

*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-NYSE-2010-57. 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549-1090, on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at <http://www.nyse.com>. 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-NYSE-2010-57 and should be submitted on or before September 7, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-20240 Filed 8-16-10; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62692; File No. SR-NYSEArca-2010-56]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change To List and Trade Shares of the ETFS Precious Metals Basket Trust**

August 11, 2010.

**I. Introduction**

On June 15, 2010, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares ("Shares") of the ETFS Precious Metals Basket Trust ("Trust") pursuant to NYSE Arca Equities Rule 8.201. The proposed rule change was published for comment in the **Federal Register** on July 8, 2010.<sup>3</sup> 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 Shares pursuant to NYSE Arca Equities Rule 8.201, which governs the listing and trading of Commodity-Based Trust Shares. ETFS Services USA LLC is the sponsor of the Trust ("Sponsor"), The Bank of New York Mellon is the trustee of the Trust ("Trustee"), and JPMorgan Chase Bank, N.A. is the custodian of the Trust ("Custodian").

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 physical gold, silver, platinum, and palladium in the proportions held by the Trust, less the expenses of the Trust's operations.<sup>4</sup>

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 information regarding the Trust, the Shares, the Trust's investment objectives, strategies, policies, and restrictions, fees and expenses, creation and redemption of Shares, the Bullion markets, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Notice and in the Registration Statement.<sup>5</sup>

**III. Discussion and Commission's Findings**

After careful consideration, the Commission finds that the proposed rule change to list and trade the Shares of the Fund is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,<sup>7</sup> which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

The Commission also 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,<sup>8</sup> which sets forth Congress's 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 disseminated through the facilities of the Consolidated Tape Association. In addition, the Trust's Web site will provide an intraday indicative value ("IIV") per Share,<sup>9</sup> updated at least every 15 seconds, as calculated by the Exchange or a third

<sup>5</sup> See *supra* notes 3 and 4.

<sup>6</sup> 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).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

<sup>9</sup> The IIV is calculated by multiplying the indicative spot price of Bullion by the quantity of Bullion backing each Share as of the last calculation date.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 62402 (June 29, 2010), 75 FR 39292 ("Notice").

<sup>4</sup> See the registration statement for the Trust on Form S-1, filed with the Commission on April 29, 2010 (No. 333-164769) ("Registration Statement").

<sup>14</sup> 17 CFR 200.30-3(a)(12).

party financial data provider, during the Exchange's Core Trading Session (9:30 a.m. to 4 p.m. E.T.). The Trust's Web site also will provide the following information: (1) The net asset value ("NAV") of the Trust, on a per Share basis, as calculated each business day by the Sponsor and the mid-point of the bid-ask price<sup>10</sup> at the close of trading in relation to such NAV ("Bid/Ask Price"), and a calculation of the premium or discount of such price against such NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters; (3) the Creation Basket Deposit; (4) the Trust's prospectus, and the two most recent reports to stockholders; and (5) the last sale price of the Shares as traded in the US market. Further, the Exchange will make available over the Consolidated Tape trading volume, closing prices and NAV for the Shares from the previous day. There is a considerable amount of Bullion market information available on public Web sites and through professional and subscription services. For example, investors may obtain on a 24-hour basis Bullion pricing information based on the spot price for an ounce of Bullion from various financial information service providers, such as Reuters and Bloomberg. Reuters and Bloomberg provide at no charge on their Web sites delayed information regarding the spot price of Bullion and last sale prices of Bullion futures, as well as information about news and developments in the Bullion market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on Bullion prices directly from market participants. Meanwhile, other public Web sites provide information on Bullion, ranging from those specializing in precious metals to sites maintained by major newspapers, such as *The Wall Street Journal*. In addition, the London AM Fix and London PM Fix are publicly available at no charge at or <http://www.thebulliondesk.com>.

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. The Exchange states that it will obtain a

<sup>10</sup> 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.

representation from the Trust that the NAV will be calculated daily and made available to all market participants at the same time.<sup>11</sup> Following the initial 12-month period following commencement of trading, the Exchange will consider the suspending trading in Shares or removing Shares from listing if, among other things: (1) The value of the Bullion 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; (2) the Exchange stops providing a hyperlink on its Web site to any such unaffiliated commodity value; or (3) the IIV is no longer made available on at least a 15-second delayed basis.<sup>12</sup> 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 on the NYSE Marketplace until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. These may include: (1) The extent to which conditions in the underlying Bullion markets 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.<sup>13</sup>

Further, NYSE Arca Equities Rule 8.201 sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Pursuant to NYSE Arca Equities Rule 8.201(g), 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 the applicable underlying Bullion, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Equities Rule 6.3 requires an ETP Holder acting as a registered Market Maker in Commodity-Based Trust Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any

<sup>11</sup> See e-mail from Timothy J. Malinowski, Senior Director, NYSE Euronext, to Christopher W. Chow, Special Counsel, and Daniel T. Gien, Staff Attorney, Commission, dated July 29, 2010.

