

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room 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 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-NASDAQ-2010-064, and should be submitted on or before July 6, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62239; File No. SR-NYSEAMEX-2010-4]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Deleting Rule 405(4)—NYSE Amex Equities To Correspond With Rule Changes of the Financial Industry Regulatory Authority, Inc.

June 8, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 17, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and

III below, which Items have been substantially prepared by the Exchange. The 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

The Exchange proposes to delete Rule 405(4)—NYSE Amex Equities to correspond with rule changes filed by the Financial Industry Regulatory Authority, Inc. ("FINRA") and approved by the Commission.³ The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://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 those 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 parts of such statements.

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

1. Purpose

The purpose of the proposed rule changes is to delete Rule 405(4)—NYSE Amex Equities (Diligence as to Accounts) to correspond with rule changes filed by FINRA and approved by the Commission.

Background

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. ("NASD"), and NYSE Regulation, Inc. ("NYSER") consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d-2 under the Act, the New York Stock Exchange LLC ("NYSE"), NYSER and FINRA entered into an agreement (the "Agreement") to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules

and rule interpretations ("FINRA Incorporated NYSE Rules"). The Exchange became a party to the Agreement effective December 15, 2008.⁴

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE and NYSE Amex of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.⁵

Proposed Conforming Amendments to NYSE Amex Equities Rules

FINRA recently deleted FINRA Incorporated NYSE Rule 405(4) (Diligence as to Accounts), which required proper supervision of registered representatives handling common sales accounts in accordance with FINRA Incorporated NYSE Rule 342. FINRA Incorporated NYSE Rule 405(4) provided that a member firm could facilitate the isolated liquidation of securities valued at \$1,000 or less registered in the name of an individual who did not have an account with the firm, and which were not part of any distribution, through a common sales account set up for the purpose of handling such sales. Rule 405(4) further provided that, subject to certain requirements, such sales could be made on behalf of the customer without the member having to send a periodic account statement to the customer pursuant to Rule 409—NYSE Amex Equities.⁶

In deleting FINRA Incorporated NYSE Rule 405(4), FINRA noted that the rule as written raised potential investor protection concerns and that certain terms in the rule would benefit from additional clarification. FINRA also

⁴ See Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR-NASD-2007-054) (order approving the incorporation of certain NYSE Rules as "Common Rules"); and 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE Amex LLC as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE Amex to the substance of any of the Common Rules.

⁵ FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, see FINRA Information Notice, March 12, 2008.

⁶ See Securities Exchange Act Release No. 61808 (March 31, 2010), 75 FR 17456 (April 6, 2010).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 61808 (March 31, 2010), 75 FR 17456 (April 6, 2010) (order approving SR-FINRA-2010-005).

noted that, to the extent that the deletion of FINRA Incorporated NYSE Rule 405(4) eliminated the exception for member firms from sending periodic account statements to a customer, proposed FINRA Rule 2231, which relates to customer account statements, would authorize FINRA to exempt members from the provisions of FINRA Rule 2231 including the requirement to deliver periodic account statements.⁷

In order to harmonize the NYSE Amex Equities Rules with the approved consolidated FINRA Rules, the Exchange proposes to delete Rule 405(4)—NYSE Amex Equities.⁸ Notwithstanding the deletion of Rule 405(4)—NYSE Amex Equities, Rules 405(1)–(2)—NYSE Amex Equities will continue to require member firms to properly supervise all registered representatives handling common sales accounts and any transactions executed therein. Finally, the Exchange believes that removing the exemption for member firms from the requirement to send customer account statements for the types of transactions described in Rule 405(4)—NYSE Amex Equities will ensure a harmonized standard among NYSE, NYSE Amex, and FINRA, particularly since all NYSE Amex Equities member organizations with customers are also FINRA members and subject to FINRA rules. To the extent that FINRA Rule 2231 is approved, the Exchange will consider proposing to adopt a similar rule as part of the rule harmonization process.⁹

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act,¹⁰ in general, and further the objectives of Section 6(b)(5) of the Act,¹¹ in particular, in that they are 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 a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule changes support the

objectives of the Act by providing greater harmonization between NYSE Amex Equities Rules and FINRA Rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for Dual Members.

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.

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 filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³ Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁵ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission hereby grants the Exchange's request.¹⁶ The Commission believes that waiving the

30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change will maintain the harmonization of NYSE Rules and previously approved FINRA Rules.

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.

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. Please include File Number SR-NYSEAMEX-2010-48 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-NYSEAMEX-2010-48. 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>). Comments are also available for Web site viewing and printing 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. 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-NYSEAMEX-2010-48 and should be submitted on or before July 6, 2010.

