

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54020; File No. SR-NYSE-2006-35]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to Listing and Trading the Shares of Six CurrencyShares Trusts

June 20, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 16, 2006 the New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes as described in Items I and II below, which items have been substantially prepared by the Exchange. On June 19, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and is granting accelerated approval to the proposed rule change, as amended.

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

The Exchange proposes to list and trade the following under Rules 1300A and 1301A *et seq.*: CurrencyShares™ Australian Dollar Trust, which issues Australian Dollar Shares; CurrencyShares™ British Pound Sterling Trust, which issues British Pound Sterling Shares; CurrencyShares™ Canadian Dollar Trust, which issues Canadian Dollar Shares; CurrencyShares™ Mexican Peso Trust, which issues Mexican Peso Shares; CurrencyShares™ Swedish Krona Trust, which issues Swedish Krona Shares; and CurrencyShares™ Swiss Franc Trust, which issues Swiss Franc Shares. Each of these trusts (“Trusts”) issues Shares (as identified above) that represent units of fractional undivided beneficial interest in and ownership of their respective Trust.

#### 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 III below. The Exchange has prepared summaries, substantially 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

As noted above, the Exchange proposes to list and trade the Shares, which represent units of fractional undivided beneficial interest in and ownership of their respective Trust. According to the Exchange, the investment objective of the Trusts is for the Shares issued by the Trusts to reflect the price of their respective currency.<sup>4</sup> The sole assets of the Trusts will be the applicable foreign currency deposited into the Deposit Account<sup>5</sup> upon the creation of Baskets of 50,000 Shares each (as described below) and the applicable foreign currency earned as interest on the Deposit Account. The Trusts will not hold or trade in any currency swaps, options, futures or other currency derivative products, or engage in any foreign exchange market transactions.

The Exchange states that Shares are intended to provide institutional and retail investors with a simple, cost-effective means of hedging their exposure to a particular foreign currency and otherwise implement investment strategies that involve foreign currency (*e.g.*, diversify more generally against the risk that the U.S. Dollar (“USD”) will depreciate). According to the Exchange, the Sponsor believes that, for many investors, the Shares will represent a cost-effective investment relative to traditional means

<sup>4</sup> The Sponsor, on behalf of the Trusts, filed a Form S-1 for each Trust on March 10, 2006 (collectively, “Registration Statements”). See Registration No. 333-132362 for the CurrencyShares Australian Dollar Trust; Registration No. 333-132361 for the CurrencyShares British Pound Sterling Trust; Registration No. 333-132363 for the CurrencyShares Canadian Dollar Trust; Registration No. 333-132367 for the CurrencyShares Mexican Peso Trust; Registration No. 333-132366 for the CurrencyShares Swedish Krona Trust; and Registration No. 333-132364 for the Swiss Franc Trust.

<sup>5</sup> The Deposit Account is the applicable foreign currency account of the Trust established with the Depository (the London branch of JP Morgan Chase Bank, N.A.) by the Deposit Account Agreement. The Deposit Account holds the currency deposited with the Trust.

of investing in the foreign exchange market. Because the Shares will be traded on the NYSE, investors will be able to access the applicable foreign currency market through a traditional brokerage account, which the Exchange believes will provide investors with an efficient means of implementing investment tactics and strategies that involve the applicable foreign currency.

*Overview of the Foreign Exchange Industry.*<sup>6</sup> The Exchange represents that the foreign exchange market is the largest and most liquid financial market in the world. The Exchange states that, as of April 2004, the foreign exchange market experienced average daily turnover of approximately \$1.88 trillion, which was a 57% increase (at current exchange rates) from 2001 daily averages. The foreign exchange market is predominantly an over-the-counter market, with no fixed location and it operates 24 hours a day, seven days a week. London, New York, and Tokyo are the principal geographic centers of the world-wide foreign exchange market, with approximately 58% of all foreign exchange business executed in the U.K., U.S. and Japan. Other, smaller markets include Singapore, Zurich, and Frankfurt.<sup>7</sup>

The Exchange states that there are three major kinds of transactions in the traditional foreign exchange markets: spot transactions, outright forwards and foreign exchange swaps.<sup>8</sup> There also are transactions in currency options, which trade both over-the-counter and, in the U.S., on the Philadelphia Stock

<sup>6</sup> The Exchange represents that, except as otherwise specifically noted, the information provided in the Form 19b-4 filing relating to the Shares, foreign currency markets, movements in foreign currency pricing, and related information is based entirely on information included in the Registration Statements.

<sup>7</sup> For April 2004, the daily average foreign exchange turnover of the U.S. dollar against the Pound Sterling, Swiss Franc, Canadian dollar, and Australian dollar was approximately \$245 billion, \$78 billion, \$71 billion, and \$89 billion, respectively. See Bank for International Settlements, Triennial Central Bank Survey, March 2005, Statistical Annex Tables, Table E-2. In April 2004, the daily average foreign exchange turnover in USD of the Mexican Peso and Swedish Krona against all other currencies was approximately \$20 billion and \$40 billion, respectively. See *id* at Statistical Annex Tables, Table E-1.

<sup>8</sup> “Spot” trades are foreign exchange transactions that settle typically within two business days with the counterparty to the trade. Spot transactions account for approximately 35% of reported daily volume in the traditional foreign exchange markets. “Forward” trades, which are transactions that settle on a date beyond spot, account for 12% of the reported daily volume, and “swap” transactions, in which two parties exchange two currencies on one or more specified dates over an agreed period and exchange them again when the period ends, account for the remaining 53% of volume.

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

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

<sup>3</sup> See Partial Amendment No. 1.

Exchange (“Phlx”). Currency futures<sup>9</sup> are traded on a number of regulated markets, including the International Monetary Market division of the Chicago Mercantile Exchange (“CME”), the Singapore Exchange Derivatives Trading Limited (“SGX,” formerly the Singapore International Monetary Exchange or SIMEX) and the London International Financial Futures Exchange (“LIFFE”). Over 85% of currency derivative products (swaps, options and futures) are traded over-the-counter.<sup>10</sup>

Futures on the Australian Dollar, British Pound, Canadian Dollar, Mexico Peso, Swedish Krona, and Swiss Franc as well as options on such futures (except for the Swedish Krona) are traded on the CME (both exchange pit trading and GLOBEX trading, except for Swedish Krona futures, which trade on GLOBEX only). Standardized options on the Australian Dollar, British Pound, Canadian Dollar, and Swiss Franc trade on Phlx. Phlx also offers more customized options on certain currency pairs.<sup>11</sup> According to the Exchange, these U.S. markets are the primary trading markets in the world for exchange-traded futures, options and options on futures on these currencies.<sup>12</sup> Based on the Exchange’s review of information supplied by major market data vendors, exchange-traded options are not traded on the Mexican Peso or the Swedish Krona.

According to the Exchange, participants in the foreign exchange market have various reasons for participating. Multinational corporations and importers need foreign currency to acquire materials or goods from abroad. Banks and multinational corporations sometimes require specific wholesale funding for their commercial loan or other foreign investment

portfolios. Some participants hedge open currency exposure through off-balance-sheet products.

The Exchange further represents that the primary market participants in foreign exchange are banks (including government-controlled central banks), investment banks, money managers, multinational corporations, and institutional investors. The most significant participants are the major international commercial banks that act both as brokers and as dealers. In their dealer role, these banks maintain long or short positions in a currency and seek to profit from changes in exchange rates. In their broker role, the banks handle buy and sell orders from commercial customers, such as multinational corporations. The banks earn commissions when acting as agent. They profit from the spread between the rates at which they buy and sell currency for customers when they act as principal.

In its filing, the Exchange represents that, typically, banks engage in transactions ranging from \$5 million to \$50 million in amount. Although banks will engage in smaller transactions, the fees that they charge have made the foreign currency markets relatively inaccessible to individual investors. Some banks allow individual investors to engage in spot trades without paying traditional commissions on the trades. Such trading is often not profitable for individual investors, however, because the banks charge the investor the spread between the bid and the ask price maintained by the bank on all purchases and sales. The overall effect of this fee structure depends on the spread maintained by the bank and the frequency with which the investor trades. Generally, this fee structure is particularly disadvantageous to active traders.

*Foreign Currency Regulation.* Most trading in the global over-the-counter (OTC) foreign currency markets is conducted by regulated financial institutions such as banks and broker-dealers. In addition, in the U.S., the Foreign Exchange Committee of the New York Federal Reserve Bank has issued Guidelines for Foreign Exchange Trading, and central-bank sponsored committees in Japan and Singapore have published similar best practice guidelines. In the United Kingdom, the Bank of England has published the Non-Investment Products Code, which covers foreign currency trading. The Financial Markets Association, whose members include major international banking organizations, has also established best practices guidelines called the Model Code.

Participants in the U.S. OTC market for foreign currencies are generally regulated by their oversight regulators. For example, participating banks are regulated by the banking authorities. In addition, in the U.S., the Commission regulates trading of options on foreign currencies on the Phlx and the Commodity Futures Trading Commission (“CFTC”) regulates trading of futures, options, and options on futures on foreign currencies on regulated futures exchanges.<sup>13</sup>

The Exchange states that the Phlx and CME have authority to perform surveillance on their members’ trading activities, review positions held by members and large-scale customers, and monitor the price movements of options and/or futures markets by comparing them with cash and other derivative markets’ prices.

*Foreign Exchange Markets.*<sup>14</sup> The Exchange represents that the average daily turnover of the USD in the foreign exchange market is approximately \$1.57 trillion, which makes it the most-traded currency in the world, accounting for approximately 89% of global foreign exchange transactions.

