

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56592; File No. SR-Amex-2007-60)

October 1, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to the Listing and Trading of Shares of Eight Funds of the ProShares Trust Based on International Equity Indexes

I. Introduction

On June 15, 2007, the American Stock Exchange LLC (“Amex” or “Exchange”) 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, a proposal to list and trade the shares of eight funds of the ProShares Trust based on certain international equity indexes.² On July 27, 2007, Amex filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on August 15, 2007 for a 15-day comment period.³ The Commission received no comments on the proposal. On September 7, 2007, Amex filed Amendment No. 2 to the proposed rule change.⁴ This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto.

II. Description of the Proposal

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56223 (August 8, 2007), 72 FR 45837 (“Notice”).

⁴ In Amendment No. 2, the Exchange clarified that: (a) the value of the MSCI Japan Index will be calculated and disseminated every 15 seconds from 8:00 p.m. to 2:00 a.m. Eastern Time (“ET”); (b) the value of the MSCI EAFE Index will be calculated and disseminated every 60 seconds from 8:00 p.m. to 12:00 p.m. ET; (c) the value of the FTSE/Xinhua China 25 Index will be calculated and disseminated every 15 seconds from 10:00 p.m. to 4:00 a.m. ET; and (d) the Funds are expected to be highly inversely correlated (-0.95 or greater). Because Amendment No. 2 is technical in nature, the Commission is not republishing the notice of filing for public comment.

The Exchange proposes to list and trade under Amex Rule 1000A–AEMI the shares (the “Shares”) of eight funds of the ProShares Trust (the “Trust”) that are designated as Short Funds (the “Short Funds”) and UltraShort Funds (the “UltraShort Funds,” and together with the Short Funds, collectively referred to as the “Funds”). The Exchange represents that the Funds will comply with all applicable provisions of Amex Rules 1000A–AEMI and 1001A - 1003A.⁵ Each of the Funds has a distinct investment objective by attempting, on a daily basis, to correspond to a specified multiple of the inverse performance of a particular equity securities index. The Funds will be based on the following benchmark indexes: (1) MSCI Emerging Markets Index; (2) MSCI Japan Index; (3) MSCI EAFE Index; and (4) FTSE/Xinhua China 25 Index (each, an “Underlying Index,” and collectively, the “Underlying Indexes”).⁶ Each of the Underlying Indexes is rebalanced quarterly, calculated in U.S. dollars on a real-time basis, and, consistent with Commentary .02(b)(ii) to Amex Rule 1000A–AEMI, widely disseminated during Exchange trading hours.

Specifically, the Exchange proposes to list and trade Shares of the Short Funds that seek daily investment results, before fees and expenses, that correspond to the inverse or opposite of the daily performance (-100%) of the Underlying Indexes. If each of these Short Funds is successful in meeting its objective, the net asset value (“NAV”) of the Shares of each Short Fund should increase approximately as much, on a percentage basis, as the respective Underlying Index loses when the prices of the securities in the Underlying Index decline on a given day, or should

⁵ E-mail from Nyieri Nazarian, Assistant General Counsel, Amex, to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated September 19, 2007.

⁶ A detailed discussion of the Underlying Indexes and dissemination of the values thereof, investment objective of the Funds, portfolio investment methodology, investment techniques, availability of information and key values, creation and redemption of Shares, dividends and distributions, Amex’s initial and continued listing standards, Amex trading rules and trading halts, information circular to Exchange members, and other related information regarding the Funds can be found in the Notice. See Notice, supra note 3.

decrease approximately as much, on a percentage basis, as the respective Underlying Index gains when the prices of the securities in the Underlying Index rise on a given day, before fees and expenses.

The Exchange also proposes to list and trade Shares of the UltraShort Funds that seek daily investment results, before fees and expenses, that correspond to twice the inverse or opposite (-200%) of the daily performance of the Underlying Indexes. If each of these UltraShort Funds is successful in meeting its objective, the NAV of the Shares of each UltraShort Fund should increase approximately twice as much, on a percentage basis, as the respective Underlying Index loses when the prices of the securities in the Underlying Index decline on a given day, or should decrease approximately twice as much, on a percentage basis, as the respective Underlying Index gains when the prices of the securities in the Underlying Index rise on a given day, before fees and expenses.

III. Commission's Findings and Order Granting 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.⁷ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ 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 notes that it previously approved the original listing and trading of certain inverse leveraged fund shares based on a

⁷ In approving this proposed 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).

⁸ 15 U.S.C. 78f(b)(5).

variety of indexes.⁹ The Commission also notes that it has previously approved the listing and trading of exchange-traded funds based on each of the Underlying Indexes.¹⁰

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,¹¹ 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 and last-sale information for the Shares will be disseminated over the CT.¹² In addition, the Exchange will disseminate through the CT the IIV

⁹ See Securities Exchange Act Release Nos. 55117 (January 17, 2007), 72 FR 3442 (January 25, 2007) (SR-Amex-2006-101) (approving the listing and trading of shares of short and ultrashort funds, among others, of the Trust based on certain underlying indexes); 54040 (June 23, 2006), 71 FR 37629 (June 30, 2006) (SR-Amex-2006-41) (approving the listing and trading of shares of bearish funds, among others, of the Trust based on certain underlying indexes); and 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR-Amex-2004-62) (approving the listing and trading of shares of bearish funds, among others, of the xtraShares Trust based on certain underlying indexes).

