

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74797; File No. SR-NASDAQ-2015-036)

April 23, 2015

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendments Nos. 1 and 2 Thereto, Relating to the Listing and Trading of the Shares of 18 Eaton Vance NextShares ETMFs of either the Eaton Vance ETMF Trust or the Eaton Vance ETMF Trust II

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that, on April 10, 2015, The NASDAQ Stock Market LLC (“Nasdaq” or the “Exchange”) 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 Exchange. On April 21, 2015, the Exchange filed Amendments Nos. 1 and 2 to the proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendments Nos. 1 and 2 thereto, from interested persons.

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

Nasdaq proposes to list and trade under Nasdaq Rule 5745 (Exchange-Traded Managed Fund Shares) the common shares (“Shares”) of the below-listed exchange-traded managed funds (each, a “Fund,” and collectively, the “Funds”):

Eaton Vance Balanced NextShares™

Eaton Vance Global Dividend Income NextShares™

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 amended and replaced the proposed rule change in its entirety. Amendment No. 2 subsequently amended the proposal to include a new footnote to reflect a website reference.

Eaton Vance Growth NextShares™

Eaton Vance Large-Cap Value NextShares™

Eaton Vance Richard Bernstein All Asset Strategy NextShares™

Eaton Vance Richard Bernstein Equity Strategy NextShares™

Eaton Vance Small-Cap NextShares™

Eaton Vance Stock NextShares™

Parametric Emerging Markets NextShares™

Parametric International Equity NextShares™

Eaton Vance Bond NextShares™

Eaton Vance TABS 5-to-15 Year Laddered Municipal Bond NextShares™

Eaton Vance Floating-Rate & High Income NextShares™

Eaton Vance Global Macro Absolute Return NextShares™

Eaton Vance Government Obligations NextShares™

Eaton Vance High Income Opportunities NextShares™

Eaton Vance High Yield Municipal Income NextShares™

Eaton Vance National Municipal Income NextShares™

Each Fund is a series of either Eaton Vance ETMF Trust or Eaton Vance ETMF Trust II (each, a “Trust,” and together, the “Trusts”). The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at Nasdaq’s principal office, 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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the

places specified in Item IV below. Nasdaq 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 list and trade the Shares of each Fund under Nasdaq Rule 5745, which governs the listing and trading of exchange-traded managed fund shares, as defined in Nasdaq Rule 5745(c)(1), on the Exchange.⁴ Each Trust is registered with the Commission as an open-end investment company and has filed a registration statement on Form N-1A (“Registration Statement”) with the Commission.⁵ Each Fund is a series of a Trust.⁶

Eaton Vance Management will be the investment adviser (“Adviser”) to the Funds. Foreside Fund Services, LLC will be the principal underwriter and distributor of each Fund’s Shares. State Street Bank and Trust Company will act as the administrator, accounting agent,

⁴ The Commission approved Nasdaq Rule 5745 in Securities Exchange Act Release No. 34-73562 (Nov. 7, 2014), 79 FR 68309 (Nov. 14, 2014) (SR-NASDAQ-2014-020). The Funds would be the first exchange-traded managed funds listed on the Exchange.

⁵ See Registration Statements on Form N-1A for the Eaton Vance NextShares Trust dated April 9, 2015 (File Nos. 333-197733 and 811-22982) and for the Eaton Vance NextShares Trust II dated April 9, 2015 (File Nos. 333-197734 and 811-22983). The descriptions of the Funds and the Shares contained herein conform to the Registration Statements.

⁶ The Commission has issued an order granting the Trusts and certain affiliates exemptive relief under the Investment Company Act (the “Exemptive Order”). See Investment Company Act Release No. 31361 (Dec. 2, 2014) (File No. 812-14139). In compliance with Nasdaq Rule 5745(b)(5), which applies to Shares based on an international or global portfolio, the application for exemptive relief under the Investment Company Act states that the Funds will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933, as amended (15 U.S.C. 77a) (“Securities Act”).

custodian and transfer agent to the Funds. Interactive Data Corporation will be the intraday indicative value (“IIV”) calculator to the Funds.