The Australian Dollar is the national currency of Australia and the currency of the accounts of the Reserve Bank of Australia, the Australian central bank. The official currency code for the Australian Dollar is “AUD.” As with U.S. currency, 100 Australian cents are equal to one Australian Dollar. According to the Exchange, the average daily turnover of the Australian Dollar in the foreign exchange market is approximately \$97.1 billion, which makes it the sixth-most-traded currency in the world, accounting for approximately 5.5% of global foreign exchange transactions. The Exchange further represents that the USD/Australian Dollar pair has an average daily turnover of approximately \$89.8 billion, which makes it the fourth-most-traded currency pair, accounting for

<sup>9</sup> Currency futures are transactions in which an institution buys or sells a standardized amount of foreign currency on an organized exchange for delivery on one of several specified dates.

<sup>10</sup> See Bank for International Settlements, Triennial Central Bank Survey of Foreign Exchange and Derivatives Market Activity in April 2004, September 2004 (Tables 2 and 6).

<sup>11</sup> For the period May 2005 through April 2006, futures contract volume on the CME was as follows: Australian Dollar, 56,611 (Pit) and 203,073 (Globex); British Pound, 69,580 (Pit) and 486,136 (Globex); Canadian Dollar, 78,618 (Pit) and 335,586 (Globex); Mexican Peso, 86,614 (Pit) and 78,884 (Globex); Swiss Franc, 62,685 (Pit) and 378,208 (Globex); Swedish Krona, 53 (Globex). For the period January through March 2006, Australian Dollar, British Pound, Canadian Dollar, and Swiss Franc options volume on the Phlx was 2,162 contracts, 399 contracts, 8,032 contracts, and 479 contracts, respectively.

<sup>12</sup> The London International Financial Futures Exchange trades Euro futures and options and not derivatives on the currencies that are the subject of this filing.

<sup>13</sup> The CFTC is an independent government agency with the mandate to regulate commodity futures and options markets in the U.S. under the Commodity Exchange Act. In addition to its oversight of regulated futures exchanges, the CFTC has jurisdiction over certain foreign currency futures, options and options on futures transactions occurring other than on a regulated exchange and involving retail customers. Both the Commission and CFTC have established rules designed to prevent market manipulation, abusive trade practices, and fraud, as have the exchanges on which the foreign currency products trade.

<sup>14</sup> According to the Exchange, the primary source of the statistical information in this section is the Bank of International Settlements Survey, *supra* at note 7. The Exchange further represents that other information came from the Web sites of the central banks for the applicable countries and other sources the Sponsor believes to be reliable.

approximately 5% of the global foreign exchange transactions. Within the past five years, the value of the Australian Dollar reached a record low of \$0.4773 and a record high of \$0.8005. As of March 10, 2006, the Australian Dollar was worth \$0.7429.

The British Pound Sterling is the official currency of the United Kingdom and has been the currency of the accounts of the Bank of England since 1694. The British Pound Sterling is also referred to as the British Pound and its official currency code is "GBP" (Great Britain Pound). The Exchange represents that the average daily turnover of the British Pound Sterling in the foreign exchange market is approximately \$299 billion, which makes it the fourth-most-traded currency in the world, accounting for approximately 17% of global foreign exchange transactions. According to the Exchange, the USD/British Pound Sterling pair has an average daily turnover of approximately \$245 billion, which makes it the third-most-traded currency pair, accounting for approximately 14% of the global foreign exchange transactions. The United Kingdom has not entered into the Second European Exchange Rate Mechanism (ERM II), a necessary condition before a country can adopt the Euro as its currency. Within the past five years, the value of the British Pound Sterling reached a record low of \$1.3677 and a record high of \$1.955. As of March 1, 2006, the British Pound Sterling was worth \$1.7473.

The Canadian Dollar is the national currency of Canada and the currency of the accounts of the Bank of Canada, the Canadian central bank. The official currency code for the Canadian Dollar is "CAD." As with U.S. currency, 100 Canadian cents are equal to one Canadian Dollar. The Exchange represents that the average daily turnover of the Canadian Dollar in the foreign exchange market is approximately \$74.6 billion, which makes it the seventh-most-traded currency in the world, accounting for approximately 4% of global foreign exchange transactions. The Exchange further represents that the USD/Canadian Dollar pair has an average daily turnover of approximately \$71.1 billion, which makes it the sixth-most-traded currency pair, accounting for approximately 4% of the global foreign exchange transactions. Within the past five years, the value of the Canadian Dollar reached a record low of \$0.6175 and a record high of \$0.8821. As of March 1, 2006, the Canadian Dollar was worth \$0.8799.

The Mexican Peso is the national currency of Mexico and the currency of the accounts of the Bank of Mexico. Subsequent to the redenomination of the Mexican Peso in 1993, the official currency code for the Mexican Peso is "MXN." One hundred "centavos" comprise one Mexican Peso. Average daily turnover of the Mexican Peso in the foreign exchange market is approximately \$20.3 billion, which makes it the twelfth-most-traded currency in the world, accounting for approximately 1.1% of global foreign exchange transactions. Within the past five years, the value of the Mexican Peso reached a record low of USD 0.08507 and a record high of USD 0.11205. As of March 1, 2006, the Mexican Peso was worth USD 0.09558.

The Swedish Krona is the national currency of Sweden and the currency of the accounts of the Swedish central bank, the Riksbank. The official currency code for the Swedish Krona is "SEK." One hundred "öre" comprise one Swedish Krona. According to the Exchange, the average daily turnover of the Swedish Krona in the foreign exchange market is approximately \$40.6 billion, which makes it the eighth-most-traded currency in the world, accounting for approximately 2.3% of global foreign exchange transactions. Within the past five years, the value of the Swedish Krona reached a record low of \$0.09046 and a record high of \$0.15200. As of March 1, 2006, the Swedish Krona was worth \$0.12586.

The Swiss Franc is the national currency of Switzerland and Liechtenstein and the currency of the accounts of the Swiss National Bank, the central bank of Switzerland. The official currency code for the Swiss Franc is "CHF." Each Swiss Franc is equal to 100 Swiss centimes. The Exchange represents that the average daily turnover of the Swiss Franc in the foreign exchange market is approximately \$108 billion, which makes it the fifth-most-traded currency in the world, accounting for approximately 6.1% of global foreign exchange transactions. The Exchange further represents that the USD/Swiss Franc pair has an average daily turnover of approximately \$78.2 billion, which makes it the fifth-most-traded currency pair, accounting for approximately 4% of the global foreign exchange transactions. Within the past five years, the value of the Swiss Franc reached a record low of \$0.5487 and a record high of \$0.8879. As of March 1, 2006, the Swiss Franc was worth \$0.7596.

As members of the European Union, the United Kingdom and Sweden have the option to adopt the Euro as their

official currency in lieu of their national currencies. Switzerland could join the European Union and adopt the Euro as its currency as well. If a country adopts the Euro as its currency, the value of national currency could depreciate, depending on, among other things, the relative value of the national currency and the Euro, the conversion ratio of the national currency per Euro, and the timing of the adoption of the Euro. If the national currencies lose value, the value of the respective shares would also depreciate. Furthermore, if the United Kingdom, Sweden or Switzerland adopts the Euro as its currency, then the respective Trust will terminate and liquidate.

*The Sponsor.* The Sponsor of each Trust is Rydex Specialized Products LLC, a Delaware limited liability company that is wholly-owned by PADCO Advisors II, Inc., a Maryland corporation, a privately-held company owned by Rydex Holdings, Inc., a Maryland Corporation, which is controlled by two irrevocable trusts. The Sponsor and its affiliates collectively do business as "Rydex Investments."

The Sponsor is responsible for establishing the Trusts and for the registration of the Shares. The Sponsor generally oversees the performance of the Trustee and the Trusts' principal service providers, but does not exercise day-to-day oversight over the Trustee or such service providers. The Sponsor regularly communicates with the Trustee to monitor the overall performance of the Trusts. The Sponsor, with assistance and support from Rydex affiliates who also do business as "Rydex Investments," the Trustee and outside professionals, are responsible for preparing and filing periodic reports on behalf of the Trusts with the Commission.<sup>15</sup> The Sponsor will designate the auditors of the Trusts and may from time to time employ legal counsel for the Trusts.

The Distributor is assisting the Sponsor in developing a marketing plan for the Trusts, preparing marketing

<sup>15</sup> The Sponsor has obtained a no-action letter from the Commission's Division of Corporation Finance with respect to the Euro Currency Trust pursuant to which the Sponsor's principal executive officer and principal financial officer will provide any certifications that are required from a "registrant's" principal executive officer and principal financial officer. See Letter from Charles Kwon, Special Counsel, Division of Corporation Finance, Commission, dated March 22, 2006. The Exchange states that the Sponsor plans to request the same type of no-action relief for the Trusts. See telephone conversation between Michael Cavalier, Assistant General Counsel, NYSE, Geoffrey Pemble, Special Counsel, Commission, and Christopher Chow, Special Counsel, Commission, during the morning of June 13, 2006 ("June 13 AM Telephone Conversation").

materials on the Shares, executing the marketing plan for the Trusts and providing strategic and tactical research on the global foreign exchange markets. The Sponsor will not enter into an agreement with the Distributor covering these services, because the Distributor is an affiliate and will not be paid any compensation by the Sponsor for performing these services.

The Sponsor with the Distributor's assistance maintains a public Web site on behalf of the Trusts, <http://www.currencyshares.com>, which contains information about the Trusts and the Shares, and oversees certain Shareholder services, such as a call center and prospectus delivery.

The Sponsor may direct the Trustee in the conduct of its affairs, but only as provided in the Depositary Trust Agreement. For example, the Sponsor may direct the Trustee to sell the Trusts' foreign currency to pay certain extraordinary expenses, to suspend a redemption order or postpone a redemption settlement date, or to terminate the Trusts if certain criteria are met. The Sponsor anticipates that, if the market capitalization of a Trust is less than \$300 million at any time after the first anniversary of such Trust's inception, then the Sponsor will, in accordance with the Depositary Trust Agreement, direct the Trustee to terminate and liquidate such Trust.

