

of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Rule 17d-1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81918; File No. SR-NYSEArca-2017-98]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Shares of The Gold Trust Under NYSE Arca Rule 8.201-E

October 23, 2017.

I. Introduction

On August 30, 2017, NYSE Arca, Inc. (“NYSE Arca” 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,² a proposed rule change to list and trade shares of The Gold Trust under NYSE Arca Rule 8.201-E. The proposed rule change was published for comment in the **Federal Register** on September 15, 2017.³ On September 28, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ The Commission has not

received any comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

II. The Description of the Proposed Rule Change, as Modified by Amendment No. 1⁵

The Exchange proposes to list and trade shares (“Shares”) of The Gold Trust (“Trust”), a series of the World Currency Gold Trust (“WCGT”),⁶ under NYSE Arca Rule 8.201-E.⁷ NYSE Arca Rule 8.201-E governs the listing and trading, or trading pursuant to unlisted trading privileges, of Commodity-Based Trust Shares on the Exchange.⁸

The investment objective of the Trust is for the Shares to reflect the performance of the price of gold bullion, less the expenses of the Trust’s operations. The Trust will not trade in gold futures, options, or swap contracts on any futures exchange or over the counter. The Trust will not hold or trade in commodity futures contracts,

(“ISG”); (2) stated that the net asset value (“NAV”) of the Trust will be published by the Sponsor (as defined herein) by 5:30 p.m., Eastern time on each day that the NYSE Arca is open for regular trading and will be posted on the Trust’s Web site; (3) clarified that the intraday indicative value (“IIV”) per Share for the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange’s Core Trading Session (as defined in the Exchange’s rules); and (4) stated that the Web site for the Trust will provide the two most recent reports to stockholders. Amendment No. 1 also made non-substantive, technical amendments. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-nysearca-2017-98/nysearca201798-2614707-161129.pdf>. Amendment No. 1 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

⁵ A more detailed description of the Trust and the Shares, as well as investment risks, creation and redemption procedures, NAV calculation, availability of information and fees, among other things, is included in the Registration Statement, *infra* note 7, and in Amendment No. 1, *supra* note 4.

⁶ According to the Exchange, WCGT is a Delaware statutory trust consisting of multiple series, each of which issues common units of beneficial interest, which represent units of fractional undivided beneficial interest in and ownership of such series. The term of WCGT and each series will be perpetual (unless terminated earlier in certain circumstances).

⁷ On August 29, 2017, WCGT submitted to the Commission its draft registration statement on Form S-1 with respect to the Trust (“Registration Statement”) under the Securities Act of 1933 (“1933 Act”).

⁸ A “Commodity-Based Trust Share” is a security (a) that is issued by a 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. See NYSE Arca Rule 8.201-E(c)(1).

commodity interests, or any other instruments regulated by the Commodity Exchange Act. The Trust will take delivery of physical gold that complies with the London Bullion Market Association (“LBMA”) gold delivery rules. According to the Exchange, the Shares, which are Commodity Based Trust Shares, will represent investors’ discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

The sponsor of the Trust is WGC USA Asset Management Company, LLC (“Sponsor”). The sole trustee of WCGT is Delaware Trust Company. BNY Mellon Asset Servicing, a division of The Bank of New York Mellon (“BNYM”), will be the Trust’s administrator and transfer agent. BNYM will serve as the custodian of the Trust’s cash, if any. A bank will serve as the custodian of the Trust’s gold.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange’s proposed rule change, as modified by Amendment No. 1, to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.⁹ In particular, the Commission finds that the proposal, as modified by Amendment No. 1, is consistent with Section 11A(a)(1)(C)(iii) of the Act,¹⁰ 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. The last-sale price for the Shares will be disseminated over the Consolidated Tape. According to the Exchange, there is a considerable amount of information about gold and gold markets available on public Web sites and through professional and subscription services. Investors may obtain gold pricing information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers.¹¹

⁹ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78k-1(a)(1)(C)(iii).

¹¹ The Exchange states that Reuters and Bloomberg, for example, provide at no charge on their Web sites delayed information regarding the spot price of gold and last sale prices of gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 81568 (Sep. 11, 2017), 82 FR 43417.

