

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55299; File No. SR-NYSE-2007-01)

February 15, 2007

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change to Amend Listing and Annual Fees Applicable to Investment Company Units, Currency Trust Shares, Commodity Trust Shares and streetTRACKS® Gold Shares

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 January 24, 2007, the New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes as described in Items I, II and III below, which Items have been substantially prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

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

The Exchange proposes to amend initial listing fees and annual fees applicable to Investment Company Units (“ICUs”), Currency Trust Shares, Commodity Trust Shares and streetTRACKS® Gold Shares in Section 902.07 of the NYSE Listed Company Manual (“Manual”), and to make conforming amendments to Sections 902.02 and 902.03 of the Manual. The text of the proposed rule change is available at the Commission’s Public Reference Room, at the NYSE, and at its Web site:

<http://www.nyse.com/Frameset.html?displayPage=http://apps.nyse.com/commdata/pub19b4.nsf/rulefilings?openview>.

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

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

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

In filings with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE 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 the Listing Fees and Annual Fees in Section 902.07 of the Manual applicable to Investment Company Units listed under Section 703.16, and to apply such fees to Currency Trust Shares as defined in Exchange Rule 1300A, Commodity Trust Shares as defined in Exchange Rule 1300B, and streetTRACKS® Gold Shares as defined in Exchange Rule 1300. The Exchange also proposes to make conforming amendments to Sections 902.02 (General Information on Fees) and 902.03 (Fees for Listed Equity Securities) of the Manual.

Listing Fees

The Exchange currently imposes a flat Original Listing Fee of \$5,000 in connection with listing a series of Investment Company Units. The Exchange proposes to amend Section 902.07 to specify that a \$5,000 Listing Fee will also be imposed in connection with the initial listing of each issue of Currency Trust Shares as defined in NYSE Rule 1300A and Commodity Trust Shares as defined in NYSE Rule 1300B. In addition, the proposed amendment reflects the \$5,000 Listing Fee applicable to the

currently-listed streetTRACKS® Gold Trust.<sup>3</sup> The Exchange has previously specified in its filings pursuant to Rule 19b-4<sup>4</sup> under the Act with respect to Currency Trust Shares and Commodity Trust Shares that a \$5,000 initial listing fee applies,<sup>5</sup> and the Exchange believes it is appropriate to include such fee in the Exchange's Listing Fee schedule in Section 902.07.

#### Annual Fees

The Exchange currently imposes a flat Annual Fee of \$2,000 for each series of ICUs listed on the Exchange. The Exchange has previously specified in its filings pursuant to Rule 19b-4 with respect to streetTRACKS® Gold Shares, Currency Trust Shares and Commodity Trust Shares that a \$2,000 annual fee applies,<sup>6</sup> and the Exchange believes it is appropriate to include the Annual Fee, as proposed to be amended, in the Exchange's Listing Fee schedule in Section 902.07.

The proposed Annual Fee will be tiered based on the number of shares outstanding of each issue of ICUs, Currency Trust Shares or Commodity Trust Shares, and to streetTRACKS® Gold Shares as follows:

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<sup>3</sup> The Commission approved Exchange listing of streetTRACKS® Gold Shares in Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR-NYSE-2004-22). The Exchange indicated in such filing that the listing fee for the streetTRACKS® Gold Trust was \$5,000.

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

<sup>5</sup> See, e.g., Securities Exchange Act Release No. 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR-NYSE-2006-35) (Listing of Six CurrencyShares Trusts).

<sup>6</sup> Id.

Number of Shares Outstanding (each issue)	Annual Fee
Less than 25 million	\$2,000
25 million up to 50 million	\$4,000
50 million up to 99,999,999	\$8,000
100 million up to 249,999,999	\$15,000
250 million up to 499,999,999	\$20,000
500 million and over	\$25,000

The Annual Fee will be billed each calendar quarter and will be apportioned based on the number of shares outstanding for an issue at the end of the preceding calendar quarter, as described below.

The Listing Fee schedule for ICUs is not being changed as to amount, but would be amended to include application of the \$5,000 Listing Fee to specified securities other than ICUs. The revised Annual Fee will be billed quarterly in arrears effective as of January 1, 2007. As such, billing for the first calendar quarter of 2007 will be based on the number of shares outstanding for an issue on March 30, 2007. For example, for an issue with 45 million shares outstanding on March 30, 2007, the Annual Fee payable for the quarter would be \$1,000 (\$4,000 Annual Fee divided by 4). If, at the end of the second calendar quarter of 2007, the number of shares outstanding for such issue increased to 55 million, the Annual Fee payable for such quarter would be \$2,000 (\$8,000 Annual Fee divided by 4). The Exchange believes it is appropriate to apply the revised Annual Fees to issuers of the specified securities as of January 1, 2007 to permit the Exchange to apply the fee in the same manner to all such issuers, including those listed on the Exchange in the first quarter of 2007.

The Exchange further proposes to amend Section 902.02 of the Manual (General Information on Fees) to specify: (1) that the fees set forth in Section 902 are also

applicable to ICUs, streetTRACKS® Gold Shares, Currency Trust Shares and Commodity Trust Shares; (2) that Listing Fees are based on the number of shares issued and outstanding, with the exception of ICUs, streetTRACKS® Gold Shares, Currency Trust Shares, and Commodity Trust Shares; (3) that Annual Fees are calculated on a per share basis, with the exception of ICUs, streetTRACKS® Gold Shares, Currency Trust Shares, and Commodity Trust Shares; and (4) that the \$500,000 per year fee cap in Section 902.02 does not apply to ICUs, streetTRACKS® Gold Shares, Currency Trust Shares, and Commodity Trust Shares. Section 902.03 of the Manual (Fees for Listed Equity Securities) is proposed to be amended to specify that such section does not apply to streetTRACKS® Gold Shares, Currency Trust Shares, and Commodity Trust Shares (in addition to ICUs, closed-end funds, structured products, and short-term securities.)

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act<sup>7</sup> that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities.

### 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>7</sup> 15 U.S.C. 78f(b)(4).

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

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 at <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-NYSE-2007-01 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 No. SR-NYSE-2007-01. 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 at <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. 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 No. SR-NYSE-2007-01 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).