, Inc. (n/k/a the International Securities Exchange LLC) ("ISE"), upon which the CBOE has based this proposed rule change. See Securities Exchange Act Release No. 54087 (June 30, 2006), 71 FR 38918 (July 10, 2006) (SR-ISE-2005-60).

5.3, Interpretation and Policy .06 would permit the investment assets also to consist of a trust that holds a specified non-U.S. currency deposited with the trust.

In particular, the proposed amendment to CBOE Rule 5.3, Interpretation and Policy .06 would permit the Exchange to list options on the Euro Currency Trust (“Trust”). The Trust issues Euro Shares (“Shares”) that represent units of fractional undivided beneficial interest in, and ownership of, the Trust. PADCO Advisors II, Inc., d/b/a Rydex Investments, is the sponsor of the Trust (“Sponsor”)⁶ and may be deemed the “issuer” of the Shares pursuant to Section 2(a)(4) of the Securities Act of 1933, as amended.⁷ The Bank of New York is the trustee of the Trust (“Trustee”), JP Morgan Chase Bank, N.A., London Branch, is the depository for the Trust, and Rydex Distributors, Inc. is the distributor for the Trust. The Trust intends to issue additional Shares on a continuous basis through the Trustee.

As stated in the Trust’s Registration statement,⁸ the investment objective of the Trust is for the Shares to reflect the price of the euro. The Sponsor believes that the Trust is the first exchange traded fund (“ETF”)⁹ whose assets are limited to a particular foreign currency. The Shares may be purchased from the Trust only in one or more blocks of 50,000 Shares, as described in the prospectus under “Creation and Redemption of Shares.” A block of 50,000 shares is called a Basket. The Trust issues Shares in Baskets on a continuous basis to certain authorized participants (“Authorized Participants”). Each Basket, when created, is offered and

⁶ The Sponsor maintains a public Web site on behalf of the Trust, <http://www.currencyshares.com>, which contains information about the Trust and Shares.

⁷ The Exchange does not consider Rydex Investments to be an “issuer” as per CBOE rules.

⁸ See Registration No. 333-125581.

⁹ The Exchange notes that the Trust is not a registered investment company under the Investment Company Act of 1940 (the “1940 Act”) and is not required to register under the 1940 Act.

sold to an Authorized Participant at a price in euro equal to the net asset value (“NAV”) for 50,000 Shares on the day that the order to create the Basket is accepted by the Trustee.

The Exchange believes that permitting options on foreign currency-based Units to be traded on the Exchange is consistent with the Commission’s approval order of a rule change filed by the New York Stock Exchange, Inc. (“NYSE”) to list and trade shares of the Trust.¹⁰

Through this rule change to CBOE’s listing criteria for Units, the Exchange intends to provide appropriate listing standards for options on shares of these and similar types of foreign currency-based Units that may be listed in the future.

Specifically, the Exchange is proposing to amend CBOE Rule 5.3, Interpretation and Policy .06 (Criteria for Underlying Securities) to broaden the definition of Units to include shares or other securities that represent interests in registered investment companies or unit investment trusts or similar entities that hold a specified non-U.S. currency. The Exchange is also proposing to make other conforming changes to the text of CBOE Rule 5.3, Interpretation and Policy .06 to reflect the proposed broadened definition of Units. In addition, the Exchange is proposing to require, in CBOE Rule 5.3, Interpretation and Policy .06(D), that before listing and trading options on Units based on a non-U.S. currency, the Exchange must have entered into a comprehensive surveillance sharing agreement with the applicable marketplace or marketplaces with last sale reporting that represent(s) the highest volume in derivatives (options or futures) on the specified non-U.S. currency, which are utilized by the national securities exchange where the underlying Units are listed and traded.

For options trading, the underlying Units will continue to need to satisfy the initial listing standards in CBOE Rule 5.3, Interpretation and Policy .06. Specifically, the Units must be

¹⁰ See Securities Exchange Act Release No. 52843 (November 28, 2005), 70 FR 72486 (December 5, 2005). The Shares trade under the symbol “FXE.”

traded on a national securities exchange or through the facilities of a national securities association and must be an “NMS stock” as defined under Rule 600 of Regulation NMS.¹¹ The Units must also meet either: (1) the criteria and guidelines under CBOE Rule 5.3(a)(1) or (2) (Criteria for Underlying Securities); or (2) be available for creation or redemption each business day from and through the issuing trust, investment company, or other entity in cash or in-kind at a price related to net asset value, and the investment company or issuer is obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the investment company or issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible, and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as described in the Units’ prospectus.

