

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56515; File No. SR-Amex-2007-101)

September 24, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Trade Currency Trust Shares of Seven Currency Trusts Pursuant to Unlisted Trading Privileges

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 August 29, 2007, the American Stock Exchange LLC (the “Amex” or the “Exchange”) 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is granting accelerated approval to the proposed rule change.

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

The Exchange proposes to trade shares (the “Shares”) of the following trusts: (1) CurrencyShares<sup>SM</sup> Australian Dollar Trust; (2) CurrencyShares<sup>SM</sup> British Pound Sterling Trust; (3) CurrencyShares<sup>SM</sup> Canadian Dollar Trust; (4) CurrencyShares<sup>SM</sup> Japanese Yen Trust; (5) CurrencyShares<sup>SM</sup> Mexican Peso Trust; (6) CurrencyShares<sup>SM</sup> Swedish Krona Trust; and (7) CurrencyShares<sup>SM</sup> Swiss Franc Trust (each a “Trust” and collectively, the “Trusts”) pursuant to unlisted trading privileges (“UTP”).<sup>3</sup>

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

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

<sup>3</sup> Rydex Investments, the Trusts’ Sponsor, represents that the Trusts are not investment companies registered under the Investment Company Act of 1940.

The text of the proposed rule change is available on the Amex's Web site at <http://www.amex.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 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

The Exchange proposes to trade the Shares of the Trusts under Amex Rule 1200B-AEMI pursuant to UTP. Amex Rule 1200B-AEMI defines a Currency Trust Share as: "a security that (i) is issued by a trust that holds a specified non-U.S. currency deposited with the trust; (ii) 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; and (iii) pays beneficial owners interest and other distributions on the deposited non-U.S. currency, if any, declared and paid by the trust." Further, Commentary .01 to Amex Rule 1200B-AEMI categorizes a Currency Trust Share as a Trust Issued Receipt that holds a specified non-U.S. currency or currencies deposited with the trust. Amex Rule 1201B entitled, Designation of an Underlying Foreign Currency, authorizes the Exchange to trade Currency Trust Shares pursuant to UTP.

The Commission previously approved the listing and trading of the Shares on the New York Stock Exchange (“NYSE”)<sup>4</sup> and they are currently trading on the NYSE Arca Marketplace (“NYSE Arca”) pursuant to UTP.<sup>5</sup> The Commission also previously approved the trading of the CurrencyShares<sup>SM</sup> Euro Trust (f/k/a Euro Currency Trust) on Amex, pursuant to UTP.<sup>6</sup> Rydex Specialized Products LLC, d/b/a/ “Rydex Investments,” is the sponsor of the Trusts (“Sponsor”) and is responsible for, among other things, overseeing the performance of The Bank of New York (“Trustee”) and the Trusts’ principal service providers, including those that prepare the financial statements. The Trustee is responsible for the day-to-day operation of the Trusts. Additionally, the London branch of JPMorgan Chase Bank, N.A., is the depository for the Trusts (“Depository”), and Rydex Distributors, Inc. is the distributor for the Trusts (“Distributor”). The Sponsor, Trustee, Depository, and Distributor are not affiliated with the Exchange or one another, with the exception that the Sponsor and Distributor are affiliated.

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<sup>4</sup> See Securities Exchange Act Release No. 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 CurrencyShares<sup>SM</sup> Euro Trust); Securities Exchange Act Release No. 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR-NYSE-2006-35) (order granting accelerated approval for the NYSE to list and trade shares of the CurrencyShares<sup>SM</sup> Australian Dollar Trust, British Pound Sterling Trust, Canadian Dollar Trust, Mexican Peso Trust, Swedish Krona Trust, and Swiss Franc Trust); Securities Exchange Act Release No. 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<sup>SM</sup> Japanese Yen Trust) (the “NYSE Listing Orders”).

<sup>5</sup> See Securities Exchange Act Release No. 54043 (June 26, 2006), 71 FR 37967 (July 3, 2006) (SR-NYSEArca-2006-26) (order granting accelerated approval for NYSEArca to UTP trade shares of the CurrencyShares<sup>SM</sup> Australian Dollar Trust, British Pound Sterling Trust, Canadian Dollar Trust, Mexican Peso Trust, Swedish Krona Trust, and Swiss Franc Trust); Securities Exchange Act Release No. 55320 (February 21, 2007), 72 FR 8828 (February 27, 2007) (SR-NYSEArca-2007-15) (order granting accelerated approval for NYSEArca to UTP trade shares of the CurrencyShares<sup>SM</sup> Japanese Yen Trust).

<sup>6</sup> See Securities Exchange Act Release No. 53059 (January 5, 2006), 71 FR 2072 (January 12, 2006) (SR-Amex-2005-128).