Fees are paid to the Sponsor as compensation for services performed under the Depositary Trust Agreement and for services performed in connection with maintaining the Trusts' Web site and marketing the Shares. The Sponsor's fee is the only ordinary recurring expense that will be borne by the Trusts and, ultimately, by the Shareholders.<sup>16</sup>

*The Trustee.* The Bank of New York, the Trustee, is generally responsible for the day-to-day administration of the Trusts, including keeping the Trusts' operational records. The Trustee's principal responsibilities include selling the Trusts' foreign currency if needed to pay the Trusts' expenses, calculating the net asset value ("NAV") of the Trusts and the NAV per Share, receiving and processing orders from Authorized Participants to create and redeem Baskets (as discussed below), and coordinating the processing of such orders with the Depositary and DTC. The Trustee will earn a monthly fee that will be paid by the Sponsor.

The Trustee intends to regularly communicate with the Sponsor to monitor the over-all performance of the

Trusts. The Trustee, along with the Sponsor, consults with the Trusts' legal, accounting and other professional service providers as needed. The Trustee assists and supports the Sponsor with the preparation of all periodic reports required to be filed with the Commission on behalf of the Trusts.

Affiliates of the Trustee may from time to time act as Authorized Participants or purchase or sell foreign currency or Shares for their own account, as agent for their customers, and for accounts over which they exercise investment discretion.

*The Depositary.* The Depositary accepts Trust foreign currency deposited with it as a banker by Authorized Participants in connection with the creation of Baskets. The Depositary facilitates the transfer of the applicable foreign currency into and out of the Trusts through the applicable foreign currency deposit account maintained with it as a banker by the Trusts. The Depositary will not be paid a fee for its services to the Trusts. The Depositary may earn a "spread" or "margin" over the rate of interest it pays to the Trusts on the foreign currency deposit balances. The Depositary is not a trustee for the Trusts or the Shareholders. The Depositary and its affiliates may from time to time act as Authorized Participants or purchase or sell the foreign currency or Shares for their own account, as agent for their customers, and for accounts over which they exercise investment discretion.

*The Distributor.* Rydex Distributors, Inc., the Distributor, assists the Sponsor in developing a marketing plan for the Trusts on an ongoing basis, preparing marketing materials regarding the Shares, including the content on the Trusts' Web site, <http://www.currencyshares.com>.

The Distributor, executing the marketing plan for the Trusts, and providing strategic and tactical research on the global foreign exchange market. The Distributor and its affiliates may from time to time act as Authorized Participants or purchase or sell foreign currency or Shares for their own account, as agent for their customers and for accounts over which they exercise investment discretion.

*Description of the Trusts' Management and Structure.* Rydex Specialized Products LLC is the sponsor of the Trusts ("Sponsor"), The Bank of New York is the trustee of the Trusts ("Trustee"), JPMorgan Chase Bank, N.A., London Branch ("Bank"), is the depository for the Trusts ("Depositary"), and Rydex Distributors, Inc. is the distributor for the Trusts ("Distributor"). The Sponsor, Trustee, Depositary and

Distributor are not affiliated with the Exchange or one another, with the exception that the Sponsor and Distributor are affiliated. The Exchange currently lists and trades shares of the Euro Currency Trust, which has the same Sponsor, Trustee, Depositary and Distributor as the Trusts.<sup>17</sup>

According to the Exchange, the Trusts will be formed under the laws of the State of New York as of the date the Sponsor and the Trustee sign the Depositary Trust Agreement and the Initial Purchaser makes the initial deposit for the issuance of three Baskets.<sup>18</sup> The Shares represent units of fractional undivided beneficial interest in, and ownership of, the respective Trusts. The investment objective of each Trust is for the Shares to reflect the price of the applicable foreign currency.

Each Trust's assets will consist only of foreign currency on demand deposit in a foreign currency-denominated, interest-bearing account at JPMorgan Chase, London Branch.<sup>19</sup> The Trusts will not hold any derivative products. Each Share represents a proportional interest, based on the total number of Shares outstanding, in the applicable foreign currency owned by the specific Trust, less the estimated accrued but unpaid expenses (both asset-based and non-asset based) of such Trust. The Sponsor expects that the price of a Share will fluctuate in response to fluctuations in the price of the applicable foreign currency and that the price of a Share will reflect accumulated interest as well as the estimated accrued but unpaid expenses of the specific Trust. A Trust will terminate upon the occurrence of any of the termination events listed in the Depositary Trust Agreement and will otherwise terminate on a specified date in 2045.

The Trusts are not managed like a business corporation or an active investment vehicle. The foreign

<sup>17</sup> See Securities Exchange Act Release No. 52843 (November 28, 2005), 70 FR 72486 (December 5, 2005) (SR-NYSE-2005-65).

<sup>18</sup> A Basket is a block of 50,000 Shares.

<sup>19</sup> The Exchange notes that, in addition to the Euro Currency Trust (see *supra* at note 17), the Commission has permitted the listing of prior securities products for which the underlying was a commodity or otherwise was not a security trading on a regulated market. See, e.g., Securities Exchange Act Release Nos. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR-NYSE-2004-22) (approving listing and trading on NYSE of StreetTRACKS® Gold Shares); 19133 (October 14, 1982) (approving the listing of standardized options on foreign currencies); 36505 (November 22, 1995), 60 FR 61277 (November 29, 1995) (SR-Phlx-95-42) (approving the listing of dollar-denominated delivery foreign currency options on the Japanese Yen); and 36165 (August 29, 1995), 60 FR 46653 (September 7, 1995) (SR-NYSE-94-41) (approving listing standards for, among other things, currency and currency index warrants).

<sup>16</sup> See *infra* section entitled "Trust Expenses and Management Fees."

currency held by each Trust will only be sold: (1) If needed to pay Trust expenses; (2) in the event the Trust terminates and liquidates its assets; or (3) as otherwise required by law or regulation. The sale of foreign currency by the Trusts is a taxable event to Shareholders. According to the Exchange, the Trusts are not registered as investment companies under the Investment Company Act and are not required to register under such Act.

The Sponsor, on behalf of the Trusts, has requested relief from certain trading requirements of the Act.<sup>20</sup> In addition, the Exchange represents that the Trusts will not be subject to the Exchange's corporate governance requirements, including the Exchange's audit committee requirements.<sup>21</sup>

*Trusts' Expenses and Management Fees.* Each Trust will use interest earned on its respective Deposit Account to pay the Sponsor's fee and any other Trust expenses that may arise from time to time.<sup>22</sup> If that interest is not sufficient to fully pay the Sponsor's fee and Trust expenses, then the Trustee will sell deposited foreign currency as needed. In either case, the applicable foreign currency will be converted to USD at the prevailing market rate at the time of conversion. In estimating the amount of the Sponsor's fee and any other Trust expenses that are accrued but unpaid, the Trusts will use the Noon Buying Rate in effect at the time the estimate is made. The USD amount estimated for accrued but unpaid expenses at any time may be more or less than the USD amount actually paid when such expenses become due and payable.

The Trusts' only ordinary recurring expense is expected to be the Sponsor's

fee.<sup>23</sup> The Sponsor in turn is obligated under the Depositary Trust Agreement to pay the following administrative and marketing expenses for each of the Trusts: The Trustee's monthly fee; the Distributor's fee; NYSE listing fees; Commission registration fees; printing and mailing costs; audit fees and expenses; and up to \$100,000 per annum in legal fees and expenses. The Sponsor also is obligated to pay the costs of the Trusts' organization and the costs of the initial sale of the Shares, including the applicable Commission registration fees.

Under the Deposit Account Agreement, the Depositary is entitled to invoice the Trustee or debit the Deposit Account for out-of-pocket expenses. The Trust has also agreed to reimburse the Depositary for any taxes, levies, imposts, deductions, charges, stamp, transaction and other duties and withholdings in connection with the Deposit Account, except for such items imposed on the overall net income of the Depositary. Except for the reimbursable expenses just described, the Depositary will not be paid a fee for its services to the Trust. The Depositary may earn a "spread" or "margin" on the foreign currency deposit balances it holds.

The following additional expenses may be charged to the Trusts: (1) Expenses and costs of any extraordinary services performed by the Trustee or the Sponsor on behalf of the Trusts or action taken by the Trustee or the Sponsor to protect the Trusts or interests of Shareholders; (2) indemnification of the Sponsor; (3) taxes and other governmental charges; and (4) expenses of the Trusts other than those the Sponsor is obligated to pay pursuant to the Depositary Trust Agreement.

In order to pay a Trust's expenses, the Trustee will make payments using the applicable foreign currency held in the Depositary Account. For expenses not payable in the applicable foreign currency, if any, the Trustee shall convert the applicable foreign currency to other currencies as necessary to pay the Trust's expenses. The Trustee shall withdraw the smallest amount of foreign currency required to purchase amounts of another currency sufficient to pay Trust expenses and the costs of currency conversion. The Trustee will place foreign currency sale orders with dealers (which may include the 20 Depositary) through which the Trustee

expects to receive a commercially reasonable price and good execution of orders. Neither the Trustee nor the Sponsor is liable for depreciation or loss incurred by reason of any conversion.

*Liquidity.* The Exchange states that the amount of the discount or premium in the trading price relative to the NAV per Share may be influenced by non-concurrent trading hours between the major foreign currency markets and the NYSE. The period of greatest liquidity in the British Pound, Swiss Franc and Swedish Krona market, for example, is typically that time of the day when trading in the European time zones overlaps with trading in the U.S., which is when OTC market trading in London, New York, and other centers coincides with futures and options trading on those currencies. While the Shares will trade on the NYSE until 4:15 p.m. (New York time), liquidity in the OTC market for the British Pound, Swiss Franc, and Swedish Krona will be slightly reduced after the close of the London foreign currency markets.