⁴ Amendment No. 1 to the proposed rule change replaces and supersedes the original filing in its entirety. In Amendment No. 1, the Exchange: (1) Provided additional information regarding the futures exchanges that trade in gold futures contracts and which of those exchanges are members of the Intermarket Surveillance Group

Additionally, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Exchange Act,¹² which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, 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 the Exchange has surveillance-sharing agreements with significant, regulated markets for trading futures on gold. Specifically, according to the Exchange, (1) the most significant gold futures exchange is COMEX, a subsidiary of New York Mercantile Exchange, Inc., and a subsidiary of the Chicago Mercantile Exchange Group ("CME Group"), and ICE Futures US ("ICE") also lists gold futures;¹³ and (2) the CME Group and ICE are members of the ISG,¹⁴ which will allow NYSE Arca to obtain surveillance information from COMEX and ICE. Both COMEX and ICE are regulated by the U.S. Commodity Futures Trading Commission ("CFTC").¹⁵

The Commission believes that the proposed rule change, as modified by Amendment No. 1, is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately. NYSE Arca Rule 8.201-E(e)(2)(v) requires that an IIV (which is referred to in the rule as the "Indicative Trust Value") be calculated and disseminated at least every 15 seconds. The IIV will be calculated based on the amount of gold held by the Trust and a price of gold derived from updated bids and offers indicative of the spot price of gold. The Exchange states that the IIV relating to the Shares will be widely disseminated

subscribers for a fee that provides information on gold prices directly from market participants. Complete real-time data for gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public Web sites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers. In addition, the LBMA Gold Price is publicly available at no charge at www.lbma.org.uk. See Amendment No. 1, *supra* note 4.

¹² 15 U.S.C. 78f(b)(5).

¹³ See Amendment No. 1, *supra* note 4.

¹⁴ See *id.*

¹⁵ See <https://www.theice.com/futures-us/regulation> ("ICE Futures U.S. is a Designated Contract Market pursuant to the Commodity Exchange Act and regulated by the CFTC."); <http://www.cmegroup.com/market-regulation/rulebook.html> (COMEX is regulated by the CFTC).

by one or more major market data vendors at least every 15 seconds during the Core Trading Session.¹⁶ The NAV of the Trust will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's Web site.¹⁷ The Trust also will publish the following information on its Web site: (1) The mid-point of the bid-ask price at the close of trading ("Bid/Ask Price"), and a calculation of the premium or discount of such price against the NAV; (2) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters; (3) the Trust's prospectus, as well as the two most recent reports to stockholders; and (4) the last-sale price of the Shares as traded in the U.S. market.¹⁸ In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The Commission also believes that the proposal, as modified by Amendment No. 1, is reasonably designed to prevent trading when a reasonable degree of transparency cannot be assured. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.¹⁹ The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily.²⁰ The Exchange may halt trading during the day in which an interruption occurs to the

¹⁶ See Amendment No. 1, *supra* note 4.

¹⁷ See *id.*

¹⁸ See *id.*

¹⁹ See NYSE Arca Rule 7.12-E.

²⁰ See Amendment No. 1, *supra* note 4.

dissemination of the IIV; if the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.²¹

Additionally, the Commission notes that market makers in the Shares would be subject to the requirements of NYSE Arca Rule 8.201-E(g), which allow the Exchange to ensure that they do not use their positions to violate the requirements of Exchange rules or applicable federal securities laws.²²

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

(1) The Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201-E.²³

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.²⁴

(3) The Exchange deems the Shares to be equity securities.²⁵

(4) The Exchange has a general policy prohibiting the distribution of material, non-public information by its employees.²⁶

(5) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.²⁷

²¹ See *id.*

²² Commentary .04 of NYSE Arca Rule 6.3-E requires that an Equity Trading Permit Holder ("ETP Holder") acting as a registered market maker in the Shares, and its affiliates, establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments. See Amendment No. 1, *supra* note 4.

²³ See *id.*

²⁴ See *id.*

²⁵ See *id.* The Commission notes that, as a result, trading of the Shares will be subject to the Exchange's existing rules governing the trading of equity securities.

