

Financial Instruments and characteristics of such instruments and cash equivalents, and amount of cash held in the portfolio of each Fund. NYSE Arca will also make available on its Web site daily trading volume of the Shares, closing prices of the Shares, and the NAV per Share. In addition, the Web sites for the Funds and/or the Exchange will publish the following information: (a) The current NAV per Share daily and the prior business day's NAV per Share and the reported closing price; (b) the Bid-Asked Price; (c) calculation of the premium or discount of such price against the NAV per Share; (d) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters; (e) the prospectus; and (f) other applicable quantitative information.

Furthermore, the Commission believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the Trust, prior to listing, that the NAV per Share for the Funds will be calculated daily, and that the NAV will be made available to all market participants at the same time. The Exchange has represented that the disclosure of the portfolio composition for each Fund will be made available to all market participants at the same time. The Exchange may consider the suspension of trading in, or removal from listing of, the Shares if, among others: (1) The value of the underlying index or portfolio is no longer calculated or available on at least a 15-second delayed basis or the Exchange stops providing a hyperlink on its Web site to any such asset or investment value; or (2) the Indicative Value is no longer made available on at least a 15-second delayed basis.<sup>23</sup> Further, Commentary .02 to NYSE Arca Equities Rules 8.200 sets forth certain restrictions, described above, on ETP Holders acting as registered Market Makers in TIRs to facilitate surveillance.

The Exchange's trading halt rules are reasonably designed to prevent trading in the Shares when transparency is impaired. As discussed above, trading in the Shares will be halted: (1) If the Exchange becomes aware that a Fund's NAV or disclosure of the portfolio

composition is not being disseminated or has not been disseminated to all market participants at the same time; or (2) if the value of an Underlying Benchmark is no longer calculated or available on at least a 15-second basis through one or more major market data vendors during the time the Shares trade on the Exchange or if an Indicative Value per Share updated every 15 seconds is no longer calculated or available. The Exchange also may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading may be halted because of market conditions or for reasons that make trading in the Shares inadvisable, including: (1) The extent to which trading is not occurring in the underlying securities; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

The Commission further believes that the trading rules and procedures to which the Shares will be subject pursuant to this proposal are consistent with the Exchange Act. The Exchange has represented that the Shares are equity securities subject to NYSE Arca's rules governing the trading of equity securities.

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

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.200(d) and Commentary .02(d) to NYSE Arca Equities Rule 8.200.

(2) The Exchange's surveillance procedures are adequate to properly monitor trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(3) The Exchange will distribute an Information Bulletin, the contents of which are more fully described above, to ETP Holders in connection with the trading of the Shares.

(4) The Exchange represents that the Trust is required to comply with NYSE Arca Equities Rule 5.3 and Rule 10A-3 under the Exchange Act.

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

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>24</sup> for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. The Commission notes that it has previously approved the listing and trading of the Shares on

Amex<sup>25</sup> and believes that the Exchange's proposal to list and trade such Shares does not appear to present any novel or significant regulatory issues that should cause it to revisit that previous finding. As mentioned above, the Shares are substantially similar to the shares of other TIRs and exchange-traded products, the shares of which are currently listed and trading in the marketplace,<sup>26</sup> and the Commission has previously approved the listing and trading of shares of other UltraFunds and UltraShort Funds based on various securities indexes.<sup>27</sup> As such, the Commission believes that accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for such products.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Exchange Act,<sup>28</sup> that the proposed rule change (SR-NYSEArca-2008-91) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority:<sup>29</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

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**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58458; File No. SR-NYSEArca-2008-95]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Net Asset Value Calculations for CurrencyShares Trusts

September 3, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 28, 2008, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The

<sup>25</sup> See *supra* note 3. The Shares have also been approved for trading on the Exchange pursuant to UTP. See *supra* note 4.

<sup>26</sup> See *supra* note 18.

<sup>27</sup> See *supra* note 19.

<sup>28</sup> 15 U.S.C. 78s(b)(2).

<sup>29</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>23</sup> See Commentary .02(d)(2)(ii) and (iii) to NYSE Arca Equities Rule 8.200.

<sup>24</sup> 15 U.S.C. 78s(b)(2).

