

## OMB APPROVAL

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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. SR - 2007 - 44  
Amendment No.

Proposed Rule Change by Chicago Board Options Exchange  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>			Date Expires <input type="text"/>		
			<input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		

Exhibit 2 Sent As Paper Document  
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Exhibit 3 Sent As Paper Document  
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**Description**

Provide a brief description of the proposed rule change (limit 250 characters).

Filing to trade GLD via UTP.

**Contact Information**

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name  Last Name   
Title   
E-mail   
Telephone  Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date

By

(Name)

Assistant Secretary

(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

 Angelo Evangelou=evangelo@cboe.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of the Proposed Rule Change**

The Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") proposes to (1) trade on its stock trading facility, CBOE Stock Exchange ("CBSX"), the streetTRACKS Gold Shares ("GLD" or "Shares") pursuant to unlisted trading privileges, and (2) adopt Exchange Rule 54.8, which governs the trading of commodity-based trust shares.

Set forth below are proposed changes to the rule text, with additions represented by underscoring and deletions represented by [bracketing].

Chicago Board Options Exchange, Incorporated  
Rules

\* \* \* \* \*

Rule 54.8 - Special Provisions for Commodity-Based Trust Shares

RULE 54.8(a) The Exchange will consider for trading, pursuant to unlisted trading privileges, Commodity-Based Trust Shares that meet the criteria of this Rule.

(b) Applicability. This Rule is applicable only to Commodity-Based Trust Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, all Rules shall be applicable to the trading on CBSX of such securities. Commodity-Based Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Rules.

(c) Definitions. The following terms shall, unless the context otherwise requires, have the meaning herein specified:

(1) Commodity-Based Trust Shares. The term "Commodity-Based Trust Shares" means a security (a) that is issued by a trust ("Trust") that holds a specified commodity deposited with the Trust; (b) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity.

(2) Commodity. The term “commodity” is defined in Section 1(a)(4) of the Commodity Exchange Act.

(d) Information Barriers. No member acting as a Market-Maker and no partner, officer, director, Associated Person or employee of such member shall act as a market maker or function in any capacity involving market making responsibilities in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivative, except that an Associated Person of the member firm acting as a Market-Maker in Commodity-Based Trust Shares may act in a market making capacity, other than as a market maker in Commodity-Based Trust Shares on another market center, in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivative, so long as the Associated Person obtains prior written consent from the Exchange that the Associated Person and the member acting as Market-Maker (the “Market-Maker Member”) have established procedures that are sufficient to restrict the flow of privileged information between the Associated Person and the Market-Maker Member (“Information Barriers”).

These Information Barriers (i) must provide for the organizational separation of the Associated Person and the Market-Maker Member; (ii) must ensure that the Associated Person does not exert influence over the Market-Maker Member; (iii) must ensure that information relating to each entity’s stock positions, trading activities, and clearing and margin arrangements is not improperly shared (except with persons in senior management who are involved in exercising general managerial oversight of one or both entities); (iv) must require the Associated Person and the Market-Maker Member to maintain separate books and records (and separate financial accounting); (v) must require each entity to separately meet all required capital requirements; (vi) must ensure the confidentiality of the Market-Maker’s book as provided by Exchange rules; and (vii) must ensure that any other material, non-public information (such as information related to any business transactions between the Associated Person and the issuer of Commodity-Based Trust Shares or any research reports or recommendations issued by the Associated Person) is not made improperly available to the Market-Maker Member, its officers, directors, partners or employees in any manner that would allow the Market-Maker Member to take undue advantage of that information in the trading of Commodity-Based Trust Shares. The Market-Maker Member and the Associated Person must submit the proposed Information Barriers in writing to the Exchange and the Exchange will not approve any exemption from the requirements of Rule 54.8(d) until it has determined that the Information Barriers are acceptable to the Exchange.

(e) Market-Maker Accounts. A member acting as a registered Market-Maker in Commodity-Based Trust Shares must file with the Exchange, in a manner prescribed by the Exchange, and keep current, a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, that the Market-Maker may have or over which it may

exercise investment discretion. No Market-Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a Market-Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, that has not been reported as required by this Rule.

(f) The member acting as a registered Market-Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity, or registered or non-registered employee affiliated with such entity, for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.

(g) In connection with trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivative (including Commodity-Based Trust Shares), the member acting as a Market-Maker in Commodity-Based Trust Shares shall not use any material nonpublic information received from any person associated with the member or employee of such person regarding trading by such person or employee in the physical commodity, commodity futures or options on commodity futures, or any other related commodity derivatives.

(h) The Exchange requires that members provide all purchasers of newly issued Commodity-Based Trust Shares a prospectus for the series of Commodity-Based Trust Shares.

\* \* \* \* \*

## **2. Procedures of the Self-Regulatory Organization**

(a) CBOE's Office of the Chairman, pursuant to delegated authority, approved the proposed rule change on May 2, 2007. No further action is required.