Because of the potential for arbitrage inherent in the structure of the Trusts, the Sponsor believes that the Shares will not trade at a material discount or premium to the value of underlying currency held by the Trust. The Exchange states that the arbitrage process, which in general provides investors the opportunity to profit from differences in prices of assets, increases the efficiency of the markets, serves to prevent potentially manipulative efforts and can be expected to operate efficiently in the case of the Shares and the applicable foreign currency. If the price of the Shares deviates enough from the price of the foreign currency to create a material discount or premium, an arbitrage opportunity is created. If the Shares are inexpensive compared to the foreign currency that underlies them, an Authorized Participant, either on its own behalf or acting as agent for investors, arbitrageurs or traders, may buy the Shares at a discount, immediately redeem them in exchange for the foreign currency and sell the foreign currency in the cash market at a profit. If the Shares are expensive compared to the foreign currency that underlies them, an Authorized Participant may sell the Shares short, buy enough foreign currency to create the number of Shares sold short, acquire the Shares through the creation process and deliver the Shares to close out the short position.<sup>24</sup> According to the

<sup>20</sup> See *infra* note 52.

<sup>21</sup> See Securities Exchange Act Release No. 48745 (November 4, 2003), 68 FR 64154 (November 12, 2003) (SR-NYSE-2002-33, SR-NASD-2002-77, *et al.*) (specifically noting that the corporate governance standards will not apply to, among others, passive business organizations in the form of trusts). See also Securities Exchange Act Release No. 47654 (April 9, 2003), 68 FR 18787 (April 16, 2003) (noting in Section II(F)(3)(c) that "SROs may exclude from Exchange Act Rule 10A-3's requirements issuers that are organized as trusts or other unincorporated associations that do not have a board of directors or persons acting in a similar capacity and whose activities are limited to passively owning or holding (as well as administering and distributing amounts in respect of) securities, rights, collateral or other assets on behalf of or for the benefit of the holders of the listed securities").

<sup>22</sup> Interest on the Deposit Account will accrue daily at an initial annual nominal rate that may vary for each Trust. The Depositary may change the rate for a Trust based upon changes to the applicable London InterBank Offer Rate ("LIB OR") overnight rate set by the British Bankers' Association, other market conditions or the liquidity needs of the Bank.

<sup>23</sup> The Sponsor's fee accrues daily at an annual nominal rate of 0.40% of the NAV of the Trusts, compounds daily on the basis of a 365- or 366-day year, and is paid monthly in arrears.

<sup>24</sup> The Exchange notes that the Trusts, which will only hold foreign currency as an asset in the normal course of their operations, differ from index-based

Exchange, in both instances the arbitrageur serves efficiently to correct price discrepancies between the Shares and the underlying foreign currency.

*Description of the Shares.* According to the Exchange, the Shares are not a traditional investment. They are dissimilar from the “shares” of a corporation operating a business enterprise, with management and a board of directors. Trust Shareholders do not have rights normally associated with owning shares of a business corporation, including, for example, the right to bring “oppression” or “derivative” actions. Shareholders have only those rights explicitly set forth in the Depositary Trust Agreement.<sup>25</sup> All Shares are of the same class with equal rights and privileges. Each Share is transferable, is fully paid and non-assessable, and entitles the holder to vote on the limited matters upon which Shareholders may vote under the Depositary Trust Agreement. The Shares do not entitle their holders to any conversion or pre-emptive rights or, except as provided in the Registration Statement, any redemption or distribution rights.

*Distributions.* The Depositary Trust Agreement requires the Trustee to promptly distribute “Surplus Property” that is in USD and sell or convert all other Surplus Property into USD and distribute the proceeds. “Surplus Property” includes, among other things, interest on the foreign currency in the Deposit Account that the Trustee determines is not required to pay estimated Trust expenses within the following month. In addition, if a Trust is terminated and liquidated, then the Trustee will distribute to the Shareholders upon surrender of their Shares any amounts remaining after the

exchange-traded funds, which may involve a trust holding hundreds or even thousands of underlying component securities, necessarily involving in the arbitrage process movements in a large number of security positions. See, e.g., Securities Exchange Act Release No. 46306 (August 2, 2002), 67 FR 51916 (August 9, 2002) (SR-NYSE-2002-28) (approving the UTP trading of Vanguard Total Market VIPERs based on the Wilshire 5000 Total Market Index).

<sup>25</sup> Shareholders have no voting rights under the Depositary Trust Agreement, except in limited circumstances. If the holders of at least 25% of the Shares outstanding for a Trust determine that the Trustee is in material breach of its obligations under the Depositary Trust Agreement, they may provide written notice to the Trustee (or require the Sponsor to do so) specifying the default and requiring the Trustee to cure such default. If the Trustee fails to cure such breach within 30 days after receipt of the notice, the Sponsor, acting on behalf of the Registered Owners, may remove the Trustee for such Trust. The holders of at least 66⅔% of the Shares outstanding may vote to remove the Trustee. The Trustee must terminate the Trust at the request of the holders of at least 75% of the outstanding Shares.

satisfaction of all outstanding liabilities of the Trust and the establishment of such reserves for applicable taxes, other governmental charges and contingent or future liabilities as the Trustee shall determine. All distributions will be made monthly in USD. The Trustee will effectuate the conversion and will determine the exchange rate, which will be proximate to the Noon Buying Rate on the record date for the distribution. Shareholders of record on the record date fixed by the Trustee for any distribution will be entitled to receive their pro-rata portion of the distribution.<sup>26</sup>

*Creation and Redemption of Shares.* Each Trust will create Shares on a continuous basis only in aggregations of 50,000 Shares (each such aggregation referred to as a “Basket”) in exchange for deposits of the applicable foreign currency, and will distribute the applicable foreign currency in connection with the redemption of one or more Baskets. As discussed further below, the creation and redemption of Baskets requires the delivery to the Trust or the distribution by the Trust of the amount of foreign currency represented by the Baskets being created or redeemed. This amount is based on the combined NAV per Share of the number of Shares included in the Baskets being created or redeemed, determined on the day the order to create or redeem Baskets is properly received. The number of Shares outstanding is expected to increase and decrease from time to time as a result of the creation and redemption of Baskets. Authorized Participants pay for Baskets with the applicable foreign currency. Shareholders pay for Shares with U.S. dollars.

Authorized Participants are the only persons that may place orders to create and redeem Baskets.<sup>27</sup> An Authorized Participant is a DTC Participant that is

<sup>26</sup> On the last calendar day of each month, the Depository will deposit into the Deposit Account the accrued but unpaid interest for that month and pay the accrued Sponsor’s fee for the month plus any other Trust expenses. If the last calendar day of the month is not a business day, the deposit of interest and payment of the Sponsor’s fee and expenses will be made on the next following business day. In the event that the interest deposited exceeds the sum of the Sponsor’s fees for the month plus other Trust expenses, if any, then the Trustee shall convert the excess into dollars based on the Noon Buying Rate and distribute the dollars promptly to Shareholders of record on the last calendar day of the month, on a pro rata basis (in accordance with the number of Shares that they own). The distribution per Share shall be rounded down to the nearest penny, and any excess remaining after the rounding shall be retained by the Trust in the applicable foreign currency.

<sup>27</sup> Authorized Participants may sell to other investors all or part of the Shares included in the Baskets that they purchase from the Trusts.

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 and has entered into a Participant Agreement with the Trustee. Before initiating a creation or redemption order, an Authorized Participant must have entered into a Participant Agreement with the Sponsor and the Trustee. The Participant Agreement provides the procedures for the creation and redemption of Baskets and for the delivery of foreign currency required for creations and redemptions. The Participant Agreements may be amended by the Trustee, the Sponsor and the relevant Authorized Participant.

Authorized Participants will pay a transaction fee of \$500 to the Trustee for each order that they place to create or redeem one or more Baskets.<sup>28</sup> Authorized Participants who make deposits with the Trust in exchange for Baskets receive no fees, commissions or other form of compensation or inducement of any kind from either the Sponsor or the Trust. No Authorized Participant has any obligation or responsibility to the Sponsor or the Trust to effect any sale or resale of Shares.

The Exchange states that certain Authorized Participants are expected to have the facility to participate directly in the global foreign exchange market. In some cases, an Authorized Participant may acquire foreign currency from, or sell foreign currency to, an affiliated foreign exchange trading desk, which may profit in these instances. The Sponsor believes that the size and operation of the foreign exchange markets make it unlikely that an Authorized Participant’s direct activities in the foreign exchange and securities markets will impact the price of foreign currency or the price of Shares.<sup>29</sup> The Exchange states that each Authorized Participant will be registered as a broker-dealer under the Act and will be regulated by the National Association of Securities Dealers, Inc., or else will be exempt from being (or otherwise will not be required to be) so registered or regulated, and will be qualified to act as a broker or dealer in the states or other jurisdictions where the nature of its

<sup>28</sup> The transaction fee may be reduced or, with the consent of the Sponsor, increased. The Trustee shall notify DTC of any agreement to change the transaction fee and will not implement any increase in the fee for the redemption of Baskets until 30 days after the date of the notice.

<sup>29</sup> See June 13 AM Telephone Conversation, *supra* at note 15 (authorizing clarification of this sentence.)

business so requires. Certain Authorized Participants may be regulated under federal and state banking laws and regulations. The Exchange states that each Authorized Participant will have its own set of rules and procedures, internal controls and information barriers as it determines to be appropriate in light of its own regulatory regime.

Authorized Participants may act for their own accounts or as agents for broker-dealers, depositories and other securities or foreign currency market participants that wish to create or redeem Baskets. An order for one or more Baskets may be placed by an Authorized Participant on behalf of multiple clients.