### Investment Objective of the Trusts

The investment objective of the Trusts is for the Shares 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. 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).

Each of the Trusts’ assets consist, primarily, of the applicable foreign currency on demand deposit in two deposit accounts maintained by the Depository: (i) a primary deposit account which earns interest, and (ii) a secondary deposit account which does not earn interest. The secondary deposit account is used only in connection with mid-month creations and redemptions of blocks of 50,000 Shares (“Baskets”). The secondary account is used to account for interest that has been earned on the primary deposit account during the month, but not yet paid, and to receive interest earned on the primary deposit account, pay Trust expenses, and distribute any excess interest to shareholders on a monthly basis.

The Trusts do not hold any derivative products. Each Share represents a proportional interest in the applicable Trust’s portfolio, consisting of a demand deposit of foreign currency, as adjusted for interest and expenses. 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 such Share will reflect accumulated interest as well as the estimated accrued, but unpaid, expenses of the Trust.

Additional information about the Trusts and the Currency Trust Shares is also available at the Sponsor’s Web site, [www.currencyshares.com](http://www.currencyshares.com).

## Dissemination of Information About the Currency Trust Shares

Quotations for and last-sale information regarding the Shares are disseminated through the Consolidated Tape Association (“CTA”). The Trustee calculates the net asset value (“NAV”) of the respective Trusts, each business day. The NAV is expressed in USD and is based on the Noon Buying Rate as determined by the Federal Reserve Bank of New York (“FRB-NY”). If the Noon Buying Rate has not been determined and announced by 2:00 p.m., Eastern Time (“ET”), then the most recent FRB-NY determination of the Noon Buying Rate is used to determine the NAV of the respective Trusts unless the Trustee, in consultation with the Sponsor, determines that such price is inappropriate to use as the basis for such valuation. The Trustee also determines the NAV per Share, which equals the NAV of the respective Trust divided by the number of its outstanding Shares. The Sponsor publishes on its Web site, [www.currencyshares.com](http://www.currencyshares.com), the NAV and NAV per Share for each Trust on each day that the NYSE is open for regular trading.<sup>7</sup> A detailed description of the Trusts and the calculation methodology for the NAV, as well as a general review of the foreign exchange industry, is provided in the NYSE Listing Orders.<sup>8</sup>

In order to provide updated information relating to the Trusts for use by investors, professionals, and persons wishing to create or redeem Baskets of the Shares, the NYSE disseminates, through the facilities of CTA, the intraday indicative value (“IIV”)<sup>9</sup> every 15 seconds during the trading hours for the Shares of 9:30 a.m. to 4:15 p.m. ET.

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<sup>7</sup> The Web site also makes available a variety of other relevant information about the Currency Trust Shares including: the spot price for each applicable foreign currency; the daily FRB-NY Noon Buying Rate; premium/discount information, calculated on a 20-minute delay; and the Basket Amount for each applicable foreign currency, among other things.

<sup>8</sup> See supra note 4.

<sup>9</sup> The IIV is sometimes referred to as the intraday optimized portfolio value (“IOPV”).

As described in the NYSE Listing Orders, distributions are made whenever interest deposited in the secondary deposit account exceeds the sum of the Sponsor's fee for the prior month plus other Trust expenses, if any. In such instance, the Trustee would direct that the excess be converted into USDs at a prevailing market rate and the Trustee would distribute that amount as promptly as practicable to Shareholders on a pro rata basis, in accordance with the number of Shares they own.

### Trading Rules

The Exchange deems Currency Trust 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 trading hours for the Shares on the Exchange will be 9:30 a.m. to 4:15 p.m. ET.

Amex Rule 190 generally precludes certain business relationships between an issuer and the specialist in the issuer's securities. Exceptions in the rule permit specialists in the Shares to enter into Creation Unit (i.e., Basket) transactions to facilitate the maintenance of a fair and orderly market. Commentary .04 to Amex Rule 190 specifically applies to Currency Trust Shares listed on the Exchange, including the Shares. Commentary .04 states that nothing in Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market.

### Stop and Stop Limit Orders

Amex Rule 154–AEMI, “Orders in AEMI,” paragraph (c)(ii), provides that stop and stop limit orders to buy or sell a security the price of which is derivatively priced based upon another security or index of securities, may be elected by a quotation, as set forth in subparagraphs (c)(ii)

(1)–(4) of Rule 154–AEMI . The Exchange has designated Currency Trust Shares, including the Shares, as eligible for this treatment.<sup>10</sup>

#### Prospectus Delivery

Commentary .02 to Amex Rule 1200B-AEMI, requires that the Exchange’s members and member organizations provide to all purchasers of newly issued Currency Trust Shares a prospectus for the series of Currency Trust Shares.

