

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55320; File No. SR-NYSEArca-2007-15)

February 21, 2007

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Trade Shares of the CurrencySharesSM Japanese Yen Trust Pursuant to Unlisted Trading Privileges

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 12, 2007, NYSE Arca, Inc. (the “Exchange”), through its wholly-owned subsidiary, NYSE Arca Equities, Inc. (“NYSE Arca Equities”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. This Order provides notice of the proposed rule change and approves the proposed rule change on an accelerated basis.

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

The Exchange, through NYSE Arca Equities, proposes to trade shares (the “Shares”) of the CurrencySharesSM Japanese Yen Trust (the “Trust”) pursuant to unlisted trading privileges (“UTP”). The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and www.nyse.com.

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Pursuant to NYSE Arca Equities Rule 8.202, which permits the listing and trading of “Currency Trust Shares,”³ the Exchange proposes to trade pursuant to UTP the Shares of the Trust. The Commission has recently approved the listing and trading of the Shares on the New York Stock Exchange LLC (“NYSE”).⁴ The Exchange currently trades Shares of the Euro Currency Trust, CurrencySharesSM Australian Dollar Trust, CurrencySharesSM British Pound Sterling Trust, CurrencySharesSM Canadian Dollar Trust, CurrencySharesSM Mexican Peso Trust, CurrencySharesSM Swedish Krona Trust, and CurrencySharesSM Swiss Franc Trust (the “CurrencyShares Trusts”).⁵

The Shares issued by the Trust represent units of fractional, undivided, and beneficial interests in, and ownership of, the Trust. The Exchange states that the investment objective of the Trust is for the Shares to reflect the price of the Japanese Yen. A detailed discussion of the

³ Currency Trust Shares are securities issued by a trust that represent investors’ discrete, identifiable, and undivided beneficial ownership interest in the non-U.S. currency deposited into the trust. See Securities Exchange Act Release No. 53253 (February 8, 2006), 71 FR 8029 (February 15, 2006) (SR-PCX-2005-123) (granting the Exchange accelerated approval of its proposed listing and trading standards for Currency Trust Shares and approving the UTP trading of shares of the Euro Currency Trust).

⁴ See Securities Exchange Act Release No. 55268 (February 9, 2007), 72 FR 7793 (February 20, 2007) (SR-NYSE-2007-03) (“NYSE Order”).

⁵ See supra note 3. See also Securities Exchange Act Release No. 54043 (June 26, 2006), 71 FR 37967, (July 3, 2006) (SR-NYSEArca-2006-26) (granting accelerated approval for the Exchange to trade shares of six of the CurrencyShares Trusts pursuant to UTP); Securities Exchange Act Release No. 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR-NYSE-2006-35) (granting approval for the original listing and trading of six of the CurrencyShares Trusts on NYSE).

Trust, its assets and expenses, the creation and redemption of the Shares, the valuation of the Japanese Yen, the calculation methodology of the IIV (as defined herein), and distributions, among others, can be found in the NYSE Order.

The Trust's Web site (www.currencyshares.com) provides information on: (1) the spot price for the Japanese Yen, including the bid and offer and the midpoint between the bid and offer for the Japanese Yen spot price; (2) an intraday indicative value ("IIV") per Share, updated at least every 15 seconds;⁶ (3) a delayed indicative value (subject to a 20-minute delay), used for calculating premium/discount information; (4) premium/discount information, calculated on a 20-minute delayed basis; (5) the net asset value ("NAV") of the Trust, calculated each business day; (6) accrued interest per Share; (7) the daily Federal Reserve Bank of New York Noon Buying Rate; (8) the Basket Amount;⁷ and (9) the last sale price of the Shares as traded in the U.S. market, subject to a 20-minute delay. The Trust's Web site disseminates the foreign currency spot price for the Japanese Yen and the IIV per Share at least every 15 seconds during NYSE Arca Marketplace's opening and late trading sessions, as well as during its core trading session.⁸

The Exchange states that currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a foreign currency over the Consolidated Tape System

⁶ The IIV is analogous to the intraday optimized portfolio value (sometimes referred to as the IOPV) and the indicative portfolio value associated with the trading of exchange-traded funds.

⁷ The Basket Amount is the amount required to be deposited for the purchase of a Basket of Shares. A Basket of Shares consists of a block of 50,000 Shares.

⁸ Pursuant to NYSE Arca Equities Rule 7.34(a), the NYSE Arca Marketplace trading hours for exchange-traded funds are as follows: (1) 4:00 a.m. to 9:30 a.m. Eastern Time ("ET") (opening trading session); (2) 9:30 a.m. to 4:15 p.m. ET (core trading session); and (3) 4:15 p.m. to 8:00 p.m. ET (late trading session). The Exchange states that the currency spot price is available on the Trust's Web site without interruption 24 hours a day, seven days a week.

(“CTS”). However, the last sale price for the Shares is disseminated through the CTS, as is the case for all equity securities traded on the Exchange (including exchange-traded funds).

Currency price and market information on the Japanese Yen and other foreign currencies is available on a 24-hour basis through public Web sites, major market data vendors, and professional and subscription services. Foreign currency futures and options prices, including information on current and past trading sessions, are also available on a real-time and delayed basis from various financial information sources. In addition, the Exchange states that current foreign currency spot prices are also generally available with bid/ask spreads from foreign currency dealers.

