

of the Act⁵ and Rule 19b-4(f)(6)⁶ thereunder.

This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange provided the Commission with written notice of its intent to file this proposed rule change at least five business days prior to the date of filing of the proposed rule change. This proposal amends ISE Rule 622 to conform the language to comparable NASD Rule 11870 for the purpose an agreement that was recently approved by the Commission under Rule 17d-2. The Exchange requests that the Commission waive the 30-day operative delay period for “non-controversial” proposals under Exchange Act Rule 19b-4(f)(6) and make the proposed rule change effective and operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will help foster consistency between the rulebooks of the self-regulatory organizations.⁷ Application of the new rules should promote clarity for market participants relying upon the rules. For these reasons, the Commission designates that the proposed rule change become immediately operative.

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-ISE-2009-104 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-ISE-2009-104. 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 submission⁸, 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 a.m. and 3 p.m. Copies of such 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 publicly available. All submissions should refer to File Number SR-ISE-2009-104 and should be submitted on or before January 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61219; File No. SR-NYSEArca-2009-95]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to Listing and Trading Shares of the ETFs Platinum Trust

December 22, 2009.

I. Introduction

On October 20, 2009, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares (“Shares”) of the ETFs Platinum Trust (the “Trust”). The proposed rule change was published for comment in the **Federal Register** on November 17, 2009.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade the Shares pursuant to NYSE Arca Equities Rule 8.201, which governs the listing and trading of Commodity-Based Trust Shares. The Exchange represents that the Shares satisfy the requirements of NYSE Arca Equities Rule 8.201 and thereby qualify for listing on the Exchange.

The Shares represent units of fractional undivided beneficial interest in and ownership of the Trust. The investment objective of the Trust is for the Shares to reflect the performance of the price of platinum, less the expenses of the Trust’s operations.⁴

The Exchange deems the Shares to be equity securities, which subjects trading in the Shares to the Exchange’s existing rules governing the trading of equity securities, and has represented that trading in the Shares on the Exchange will occur in accordance with NYSE Arca Equities Rule 7.34(a). The Exchange has also represented that it has appropriate rules to facilitate transactions in the Shares during all trading sessions.

Additional details regarding the Shares and Trust including, among

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60970 (November 9, 2009), 74 FR 59319 (“Notice”).

⁴ Amendment No. 2 to the Registration Statement for the ETFs Platinum Trust on Form S-1, filed with the Commission on October 20, 2009 (No. 333-15831) (“Registration Statement”).

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(6).

⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposal’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ The text of the proposed rule change is available on the Commission’s Web site at <http://www.sec.gov/>.

⁹ 17 CFR 200.30-3(a)(12).

other things, creations and redemptions of the Shares, the organization and structure of the Trust, custody of the Trust's holdings, Trust expenses, Trust termination events, the international market for platinum, the platinum futures market, the dissemination and availability of information about the underlying assets, trading halts, applicable trading rules, surveillance, and the Information Bulletin can be found in the Notice and/or the Registration Statement.⁵

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,⁷ which requires, among other things, that the Exchange's rules be designed 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, 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.

In addition, the Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,⁸ 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. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association CQ High-Speed Lines. The Trust's Web site will provide the following information: (1) An intraday indicative value ("IIV") per share for the Shares, updated at least every 15 seconds, as calculated by the Exchange or a third party financial data provider, during the Exchange's Core Trading Session (9:30 AM to 4:00 PM, Eastern

Standard Time); (2) the net asset value ("NAV") of the Trust as calculated each business day by the Sponsor; (3) the NAV, on a per Share basis, as of the close of the prior business day; (4) the mid-point of the bid-ask price⁹ at the close of trading in relation to such NAV ("Bid/Ask Price"); (5) a calculation of the premium or discount of such price against such NAV; (6) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the per Share NAV, within appropriate ranges, for each of the four previous calendar quarters; (7) the Creation Basket Deposit; (8) the Trust's prospectus; (9) the two most recent reports to stockholders; and (10) the last sale price of the Shares as traded in the US market.¹⁰ In addition, the Exchange will make available over the Consolidated Tape quotation information, trading volume, closing prices and NAV for the Shares from the previous day.

The Commission further 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.