In order to create a Basket, the Authorized Participant deposits the applicable Basket Amount (defined below) with the Depository and orders Shares from the Trustee.<sup>30</sup> The Trustee directs DTC to credit Shares to the Authorized Participant. The Authorized Participant will then be able to sell Shares to Purchasers on the NYSE or any other market in which the Shares may trade.

On any business day, an Authorized Participant may place an order with the Trustee to create one or more Baskets. The creation or redemption of Shares can occur only in a Basket of 50,000 Shares or multiples thereof. For purposes of processing both purchase and redemption orders, a "business day" means any day other than a day when the NYSE is closed for regular trading. Purchase orders must be placed by 4 p.m. (New York time) or the close of regular trading on the NYSE, whichever is earlier. The day on which the Trustee receives a valid purchase order is the purchase order date. By placing a purchase order, an Authorized Participant agrees to deposit the applicable foreign currency with the Trust. Before the delivery of Baskets for a purchase order, the Authorized Participant also must have wired to the Trustee the non-refundable transaction fee due for the purchase order.

<sup>30</sup> The Trustee shall determine the Basket Amount "as promptly as practicable" after the Federal Reserve Bank of New York announces the Noon Buying Rate on each day that the NYSE is open for regular trading. Ordinarily, this will occur by 2 p.m. (New York time). The Basket Amount will be published on the Trust's Web site every day the NYSE is open for regular trading. The Registration Statements, the Participant Agreement and the Trust Agreement do not state a precise time each day for publication of the Basket Amount. It will be published simultaneously with the NAV. The Sponsor for the Trusts has represented to the Exchange that the NAV and the Basket amount for each Trust will be available to all market participants at the same time.

The total deposit required to create each Basket, called the Basket Amount, is an amount of foreign currency bearing the same proportion to the number of Baskets to be created as the total assets of a Trust (net of estimated accrued but unpaid expenses) bears to the total number of Baskets outstanding on the date that the order to purchase is properly received. The amount of the required deposit is determined by dividing the number of units of foreign currency (e.g. Australian Dollars) held by a Trust (net of estimated accrued but unpaid expenses) by the number of Baskets outstanding. All questions as to the composition of a Basket Amount are finally determined by the Trustee. The Trustee's determination of the Basket Amount shall be final and binding on all persons interested in the Trusts.

An Authorized Participant who places a purchase order is responsible for delivering the Basket Amount to the Deposit Account by 7:30 a.m. or 8:30 a.m. eastern standard time ("EST"), depending upon whether daylight savings is in effect,<sup>31</sup> on the third business day after the purchase order date. Authorized Participants will use the SWIFT system to make timely deposits through their bank correspondents in London. Upon receipt of the foreign currency deposit from an Authorized Participant, the Trustee will direct DTC to credit the number of Baskets ordered to the Authorized Participant's DTC account. The expense and risk of delivery, ownership, and safekeeping of the applicable foreign currency until such foreign currency has been received by the Depository shall be borne solely by the Authorized Participant.

In order to redeem Shares, an Authorized Participant must send the Trustee a Redemption Order specifying the number of Baskets that the Authorized Participant wishes to redeem. The Trustee then instructs the Depository to send the Authorized Participant the foreign currency and directs DTC to cancel the Authorized Participant's Shares that were redeemed.

The procedures by which an Authorized Participant can redeem one or more Baskets mirror the procedures for the creation of Baskets. On any business day, an Authorized Participant may place an order with the Trustee to redeem one or more Baskets. Redemption orders must be placed by 4 p.m. (New York time) or the close of regular trading on the NYSE, whichever is earlier. A redemption order so

<sup>31</sup> See June 13 AM Telephone Conversation, *supra* at note 15 (information provided about EST).

received is effective on the date it is received in satisfactory form by the Trustee. The redemption procedures allow Authorized Participants to redeem Baskets and do not entitle an individual Shareholder to redeem any Shares in an amount less than a Basket or to redeem Baskets other than through an Authorized Participant.

By placing a redemption order, an Authorized Participant agrees to deliver the Baskets to be redeemed through DTC's book-entry system to the Depository not later than 7:30 a.m. or 8:30 a.m. EST, depending upon whether daylight savings is in effect,<sup>32</sup> on the third business day after the redemption order date. Before the delivery of the redemption distribution for a redemption order, the Authorized Participant must also have wired to the Trustee the non-refundable transaction fee due for the redemption order.

The redemption distribution from a Trust is a wire transfer, to an account of the redeeming Authorized Participant identified by the Authorized Participant, in the amount of foreign currency held by the Trust evidenced by the Shares being redeemed, giving effect to all estimated accrued but unpaid expenses. Redemption distributions are subject to the deduction of any applicable tax or other governmental charges that may be due.<sup>33</sup> All questions as to the amount of a redemption distribution are finally determined by the Trustee. The Trustee's determination of the amount shall be final and binding on all persons interested in the Trust.

The redemption distribution due from a Trust is delivered to the Authorized Participant on the third business day after the redemption order date if, by 7:30 a.m. or 8:30 a.m. EST (depending upon whether daylight savings is in effect)<sup>34</sup> on the third business day after the redemption order date, the Trustee's DTC account has been credited with the Baskets to be redeemed. If the Trustee's DTC account has not been credited with all of the Baskets to be redeemed by that time, then the redemption distribution is delivered to the extent of whole Baskets received. Any remainder of the redemption distribution is delivered on

<sup>32</sup> See *id.*

<sup>33</sup> Authorized Participants will not be responsible for any transfer tax, sales or use tax, recording tax, value added tax or similar tax or governmental charge applicable to the creation or redemption of Baskets, regardless of whether or not such tax or charge is imposed directly on the Authorized Participant, and agree to indemnify the Sponsor, the Trustee, and the Trust if they are required by law to pay any such tax, together with any applicable penalties, additions to tax or interest thereon.

<sup>34</sup> See June 13 AM Telephone Conversation, *supra* at note 15.

the next business day to the extent of remaining whole Baskets received if the Trustee receives the fee applicable to the extension of the redemption distribution date that the Trustee may, from time to time, determine and the remaining Baskets to be redeemed are credited to the Trustee's DTC account by 7:30 a.m. or 8:30 a.m. EST (depending upon whether daylight savings is in effect)<sup>35</sup> on such next business day. Any further outstanding amount of the redemption order will be cancelled. The Trustee also is authorized to deliver the redemption distribution notwithstanding that the Baskets to be redeemed are not credited to the Trustee's DTC account by 7:30 a.m. or 8:30 a.m. EST (depending upon whether daylight savings is in effect)<sup>36</sup> on the third business day after the redemption order date, if the Authorized Participant has collateralized its obligation to deliver the Baskets through DTC's book-entry system on such terms as the Sponsor and the Trustee may agree upon from time to time.

The Depository wires the redemption amount from the Deposit Account to an account of the redeeming Authorized Participant identified by the Authorized Participant. The Authorized Participant and the Trust are each at risk in respect of foreign currency credited to their respective accounts in the event of the Depository's insolvency. The Trustee will reject a redemption order if the order is not in proper form as described in the Participant Agreement or if the fulfillment of the order, in the opinion of its counsel, might be unlawful.

*Valuation of Applicable Foreign Currency, Definition of Net Asset Value and Adjusted Net Asset Value.* As promptly as practicable, ordinarily no later than 2 p.m. (New York time) after the Federal Reserve Bank of New York announces the Noon Buying Rate for the applicable foreign currency on each day that the NYSE is open for regular trading, the Trustee will value such foreign currency held by a Trust and determine the NAV of the Trust. The Trustee determines the NAV of the Trusts.<sup>37</sup> In doing so, the Trustee values the foreign currency held by the Trusts on the basis of the Noon Buying Rate.<sup>38</sup>

<sup>35</sup> See *id.*

<sup>36</sup> See *id.*

<sup>37</sup> The NAV of the Trusts will be published by the Sponsor on each day that the NYSE is open for regular trading and will be posted on the Trusts' Web Site.

<sup>38</sup> The Noon Buying Rate is the USD/applicable foreign currency exchange rate as determined by the Federal Reserve Bank of New York as of 12:00 p.m. (New York time) on each day that the NYSE is open for regular trading.

If, on a particular Evaluation Day, the Noon Buying Rate has not been determined and announced by 2:00 p.m. (New York time), then the most recent Federal Reserve Bank of New York determination of the Noon Buying Rate shall be used to determine the NAV of the Trusts unless the Trustee, in consultation with the Sponsor, determines that such price is inappropriate to use as the basis for such valuation. In the event that the Trustee and the Sponsor determine that the most recent Federal Reserve Bank of New York determination of the Noon Buying Rate is not an appropriate basis for valuation of the Trust's foreign currency, they shall determine an alternative basis for such evaluation to be employed by the Trustee.<sup>39</sup> The Trustee also determines the NAV per Share, which equals the NAV of the Trusts divided by the number of outstanding Shares. Neither the Trustee nor the Sponsor will be liable to any person for its determination that the most recently announced Noon Buying Rate is not appropriate as a basis for evaluation of the foreign currency held by the Trust, so long as that determination is made in good faith.<sup>40</sup>

To calculate the NAV, the Trustee will subtract the Sponsor's fee and any other accrued but unpaid expenses of the Trust that are or will be incurred or accrued through the close of the evaluation day from the total number of the foreign currency owned by a Trust, including interest accrued during the prior day. The Trustee will multiply the resultant number of units of foreign currency (*e.g.*, Australian Dollars) by the Noon Buying Rate to determine the NAV. The Trustee will also determine the NAV per Share by dividing the NAV of a Trust by the number of the Shares

<sup>39</sup> The Trustee and the Sponsor may determine to apply an alternative basis for evaluation in extraordinary circumstances, such as if the Federal Reserve Bank of New York does not announce a Noon Buying Rate, or discontinues such announcements, or if there is an extraordinary change in the spot price of the applicable foreign currency after the Noon Buying Rate is established. In the event the Sponsor and Trustee determine to use a source other than the Noon Buying Rate on more than a temporary basis, the Exchange will contact the Commission staff and, as necessary, file a proposed rule change pursuant to Rule 19b-4 seeking Commission approval to continue to trade the CurrencyShares. Unless approved by the Commission for continued trading, the Exchange will commence delisting proceedings.