Principal Investment Strategies Applicable to Each Fund

Each Fund will be actively managed and will pursue the various principal investment strategies described below.⁷

Eaton Vance Balanced NextShares™

The investment objective of this Fund is to provide current income and long-term growth of capital. The Fund normally will invest between 50% and 75% of its net assets in equity securities and between 25% and 50% of its net assets in fixed-income securities.

Eaton Vance Global Dividend Income NextShares™

The investment objective of this Fund is to provide current income and long-term growth of capital. The Fund normally will invest primarily in common stocks and, in the adviser’s discretion, preferred stocks of U.S. and foreign companies that pay dividends.

Eaton Vance Growth NextShares™

The investment objective of this Fund is total return. The Fund will invest in a broadly diversified selection of equity securities, seeking companies with above-average growth and financial strength. Under normal market conditions, the Fund will invest primarily in large-cap companies.

Eaton Vance Large-Cap Value NextShares™

The investment objective of this Fund is total return. Under normal market conditions, the Fund will invest primarily in value stocks of large-cap companies.

Eaton Vance Richard Bernstein All Asset Strategy NextShares™

⁷ Additional information regarding the Funds will be available on the public website for the Funds and in the Registration Statements for the Funds. See supra note 5.

The investment objective of this Fund is total return. In seeking its investment objective, the Fund will have flexibility to allocate its assets in markets around the world and among various asset classes, including equity, fixed-income, commodity, currency and cash investments.

Eaton Vance Richard Bernstein Equity Strategy NextShares™

The investment objective of this Fund is total return. Under normal market conditions, the Fund will invest primarily in equity securities and derivative instruments that provide exposure to equity securities.

Eaton Vance Small-Cap NextShares™

The investment objective of this Fund is long-term capital appreciation. The Fund normally will invest primarily in equity securities of small-cap companies.

Eaton Vance Stock NextShares™

The investment objective of this Fund is to achieve long-term capital appreciation by investing in a diversified portfolio of equity securities. The Fund normally will invest primarily in a diversified portfolio of common stocks.

Parametric Emerging Markets NextShares™

The investment objective of this Fund is long-term capital appreciation. The Fund normally will invest primarily in equity securities of companies located in emerging market countries.

Parametric International Equity NextShares™

The investment objective of this Fund is long-term capital appreciation. The Fund normally will invest primarily in companies domiciled in developed markets outside of the United States, including securities trading in the form of depositary receipts.

Eaton Vance Bond NextShares™

The investment objective of this Fund is total return. The Fund normally will invest primarily in bonds and other fixed and floating-rate income instruments.

Eaton Vance TABS 5-to-15 Year Laddered Municipal Bond NextShares™

The investment objective of this Fund is to provide current income exempt from regular federal income tax. The Fund normally will invest primarily in municipal obligations with remaining maturities of between 5 and 15 years, the interest on which is exempt from regular federal income tax.

Eaton Vance Floating-Rate & High Income NextShares™

The investment objective of this Fund is to provide a high level of current income. The Fund normally will invest primarily in a combination of income-producing floating rate loans and other floating rate debt securities and high-yield corporate bonds.

Eaton Vance Global Macro Absolute Return NextShares™

The investment objective of this Fund is total return. The Fund will seek its investment objective by investing in securities, derivatives and other instruments to establish long and short investment exposures around the world.

Eaton Vance Government Obligations NextShares™

The investment objective of this Fund is to provide a high current return. The Fund normally will invest primarily in securities issued, backed or otherwise guaranteed by the U.S. Government, its agencies or instrumentalities.

Eaton Vance High Income Opportunities NextShares™

The primary investment objective of this Fund is to provide a high level of current income. The Fund will seek growth of capital as a secondary investment objective. The Fund

normally will invest primarily in fixed-income securities, including preferred stocks, senior and subordinated floating rate loans, and convertible securities.