Under NYSE Arca Equities Rule 7.34(a)(5), if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it must halt trading in on NYSE Arca Marketplace until such time as the NAV is available to all market participants. The Commission notes that the Exchange will obtain a representation from the Trust that the NAV per Share will be calculated daily and that the NAV will be made available to all market participants at the same time.¹¹ Additionally, if the IIV¹² is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the

interruption.¹³ Further, the Exchange will consider the suspension of trading in or removal from listing of the Shares pursuant to NYSE Arca Rule 8.201(e)(2) if: (1) the value of platinum is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the sponsor, Trust, custodian or the Exchange or the Exchange stops providing a hyperlink on its Web site to any such unaffiliated commodity value; or (2) the IIV is no longer made available on at least a 15-second delayed basis. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which conditions in the underlying platinum market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.

In addition, NYSE Arca Equities Rule 8.201 sets forth certain requirements for ETP Holders acting as registered Market Makers in the Shares. Pursuant to NYSE Arca Equities Rule 8.201(h), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in platinum, related futures or options on futures, or any other related derivatives, which the Market Maker may have or over which it may exercise investment discretion. NYSE Arca Equities Rule 8.201(i) also prohibits an ETP Holder acting as a registered Market Maker in the Shares from using any material nonpublic information received from any person associated with an ETP Holder or employee of such person regarding trading by such person or employee in platinum, related futures or options on futures or any other related commodity derivatives.

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

- (1) The Shares will be subject to the initial and continued listing criteria under NYSE Arca Equities Rule 8.201.
- (2) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares

⁹ The bid-ask price of the Trust is determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

¹⁰ The Exchange will provide on its Web site (<http://www.nyx.com>) a link to the Trust's Web site.

¹¹ See e-mail from Michael Cavalier, Chief Counsel, NYSE Euronext, to Christopher W. Chow, Special Counsel, and Andrew Madar, Special Counsel, Commission, dated December 10, 2009.

¹² For the Shares, the Exchange uses IIV and ITV interchangeably. See e-mail from Michael Cavalier, Chief Counsel, NYSE Euronext, to Christopher W. Chow, Special Counsel, Commission, dated December 22, 2009.

¹³ See *id.*

⁵ See *supra* notes 3 and 4.

⁶ 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).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78k-1(a)(1)(C)(iii).

in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Pursuant to NYSE Arca Equities Rule 8.201(h), the Exchange is able to obtain information regarding trading in the Shares and the underlying platinum, platinum futures contracts, options on platinum futures, or any other platinum derivative, through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members of the ISG.

(3) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) how information regarding the IIV is disseminated; (d) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (e) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of platinum trading during the Core and Late Trading Sessions after the close of the major world platinum markets; and (f) trading information.

This approval order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act¹⁴ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-NYSEArca-2009-95), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61215; File No. SR-NSCC-2009-10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding National Securities Clearing Corporation's Board of Directors Election Process and Delegation Authority

December 22, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 16, 2009, National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant approval on an accelerated basis.

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

NSCC's parent company, The Depository Trust & Clearing Corporation ("DTCC") intends in the future to consider nominating for election to its Board of Directors candidates that are not participants of its clearing agency subsidiaries ("non-participant candidates").² Because certain of DTCC's organizational documents mandate that the directors of DTCC shall be the same as the directors of NSCC, in the future NSCC's Board of Directors may include directors who are not employees of its participants ("non-participant directors").

In addition, the rules of NSCC are being revised to allow the Board to delegate certain responsibilities.

¹⁶ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² DTCC's clearing corporation subsidiary participants include The Depository Trust Company, National Securities Clearing Corporation, and Fixed Income Clearing Corporation.

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

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.³

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTCC has in the past nominated for election to its Board of Directors employees of its clearing corporation subsidiaries' participants. In the future, DTCC intends to consider nominating for election to its Board of Directors people who are not employees of its clearing corporation subsidiaries' participants ("non-participant candidates"). Because certain of DTCC's organizational documents mandate that the directors of DTCC shall be the same as the directors of NSCC, in the future NSCC's Board may include directors who are not employees of its participants ("non-participant directors"). NSCC believes that non-participant directors may bring additional skills and expertise and introduce different perspectives to its Board.

In addition, the rules of NSCC currently assign to its Board certain responsibilities such as, for example, responsibilities related to approving membership applications and other related matters. NSCC is revising its rules to allow its Board to delegate such responsibilities.⁴

These changes will conform NSCC's rules and practices to the rules and practices of DTCC's other clearing corporation subsidiaries—The Depository Trust Company and Fixed Income Clearing Corporation.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to NSCC because NSCC's rules will continue to provide for a fair representation of its participants in the selection of its

³ The Commission has modified parts of these statements.

⁴ The text of the proposed rule change can be found at http://www.dtcc.com/downloads/legal/filing_filings/2009/nsc/2009-10.pdf.

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78s(b)(2).