#### Trading Halts

Amex will cease trading in the Shares if: (i) the primary market stops trading the Shares because of a regulatory halt akin to a halt based on Amex Rule 117 and/or a halt because dissemination of the IIV has ceased; or (ii) the primary market delists the Shares.<sup>11</sup>

#### Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares. Amex will rely on its existing surveillance procedures governing Currency Trust Shares.

#### Information Circular

In connection with the trading of the Shares, Amex will inform its members, in an Information Circular, of the special characteristics and risks associated with trading of the Shares such as, a description of the Trusts and their respective Shares, how the Shares are created and redeemed in Baskets (e.g., that Trust Shares are not individually redeemable), foreign country

<sup>10</sup> See Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) at note 9, (noting the Exchange’s designation of equity derivative securities as eligible for such treatment under Rule 154, Commentary .04(c)).

<sup>11</sup> Amex has represented that it plans to submit a proposed rule filing to the Commission that will codify Amex’s representations regarding its procedures for trading halts for various derivative securities that trade on the Exchange. See e-mail from Andrea H. Williams, Assistant General Counsel, Amex, to Rahman Harrison, Special Counsel, Division of Market Regulation, Commission, dated September 24, 2007.

laws and restrictions, applicable Exchange rules, dissemination information, trading information, and a discussion of any relief provided by the Commission or the staff from any rules under the Act. Additionally, in the Information Circular, the Exchange will advise its members to deliver a prospectus to investors purchasing Shares of the Trusts prior to, or concurrently with, the confirmation of a transaction in such Shares. The Information Circular will also remind members of their suitability obligations, including Amex Rule 411, which imposes a duty of the due diligence on its members and member firms to learn the essential facts relating to every customer prior to the trading of the Shares.

## 2. Statutory Basis

The Exchange states that the proposed rule change is consistent with Section 6(b) of the Exchange Act<sup>12</sup> in general and furthers the objectives of Section 6(b)(5) of the Exchange Act<sup>13</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 regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities; and, in general to protect investors and the public interest. In addition, the Exchange believes that the proposal is consistent with Rule 12f-5 under the Act<sup>14</sup> because the Exchange deems the Currency Trust Shares to be equity securities, thus rendering 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 impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

<sup>13</sup> 15 U.S.C. 78s(b)(5).

<sup>14</sup> 17 CFR 240.12f-5.



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 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 No. SR-Amex-2007-101 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-Amex-2007-101. 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, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 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 available publicly. All submissions should refer to File Number SR-NYSEArca-2007-101 and should be submitted by [insert date 21 days from the date of publication in the Federal Register].

#### IV. Commission Findings and Order Granting Accelerated Approval of a 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.<sup>15</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>16</sup> 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.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,<sup>17</sup> which permits an exchange to trade, pursuant to UTP, a security that is listed and

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> 15 U.S.C. 78l(f).

registered on another exchange.<sup>18</sup> The Commission notes that it previously approved the listing and trading of the Shares on NYSE and the trading of the Shares on NYSE Arca pursuant to UTP.<sup>19</sup> The Commission also finds that the proposal is consistent with Rule 12f-5 under the Act,<sup>20</sup> 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,<sup>21</sup> 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. Quotations for and last-sale information regarding the Shares are disseminated through the facilities of the CTA and the Consolidated Quotation System. In addition, an IIV for each Fund, updated to reflect changes in currency exchange rates, is calculated by NYSE and published via the facilities of the Consolidated Tape Association on a 15-second delayed basis throughout the trading hours for the Shares. Moreover, information

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<sup>18</sup> 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.

<sup>19</sup> See *supra* notes 4 and 5.

<sup>20</sup> 17 CFR 240.12f-5.

<sup>21</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

about the prices of the currencies underlying the Funds is publicly available from a number of sources.

The Commission also believes that the proposal appears reasonably designed to preclude trading of the Shares when transparency is impaired. Amex has represented that it will cease trading in the Shares if the listing market stops trading the Shares because of a regulatory halt similar to a halt based on Amex Rule 117 and/or a halt because the IIV is not being calculated or disseminated.

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

1. The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules.
2. Prior to the commencement of trading, the Exchange would inform its members in an Information Bulletin of the special characteristics and risks associated with trading the Shares.
3. Prior to the commencement of trading, the Exchange would inform its members in an Information Bulletin the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction.

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

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.

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 previously, the Commission previously found that the listing and trading of the Shares on NYSE and the trading of the Shares on NYSE Arca pursuant to UTP are consistent with the Act. 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. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for the Shares.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act<sup>22</sup> that the proposed rule change (SR-Amex-2007-101), be and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>23</sup>

Nancy M. Morris  
Secretary

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<sup>22</sup> 15 U.S.C. 78s(b)(2).

<sup>23</sup> 17 CFR 200.30-3(a)(12).