Eaton Vance High Yield Municipal Income NextShares™

The investment objective of this Fund is to provide high current income exempt from regular federal income tax. The Fund normally will invest primarily in municipal obligations, the interest on which is exempt from regular federal income tax.

Eaton Vance National Municipal Income NextShares™

The investment objective of this Fund is to provide current income exempt from regular federal income tax. The Fund normally will invest primarily in municipal obligations, the interest on which is exempt from regular federal income tax.

Creations and Redemptions of Shares.

Shares will be issued and redeemed on a daily basis at the Fund's next-determined net asset value ("NAV")⁸ in specified blocks of Shares called "Creation Units." A Creation Unit will consist of at least 25,000 Shares. Creation Units may be purchased and redeemed by or through "Authorized Participants."⁹ Purchases and sales of Shares in amounts less than a

⁸ As with other registered open-end investment companies, NAV generally will be calculated daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, normally 4:00 p.m. Eastern Time. NAV will be calculated by dividing a Fund's net asset value by the number of Shares outstanding. Information regarding the valuation of investments in calculating a Fund's NAV will be contained in the Registration Statement for its Shares.

⁹ "Authorized Participants" will be either: (1) "participating parties," i.e., brokers or other participants in the Continuous Net Settlement System ("CNS System") of the National Securities Clearing Corporation ("NSCC"), a clearing agency registered with the Commission and affiliated with the Depository Trust Company ("DTC"), or (2) DTC participants, which in either case have executed participant agreements with the Fund's distributor and transfer agent regarding the creation and redemption of Creation Units. Investors will not have to be Authorized Participants in order to transact in Creation Units, but must place an order through and make appropriate arrangements with an Authorized Participant for such transactions.

Creation Unit may be effected only in the secondary market, as described below, and not directly with the Fund.

The creation and redemption process for Funds may be effected “in kind,” in cash, or in a combination of securities and cash. Creation “in kind” means that an Authorized Participant—usually a brokerage house or large institutional investor—purchases the Creation Unit with a basket of securities equal in value to the aggregate NAV of the Shares in the Creation Unit. When an Authorized Participant redeems a Creation Unit in kind, it receives a basket of securities equal in value to the aggregate NAV of the Shares in the Creation Unit.

Composition File.

As defined in Nasdaq Rule 5745(c)(3), the Composition File is the specified portfolio of securities and/or cash that a Fund will accept as a deposit in issuing a Creation Unit of Shares, and the specified portfolio of securities and/or cash that a Fund will deliver in a redemption of a Creation Unit of Shares. The Composition File will be disseminated through the NSCC once each business day before the open of trading in Shares on such day and also will be made available to the public each day on a free website.¹⁰ Because the Funds seek to preserve the confidentiality of their current portfolio trading program, a Fund’s Composition File generally will not be a pro rata reflection of the Fund’s investment positions. Each security included in the Composition File will be a current holding of the Fund, but the Composition File generally will not include all of the securities in the Fund’s portfolio or match the weightings of the included securities in the portfolio. Securities that the Adviser is in the process of acquiring for a Fund generally will not be represented in the Fund’s Composition File until their purchase has been completed. Similarly, securities that are held in a Fund’s portfolio but in the process of being

¹⁰ The free website will be www.eatonvance.com or www.nextshares.com.

sold may not be removed from its Composition File until the sale program is substantially completed. Funds creating and redeeming Shares in kind will use cash amounts to supplement the in-kind transactions to the extent necessary to ensure that Creation Units are purchased and redeemed at NAV. The Composition File also may consist entirely of cash, in which case it will not include any of the securities in the Fund's portfolio.¹¹

Transaction Fees.