The Exchange also proposes to amend CBOE Rule 4.18, Interpretation and Policy .01 to require a member to establish, maintain, and enforce written policies and procedures to prevent the misuse of any material nonpublic information it might have or receive in a related security, option, or derivative security or in the applicable non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency. In addition, the Exchange proposes to amend CBOE Rules 8.9 and 15.1, Interpretation and Policy .03 to require that Market-Makers handling options on Units provide the Exchange with all necessary information relating to their trading in the applicable non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency. In addition, proposed CBOE Rule 8.9(a) would prohibit Market-Makers from

¹¹ 17 CFR 242.600.

engaging in stock, options, non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency or related securities trading in an account which has not been reported in a manner prescribed by the Exchange.¹²

The Exchange further proposes to amend CBOE Rule 5.4, Interpretation and Policy .08 regarding withdrawal of approval of the underlying securities to specify that Units approved for options trading under CBOE Rule 5.3, Interpretation and Policy .06 will not be deemed to meet the requirements for continued approval, and CBOE will not open any additional series of options contracts thereof, if, among other things, the Units are delisted in accordance with the terms of CBOE Rule 5.4, Interpretation and Policy .01(f), or the Units are halted from trading in their primary market, or if the value of the non-U.S. currency on which the Units are based is no longer calculated or available.

The Exchange represents that the expansion of the types of investments that may be held by a Unit under the listing standards in CBOE Rule 5.3, Interpretation and Policy .06 will not have any effect on the rules pertaining to position and exercise limits.¹³ The Exchange also represents that the margin requirements for options on Units that represent interests in a trust that holds a specific non-U.S. currency will be evaluated for each product the Exchange anticipates listing. The Exchange represents that any new margin rules it deems necessary will be filed separately with the Commission.

The Exchange represents that it has an adequate surveillance program in place for options on Units based on the value of a non-U.S. currency, and it intends to apply those same program procedures that apply to options on Units that currently trade on the Exchange. In addition, the

¹² The Exchange anticipates requiring Market-Makers to provide the information upon request, consistent with CBOE Rule 8.9(a).

¹³ See CBOE Rules 4.11 and 4.12. See also Amendment No. 1, supra note 3.

Exchange may obtain trading information upon request via the Intermarket Surveillance Group (“ISG”) from other exchanges who are members or affiliates of the ISG. Specifically, CBOE can obtain such information from the Philadelphia Stock Exchange (“Phlx”) in connection with euro options trading on the Phlx and from the Chicago Mercantile Exchange (“CME”) and the London International Financial Futures Exchange (“LIFFE”) in connection with euro futures trading on those exchanges.¹⁴

2. Statutory Basis

The Exchange believes that, with the commencement of trading of a currency-based ETF on the NYSE, amending its rules to accommodate the listing and trading of options on publicly-traded shares of other securities that hold investment assets consisting of foreign currency will benefit investors by providing them with the same valuable risk management tool that is currently available with respect to other publicly-traded ETFs whose investment assets consist of securities. Accordingly, the Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) in particular, in that it would remove impediments to and perfect the mechanism for a free and open market in a manner consistent with the protection of investors and public interest.

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

CBOE does not believe that the proposed rule change, as amended, will impose any 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

No written comments were solicited or received by the Exchange with respect to the proposed rule change, as amended.

¹⁴ Phlx is a member of ISG. CME and LIFFE are affiliate members of ISG.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-CBOE-2006-74 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-CBOE-2006-74. 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. Copies of the filing also will be available for inspection and copying at the principal office of the CBOE. 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-CBOE-2006-74 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

CBOE has asked the Commission to approve its proposal on an accelerated basis to accommodate its timetable for listing options on the Units. After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁵ In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6(b)(5) of the Act,¹⁶ which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, 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. Further, the Commission finds that the CBOE's proposal, as amended, is substantially similar to one it recently approved for the ISE.¹⁷

Currently, CBOE's rules permit it to list options on Units that represent interests in registered investment companies, unit investment trusts, or similar entities that hold portfolios of securities composed or otherwise based on or representing investments in indexes or portfolios of securities.¹⁸ The Exchange's proposal would allow it to list and trade options on Units whose

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

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ See Securities Exchange Act Release No. 54087 (June 30, 2006), 71 FR 38918 (July 10, 2006) (SR-ISE-2005-60). The CBOE based its proposed rule change on the ISE filing.