<sup>40</sup> The NAV will be posted on the Trusts' Web Site as soon as the valuation of the foreign currency held by the Trust is complete (ordinarily by 2 p.m., New York time). Ordinarily, it will be posted no more than thirty minutes after the Noon Buying Rate is published by the Federal Reserve Bank of New York. The Exchange represents that all market participants will have access to this data at the same time and, therefore, no market participant will have a time advantage in using such data.

outstanding as of the close of trading on the NYSE. Shares deliverable under a purchase order will be considered outstanding for purposes of deterring NAV per Share; shares deliverable under a redemption order will not be considered outstanding for this purpose. The Trustee's estimation of accrued but unpaid expenses will be conclusive upon all persons interested in a Trust.

*Book Entry Fonn; Clearance and Settlement.* The Sponsor and the Trustee will apply to DTC for acceptance of the Shares in its book-entry settlement system. If the Shares are eligible for book-entry settlement, individual certificates will not be issued for the Shares. Instead, global certificates will be signed by the Trustee and the Sponsor on behalf of the Trusts, registered in the name of Cede & Co., as nominee for DTC, and deposited with the Trustee on behalf of DTC. The global certificates will evidence all of the Shares outstanding at any time.<sup>41</sup> In order to transfer Shares through DTC, Shareholders must be DTC Participants. The Shares will be transferable only through the book-entry system of DTC. A Shareholder that is not a DTC Participant will be able to transfer its Shares through DTC by instructing the DTC Participant holding its Shares. Transfers will be made in accordance with standard securities industry practice.

Upon the settlement date of any creation, transfer, or redemption of Shares, DTC will credit or debit, on its book-entry registration and transfer system, the amount of the Shares so created, transferred, or redeemed to the accounts of the appropriate DTC Participants. The Trustee and the Authorized Participants will designate the accounts to be credited and charged in the case of creation or redemption of Shares.

Beneficial ownership of the Shares is limited to DTC Participants, Indirect Participants and persons holding interests through DTC Participants and Indirect Participants. Ownership of beneficial interests in the Shares will be shown on, and the transfer of ownership will be effected only through, records maintained by DTC (with respect to DTC Participants), the records of DTC Participants (with respect to Indirect Participants), and the records of Indirect Participants (with respect to Shareholders that are not DTC Participants or Indirect Participants). A Shareholder is expected to receive from

<sup>41</sup> The representations, undertakings and agreements made on the part of the Trusts in the global certificates will be made and intended for the purpose of binding only the Trusts and not the Trustee or the Sponsor individually.



or through the DTC Participant maintaining the account through which the Shareholder purchased its Shares a written confirmation relating to the purchase.

DTC may discontinue providing its service with respect to Baskets or the Shares (or both) by giving notice to the Trustee and the Sponsor. Under such circumstances, the Trustee and the Sponsor would either find a replacement for DTC to perform its functions at a comparable cost or, if a replacement is unavailable, terminate the Trust.

*Risk Factors to Investing in the Shares.* An investment in the Shares carries certain risks. The following risk factors are taken from and discussed in more detail in the Registration Statements:

- The value of the Shares relates directly to the value of the foreign currency held by the Trust. Fluctuations in the price of the currency could materially and adversely affect the value of the Shares.
- The USD/applicable foreign currency exchange rate, like foreign exchange rates in general, can be volatile and difficult to predict. This volatility could materially and adversely affect the performance of the Shares.
- The Deposit Account is not entitled to payment at any office of JP Morgan Chase Bank, N.A. located in the U.S.
- Shareholders will not have the protections associated with ownership of a demand deposit account insured in the U.S. by the Federal Deposit Insurance Corporation nor the protection provided under English law.
- Foreign currency held in the Deposit Account will not be segregated from the Depository's assets. If the Depository becomes insolvent, then its assets might not be adequate to satisfy a claim by the Trust or any Authorized Participant. In addition, in the event of the insolvency of the Depository or the U.S. Bank of which it is a branch, there may be a delay and costs incurred in identifying the foreign currency held in the Deposit Account.
- The Shares are a new securities product. Their value could decrease if unanticipated operational or trading problems were to arise.
- Shareholders will not have the protections associated with ownership of shares in an investment company registered under the Investment Company Act of 1940.
- Shareholders will not have the rights enjoyed by investors in certain other financial instruments.
- The Shares may trade at a price that is at, above, or below the NAV per Share.

- The interest rate earned by the Trusts, although competitive, may not be the best rate available. If the Sponsor determines that the interest rate is inadequate, then its sole recourse will be to remove the Depository and terminate the Deposit Account.

- The possible sale of foreign currency by the Trust to pay expenses, if required, will reduce the amount of foreign currency represented by each Share on an ongoing basis regardless of whether the price of a Share rises or falls in response to changes in the price of the foreign currency.

- The sale of the Trusts' deposited currency, if necessary, to pay expenses at a time when the price of the currency is relatively low could adversely affect the value of the Shares.

- The Depository owes no fiduciary duties to the Trusts or the Shareholders, is not required to act in their best interest and could resign or be removed by the Sponsor with respect to any Trust, triggering early termination of such Trust.

- The Trusts may be required to terminate and liquidate at a time disadvantageous to Shareholders.

- Redemption orders are subject to rejection by the Trustee under certain circumstances.

- Substantial sales of foreign currency by the official sector could adversely affect an investment in the Shares.

- Shareholders that are not Authorized Participants may only purchase or sell their Shares in secondary trading markets.

- The liability of the Sponsor and the Trustee under the Depository Trust Agreement is limited; and, except as set forth in the Depository Trust Agreement, they are not obligated to prosecute any action, suit or other proceeding in respect to any Trust property.

- The Depository Trust Agreement may be amended to the detriment of Shareholders without their consent.

- The License Agreement with the Bank of New York may be terminated by the Bank of New York in the event of a material breach by the Sponsor. Termination of the License Agreement might lead to early termination and liquidation of the Trusts.

- Each member of the European Union has the option of adopting the Euro as its official currency in lieu of a national currency. If this occurs, then the national currency and the Shares may depreciate significantly. Further, there is the risk that the council of the European Union could adopt an irrevocable conversion rate, in which case the applicable Trusts will terminate.

*Availability of Information Regarding Foreign Currency Prices.* Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a foreign currency over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, the Exchange represents that there is a considerable amount of foreign currency price and market information available on public Web sites and through professional and subscription services. As is the case with equity securities generally and exchange-traded funds specifically, in most instances, real-time information is only available for a fee, and information available free of charge is subject to delay (typically, 15 to 20 minutes).

Investors may obtain on a 24-hour basis foreign currency pricing information based on the foreign currency spot price of each applicable foreign currency from various financial information service providers. Complete real-time data for foreign currency futures and options prices traded on the CME and Phlx are also available by subscription from information service providers. The CME and Phlx also provide delayed futures and options information on current and past trading sessions and market news free of charge on their respective Web sites.

According to the Exchange, there are a variety of other public Web sites available at no charge that provide information on the currencies underlying the CurrencyShares that are the subject of this filing, which service providers include Bloomberg, (<http://www.bloomberg.com/markets/currencies/fxc.html>), CBS Market Watch (<http://www.marketwatch.com/tools/stockresearch/globalmarkets>), Yahoo! Finance (<http://www.finance.yahoo.com/currency>), moneycentral.com, cnnfn.com and reuters.com. which provide spot price or currency conversion information about each of the currencies that underlie the CurrencyShares that are the subject of this filing. Many of these sites offer price quotations drawn from other published sources, and as the information is supplied free of charge, it generally is subject to time delays.<sup>42</sup> In

<sup>42</sup> There may be incremental differences in the foreign currency spot price among the various information service sources. While the Exchange believes the differences in the foreign currency spot price may be relevant to those entities engaging in arbitrage or in the active daily trading of the applicable foreign currency or foreign currency

addition, major market data vendors regularly report current currency exchange pricing for a fee for the currencies underlying the CurrencyShares that are subject of this filing. Like bond securities traded in the OTC market with respect to which pricing information is available directly from bond dealers, current foreign currency spot prices are also generally available with bid/ask spreads from foreign currency dealers.<sup>43</sup> In addition, the Trusts' Web site, [www.currencvshares.com](http://www.currencvshares.com), will provide ongoing pricing information for foreign currency spot prices and the Shares. Market prices for the Shares will be available from a variety of sources, including brokerage firms, financial

information Web Sites and other information service providers.

In addition, the Trust's Web Site will provide the following information: (1) The spot price for each applicable foreign currency,<sup>44</sup> including the bid and offer and the midpoint between the bid and offer for the foreign currency spot price, updated at least every 15 seconds,<sup>45</sup> which is an essentially real-time basis; (2) an intraday indicative value ("IIV") per share for the Shares calculated by multiplying the indicative spot price of the applicable foreign currency by the quantity of foreign currency backing each Share, updated at least every 15 seconds;<sup>46</sup> (3) a delayed indicative value (subject to a 20 minute delay), which is used for calculating premium/discount information; (4) premium/discount information,

calculated on a 20 minute delayed basis; (5) the NAV of the Trust as calculated each business day by the Trustee; (6) accrued interest per Share; (7) the daily Federal Reserve Bank of New York Noon Buying Rate; (8) the Basket Amount for each applicable foreign currency; and (9) the last sale price of the Shares as traded in the U.S. market, subject to a 20-minute delay, as it is provided free of charge.<sup>47</sup> The Exchange will provide on its own public Web site (<http://www.nyse.com>) a link to the Trust's Web site.

