

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61784; File No. SR-DTC-2010-05]

### Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Its Settlement Service Guide as It Relates to the ID Net Service

March 25, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on March 5, 2010, the Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4)<sup>3</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

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

The proposed rule change amends DTC’s rules in order to update its Settlement Service Guide as it relates to the ID Net Service (“ID Net”).

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

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>4</sup>

##### (A) Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On June 2, 2008, the Commission approved a rule change that provided for the settlement of institutional

transactions through a service called ID Net. ID Net enables subscribers to the service to net all eligible affirmed institutional transactions at DTC against Continuous Net Settlement (“CNS”) transactions at the National Securities Clearing Corporation (“NSCC”). ID Net accepts affirmed institutional transactions from clearing agencies, entities exempt from clearing agency registration with the Commission, and “qualified vendors,”<sup>5</sup> and nets the broker-dealer’s affirmed institutional transactions with the broker-dealer’s CNS obligations.

Participation in ID Net is voluntary. Eligibility for ID Net requires that a broker-dealer be a DTC participant and an NSCC member eligible for CNS processing. The custodian bank must be a DTC participant. In addition, eligibility for ID Net processing is based on the underlying security being processed, the type of transaction submitted for processing, and the timing of affirmation. Most equity securities that are eligible for CNS are eligible for ID Net processing. However, DTC initially excluded the following securities from ID Net: (1) Corporate and municipal bonds and unit investment trust issues; (2) new issue securities; (3) securities that are IPO tracked (because the use of omnibus accounts will bypass the tracking system); (4) trades in issues that are currently undergoing a mandatory or voluntary reorganization; (5) trades in CUSIPs with a CNS buy-in; and (6) trades in securities appearing on the SEC’s Regulation SHO list. At its inception, DTC noted that because ID Net was a new service, it was excluding certain securities that could potentially have a relatively high rate of delivery failure or disrupt normal processing of transactions in ID Net in order to ensure that the system ran smoothly. DTC also noted that as its experience with ID Net grew, it would reevaluate the exclusion of certain issues.

Since the implementation of ID Net, the service has operated with minimal disruption, thus allaying the concerns regarding the addition of certain securities previously excluded from the service. In order to enhance processing efficiency and at the request of its participants, DTC is expanding ID Net to allow at DTC’s discretion from time to time to make eligible for ID Net any security that is eligible for CNS processing.

DTC will notify its participants by “Important Notice” of the effective date of this change.

The proposed rule change is consistent with Section 17A of the Act,<sup>6</sup> as amended, and the rules and regulations thereunder applicable to DTC. The proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions by leveraging the capabilities of the DTC system to provide for more streamlined securities deliveries and to extend netting benefits and efficiencies to more ID Net transactions.

##### (B) Self-Regulatory Organization’s Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

##### (C) Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change were not and are not intended to be solicited or received. DTC will notify the Commission of any written comments received by DTC.

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

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(4)<sup>8</sup> thereunder because the proposed rule change effects a change in an existing service of DTC that: (i) Does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of the 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 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

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>3</sup> 17 CFR 240.19b-4(f)(4).

<sup>4</sup> The Commission has modified the text of the summaries prepared by FICC.

<sup>5</sup> The term “qualified vendor” is defined in the rules of the New York Stock Exchange, the National Association of Securities Dealers, and other self-regulatory organizations.

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(4).

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-DTC-2010-05 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-DTC-2010-05. 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 (<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 such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at [http://www.dtcc.com/downloads/legal/rule\\_filings/2010/dtc/2010-05.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2010/dtc/2010-05.pdf). 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-DTC-2010-05 and should be submitted on or before April 21, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-61775; File No. SR-NYSEArca-2010-17]**

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Regarding the Listing of the ProShares Ultra MSCI Mexico Investable Market Fund**

March 24, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on March 18, 2010, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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**

The Exchange, through its wholly-owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities"), proposes to list and trade shares ("Shares") of the following fund of the ProShares Trust ("Trust"): ProShares Ultra MSCI Mexico Investable Market. 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 self-regulatory organization 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 those 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 parts of such statements.

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

##### **1. Purpose**

The Exchange proposes to list and trade the Shares of the following fund under NYSE Arca Equities Rule 5.2(j)(3), the Exchange's listing standards for Investment Company Units ("ICUs");<sup>4</sup> ProShares Ultra MSCI Mexico Investable Market (the "Fund").

The Fund is an "index fund" that seeks to provide daily investment results that, before fees and expenses, correspond to twice (200%) of the daily performance of the MSCI Mexico Investable Market Index ("Index"). The Fund does not seek to achieve its stated objective over a period of time greater than one day.

According to the Trust's Registration Statement,<sup>5</sup> the Index measures the performance of the Mexican equity market. The Index is a capitalization-weighted index that aims to capture 99% of the publicly available total market capitalization. Component companies are adjusted for available float and must meet objective criteria for inclusion in the Index, taking into consideration unavailable strategic shareholdings and limitations to foreign ownership. As of February 26, 2010, the Index was concentrated in the telecommunications services industry group, which comprised 35.84% of the market capitalization of the Index, and included companies with capitalizations between \$124.10 million and 44.68 billion. The average capitalization of the companies comprising the Index was approximately \$5.84 billion.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet all of the "generic" listing requirements of Commentary .01(a)(B) to NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of ICUs based on international or

<sup>4</sup> An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). See NYSE Arca Equities Rule 5.2(j)(3)(A).

<sup>5</sup> See the Trust's Registration Statement on Form N-1A, dated February 26, 2010 (File Nos. 333-89822 and 811-21114) ("Registration Statement").

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a *et seq.*

<sup>3</sup> 17 CFR 240.19b-4.