(b) Please refer questions and comments on the proposed rule change to Joanne Moffic-Silver, General Counsel, CBOE, 400 South LaSalle, Chicago, IL 60605, (312) 786-7462 or Angelo Evangelou, (312) 786-7464.

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

### **I. Purpose**

The Exchange is proposing to trade the streetTRACKS Gold Shares ("Shares") on CBSX pursuant to unlisted trading privileges ("UTP"). The Shares represent fractional, undivided beneficial ownership interests in the streetTRACKS Gold Trust ("Trust"). The Trust is an investment trust, the sole assets of which are gold bullion, and from time to time, cash.<sup>1</sup> The Commission previously approved the original listing and trading of the Shares on the New York Stock Exchange.<sup>2</sup> The Exchange deems the Shares to be an equity security, 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 would be from 8:15 a.m. until 3:15 p.m. (Central Time).

The global trade in gold consists of over-the-counter transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options. The NYSE Listing Order contains descriptions of the key components of the gold market.

The last sale price for the Shares is disseminated over the Consolidated Tape. Gold pricing information based on the spot price for a troy ounce of gold from various financial information service providers, such as Reuters and Bloomberg, is available on a 24-hour basis. Complete real-time data for gold futures and options prices traded on the COMEX (a division of the NYMEX) is available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures and options information on

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<sup>1</sup> Additional information regarding the streetTRACKS Gold Shares is at <http://www.streettracksgoldshares.com/index.php?noMsg=true>.

<sup>2</sup> See Exchange Act Release No. 34-50603 (October 28, 2004), 69 FR 64614 (November 5, 2004).

current and past trading sessions and market news free of charge on its website. CBOE, via a link from its own public website ([www.cboe.com](http://www.cboe.com)) to the Trust website ([www.streettracksgoldshares.com](http://www.streettracksgoldshares.com)), will provide at no charge continuously updated bids and offers indicative of the spot price of gold.<sup>3</sup>

The Trust website also will provide a calculation of the estimated NAV (also known as the Intraday Indicative Value or IIV) of a Share as calculated by multiplying the indicative spot price of gold by the quantity of gold backing each Share. Comparing the IIV with the last sale price of the Shares helps an investor to determine whether, and to what extent, Shares may be selling at a premium or a discount to the NAV. Although provided free of charge, the indicative spot price and IIV per Share will be provided on an essentially real-time basis.<sup>4</sup> The Trust website provides the NAV of the Trust as calculated each business day by the Sponsor. In addition, the Trust website contains the following information, on a per-Share basis, for the Trust: (a) the IIV as of the close of the prior business day and the midpoint of the bid/ask price<sup>5</sup> in relation to such IIV ("Bid/Ask Price"), and a calculation of the premium or discount of such price against such IIV; and (b) data in chart format displaying the frequency distribution of discounts

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<sup>3</sup> The gold spot price at the Trust's website will be provided by The Bullion Desk (<http://www.thebulliondesk.com>). The Trust's website will indicate that there are other sources for obtaining the gold spot price. In the event that the Trust's website should cease to provide this indicative spot price from an unaffiliated source (and the intraday indicative value) of the Shares, CBOE will cease to trade the Shares.

<sup>4</sup> The Trust's website, to which the CBOE website will link, will disseminate an indicative spot price of gold and the IIV, and indicate that these values are subject to an average delay of five to ten seconds.

<sup>5</sup> The bid/ask price is determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day IIV.

and premiums of the Bid/Ask Price against the IIV, within appropriate ranges, for each of the four previous calendar quarters. The Trust Website also provides the Trust's prospectus, as well as the two most recent reports to stockholders. The Trust Website provides the last sale price of the Shares as traded in the U.S. market, subject to a 20-minute delay.<sup>6</sup>

In connection with the trading of the Shares, CBOE would inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares, such as loss, damage, or theft of the Trust's gold, and unanticipated problems related to the mechanisms and procedures that were specifically developed for this relatively new securities product. CBOE also would require its members to deliver a prospectus or product description to investors purchasing Shares prior to or concurrently with a transaction in Shares. In addition, CBOE Rule 53.6 requires member organizations to have a reasonable basis for recommending the Shares when recommending a transaction in the Shares.

CBOE believes that its surveillance procedures are adequate to address any concerns about the trading of the Shares on the Exchange because those procedures will be comparable to those used for exchange-traded funds and trust issued receipts currently trading on the Exchange and will incorporate and rely upon existing Exchange surveillance procedures governing equities. In addition, for intermarket surveillance purposes, the Exchange has entered into a reciprocal Memorandum of Understanding

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<sup>6</sup> The last sale price of the Shares in the secondary market is available on a real-time basis for a fee from regular data vendors.



with NYMEX for the sharing of information related to any financial instrument based, in whole or in part, upon an interest in or performance of gold.