All persons purchasing or redeeming Creation Units are expected to incur a transaction fee to cover the estimated cost to the Fund of processing the transaction, including the costs of clearance and settlement charged to it by NSCC or DTC, and the estimated trading costs (*i.e.*, brokerage commissions, bid-ask spread and market impact) to be incurred in converting the Composition File to or from the desired portfolio holdings. The transaction fee is determined daily and will be limited to amounts approved by the board of trustees of a Fund and determined by the Adviser to be appropriate to defray the expenses that a Fund incurs in connection with the purchase or redemption of Creation Units. The purpose of transaction fees is to protect a Fund's existing shareholders from the dilutive costs associated with the purchase and redemption of Creation Units. Transaction fees will differ among Funds and may vary over time for a given Fund depending on the estimated trading costs for its portfolio positions and Composition File, processing costs and other considerations. Funds that specify greater amounts of cash in their Composition File may impose higher transaction fees. In addition, Funds that include in their Composition File instruments that clear through DTC may impose higher transaction fees than

¹¹ In determining whether a Fund will issue or redeem Creation Units entirely on a cash basis, the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution for a Fund than Authorized Participants because of the Adviser's size, experience and potentially stronger relationships in the fixed-income markets.

Funds whose Composition File consists solely of instruments that clear through NSCC, because DTC may charge more than NSCC in connection with Creation Unit transactions.¹² The transaction fees applicable to each Fund’s purchases and redemptions on a given business day will be disseminated through the NSCC prior to the open of market trading on that day and also will be made available to the public each day on a free website.¹³ In all cases, the transaction fees will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

NAV-Based Trading.

Because Shares will be listed and traded on the Exchange, Shares will be available for purchase and sale on an intraday basis. Shares will be purchased and sold in the secondary market at prices directly linked to the Fund’s next-determined NAV using a new trading protocol called “NAV-Based Trading.”¹⁴ All bids, offers and execution prices of Shares will be expressed as a premium/discount (which may be zero) to the Fund’s next-determined NAV (e.g., NAV-\$0.01, NAV+\$0.01). A Fund’s NAV will be determined each business day, normally as of 4:00 p.m. Eastern Time. Trade executions will be binding at the time orders are matched on Nasdaq’s facilities, with the transaction prices contingent upon the determination of NAV.

¹² Authorized Participants that participate in the CNS System of the NSCC are expected to be able to use the enhanced NSCC/CNS process for effecting in-kind purchases and redemptions of ETFs (the “NSCC Process”) to purchase and redeem Creation Units of Funds that limit the composition of their baskets to include only NSCC Process-eligible instruments (generally domestic equity securities and cash). Because the NSCC Process is generally more efficient than the DTC clearing process, NSCC is likely to charge a Fund less than DTC to settle purchases and redemptions of Creation Units.

¹³ The free website will be www.eatonvance.com or www.nextshares.com.

¹⁴ Aspects of NAV-Based Trading are protected intellectual property subject to issued and pending U.S. patents held by Navigate Fund Solutions LLC (“Navigate”), a wholly owned subsidiary of Eaton Vance Corp. Nasdaq will enter into a license agreement with Navigate to allow for NAV-Based Trading on the Exchange of exchange-traded managed funds that have themselves entered into license agreements with Navigate.

- Trading Premiums and Discounts. Bid and offer prices for Shares will be quoted throughout the day relative to NAV. The premium or discount to NAV at which Share prices are quoted and transactions are executed will vary depending on market factors, including the balance of supply and demand for Shares among investors, transaction fees and other costs in connection with creating and redeeming Creation Units of Shares, the cost and availability of borrowing Shares, competition among market makers, the Share inventory positions and inventory strategies of market makers, the profitability requirements and business objectives of market makers, and the volume of Share trading. Reflecting such market factors, prices for Shares in the secondary market may be above, at or below NAV. Funds with higher transaction fees may trade at wider premiums or discounts to NAV than other Funds with lower transaction fees, reflecting the added costs to market makers of managing their Share inventory positions through purchases and redemptions of Creation Units.

