

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

1. Purpose

Section 15A(k) of the Exchange Act⁸ makes NFA a national securities association for the limited purpose of regulating the activities of NFA members ("Members") who are registered as brokers or dealers in security futures products under section 15(b)(11) of the Exchange Act.⁹ The amendments to the interpretive notice apply to all Members, including those who are registered as security futures brokers or dealers under section 15(b)(11).

The amendments to NFA's AML Interpretive Notice incorporate the requirements that are imposed by FinCEN's final rule under the BSA as amended by section 312 of the USA Patriot Act and the additional guidance issued by FinCEN.

2. Statutory Basis

The rule change is authorized by, and consistent with, section 15A(k) of the Exchange Act. This Section requires NFA to have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest in connection with security futures products. The proposed rule change accomplishes this by requiring that Members comply with applicable AML requirements and providing guidance on how to achieve such compliance.

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

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act and the CEA. Any burdens imposed by the rule change are already required under Federal laws or regulations.

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

NFA did not publish the rule change to the membership for comment. NFA did not receive comment letters concerning the rule change.

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

NFA, on December 5, 2007, submitted the proposed Interpretive Notice entitled "NFA Compliance Rule 2-9: FCM and IB Anti-Money Laundering Program" to the CFTC for approval. The CFTC approved the rule change on January 15, 2008. On March 17, 2008, NFA submitted a technical amendment to Footnote 22 of the Interpretive Notice entitled "NFA Compliance Rule 2-9: FCM and IB Anti-Money Laundering Program" (correcting a **Federal Register** notice citation) to the CFTC requesting that the CFTC make a determination that review of the technical amendment is not necessary. The CFTC notified the NFA that it has determined not to review the technical amendment for approval.¹⁰

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Exchange Act.¹¹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Exchange 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-NFA-2008-01 on the subject line.

Paper Comments

- Send nine copies of paper comments 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-NFA-2008-01. 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

¹⁰ See letter from Barbara S. Gold, Acting Deputy Director, CFTC to Thomas W. Sexton, III, Esq., General Counsel, NFA dated March 28, 2008.

¹¹ 15 U.S.C. 78s(b)(1).

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 Section, 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 NFA. 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-NFA-2008-01 and should be submitted on or before May 6, 2008.

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. 34-57633; File No. SR-CBOE-2008-39]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Temporary Membership Status Access Fee

April 8, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 31, 2008, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II and III below, which Items have been prepared by CBOE. The Exchange filed the proposal as one establishing or changing a due,

¹² 17 CFR 200.30-3(a)(73).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁸ 15 U.S.C. 78o-3(k).

⁹ 15 U.S.C. 78o(b)(11).

fee, or other charge imposed by the Exchange under Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. 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

CBOE proposes to adjust the monthly access fee for persons granted temporary CBOE membership status ("Temporary Members") pursuant to Interpretation and Policy .02 under CBOE Rule 3.19 ("Rule 3.19.02"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/Legal/>), at the Exchange's Office of the Secretary, 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, CBOE 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. CBOE 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 current access fee for Temporary Members under Rule 3.19.02⁵ is \$8,468 per month and took effect on March 1, 2008. The Exchange proposes to revise the access fee to be \$8,260 per month commencing on April 1, 2008.

The Exchange used the following process to set the proposed access fee: The Exchange polled each of the clearing firms that assists in facilitating at least 10% of the transferable CBOE membership leases and obtained the Clearing Firm Floating Monthly Rate⁶

designated by each of these clearing firms for the month of April 2008. The Exchange then set the proposed access fee at an amount equal to the highest of these Clearing Firm Floating Monthly Rates.

The Exchange used the same process to set the proposed access fee that it used to set the current access fee. The only difference is that the Exchange used Clearing Firm Floating Monthly Rate information for the month of April 2008 to set the proposed access fee (instead of Clearing Firm Floating Monthly Rate information for the month of March 2008 as was used to set the current access fee) in order to take into account changes in Clearing Firm Floating Monthly Rates for the month of April 2008.

The Exchange believes that the process used to set the proposed access fee and the proposed access fee itself are appropriate for the same reasons set forth in CBOE rule filing SR-CBOE-2008-12 in support of that process and the original access fee for Temporary Members under Rule 3.19.02.⁷

The proposed access fee will remain in effect until such time either that the Exchange submits a further rule filing pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ to modify the proposed access fee or the Temporary Membership status under Rule 3.19.02 is terminated. Accordingly, the Exchange may further adjust the proposed access fee in the future if the Exchange determines that it would be appropriate to do so taking into consideration lease rates for transferable CBOE memberships prevailing at that time.

The procedural provisions of the CBOE Fee Schedule related to the assessment of the proposed access fee are not proposed to be changed and will remain the same as the current procedural provisions regarding the assessment of the current access fee.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act,¹⁰ in particular, in that it is designed to provide for the equitable allocation of

firm assisted in facilitating, for leases that utilize that floating monthly rate.

⁷ See Securities Exchange Act Release No. 57293 (February 8, 2008), 73 FR 8729 (February 14, 2008) (SR-CBOE-2008-12), which established the original access fee for Temporary Members under Rule 3.19.02, for detail regarding the rationale in support of the original access fee and the process used to set that fee, which is also applicable to this proposed rule change as well.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

reasonable dues, fees, and other charges among persons using its facilities.