¹⁸ See CBOE Rule 5.3, Interpretation and Policy .06.

investment assets consist of a specified non-U.S. currency deposited with a trust. For example, the proposed rule change would allow the CBOE to list options on the Euro Currency Trust.

The underlying Units would continue to need to satisfy the listing standards in CBOE Rule 5.3. To accommodate the listing and trading of options on Units investing primarily in a non-U.S. currency, the Exchange proposes to amend CBOE Rule 4.18 to require a member to establish, maintain, and enforce written policies and procedures designed to prevent the misuse of any material nonpublic information it might have or receive in a related security, option, or derivative security or in the applicable non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency. In addition, the Exchange proposes to amend CBOE Rule 8.9 and CBOE Rule 15.1, Interpretation and Policy .03 to require that Market-Makers handling options on Units provide the Exchange with all necessary information relating to their trading in the applicable non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency. The Commission believes that these requirements are designed to minimize the potential for manipulating the underlying currency held by the Units.

In addition, the Units must be traded on a national securities exchange or through the facilities of a registered securities association and, as the Exchange has proposed, must be an “NMS stock” as defined under Rule 600(b)(47) of Regulation NMS.¹⁹ The Units must also either: (1) meet the criteria and guidelines under CBOE Rule 5.3 (Criteria for Underlying Securities); or (2) be available for creation or redemption each business day from and through the issuing trust, investment company, or other entity in cash or in-kind at a price related to net

¹⁹ 17 CFR 242.600(b)(47).

asset value, and the issuer is obligated to issue Units in a specified aggregate number.²⁰ The Commission notes that the Exchange has represented that the expansion of the types of investments that may be held by Units will not have any effect on the rules pertaining to position and exercise limits or margin.

Finally, under the proposed change to CBOE Rule 5.4, Interpretation and Policy .08, Units would not be deemed to meet the requirements for continued approval, and the Exchange would not open for trading any additional series of option contracts of the class covering such Units, if, among other things, the Units are delisted in accordance with the terms of CBOE Rule 5.4, Interpretation and Policy .01(f), or the Units are halted from trading in their primary market. The Commission believes that the Exchange's proposal to expand CBOE Rule 5.4, Interpretation and Policy .08 to address the effect of a trading halt or a delisting of the Units is consistent with the protection of investors and the public interest. The Commission also believes that the proposed change by which the Exchange will consider the suspension of opening transactions for Units if the value of the non-U.S. currency on which the Units are based is no longer calculated or available is similarly consistent with the protection of investors and the public interest.²¹

The Commission notes that the Exchange has represented that it has an adequate surveillance program in place for options on Units based on the value of a non-U.S. currency. In addition, the Exchange is able to obtain currency-related trading information via the ISG from other exchanges who are members or affiliates of the ISG, as discussed above, in connection with options and futures trading on those exchanges.

²⁰ See proposed CBOE Rule 5.3, Interpretation and Policy .06(E).

²¹ See proposed CBOE Rule 5.4, Interpretation and Policy .08(c).

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing thereof in the Federal Register. The Exchange has requested accelerated approval because this proposed rule change is based on, and is substantially similar to, a proposal by the ISE that the Commission recently approved.²² Accordingly, this proposal raises no new or novel regulatory issues that have not been previously considered by the Commission. In addition, the Commission notes that it did not receive any comments on the ISE's proposal. The Commission believes that expanding CBOE Rule 5.3 to encompass options on Units that represent interests in a trust that holds a non-U.S. currency deposited with the trust will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading these products on the CBOE without further delay. Additionally, the proposal contains measures that are designed to minimize the potential for manipulation of the underlying currency held by the Units. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act, to approve the proposal on an accelerated basis.

²² See Securities Exchange Act Release No. 54087 (June 30, 2006), 71 FR 38918 (July 10, 2006) (SR-ISE-2005-60).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change, as amended, (SR-CBOE-2006-74) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Nancy M. Morris
Secretary

²³ 15 U.S.C. 78s(b)(2).

²⁴ 17 CFR 200.30-3(a)(12).