*Other Characteristics of the Shares.* Set forth below is a table that shows the initial number of currency units per Share, the number of Shares per Basket, and the number of currency units per Basket:

Trust name	Currency units per share	Shares per basket	Currency units per basket
CurrencyShares™ Australian Dollar Trust .....	100	50,000	5,000,000
CurrencyShares™ British Pound Sterling Trust .....	100	50,000	5,000,000
CurrencyShares™ Canadian Dollar Trust .....	100	50,000	5,000,000
CurrencyShares™ Mexican Peso Trust .....	1,000	50,000	50,000,000
CurrencyShares™ Swedish Krona Trust .....	1,000	50,000	50,000,000
CurrencyShares™ Swiss Franc Trust .....	100	50,000	5,000,000

For each Trust, a minimum of three Baskets, representing 150,000 Shares, will be outstanding at the commencement of trading on the Exchange.

Trading in Shares on the Exchange will be effected normally until 4:15 p.m. each business day. The minimum trading increment for Shares on the Exchange will be \$0.01.

*Listing Fees.* The Exchange original listing fee applicable to the listing of the Trust will be \$5,000. The annual continued listing fee for the Trust will be \$2,000.

*Continued Listing Criteria.* Under the applicable continued listing criteria, the Exchange will commence delisting proceedings with respect to Shares for a particular Trust as follows: (1) Following the initial twelve-month period beginning upon the commencement of trading of the Shares, there are fewer than 50 record and/or beneficial holders of the Shares for 30 or more consecutive trading days; (2) the value of foreign currency is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the Sponsor, the Trust,

the Trustee, or the Exchange or the Exchange stops providing a hyperlink on the Exchange's Web site to any such unaffiliated foreign currency value; (3) the IIV is no longer made available on at least a 15-second delayed basis; or (4) such other event shall occur or condition exist that, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. In addition, the Exchange will remove Shares from listing and trading upon termination of the Trust.

derivatives, the Exchange believes such differences are likely of less concern to individual investors intending to hold the Shares as part of a long-term investment strategy. See telephone conversation between Michael Cavalier, Assistant General Counsel, NYSE, and Christopher Chow, Special Counsel, Commission, on June 19, 2006 (authorizing the continued inclusion of footnote 21 from the original filing, despite the text of Amendment No.1).

<sup>43</sup> See, e.g., Securities Exchange Act Release No. 46252 (July 24, 2002), 67 FR 49715 (July 31, 2002) (SR-Amex-2001-35) (noting that quote and trade information regarding debt securities is widely available to market participants from a variety of sources, including broker-dealers, information service providers, newspapers and Web sites).

<sup>44</sup> The Trust Web site's foreign currency spot price will be provided by FactSet Research Systems

(<http://www.factset.com>). The NYSE will provide a link to the Trust's Web site. FactSet Research Systems is not affiliated with the Trusts, Trustee, Sponsor, Depository, Distributor or the Exchange. In the event that the Trust's Web site should cease to provide this foreign currency spot price information from an unaffiliated source and the intraday indicative value of the Shares, the NYSE will commence delisting proceedings for the Shares.

<sup>45</sup> The midpoint will be calculated by the Sponsor. The midpoint is used for purposes of calculating the premium or discount of the Shares. For example, assuming a British Pound spot bid of \$1.7473 and an offer of \$1.7474, the mid point would be calculated as follows: (British Pound spot bid plus ((spot offer minus spot bid) divided by 2)) or  $(\$1.7473 + (\$1.7474 - \$1.7473)/2) = \$1.74735$ .

<sup>46</sup> The IIV of the Shares is analogous to the intraday optimized portfolio value (sometimes

referred to as the IOPV), indicative portfolio value and the intraday indicative value (sometimes referred to as the IIV) associated with the trading of exchange-traded funds. See, e.g., Securities Exchange Act Release No. 46686 (October 18, 2002), 67 FR 65388 (October 24, 2002) (SR-NYSE-2002-51) for a discussion of indicative portfolio value in the context of an exchange-traded fund. The Exchange will halt trading in an issue of CurrencyShares for which the IIV per Share is no longer calculated or disseminated. In such case, the Exchange will immediately contact the Commission staff to discuss measures that may be appropriate under the circumstances.

<sup>47</sup> The last sale price of the Shares in the secondary market will be available on a real-time basis for a fee from regular data vendors.

*Exchange Trading Rules and Policies.* The Shares are considered “securities” pursuant to NYSE Rule 3 and are subject to all applicable trading rules. Trading in the Shares will be subject to all provisions of Rule 1300A.<sup>48</sup> The Exchange does not currently exempt Currency Trust Shares from the Exchange’s “Market-on-Close/Limit-on-Close/Pre-Opening Price Indications” Policy, although the Exchange may do so by means of a rule change in the future if, after having experience with the trading of the Shares, the Exchange believes such an exemption is appropriate.

The Exchange also has adopted Rule 1301A (“Currency Trust Shares: Securities Accounts and Orders of Specialists”) to ensure that specialists handling Currency Trust Shares provide the Exchange with all necessary information relating to their trading in the applicable non-U.S. currency, options, futures contracts and options thereon or any other derivative on such currency.<sup>49</sup> As a general matter, the Exchange has regulatory jurisdiction over its member organizations and any person or entity controlling a member organization. The Exchange also has regulatory jurisdiction over a subsidiary or affiliate of a member organization that is in the securities business. A member organization subsidiary or affiliate that does business only in commodities would not be subject to NYSE jurisdiction, but the Exchange could obtain certain information regarding the activities of such subsidiary or affiliate through reciprocal agreements with regulatory organizations of which such subsidiary or affiliate is a member.

<sup>48</sup>In particular, Rule 1300A provides in part that Rule 105(m) is deemed to prohibit an equity specialist, his member organization, other member, allied member or approved person in such member organization or officer or employee thereof from acting as a market maker or functioning in any capacity involving marketmaking responsibilities in the applicable non-U.S. currency, options, futures or options on futures on such currency, or any other derivatives based on such currency, except as otherwise provided therein. See Securities Exchange Act Release Nos. 52843, *supra* at note 17 and 52715 (November 1, 2005), 70 FR 68490 (November 10, 2005).

<sup>49</sup>Rule 1301A also states that, in connection with trading the applicable non-U.S. currency, options, futures or options on futures or any other derivatives on such currency (including Currency Trust Shares), the specialist shall not use any material nonpublic information received from any person associated with a member or employee of such person regarding trading by such person or employee in the applicable non-U.S. currency, options, futures or options on futures, or any other derivatives on such currency. For purposes of Rule BOIA, “person associated with a member” shall have the same meaning ascribed to it in Section 3(a)(21) of the Act.

*Surveillance.* The Exchange’s surveillance procedures will be comparable to those used for Investment Company Units, and streetTRACKS@ Gold Shares and the Euro Currency Trust, and will incorporate and rely upon existing NYSE surveillance procedures governing equities. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Shares and to detect violations of Exchange rules, thereby deterring manipulation.

The Exchange’s current trading surveillances focus on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange is able to obtain information regarding trading in the Shares, foreign currency options and foreign currency futures through NYSE members, in connection with such members’ 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 or affiliates of the ISG. As noted above, futures on the Australian Dollar, British Pound, Canadian Dollar, Mexico Peso, Swedish Krona, and Swiss Franc, as well as options on such futures (except for the Swedish Krona) are traded on the CME (both exchange pit trading and GLOBEX trading, except for Swedish Krona futures, which trade on GLOBEX only). Standardized options on the Australian Dollar, British Pound, Canadian Dollar, and Swiss Franc trade on the Phlx. The Exchange represents that these U.S. markets are the primary trading markets in the world for exchange-traded futures, options, and options or futures on these currencies. The Exchange represents that it can obtain trading information in connection with these currency futures, options, and options on futures from CME and Phlx through the ISG. Specifically, the NYSE can obtain information: (1) From the CME about the trading of the relevant foreign currency futures, and options on those futures, that trade on the CME; and (2) from the Phlx about the trading of options on the relevant foreign currencies that trade on the Phlx.<sup>50</sup>

*Trading Halts.* 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 trading is not occurring in the applicable foreign currency 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 Exchange’s “circuit breaker” rule.<sup>51</sup> The Exchange will halt trading in the Shares of a Trust if the Trust’s Web Site (to which NYSE will link) ceases to provide: (1) the value of the applicable foreign currency updated at least every 15 seconds from a source not affiliated with the Sponsor, Trust, or the Exchange; or (2) the IIV per Share updated every 15 seconds. In such event, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances.

*Due Diligence.* Before a member, member organization, allied member, or employee thereof recommends a transaction in the Shares, such person must exercise due diligence to learn the essential facts relative to the customer pursuant to Exchange Rule 405, and must determine that the recommendation complies with all other applicable Exchange and Federal rules and regulations. A person making such recommendation should have a reasonable basis for believing, at the time of making the recommendation, that the customer has sufficient knowledge and experience in financial matters that he or she may reasonably be expected to be capable of evaluating the risks and any special characteristics of the recommended transaction, and is financially able to bear the risks of the recommended transaction.

*Information Memo.* The Exchange will distribute an Information Memo to its members in connection with the trading in the Shares. The Memo will discuss the special characteristics and risks of trading this type of security. Specifically, the Memo, among other things, will discuss what the Shares are, that Shares are not individually redeemable but are redeemable only in Baskets of 50,000 shares or multiples thereof, how a Basket is created and redeemed, applicable Exchange rules, the indicative price of the applicable foreign currency and IIV, dissemination information, trading information, and

<sup>50</sup>Phlx is a member of the ISG. CME is an affiliate member of ISG.

