



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67965; SR-NYSEArca-2012-28)

October 2, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to List and Trade Shares of the JPM XF Physical Copper Trust Pursuant to NYSE Arca Equities Rule 8.201

On April 2, 2012, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) 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,² a proposed rule change to list and trade shares (“Shares”) of JPM XF Physical Copper Trust (“Trust”) pursuant to NYSE Arca Equities Rule 8.201. The proposed rule change was published for comment in the Federal Register on April 20, 2012.³

The Commission initially received one comment letter, which opposed the proposed rule change.⁴ On May 30, 2012, the Commission extended the time period for Commission action to July 19, 2012.⁵ On June 19, 2012, NYSE Arca submitted a letter in support of its proposal.⁶ On July 13, 2012, V&F submitted a second comment letter opposing the proposed rule change.⁷ On

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 66816 (April 16, 2012), 77 FR 23772.

⁴ See letter from Vandenberg & Feliu, LLP (“V&F”), received May 9, 2012. All of the comment letters received by the Commission are available at <http://www.sec.gov/comments/sr-nysearca-2012-28/nysearca201228.shtml>.

⁵ See Securities Exchange Act Release No. 67075, 77 FR 33258 (June 5, 2012).

⁶ See letter from Janet McGinness, General Counsel, NYSE Markets, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated June 19, 2012.

⁷ See letter from Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated July 13, 2012.

July 16, 2012, United States Senator Carl Levin submitted a comment letter opposing the proposed rule change.⁸ Additionally, on July 19, 2012, the Commission received a comment letter from another party opposing the proposed rule change.⁹

The Commission initiated proceedings on July 19, 2012, to determine whether to approve or disapprove the proposed rule change.¹⁰ In the Order Instituting Proceedings, the Commission solicited responses to specified questions.¹¹ The initial comments for the proceeding were due on August 24, 2012, and the Commission received four comment letters;¹² rebuttal comments were due on September 10, 2012, and the Commission received two comment letters.¹³ The Commission received an additional comment letter on September 12, 2012.¹⁴

⁸ See letter from U.S. Senator Carl Levin, to Elizabeth M. Murphy, Secretary, Commission, dated July 16, 2012.

⁹ See web comment from Suzanne H. Shatto.

¹⁰ See Securities Exchange Act Release No. 67470, 77 FR 43620 (July 25, 2012) (“Order Instituting Proceedings”).

¹¹ See *id.* at 43626–28.

¹² See letters from Janet McGinness, General Counsel, NYSE Markets, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated August 23, 2012; Joe Williamson, Senior Vice President, Strategic Sourcing, Southwire Company; Janet Sander, Vice President, Director of Purchasing, Encore Wire Corporation; Ron Beal, Executive Vice President, Tubes Division, Luvata; and Mark Woehnkler, President, Amrod Corp., to Elizabeth M. Murphy, Secretary, Commission, dated August 23, 2012; Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated August 24, 2012; and John G. Crowley, Davis Polk & Wardwell LLP (“DP”), to Elizabeth M. Murphy, Secretary, Commission, dated August 24, 2012.

¹³ See letter from Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated September 10, 2012; and letter from John G. Crowley, DP, to Elizabeth M. Murphy, Secretary, Commission, dated September 10, 2012.

¹⁴ See letter from John G. Crowley, DP, to Elizabeth M. Murphy, Secretary, Commission, dated September 12, 2012.

Section 19(b)(2) of the Act¹⁵ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on April 20, 2012. The 180th day after publication of the notice of the filing of the proposed rule change in the Federal Register is October 17, 2012.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, the issues raised in the comment letters that have been submitted in response to the proposed rule change, including comment letters submitted in response to the Order Instituting Proceedings, and the Exchange's responses to such comments. The Commission also finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the data that has been provided by the commenters to support their positions.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁶ designates December 14, 2012, as the date by which the Commission should either approve or disapprove the proposed rule change (SR-NYSEArca-2012-28).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2012-24740 Filed 10/05/2012 at 8:45 am; Publication Date: 10/09/2012]

¹⁷ 17 CFR 200.30-3(a)(57).