

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-FICC-2009-10 and should be submitted on or before January 19, 2010.

## V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable.<sup>6</sup>

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-FICC-2009-10) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61225; File No. SR-ISE-2009-104]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, LLC Relating to Conforming ISE Rule 622 With Comparable NASD Rule 11870

December 22, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 14, 2009, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "SEC" or "Commission") the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>6</sup> In approving the proposed rule changes, the Commission considered the proposals' impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>7</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.

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

The Exchange proposes to amend ISE Rule 622 (Transfer of Accounts) to conform it to the corresponding rule of the Financial Industry Regulatory Authority ("FINRA"), formerly the National Association of Securities Dealers ("NASD"), for the purposes of the 17d-2 Agreement.

### 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 self-regulatory organization 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 self-regulatory organization 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 amend ISE Rule 622 (Transfer of Accounts) to conform it to corresponding NASD Rule 11870 (Customer Account Transfer Contracts) for the purposes of the agreement between the parties pursuant to Rule 17d-2<sup>3</sup> under the Securities Exchange Act of 1934 (the "Exchange Act") (that agreement, the "17d-2 Agreement") and the related certification by the Exchange which states that the requirements contained in certain ISE rules are identical to, or substantially similar to, certain NASD rules that have been identified as comparable (that certification, the "Common Rule Certification").<sup>4</sup>

Specifically, the Exchange proposes to amend ISE Rule 622(b)(1) by reducing the number of days from five (5) business days to one (1) business day that the Carrying Member (as defined in Rule 622(a)) must (i) validate and return the transfer instruction (with an attachment reflecting all positions and money balances as shown on its books) to the Receiving Member (as defined in Rule 622(a)), or (ii) take exception to the transfer instruction for reasons other

<sup>3</sup> 17 CFR 240.17d-2.

<sup>4</sup> See SEC Release No. 55367 (February 27, 2007), 72 FR 9983 (March 6, 2007) (Order approving and declaring effective a plan for the allocation of regulatory responsibilities between ISE and NASD).

than securities positions or money balance discrepancies and advise the Receiving Member of the exception taken. Additionally, the Exchange proposes to add rule text that will allow for the time frame set forth in paragraph (b)(1) to change from time-to-time when such time frame is changed in any publication, relating to the ACATS facility, by the National Securities Clearing Corporation. The changes discussed above are identical to the requirements set forth in NASD Rule 11870. By making these changes, the Exchange is ensuring that FINRA will retain regulatory responsibility for this rule under the 17d-2 Agreement because ISE Rule 622 will remain identical to NASD rule 11870, as specified in the Common Rule Certification.

##### 2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is found in Section 6(b)(5), in that the proposed rule filing is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system by creating consistency between the requirements contained in rules of the ISE and NASD that are covered by an agreement approved by the Commission under Rule 17d-2.

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

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

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Because the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) the Exchange provided the Commission with notice of its intent to file the proposed rule change at least five days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

of the Act<sup>5</sup> and Rule 19b-4(f)(6)<sup>6</sup> thereunder.

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

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

#### IV. Solicitation of Comments

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

##### *Electronic Comments*

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2009-104 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-ISE-2009-104. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission<sup>8</sup>, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission’s Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-ISE-2009-104 and should be submitted on or before January 19, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

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

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

December 22, 2009.

#### I. Introduction

On October 20, 2009, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares (“Shares”) of the ETFs Platinum Trust (the “Trust”). The proposed rule change was published for comment in the **Federal Register** on November 17, 2009.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

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

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

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

Additional details regarding the Shares and Trust including, among

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

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

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

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(6).

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

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

<sup>9</sup> 17 CFR 200.30-3(a)(12).