<sup>51</sup>NYSE Rule 80B.

the applicability of suitability rules.<sup>52</sup> The Information Memo also will state that the number of units of foreign currency required to create a Basket or to be delivered upon redemption of a Basket may gradually decrease over time in the event that the Trust is required to sell units of foreign currency to pay the Trust's expenses. The Memo also will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Memo also will reference the fact that there is no regulated source of last sale information regarding foreign currency, and that the Commission has no jurisdiction over the trading of foreign currency. Finally, the Memo also will note to members language in the Registration Statement regarding prospectus delivery requirements for the Shares.

## 2. Statutory Basis

The Exchange states that the basis under the Exchange Act for this proposed rule change, as amended, is the requirement under Section 6(b)(5) of the Exchange Act<sup>53</sup> that an Exchange have rules that are 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 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.

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

The Exchange does not believe that the proposed rule change, as amended, will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.

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

The Exchange states that written comments were neither solicited nor received.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and

<sup>52</sup> The Information Memo also will discuss exemptive relief, if any, granted by the Commission from certain rules under the 1934 Act. The applicable rules are: Rule 10a-1; Rule 200(g) of Regulation SHO; Section 11(d)(1) and Rule 11d1-2; and Rules 101 and 102 of Regulation M under the 1934 Act.

<sup>53</sup> 15 U.S.C. 78(f)(b)(5).

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](mailto:rule-comments@sec.gov). Please include File No. SR-NYSE-2006-35 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-NYSE-2006-35. 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 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 available publicly. All submissions should refer to File Number SR-NYSE-2006-35 and should be submitted by July 18, 2006.

## IV. Commission Findings and Order Granting Accelerated Approval of a Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Exchange Act<sup>54</sup> and the rules and regulations thereunder applicable to a national

securities exchange.<sup>55</sup> In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6(b)(5) of the Exchange Act,<sup>56</sup> which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

### A. Surveillance

The Commission finds that the proposed rule change provides the NYSE with the tools necessary to monitor trading in the Shares and is designed to prevent fraudulent and manipulative acts and practices. Information sharing agreements with markets trading securities underlying a derivative, or primary markets trading derivatives on the same underlying instruments, are an important part of a self-regulatory organization's ability to monitor for trading abuses in derivative products.<sup>57</sup> Although an information sharing agreement is not possible with the OTC foreign exchange market, the Commission believes that the Exchange's comprehensive surveillance sharing agreements with the Phlx and CME, by virtue of their memberships in the ISO, together with NYSE Rules 1301A and 1300A(b), will allow the NYSE to monitor for fraudulent and manipulative trading practices.<sup>58</sup>

NYSE Rule 1301A requires that the specialist handling the Shares provide the Exchange with information relating to its trading in options, futures or

<sup>55</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 U.S.C. 78c(f).

<sup>56</sup> 15 U.S.C. 78f(b)(5).

<sup>57</sup> See, e.g., Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (approving proposal by the NYSE to list and trade trust shares that correspond to a fixed amount of gold).

<sup>58</sup> The Commission notes that it has previously approved the listing and trading of foreign currency options or warrants. See, e.g., Securities Exchange Act Release Nos. 19133 (October 14, 1982), 47 FR 46946 (October 21, 1982) (order approving a Phlx proposal to accommodate the listing and trading of standardized option contracts on five foreign currencies, including the British Pound and Swiss Franc); 22471 (September 26, 1985), 50 FR 40636 (October 4, 1985) (order approving a proposed rule change by the Chicago Board Options Exchange, Inc. ("CBOE") to trade standardized option contracts on six foreign currencies, including the British Pound, Canadian Dollar, and Swiss Franc); 23945 (December 30, 1986), 52 FR 633 (January 7, 1987) (order approving a proposal by the CBOE to trade standardized options on the Australian Dollar); and 35806 (June 5, 1995), 60 FR 30911 (June 12, 1995) (order approving a Phlx proposal to trade currency warrants based on the value of the U.S. dollar in relation to the Mexican Peso).

<sup>54</sup> 15 U.S.C. 78f.

options on futures on the applicable foreign currencies, or any other derivatives based on the applicable foreign currencies. These reporting and recordkeeping requirements will assist the Exchange in identifying situations potentially susceptible to manipulation. NYSE Rule 1301A(c) also prohibits the specialist in the Shares from using any material, nonpublic information received from any person associated with a member or employee of such person regarding trading by such person or employee in the applicable foreign currency, or options, futures or options on futures on the applicable foreign currency, or any other derivatives based on the applicable foreign currency (including the Shares). In addition, NYSE Rule 1300A(b) prohibits the specialist in the Shares from being affiliated with a market maker in the applicable foreign currency, or options, futures or options on futures on the applicable foreign currency, or any other derivative based on the applicable foreign currency, unless information barriers are in place that satisfy the requirements in NYSE Rule 98.

The Exchange also represents that it can obtain, through its ISG membership, information from CME regarding the trading of the relevant foreign currency futures, and options on those futures, that trade on CME, and from Phlx regarding the trading of options on the relevant foreign currencies that trade on Phlx. In addition, the Exchange represents that it is able to obtain information regarding trading in the Shares, and options and futures on the applicable foreign currency, through its members, in connection with such members' proprietary or customer trades that they effect on any relevant market.

#### B. Dissemination of Information

The Commission believes that sufficient venues for obtaining reliable information exist so that investors in the Shares can monitor the underlying spot markets relative to the NAV of their Shares. As discussed above, the Exchange represents that there is a considerable amount of foreign currency price and market information available 24 hours a day through public Web sites and through professional and subscription services, including Bloomberg and Reuters.<sup>59</sup> The Exchange further represents that major market data vendors regularly report current currency exchange pricing for a fee for the currencies underlying the Shares. In

<sup>59</sup> The Exchange notes that, in most instances, real-time information is available for a fee, and information available free of charge is subject to delay (typically, 15 to 20 minutes).

addition, the Exchange will provide a link to the Trust's Web site on the NYSE's public Web site. The Trust's Web site will provide, among other things, the relevant spot prices,<sup>60</sup> including the bids and offers and the midpoints between the bids and offers for the spot prices, updated no less than every 15 seconds, and the daily Federal Reserve Bank of New York Noon Buying Rate.

The Commission also notes that the Trust's Web site will contain: (1) An IIV per Share for the Shares, updated at least every 15 seconds; (2) a delayed indicative value (subject to a 20 minute delay), which is used for calculating premium/discount information; (3) premium/discount information, calculated on a 20 minute delayed basis; (4) the NAV of the Trust, as calculated each business day by the Trustee;<sup>61</sup> (5) accrued interest per Share; (6) the Basket Amount for each applicable foreign currency; and (7) the last sale price of the Shares as traded in the U.S. market, subject to a 20-minute delay, as it is provided free of charge.<sup>62</sup> Further, the Exchange represents that real-time information for prices for futures and options on the applicable foreign currencies traded on CME and Phlx are available from information service providers, and that CME and Phlx provide delayed futures and options information free of charge on their respective Web sites.

The Commission believes that the wide availability of such information, as described above, will facilitate transparency with respect to the Shares and diminish the risk of manipulation or unfair informational advantage.

#### C. Listing and Trading

The Commission finds that the Exchange's proposed rules and procedures for the listing and trading of the proposed Shares are consistent with the Exchange Act. Shares will trade as equity securities subject to NYSE rules including, among others, rules governing trading halts, responsibilities of the specialist, account opening, and customer suitability requirements. In

<sup>60</sup> As noted above, the spot prices for the applicable foreign currencies published on the Trusts' Web site will be provided by FactSet Research Systems, which is not affiliated with the Trusts, the Trustee, the Sponsor, the Depository, the Distributor or the Exchange.

<sup>61</sup> According to the Exchange, the Sponsor has represented to the Exchange that the NAV for each Trust will be available to all market participants at the same time. The Exchange further represents that therefore, no market participant will have a time advantage in using such data.

<sup>62</sup> As noted above, the last sale price of the Shares in the secondary market will be disseminated over the Consolidated Tape.

addition, the Shares will be subject to NYSE listing and delisting rules and procedures governing the trading of ICUs on the NYSE. The Commission believes that listing and delisting criteria for the Shares should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Shares. Finally, the Commission believes that the Information Memo the Exchange will distribute will inform members and member organizations about the terms, characteristics, and risks in trading the Shares, including their prospectus delivery obligations.

#### D. Acceleration

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission has previously granted approval to a NYSE proposal to adopt NYSE Rules 1300A and 1301A that govern the trading of Currency Trust Shares, and a proposal to list and trade Euro Shares pursuant to such rules.<sup>63</sup> The Shares proposed to be listed and traded in this proposed rule change, based on six different foreign currencies, are substantially similar in structure and operation to the Euro Shares, will be listed and traded pursuant to the same rules, and do not raise any new issues. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>64</sup> to approve the proposal, as amended, on an accelerated basis.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>65</sup> that the proposed rule change (SR-NYSE-2006-35), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>66</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 06-5703 Filed 6-26-06; 8:45am]

**BILLING CODE 8010-01-M**

<sup>63</sup> See Securities Exchange Act Release No. 52843, *supra* at note 17 (order granting accelerated approval, after a 15-day comment period, to a NYSE proposal to list and trade Euro Shares, which represent units of fractional undivided beneficial interest in and ownership of the Euro Currency Trust).

<sup>64</sup> 15 U.S.C. 78s(b)(2).

<sup>65</sup> 15 U.S.C. 78s(b)(2).

<sup>66</sup> 17 CFR 200.30-3(a)(12).