⁷ See Securities Exchange Act Release No. 61808 (March 31, 2010), 75 FR 17456 (April 6, 2010). See also Securities Exchange Act Release No. 59921 (May 14, 2009), 74 FR 23912 (May 21, 2009) (SR-FINRA-2009-028) (proposal to adopt FINRA Rule 2231).

⁸ The NYSE has submitted a companion rule filing amending its rules in accordance with FINRA's rule changes. See SR-NYSE-2010-41.

⁹ See also Securities Exchange Act Release No. 59921 (May 14, 2009), 74 FR 23912 (May 21, 2009).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

¹⁶ For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78(c)(f).

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

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62250; File Nos. SR-NYSEAmex-2010-37 and SR-NYSEArca-2010-25]

Self-Regulatory Organizations; NYSE Amex LLC and NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Changes Relating to Listing and Trading Options on the ETFS Palladium Trust and the ETFS Platinum Trust

June 9, 2010.

On April 8, 2010, NYSE Amex LLC ("NYSE Amex") and NYSE Arca, Inc. ("NYSE Arca") (collectively the "Exchanges") each filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² proposed rule changes (collectively the "Proposals") to list and trade options on the ETFS Palladium Trust and the ETFS Platinum Trust (collectively "ETFS Options"). The NYSE Amex proposed rule change was published for comment in the **Federal Register** on May 5, 2010³ and the NYSE Arca rule change was published on May 6, 2010.⁴ No comments were received on the proposed rule changes. This order approves the proposed rule changes.

I. Description of Proposal

The Commission previously authorized the Exchanges to list and trade options on the SPDR Gold Trust⁵ ("GLD"), the iShares COMEX Gold Trust ("IAU"), the iShares Silver Trust⁶ ("SLV"), the ETFS Silver Trust ("SIVR"), and the ETFS Gold Trust⁷ ("SGOL").

Now, the Exchanges propose to list and trade options on the ETFS Palladium Trust ("PALL") and the ETFS Platinum Trust ("PPLT").

Under current NYSE Amex Rule 915 and NYSE Arca Rule 5.3, only Exchange-Traded Fund Shares (or "ETFs") that are traded on a national securities exchange and are defined as an "NMS" stock under Rule 600(b)(47) of Regulation NMS,⁸ and that: (i) Represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments, including, but not limited to, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the "Financial Instruments"),⁹ and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments); or (ii) represent interests in a trust that holds a specified non-U.S. currency or currencies deposited with the trust when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust ("Funds"); or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency ("Commodity Pool ETFs"); or (iv) represent interests in the GLD, IAU, SLV, SIVR, and SGOL;¹⁰ or (v) represent interests in a registered investment

(order approving SR-NYSEAmex-2009-86; and SR-NYSEArca-2009-110).

⁸ 17 CFR 242.600.

⁹ NYSE Amex Rule 915 also includes stock index futures contracts and options on futures within this category.

¹⁰ See NYSE Amex Rule 915, Commentary .10 and NYSE Arca 5.3(g).

company ("Investment Company") organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value ("NAV"), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV ("Managed Fund Share") are eligible as underlying securities for options traded on NYSE Amex and NYSE Arca, respectively.¹¹ The Proposals would expand the types of ETFs that may be approved for options trading on the Exchanges to include the PALL and the PPLT.

Apart from allowing the PALL and the PPLT to be underlyings for options traded on the Exchanges as described above, the listing standards for ETFs will remain unchanged from those that apply under current rules of both exchanges. ETFs on which options may be listed and traded must still be listed and traded on a national securities exchange and must satisfy the other listing standards set forth in NYSE Amex Rule 915, Commentary .06 and NYSE Arca Rule 5.3(g).

Specifically, in addition to satisfying the aforementioned listing requirements, ETFs must meet either: (1) The criteria and guidelines under NYSE Amex Rule 915, Commentary .01 and NYSE Arca Rule 5.3(a) and (b); or (2) be available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer must be obligated to issue ETFs in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the respective prospectus.

The respective Exchange's current continued listing standards for options

¹¹ See NYSE Amex Rule 915, Commentary .06 and NYSE Arca Rule 5.3(g).

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 61989 (April 27, 2010), 75 FR 24769.

⁴ See Securities Exchange Act Release No. 61990 (April 27, 2010), 75 FR 25005.

⁵ See Securities Exchange Act Release No. 57894 (May 30, 2008), 73 FR 32061 (June 5, 2008) (order approving SR-Amex-2008-15 and SR-NYSEArca-2008-52).

⁶ See Securities Exchange Act Release No. 59055 (December 4, 2008), 73 FR 75148 (December 10, 2008) (order approving SR-Amex-2008-68 and SR-NYSEArca-2008-66).

⁷ See Securities Exchange Act Release No. 61483 (February 3, 2010), 75 FR 6753 (February 10, 2010)