Because making markets in Shares will be simple to manage and low risk, competition among market makers seeking to earn reliable, low-risk profits should enable the Shares to routinely trade at tight bid-ask spreads and narrow premiums/discounts to NAV. As noted below, each Fund will maintain a public website that will be updated on a daily basis to show current and historical trading spreads and premiums/discounts of Shares trading in the secondary market.

- Transmitting and Processing Orders. Member firms will utilize certain existing order types and interfaces to transmit Share bids and offers to Nasdaq, which will process Share trades like trades in shares of other listed securities.¹⁵ In the systems used to transmit and process

¹⁵ As noted below, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. Prior

transactions in Shares, a Fund’s next-determined NAV will be represented by a proxy price (e.g., 100.00) and a premium/discount of a stated amount to the next-determined NAV to be represented by the same increment/decrement from the proxy price used to denote NAV (e.g., NAV-\$0.01 would be represented as 99.99; NAV+\$0.01 as 100.01).

To avoid potential investor confusion, Nasdaq will work with member firms and providers of market data services to seek to ensure that representations of intraday bids, offers and execution prices of Shares that are made available to the investing public follow the “NAV-\$0.01/NAV+\$0.01” (or similar) display format. All Shares listed on the Exchange will have a unique identifier associated with their ticker symbols, which would indicate that the Shares are traded using NAV-Based Trading. Nasdaq makes available to member firms and market data services certain proprietary data feeds that are designed to supplement the market information disseminated through the consolidated tape (“Consolidated Tape”). Specifically, the Exchange will use the NASDAQ Basic and NASDAQ Last Sale data feeds to disseminate intraday price and quote data for Shares in real time in the “NAV-\$0.01/NAV+\$0.01” (or similar) display format. Member firms could use the NASDAQ Basic and NASDAQ Last Sale data feeds to source intraday Share prices for presentation to the investing public in the “NAV-\$0.01/NAV+\$0.01” (or similar) display format. Alternatively, member firms could source intraday Share prices in proxy price format from the Consolidated Tape and other Nasdaq data feeds (e.g., Nasdaq TotalView and Nasdaq Level 2) and use a simple algorithm to convert prices into the “NAV-\$0.01/NAV+\$0.01” (or similar) display format. As noted below, prior to the commencement of trading in a Fund, the Exchange will inform its members in an Information Circular of the identities of the specific Nasdaq data feeds from which intraday Share prices in

to the commencement of trading in a Fund, the Exchange will inform its members in an Information Circular of the effect of this characteristic on existing order types.

proxy price format may be obtained.

- Intraday Reporting of Quotes and Trades. All bids and offers for Shares and all Share trade executions will be reported intraday in real time by the Exchange to the Consolidated Tape¹⁶ and separately disseminated to member firms and market data services through the Exchange data feeds listed above. The Exchange will also provide the member firms participating in each Share trade with a contemporaneous notice of trade execution, indicating the number of Shares bought or sold and the executed premium/discount to NAV.¹⁷

- Final Trade Pricing, Reporting and Settlement. All executed Share trades will be recorded and stored intraday by Nasdaq to await the calculation of the Fund's end-of-day NAV and the determination of final trade pricing. After a Fund's NAV is calculated and provided to the Exchange, Nasdaq will price each Share trade entered into during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the final trade price, each executed Share trade will then be disseminated to member firms and market data services via an FTP file to be created for exchange-traded managed funds and confirmed to the member firms participating in the trade to supplement the previously provided information to include final pricing.¹⁸ After the pricing is finalized, Nasdaq will deliver the Share trading data to NSCC for clearance and settlement, following the same processes used for the clearance and settlement of

¹⁶ Due to systems limitations, the Consolidated Tape will report intraday execution prices and quotes for Shares using a proxy price format. As noted, Nasdaq will separately report real-time execution prices and quotes to member firms and providers of market data services in the “NAV-\$0.01/NAV+\$0.01” (or similar) display format, and otherwise seek to ensure that representations of intraday bids, offers and execution prices for Shares that are made available to the investing public follow the same display format.