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NYSE Arca, through its wholly-owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities"), proposes to provide a description of the revised methodology for calculating net asset value ("NAV") to be implemented by the CurrencyShares Euro Trust; CurrencyShares Australian Dollar Trust; CurrencyShares British Pound Sterling Trust; CurrencyShares Canadian Dollar Trust; CurrencyShares Japanese Yen Trust; CurrencyShares Mexican Peso Trust; CurrencyShares Swedish Krona Trust; and CurrencyShares Swiss Franc Trust. The text of the proposed rule change is available on the Exchange's Web site at [www.nyx.com](http://www.nyx.com), at the Exchange's principal office and at the Commission's Public Reference Room.

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

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

The Exchange proposes to provide a description of the revised methodology for calculating net asset value ("NAV") to be implemented by the CurrencyShares Euro Trust; CurrencyShares Australian Dollar Trust; CurrencyShares British Pound Sterling Trust; CurrencyShares Canadian Dollar Trust; CurrencyShares Japanese Yen Trust; CurrencyShares Mexican Peso Trust; CurrencyShares Swedish Krona Trust; and CurrencyShares Swiss Franc Trust (the "Trusts").<sup>3</sup> The Commission

has previously approved the Trusts for listing on the Exchange pursuant to NYSE Arca Equities Rule 8.202 ("Currency Trust Shares").<sup>4</sup> The Trusts were previously listed on the New York Stock Exchange LLC ("NYSE").<sup>5</sup>

Each of the Trusts currently utilizes the Federal Reserve Bank of New York Noon Buying Rate in calculating the NAV for the Trusts and for shares ("Shares") of the Trusts.<sup>6</sup> The NAV is posted on the Trusts' Web site ([www.currencyshares.com](http://www.currencyshares.com)) as soon as the valuation of the foreign currency held by a Trust is complete (ordinarily by 2 p.m. (New York time)). Ordinarily,

2008); CurrencyShares Euro Trust (Registration No. 333-125581, dated February 1, 2008); CurrencyShares Japanese Yen Trust (Registration No. 333-138881, dated February 12, 2008); CurrencyShares Swiss Franc Trust (Registration No. 333-132364, dated February 1, 2008); Prospectus Supplement No. 11 for the CurrencyShares Mexican Peso Trust (Registration No. 333-132367, dated June 13, 2008); Prospectus Supplement No. 10 for the CurrencyShares Swedish Krona Trust (Registration No. 132366, dated June 13, 2008) (collectively, "Registration Statements"). The shares of the Trusts represent units of fractional undivided beneficial interest in, and ownership of, the respective Trust. The investment objective of the Trusts is for the shares issued by the Trusts to reflect the price of the applicable foreign currency owned by the specific Trust, plus accrued interest, less the expenses and liabilities of such Trust, according to the Registration Statements. The 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") would depreciate).

<sup>4</sup> See Securities Exchange Act Release No. 56131 (July 25, 2007), 72 FR 42212 (August 1, 2007) (SR-NYSEArca-2007-57) (order granting accelerated approval for listing on NYSE Arca of CurrencyShares Trusts).

<sup>5</sup> See Securities Exchange Act Release Nos. 52843 (November 28, 2005), 70 FR 72486 (December 5, 2005) (SR-NYSE-2005-65) (order granting accelerated approval for NYSE to list and trade shares of the Euro Currency Trust, now known as the CurrencyShares Euro Trust); 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR-NYSE-2006-35) (order granting accelerated approval for NYSE to list and trade shares of the CurrencyShares Australian Dollar Trust, CurrencyShares British Pound Sterling Trust, CurrencyShares Canadian Dollar Trust, CurrencyShares Mexican Peso Trust, CurrencyShares Swedish Krona Trust and CurrencyShares Swiss Franc Trust); 55268 (February 9, 2007), 72 FR 7793 (February 20, 2007) (SR-NYSE-2007-03) (order granting accelerated approval for NYSE to list and trade shares of the CurrencyShares Japanese Yen Trust).

<sup>6</sup> As described in the above-noted previous proposed rule changes by the Exchange and the NYSE relating to the Trusts, on each day that the NYSE is open for regular trading, The Bank of New York ("Trustee") will determine the NAV of each of the Trusts. In so doing, the Trustee values the foreign currency held by the Trusts on the basis of the Noon Buying Rate, which is the USD/applicable foreign currency exchange rate as determined by the Federal Reserve Bank of New York as of 12 p.m. (New York time) on each day that the NYSE is open for regular trading. The Sponsor (Rydex Specialized Products LLC) publishes each Trust's NAV each business day on its Web site.

it is posted no more than thirty minutes after the Noon Buying Rate is published by the Federal Reserve Bank of New York.