¹⁰ See Securities Exchange Act Release Nos. 44990 (October 25, 2001), 66 FR 55712 (November 2, 2001) (SR-Amex-2001-45) (approving the listing and trading of shares of funds of iShares, Inc. based on certain foreign stock indexes, including the MSCI Emerging Markets (Free) Index); 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) (SR-Amex-95-43) (approving the listing and trading of Index Fund Shares based on the MSCI Japan Index, among other indexes); 44700 (August 14, 2001), 66 FR 43927 (August 21, 2001) (SR-Amex-2001-34) (approving the listing and trading of shares of a fund based on the MSCI EAFE Index, among other indexes); 50505 (October 8, 2004), 69 FR 61280 (October 15, 2004) (SR-NYSE-2004-55) (approving the listing and trading of shares of the iShares FTSE/Xinhua China 25 Index Fund); and 50800 (December 6, 2004), 69 FR 72228 (December 13, 2004) (SR-Amex-2004-85) (approving the trading of shares of the iShares FTSE/Xinhua China 25 Index Fund pursuant to unlisted trading privileges).

¹¹ 15 U.S.C. 78k-1(a)(1)(C)(iii).

¹² E-mail from Nyieri Nazarian, Assistant General Counsel, Amex, to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated August 21, 2007 (clarifying the information to be disseminated through the CT). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Notice. See Notice, supra note 3.

at least every 15 seconds throughout Amex's trading day, the market value of a Share for each Fund, the most recent NAV for each Fund, the number of Shares outstanding for each Fund, and the estimated cash amount and total cash amount per Creation Unit. The Exchange will also make available on its Web site daily trading volume, the closing prices, the NAV, and the final dividend amounts to be paid for each Fund. Furthermore, the value of each Underlying Index will be updated intra-day on a real-time basis as its individual component securities change in price and disseminated at least every 15 or 60 seconds, as applicable, throughout the trading day by Amex or another organization authorized by the relevant Underlying Index provider. The Trust's Web site will contain a variety of other quantitative information for the Shares of each Fund. Finally, each Fund's total portfolio composition will be disclosed on the Web site of the Trust or another relevant Web site as determined by the Trust and/or the Exchange. Web site disclosure of portfolio holdings will be made daily and will include, as applicable, the specific types of Financial Instruments and characteristics of such Financial Instruments and the cash equivalents and amount of cash held in the portfolio of each Fund.

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 (for each Fund), prior to listing, that the NAV per Share for each Fund will be calculated daily and made available to all market participants at the same time.¹³ In addition, the Exchange represents that the Web site disclosure of the portfolio composition of each Fund and the disclosure by the Advisor of the IIV File and the PCF will occur at the same time. Commentary

¹³ See Amex Rule 1002A(a)(ii).

.02(b) to Amex Rule 1000A–AEMI provides for “fire wall” procedures with respect to personnel who have access to information concerning changes and adjustments to the Underlying Index and the implementation of procedures to prevent the use and dissemination of material non-public information regarding the Underlying Index. Commentary .09 to Amex Rule 1000A–AEMI restricts members or persons associated with members who have knowledge of all material terms and conditions of an order being facilitated or orders being crossed to enter, based on such knowledge, an order to buy or sell a Share that is the subject of the order, an order to buy or sell the overlying option class, or an order to buy or sell any related instrument¹⁴ until all the terms of the order are disclosed to the trading crowd or the trade is no longer imminent in view of the passage of time since the order was received.

The Commission also believes that the Exchange’s trading halt rules are reasonably designed to prevent trading in the Shares when transparency is impaired. Amex Rule 1002A(b)(ii) provides that the Exchange will halt trading in the Shares if the circuit breaker parameters of Amex Rule 117 have been reached. In exercising its discretion to halt or suspend trading in the Shares, the Exchange may consider factors such as those set forth in Amex Rule 918C(b) and other relevant factors. In addition, Amex Rule 1002A(b)(ii) provides that, if the IIV or the Underlying Index value applicable to that series of Index Fund Shares is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the Underlying Index value occurs. If the interruption to the dissemination of the IIV or the Underlying Index value persists past the trading day in which it

¹⁴ For purposes of Commentary .09, an order to buy or sell a “related instrument” means an order to buy or sell securities comprising ten percent or more of the component securities in the Underlying Index or an order to buy or sell a futures contract on any economically equivalent index. See Commentary .09 to Amex Rule 1000A–AEMI.

occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

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 Act. The Exchange has represented that the Shares are equity securities subject to Amex's rules governing the trading of equity securities.

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

- (1) The Exchange's surveillance procedures are adequate to properly monitor the trading of the Shares. Specifically, Amex will rely on its existing surveillance procedures governing Index Fund Shares.
- (2) Prior to the commencement of trading, the Exchange will inform its members and member organizations in an Information Circular regarding the application of Commentary .06 to Amex Rule 1000A–AEMI to the Funds and the prospectus and/or product description delivery requirements that apply to the Funds. The Information Circular will also provide guidance with regard to member firm compliance responsibilities when effecting transactions in the Shares and highlighting the special risks and characteristics of the Funds and Shares, as well as applicable Exchange rules. In addition, the Information Circular will disclose that the procedures for purchases and redemptions of Shares in Creation Units are described in each Fund's prospectus, and that Shares are not individually redeemable, but are redeemable only in Creation Unit aggregations or multiples thereof.

- (3) The Exchange represents that the Trust is required to comply with Rule 10A-3 under the Act¹⁵ for the initial and continued listing of the Shares.

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

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change (SR-Amex-2007-60), as modified by Amendment Nos. 1 and 2 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Nancy M. Morris
Secretary

¹⁵ 17 CFR 240.10A-3.

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).