Further, the proposed CBOE Rule 54.8 sets forth certain restrictions on Market-Makers that will apply in connection with trading the Shares in order to facilitate surveillance. CBOE Rule 54.8(e) requires that a Market-Maker in the Shares provide the Exchange with information related to its trading in physical gold, gold futures contracts, options on gold futures, or any other gold derivatives. CBOE Rule 54.8(g) prohibits Market-Makers in the Shares from using any material non-public information received from any person associated with a Market-Maker or employee of such person regarding trading by such person or employee in physical gold, gold futures contracts, options on gold futures, or any other gold derivatives. In addition, CBOE Rule 54.8(d) prohibits Market-Makers in the Shares from being affiliated with a market maker in physical gold, gold futures contracts, options on gold futures, or any other gold derivatives unless the specified information barriers are in place.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a fund. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. In addition, trading in the Shares would be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.<sup>7</sup>

Moreover, the Exchange represents that it would cease trading the Shares of a

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<sup>7</sup> CBOE Rule 6.3B.

Fund if the listing market stops trading the Shares because of a regulatory halt similar to a halt based on CBOE Rule 6.3. UTP trading in the Shares is also governed by the trading halts provisions of CBOE Rule 52.3 relating to temporary interruptions in the calculation or wide dissemination of the IIV.

## II. Statutory Basis

CBOE believes that the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act")<sup>8</sup> and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>9</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirements that an exchange have rules that are designed 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 to protect investors and the public interest.

### **4. 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.

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

The Exchange neither solicited nor received comments on the proposal.

### **6. Extension of Time Period for Commission Action**

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<sup>8</sup> 15 U.S.C. 78a et seq.

<sup>9</sup> 15 U.S.C. 78(f)(b).

<sup>10</sup> 15 U.S.C. 78(f)(b)(5).

CBOE does not consent to an extension of the time-period for Commission action.

**7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

The Exchange requests that the Commission find good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the 30<sup>th</sup> day after publication of the proposed rule change in the Federal Register. GLD has an established and active trading history on the NYSE and other exchanges, and presents no novel issues for the Commission to consider.

**8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**9. Exhibits**

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-CBOE-2007-44)

[date]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange to Trade the streetTRACKS Gold Shares Fund Pursuant to Unlisted Trading Privileges

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 May 4, 2007, the Chicago Board Options Exchange ("CBOE" or "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 prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposal from interested persons and to approve the proposal on an accelerated basis.

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

The Chicago Board Options Exchange, Incorporated proposes to (1) trade on its stock trading facility, CBOE Stock Exchange ("CBSX"), the streetTRACKS Gold Shares ("GLD" or "Shares") pursuant to unlisted trading privileges, and (2) adopt Exchange Rule 54.8, which governs the trading of commodity-based trust shares. The text of the proposed rule change is available from the Exchange's website (<http://www.cboe.org/Legal>), at the principal office of the Exchange, 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

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

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

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, 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 is proposing to trade the streetTRACKS Gold Shares ("Shares") on CBSX pursuant to unlisted trading privileges ("UTP"). The Shares represent fractional, undivided beneficial ownership interests in the streetTRACKS Gold Trust ("Trust"). The Trust is an investment trust, the sole assets of which are gold bullion, and from time to time, cash.<sup>3</sup> The Commission previously approved the original listing and trading of the Shares on the New York Stock Exchange.<sup>4</sup> The Exchange deems the Shares to be an equity security, 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 would be from 8:15 a.m. until 3:15 p.m. (Central Time).

The global trade in gold consists of over-the-counter transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options. The NYSE Listing Order contains descriptions of the key components of the gold market.

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<sup>3</sup> Additional information regarding the streetTRACKS Gold Shares is at <http://www.streettracksgoldshares.com/index.php?noMsg=true>.

<sup>4</sup> See Exchange Act Release No. 34-50603 (October 28, 2004), 69 FR 64614 (November 5, 2004).

The last sale price for the Shares is disseminated over the Consolidated Tape. Gold pricing information based on the spot price for a troy ounce of gold from various financial information service providers, such as Reuters and Bloomberg, is available on a 24-hour basis. Complete real-time data for gold futures and options prices traded on the COMEX (a division of the NYMEX) is available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures and options information on current and past trading sessions and market news free of charge on its website. CBOE, via a link from its own public website ([www.cboe.com](http://www.cboe.com)) to the Trust website ([www.streettracksgoldshares.com](http://www.streettracksgoldshares.com)), will provide at no charge continuously updated bids and offers indicative of the spot price of gold.<sup>5</sup>