The Exchange represents that it will cease trading the Shares if the original listing market stops trading the Shares due a regulatory halt or such listing market delists the Shares.⁹ UTP trading in the Shares would be governed by the trading halt provisions of NYSE Arca Equities Rule 7.34 relating to temporary interruptions in the calculation or wide dissemination of the IIV or the value (spot price) of the underlying currency.¹⁰ Additionally, the Exchange may cease trading the Shares if such other event shall occur or condition exists, which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.¹¹

⁹ E-mail from Timothy J. Malinowski, Director, NYSE Group, Inc., to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated February 20, 2007 (clarifying when the Exchange will halt trading of the Shares).

¹⁰ The Exchange represents that the provisions of NYSE Arca Equities Rule 7.34(a), which address, in part, interruptions in the calculation or wide dissemination of the value of an underlying index, shall also apply to interruptions in the calculation or wide dissemination of the value (spot price) of an underlying currency. For purposes of trading the Shares pursuant to UTP, the applicable value would be the Japanese Yen spot price.

¹¹ See, e.g., NYSE Arca Equities Rule 7.12 (Trading Halts Due to Extraordinary Market Volatility).

The Exchange states that the Shares would trade as equity securities, and therefore, the Exchange's rules governing the trading of equity securities would govern the trading of such Shares. The Shares would trade on the NYSE Arca Marketplace from 4:00 a.m. ET until 8:00 p.m. ET. The Exchange represents that its equity trading rules would govern transactions in the Shares during all trading sessions. The Shares would be deemed "Eligible Listed Securities," as defined in NYSE Arca Equities Rule 7.55, for purposes of the Intermarket Trading System Plan, and therefore would be subject to the trade-through restrictions of NYSE Arca Equities Rule 7.56.

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules. The Exchange is able to obtain information regarding trading in the Shares and options and futures on the Japanese Yen through proprietary or customer trades which ETP Holders¹² effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group from other exchanges who are members or affiliates thereof. The Exchange states that its general policy prohibits the distribution of material, non-public information by its employees.¹³

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

¹² An ETP Holder is a registered broker or dealer that has been issued an Equity Trading Permit (ETP) by NYSE Arca Equities.

¹³ The Exchange further states that the Sponsor (Rydex Specialized Products LLC), the Trustee (The Bank of New York), the Depository (JPMorgan Chase Bank, N.A., London Branch), and the Distributor (Rydex Distributors, Inc.) are not affiliated with the Exchange or one another, with the exception that the Sponsor and Distributor are affiliated.

Specifically, the Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares; (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV and the Japanese Yen is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (5) other relevant information.

2. Statutory Basis

The proposal is consistent with Section 6(b) of the Act¹⁴ in general and Section 6(b)(5) of the Act¹⁵ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market, and in general to protect investors and the public interest. In addition, the proposal is consistent with Rule 12f-5 under the Act¹⁶ because the Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

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

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ 17 CFR 240.12f-5.

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2007-15 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-NYSEArca-2007-15. 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 offices 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-NYSEArca-2007-15 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁷ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁸ which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Shares. The Commission notes that it previously approved the original listing and trading of the Shares on NYSE.¹⁹

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,²⁰ which permits an exchange to trade, pursuant to UTP, a security that is listed and

¹⁷ In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ See supra note 4.

²⁰ 15 U.S.C. 78l(f).

registered on another exchange.²¹ The Commission notes that it previously approved for trading pursuant to UTP on the Exchange the shares issued by the CurrencyShares Trusts, which are similar to the Shares issued by the Trust.²² The Commission finds that the proposal is consistent with Rule 12f-5 under the Act,²³ which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,²⁴ which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The last sale price of the Shares is available through CTS. Although the CTS does not provide for dissemination of the spot price of the Japanese Yen, the Trust's Web site disseminates the spot price every five to ten seconds, as well as the IIV per Share at least every 15 seconds, the NAV once daily, the Basket Amount, and the last sale price of the Shares. In addition, currency prices and market information on the Japanese Yen, including futures and options prices, are available through various major market data vendors,

²¹ Section 12(a) of the Act, 15 U.S.C. 78j(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange "extends UTP." When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

²² See *supra* note 5.

²³ 17 CFR 240.12f-5.

²⁴ 15 U.S.C. 78k-1(a)(1)(C)(iii).

financial information sources, and professional and subscription services. If the listing market halts trading in the Shares, or the IIV or the value of the underlying currency is not being calculated or disseminated, the Exchange would halt trading in the Shares.

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this Order.

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

- (1) The Exchange's surveillance procedures are adequate to address any concerns associated with the trading of the Shares on a UTP basis.
- (2) The Exchange would inform its members in an Information Bulletin of the special characteristics and risks associated with trading the Shares, including suitability recommendation requirements.
- (3) The Exchange would require its members to deliver a prospectus or product description to investors purchasing Shares prior to or concurrently with a transaction in such Shares and will note this prospectus delivery requirement in the Information Bulletin.

This approval order is conditioned on the Exchange's adherence to these representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the Federal Register. As noted above, the Commission previously approved the original listing and trading of the Shares on NYSE and the trading of shares issued by the CurrencyShares Trusts, which are similar to the Shares issued by the Trust, pursuant to UTP on the Exchange. The Commission presently is not aware of any regulatory issue that should cause it to revisit those findings or would preclude the trading of the Shares on

the Exchange pursuant to UTP. Accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for such Shares.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²⁵ that the proposed rule change (SR-NYSEArca-2007-15) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁶

Florence E. Harmon
Deputy Secretary

²⁵ 15 U.S.C. 78s(b)(2).

²⁶ 17 CFR 200.30-3(a)(12).