As of the operative date of this proposed rule change, the Trusts intend to utilize a revised methodology for calculating NAV, as follows. To calculate the NAV, the Trustee adds to the amount of foreign currency in the Trust at the end of the preceding business day accrued but unpaid interest, the foreign currency receivable under pending purchase orders and the value of other Trust assets, and subtracts the accrued but unpaid Sponsor's fee, the foreign currency payable under pending redemption orders and other Trust expenses and liabilities, if any. The result is the NAV of the Trust for that business day. The Trustee shall also divide the NAV of each Trust by the number of Shares outstanding for the date of the evaluation then being made, which figure is the "NAV per Share." The NAV will be expressed in USD based on the Closing Spot Rate<sup>7</sup> as determined by WM/Reuters at 4 p.m. (London time). If, on a particular evaluation day, the Closing Spot Rate has not been determined and announced by 6 p.m. (London time), then the most recent Closing Spot Rate shall be used to determine the NAV of the Trust 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 Closing Spot Rate is not an appropriate basis for valuation of the Trust's currency, the Trustee and the Sponsor shall determine an alternative basis for such evaluation to be employed by the Trustee. Such an alternative basis may include reference to the market price of futures contracts that reflect the value of the foreign currency relative to the USD. The use of any alternative basis to determine NAV would be disclosed on the Trust's Web site. The Trustee also determines the NAV per Share, which equals the NAV of the Trust divided by the number of outstanding Shares. The Sponsor publishes the NAV and NAV per Share for each Trust on each day that the Exchange is open for regular trading on the Trusts' Web site.<sup>8</sup>

<sup>7</sup> Closing Spot Rate will be defined in the Registration Statements as "the [Foreign Currency]/USD exchange rate as determined by WM/Reuters at 4 p.m. (London time)". WM/Reuters is a joint venture of The WM Company PLC and Thomson Reuters.

<sup>8</sup> The Exchange will obtain a representation from the Trusts that the NAV per Share will be

<sup>3</sup> See Post-Effective Amendment No. 1 to Form S-1 for CurrencyShares Australian Dollar Trust (Registration No. 333-132362, dated February 8, 2008); CurrencyShares British Pound Trust (Registration No. 333-132361, dated February 8, 2008); CurrencyShares Canadian Dollar Trust (Registration No. 333-132363, dated February 8,

The Exchange understands that the Closing Spot Rate as determined by WM/Reuters is an internationally accepted currency exchange rate and is the rate generally used in currency swap transactions. The Closing Spot Rate for various currencies is published in the Financial Times. According to WM/Reuters, the majority of main equity and bond index compilers use the WM/Reuters exchange rates in their calculations.<sup>9</sup> The Exchange believes that the WM/Reuters Closing Spot Rate is a widely-accepted, transparent and widely-disseminated measure of currency exchange rates and does not believe that a transition to using WM/Reuters data will adversely impact investors or market transparency.

Prior to implementation of the revised NAV calculation procedures as described above, the Exchange will issue an Information Bulletin informing ETP Holders of the new procedures and that the NAV for the Trusts will be available on the Trusts' Web site. Notice to investors of changes to the NAV calculation methodology will be posted on the Trusts' Web site. In addition, the Registration Statements will be supplemented to reflect the revised methodology.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>10</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>11</sup> in particular, in that it is 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, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the proposed revisions to NAV calculation methodology for the Trusts will continue to ensure transparency of the NAV calculation based upon widely-accepted information sources.

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

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

calculated daily and made available to all market participants at the same time.

<sup>9</sup> See "Spot & Forward Rates Guide" published by WM/Reuters, available at [www.wmcompany.com](http://www.wmcompany.com).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

NYSE Arca believes that the proposed rule change is noncontroversial in that the Trusts will continue to use an internationally-accepted, transparent and widely-disseminated measure of currency exchange rates as the basis for NAV calculation. Use of the Closing Spot Rate by the Trusts in place of the Noon Buying Rate should not adversely impact investors or market transparency.<sup>14</sup>

### **IV. Solicitation of Comments**

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

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

<sup>14</sup> E-mail from Tim Malinowski, Director, NYSE Euronext, to Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated September 3, 2008.

### *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 Number SR-NYSEArca-2008-95 on the subject line.

### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2008-95. 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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-NYSEArca-2008-95 and should be submitted on or before October 1, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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<sup>15</sup> 17 CFR 200.30-3(a)(12).