The Trust website also will provide a calculation of the estimated NAV (also known as the Intraday Indicative Value or IIV) of a Share as calculated by multiplying the indicative spot price of gold by the quantity of gold backing each Share. Comparing the IIV with the last sale price of the Shares helps an investor to determine whether, and to what extent, Shares may be selling at a premium or a discount to the NAV. Although provided free of charge, the indicative spot price and IIV per Share will be provided on an essentially real-time basis.<sup>6</sup> The Trust website provides the NAV of the Trust as calculated each business day by the Sponsor. In addition, the Trust website contains the

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<sup>5</sup> The gold spot price at the Trust's website will be provided by The Bullion Desk (<http://www.thebulliondesk.com>). The Trust's website will indicate that there are other sources for obtaining the gold spot price. In the event that the Trust's website should cease to provide this indicative spot price from an unaffiliated source (and the intraday indicative value) of the Shares, CBOE will cease to trade the Shares.

<sup>6</sup> The Trust's website, to which the CBOE website will link, will disseminate an indicative spot price of gold and the IIV, and indicate that these values are subject to an average delay of five to ten seconds.

following information, on a per-Share basis, for the Trust: (a) the IIV as of the close of the prior business day and the midpoint of the bid/ask price<sup>7</sup> in relation to such IIV (“Bid/Ask Price”), and a calculation of the premium or discount of such price against such IIV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the IIV, within appropriate ranges, for each of the four previous calendar quarters. The Trust Website also provides the Trust's prospectus, as well as the two most recent reports to stockholders. The Trust Website provides the last sale price of the Shares as traded in the U.S. market, subject to a 20-minute delay.<sup>8</sup>

In connection with the trading of the Shares, CBOE would inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares, such as loss, damage, or theft of the Trust's gold, and unanticipated problems related to the mechanisms and procedures that were specifically developed for this relatively new securities product. CBOE also would require its members to deliver a prospectus or product description to investors purchasing Shares prior to or concurrently with a transaction in Shares. In addition, CBOE Rule 53.6 requires member organizations to have a reasonable basis for recommending the Shares when recommending a transaction in the Shares.

CBOE believes that its surveillance procedures are adequate to address any concerns about the trading of the Shares on the Exchange because those procedures will

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<sup>7</sup> The bid/ask price is determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day IIV.

<sup>8</sup> The last sale price of the Shares in the secondary market is available on a real-time basis for a fee from regular data vendors.

be comparable to those used for exchange-traded funds and trust issued receipts currently trading on the Exchange and will incorporate and rely upon existing Exchange surveillance procedures governing equities. In addition, for intermarket surveillance purposes, the Exchange has entered into a reciprocal Memorandum of Understanding with NYMEX for the sharing of information related to any financial instrument based, in whole or in part, upon an interest in or performance of gold.

Further, the proposed CBOE Rule 54.8 sets forth certain restrictions on Market-Makers that will apply in connection with trading the Shares in order to facilitate surveillance. CBOE Rule 54.8(e) requires that a Market-Maker in the Shares provide the Exchange with information related to its trading in physical gold, gold futures contracts, options on gold futures, or any other gold derivatives. CBOE Rule 54.8(g) prohibits Market-Makers in the Shares from using any material non-public information received from any person associated with a Market-Maker or employee of such person regarding trading by such person or employee in physical gold, gold futures contracts, options on gold futures, or any other gold derivatives. In addition, CBOE Rule 54.8(d) prohibits Market-Makers in the Shares from being affiliated with a market maker in physical gold, gold futures contracts, options on gold futures, or any other gold derivatives unless the specified information barriers are in place.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a fund. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. In addition, trading in the Shares would be



subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.<sup>9</sup>

Moreover, the Exchange represents that it would cease trading the Shares of a Fund if the listing market stops trading the Shares because of a regulatory halt similar to a halt based on CBOE Rule 6.3. UTP trading in the Shares is also governed by the trading halts provisions of CBOE Rule 52.3 relating to temporary interruptions in the calculation or wide dissemination of the IIV.

## 2. Statutory Basis

CBOE believes that the proposal is consistent with Section 6(b) of the Act<sup>10</sup> in general, and Section 6(b)(5) of the Act<sup>11</sup> in particular, in that the proposal is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. In addition, CBOE believes that the proposal is consistent with Rule 12f-5 under the Act<sup>12</sup> because it deems the Shares to be an equity security, thus rendering trading in 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

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

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<sup>9</sup> CBOE Rule 6.3B.

<sup>10</sup> 15 U.S.C. 78s(b).

<sup>11</sup> 15 U.S.C. 78s(b)(5).

<sup>12</sup> 17 CFR 240.12f-5.

The Exchange neither solicited nor received comments on the proposal.

### 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 Number SR-CBOE-2007-44 on the subject line.

#### Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2007-44. 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 website (<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. 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-CBOE-2007-44 and should be submitted on or before [insert date 21 days from publication in the Federal Register].