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

CBOE 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 either solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(2) thereunder.¹² At any time within 60 days of the filing of such 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 the 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-CBOE-2008-39 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-CBOE-2008-39. This file number should be included on the subject line if e-mail is used. To help the

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ See Securities Exchange Act Release No. 56458 (September 18, 2007), 72 FR 54309 (September 24, 2007) (SR-CBOE-2007-107) for a description of the Temporary Membership status under Rule 3.19.02.

⁶ The term "Clearing Firm Floating Monthly Rate" refers to the floating monthly rate that a clearing firm designates, in connection with transferable membership leases that the clearing

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(2).

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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of CBOE. 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 SR-CBOE-2008-39 and should be submitted on or before May 6, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57636; File No. SR-NYSEArca-2008-09]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change, and Amendment No. 1 Thereto, Relating to the Listing and Trading of Shares of the AirShares™ EU Carbon Allowances Fund

April 8, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 14, 2008, NYSE Arca, Inc. ("NYSE Arca" or "Exchange"), through its wholly owned subsidiary, NYSE Arca Equities, Inc. ("NYSE Arca Equities"), filed with the

Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On April 4, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to adopt new NYSE Arca Equities Rule 8.204 (Commodity Futures Trust Shares) and to list and trade shares ("Shares") of the AirShares™ EU Carbon Allowances Fund ("Fund") pursuant to the proposed rule. 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 these 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 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 adopt new NYSE Arca Equities Rule 8.204 to permit the listing and trading, or trading pursuant to unlisted trading privileges ("UTP"), of shares issued by a trust that is a commodity pool, as defined in the Commodity Exchange Act ("CEA") and regulations thereunder, and that is managed by a commodity pool operator ("CPO") registered with the Commodity Futures Trading Commission ("CFTC"). Such shares would hold long positions in futures contracts on a specified commodity or interests in a commodity pool which, in turn, would hold such long positions. In addition, such shares would be issuable and redeemable daily in specified aggregate amounts at net

asset value ("NAV").³ The Exchange also proposes to amend NYSE Arca Equities Rule 7.34 (Trading Sessions) to reference the securities described in proposed NYSE Arca Equities Rule 8.204. Additionally, the Exchange proposes to amend its listing fees by incorporating the securities described in proposed NYSE Arca Equities Rule 8.204 in the term "Derivative Securities Products."

Further, pursuant to this proposed rule change, the Exchange proposes to list and trade the Shares of the Fund. The Shares, which represent ownership of a fractional undivided beneficial interest in the net assets of the Fund, will conform to the initial and continued listing criteria under proposed NYSE Arca Equities Rule 8.204. The Fund is a commodity pool, as defined in the CEA and the applicable rules of the CFTC, and was formed as a Delaware statutory trust on August 13, 2007.⁴ XShares Advisors LLC, a Delaware limited liability company, will serve as sponsor of the Fund ("Sponsor"). The Sponsor was formed on March 15, 2006, is a wholly owned subsidiary of XShares Group LLC, a Delaware limited liability company, and will serve as the CPO of the Fund. The Sponsor will be registered as a CPO with the CFTC and will be a member of the National Futures Association ("NFA") prior to the commencement of operations of the Fund.

³ The Commission has approved similar NYSE Arca Equities rules to list and trade products based on or related to commodities. *See* Securities Exchange Act Release Nos. 54025 (June 21, 2006), 71 FR 36856 (June 28, 2006) (SR-NYSEArca-2006-12) (approving new NYSE Arca Equities Rule 8.203 "Commodity-Indexed Trust Shares" for trading pursuant to UTP the iShares GSCI Commodity-Indexed Trust); 51067 (January 21, 2005), 70 FR 3952 (January 27, 2005) (SR-PCX-2004-132) (approving new NYSE Arca Equities Rule 8.201 "Commodity-Based Trust Shares" for trading pursuant to UTP the iShares COMEX Gold Trust); 56041 (July 11, 2007), 72 FR 39114 (July 17, 2007) (SR-NYSEArca-2007-43) (approving listing of shares of iShares COMEX Gold Trust pursuant to NYSE Arca Equities Rule 8.201); 53875 (May 25, 2006), 71 FR 32164 (June 2, 2006) (SR-NYSEArca-2006-11) (approving new NYSE Arca Equities Rule 8.300 "Partnership Shares" for trading pursuant to UTP the United States Oil Fund, LP); and 53736 (April 27, 2006), 71 FR 26582 (May 5, 2006) (SR-PCX-2006-22) (approving new Commentary .02 to NYSE Arca Equities Rule 8.200 "Investment Shares" for trading pursuant to UTP the DB Commodity Index Tracking Fund).

⁴ The Fund is not an investment company registered under the Investment Company Act of 1940, according to the Registration Statement on Form S-1 for the Fund, which was filed with the Commission on December 14, 2007 (File No. 333-145448) ("Registration Statement"). The information in this proposed rule change is based upon representations in the Registration Statement.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.