²⁶ See *id.*

²⁷ See *id.* FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is

(6) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.²⁸

(7) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in creation units (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (6) trading information.²⁹

(8) All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Trust on the Exchange.³⁰

(9) The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing

requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5(m).³¹

This approval order is based on all of the Exchange's representations—including those set forth above and in Amendment No. 1—and the Exchange's description of the Trust.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act³² and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,³³ that the proposed rule change (SR–NYSEArca–2017–98), as modified by Amendment No. 1 be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁴

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81916; File No. PCAOB–2017–01]

Public Company Accounting Oversight Board; Order Granting Approval of Proposed Rules on the Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion, and Departures From Unqualified Opinions and Other Reporting Circumstances, and Related Amendments to Auditing Standards

October 23, 2017.

I. Introduction

On July 19, 2017, the Public Company Accounting Oversight Board (the “Board” or the “PCAOB”) filed with the Securities and Exchange Commission (the “Commission”), pursuant to Section 107(b)¹ of the Sarbanes-Oxley Act of 2002 (the “Sarbanes-Oxley Act”) and Section 19(b)² of the Securities Exchange Act of 1934 (the “Exchange

Act”), a proposal to adopt AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* and related amendments to other auditing standards (collectively, the “Proposed Rules”).³ The Proposed Rules were published for comment in the **Federal Register** on July 28, 2017.⁴ At the time the notice was issued, the Commission extended to October 26, 2017 the date by which the Commission should take action on the Proposed Rules.⁵ The Commission received approximately 50 comment letters in response to the notice.⁶ This order approves the Proposed Rules, which we find to be consistent with the requirements of the Sarbanes-Oxley Act and the securities laws and necessary or appropriate in the public interest or for the protection of investors.

II. Description of the Proposed Rules

On June 1, 2017, the Board adopted AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, which replaces portions of AS 3101, *Reports on Audited Financial Statements*, and re-designates the remaining portions of AS 3101 as AS 3105, *Departures from Unqualified Opinions and Other Reporting Circumstances*. The Proposed Rules will require that the auditor provide new information about the audit that is intended to make the auditor's report

³ The Board originally issued a concept release on these matters in 2011. See *Concept Release on Possible Revisions to PCAOB Standards Related to Reports on Audited Financial Statements and Related Amendments to PCAOB Standards*, PCAOB Release No. 2011–003 (June 21, 2011) (“PCAOB Concept Release”), available at https://pcaobus.org/Rulemaking/Docket034/Concept_Release.pdf. In 2013, the Board issued a proposed rule. See *Proposed Auditing Standards—The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion; The Auditor's Responsibilities Regarding Other Information in Certain Documents Containing Audited Financial Statements and the Related Auditor's Report; and Related Amendments to PCAOB Standards*, PCAOB Release No. 2013–005 (August 13, 2013) (“PCAOB Proposal”), available at https://pcaobus.org/Rulemaking/Docket034/Release_2013-005_ARM.pdf. The Board issued a re-proposal in 2016. See *Proposed Auditing Standard—The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion and Related Amendments to PCAOB Standards*, PCAOB Release No. 2016–003 (May 11, 2016) (“PCAOB Re-proposal”), available at <https://pcaobus.org/Rulemaking/Docket034/Release-2016-003-ARM.pdf>.

⁴ See Release No. 34–81187 (July 21, 2017), 82 FR 35396 (July 28, 2017) available at <https://www.sec.gov/rules/pcaob/2017/34-81187.pdf>.

⁵ See *id.*

⁶ Copies of the comment letters received on the Commission order noticing the Proposed Rules are available on the Commission's Web site at <https://www.sec.gov/comments/pcaob-2017-01/pcaob201701.htm>.

responsible for FINRA's performance under this regulatory services agreement. See *id.*

²⁸ See *id.*

²⁹ See *id.*

³⁰ See *id.*

³¹ See *id.*

³² 15 U.S.C. 78f(b)(5).

³³ 15 U.S.C. 78s(b)(2).

³⁴ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 7217(b).

² 15 U.S.C. 78s(b).