<sup>12</sup> See NYSE Arca Equities Rules 8.201(e)(2)(iv), (v).

<sup>13</sup> See NYSE Arca Equities Rule 7.12.

components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments.

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

(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 in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.<sup>14</sup> In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members of the ISG.<sup>15</sup>

(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: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) 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; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of Bullion trading during the Core and Late Trading Sessions after the close of the major world Bullion markets; and (6) 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 the Act

<sup>14</sup> Pursuant to NYSE Arca Equities Rule 8.201(g), the Exchange is able to obtain information regarding trading in the Bullion, Bullion futures contracts, options on Bullion futures, or any other Bullion derivative, by ETP Holders acting as registered Market Makers.

<sup>15</sup> The Exchange notes that the New York Mercantile Exchange, of which the COMEX is a division, is an ISG member; however, the Tokyo Commodity Exchange, Inc. ("TOCOM") is not an ISG member and the Exchange does not have in place a comprehensive surveillance sharing agreement with such market.

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,<sup>16</sup> that the proposed rule change (SR-NYSEArca-2010-56) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-20256 Filed 8-16-10; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62602; File No. SR-CBOE-2010-069]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Its Minor Rule Violation Plan

July 29, 2010.

#### Correction

In notice document 2010-19332 beginning on page 47672 in the issue of Friday, August 6, 2010, make the following correction:

On page 47672, in the third column, in the document heading, the date is corrected to read as set forth above.

[FR Doc. C1-2010-19332 Filed 8-16-10; 8:45 am]

BILLING CODE 1505-01-D

## DEPARTMENT OF STATE

[Public Notice: 7122]

### 30-Day Notice of Proposed Information Collection: Recording, Reporting, and Data Collection Requirements Under 22 CFR Part 62, the Exchange Visitor Program—Student and Exchange Visitor Information System (SEVIS); Forms DS-3036, DS-3037, and DS-7000, OMB No. 1405-0147

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Recording, Reporting, and Data Collection Requirements Under 22 CFR Part 62 (DS-7000), the Exchange Visitor Program Application (Form DS-3036); and Update of Information on Exchange Visitor Program Sponsor (Form DS-3037).

- *OMB Control Number:* 1405-0147.

- *Type of Request:* Revision of a Currently Approved Collection.

- *Originating Office:* Bureau of Educational and Cultural Affairs, Office of Designation, ECA/EC/D.

- *Form Number:* Forms DS-3036, DS-3037 and DS-7000.

- *Respondents:* U.S. government and public and private organizations wishing to become Department of State designated sponsors authorized to conduct exchange visitor programs, and Department of State designated sponsors.

- *Estimated Number of Respondents:* 191,810 (DS-3036—150; DS-3037—1,460; DS-7000—190,200).

- *Estimated Number of Responses:* 1,623,447 (DS-3036—150; DS-3037—2,920; DS-7000—1,620,377).

- *Average Hours Per Response:* DS-3036—8 hours; DS-3037—20 minutes; DS-7000—45 minutes.

- *Total Estimated Burden:* 1,323,260 (DS-3036—1,200 hours; DS-3037—973 hours; DS-7000—1,321,087).

- *Frequency:* On Occasion.

- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

**DATES:** Submit comments to the Office of Management and Budget (OMB) for up to 30 days from August 17, 2010.

**ADDRESSES:** Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail:* [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov). You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

- *Fax:* 202-395-5806. *Attention:* Desk Officer for Department of State.

**FOR FURTHER INFORMATION CONTACT:** You may obtain copies of the proposed information collection and supporting documents from Stanley S. Colvin, Deputy Assistant Secretary for Private Sector Exchange, Department of State, 2200 C Street, NW., 5th Floor, Washington, DC 20522-0505, who may be reached on (202) 632-6090, fax at 202-632-2701 or e-mail at [JExchanges@state.gov](mailto:JExchanges@state.gov).

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.

- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond.

#### *Abstract of proposed collection:*

The collection is the continuation of information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J-Visa) under the provisions of the Mutual Educational and Cultural Exchange Act, as amended. The forms have been revised to clarify language used and remove unnecessary data collection.

#### *Methodology:*

Access to Forms DS-3036 and DS-3037 are found in the Student and Exchange Visitor Information System (SEVIS).

Dated: August 10, 2010.

**Stanley S. Colvin,**

Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2010-20307 Filed 8-16-10; 8:45 am]

BILLING CODE 4710-05-P

## DEPARTMENT OF STATE

[Public Notice 7121]

### Bureau of Political-Military Affairs; Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

**SUMMARY:** Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

**DATES:** *Effective Date:* As shown on each of the 8 letters.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert S. Kovac, Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663-2861.

**SUPPLEMENTARY INFORMATION:** Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to

<sup>16</sup> 15 U.S.C. 78f(b)(2).

<sup>17</sup> 17 CFR 200.30-3(a)(12).