¹⁷ All orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day.

¹⁸ File Transfer Protocol (“FTP”) is a standard network protocol used to transfer computer files on the Internet. Nasdaq will arrange for the daily dissemination of an FTP file with executed Share trades to member firms and market data services.

trades in other exchange-traded securities.

Availability of Information.

Prior to the commencement of market trading in Shares, each Fund will be required to establish and maintain a public website through which its current prospectus may be downloaded. The website will include additional Fund information updated on a daily basis, including the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) intraday high, low, average and closing prices of Shares in Exchange trading; (b) the midpoint of the highest bid and lowest offer prices as of the close of Exchange trading, expressed as a premium/discount to NAV (the "Closing Bid/Ask Midpoint"); and (c) the spread between highest bid and lowest offer prices as of the close of Exchange trading (the "Closing Bid/Ask Spread."). The website will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints and Closing Bid/Ask Spreads over time.

The Composition File will be disseminated through the NSCC before the open of trading in Shares on each business day and also will be made available to the public each day on a free website. Consistent with the disclosure requirements that apply to traditional open-end investment companies, a complete list of current Fund portfolio positions will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. Funds may provide more frequent disclosures of portfolio positions at their discretion.

Reports of Share transactions will be disseminated to the market and delivered to the member firms participating in the trade contemporaneous with execution. Once a Fund's daily NAV has been calculated and disseminated, Nasdaq will price each Share trade entered into during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the

final trade price, each executed Share trade will then be disseminated to member firms and market data services via an FTP file to be created for exchange-traded managed funds and confirmed to the member firms participating in the trade to supplement the previously provided information to include final pricing.

Information regarding NAV-based trading prices, best bids and offers for Shares, and volume of Shares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services.

Initial and Continued Listing

Shares will conform to the initial and continued listing criteria as set forth under Nasdaq Rule 5745. A minimum of 50,000 Shares and no less than two Creation Units of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and provided to Nasdaq via the Mutual Fund Quotation Service ("MFQS") by the fund accounting agent. As soon as the NAV is entered into MFQS, Nasdaq will disseminate the value to market participants and market data vendors via the Mutual Fund Dissemination Service ("MFDS") so all firms will receive the data element at the same time.

For each series of Shares, an estimated value of an individual Share, defined in Nasdaq Rule 5745(c)(2) as the "Intraday Indicative Value," will be calculated and disseminated at intervals of not more than 15 minutes throughout the Regular Market Session¹⁹ when Shares trade on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the IIV will be calculated on an intraday basis and provided to Nasdaq for dissemination via

¹⁹ See Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. E.T.).

the Nasdaq Global Index Service (“GIDS”). The IIV will be based on current information regarding the value of the securities and other assets held by a Fund.²⁰ The purpose of the IIVs is to enable investors to estimate the next-determined NAV so they can determine the number of Shares to buy or sell if they want to transact in an approximate dollar amount (e.g., if an investor wants to acquire approximately \$5,000 of a Fund, how many Shares should the investor buy?).²¹

The Adviser is not a broker-dealer, although it is affiliated with a broker-dealer. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to each Fund’s portfolio. In the event (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or a sub-adviser to a Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the relevant Fund’s portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Trading Halts

The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in Shares. Nasdaq will halt trading in Shares under the conditions specified in

²⁰ IIVs disseminated throughout each trading day would be based on the same portfolio as used to calculate that day’s NAV. Funds will reflect purchases and sales of portfolio positions in their NAV the next business day after trades are executed.

²¹ Because, in NAV-Based Trading, prices of executed trades are not determined until the reference NAV is calculated, buyers and sellers of Shares during the trading day will not know the final value of their purchases and sales until the end of the trading day. A Fund’s Registration Statement, website and any advertising or marketing materials will include prominent disclosure of this fact. Although IIVs may provide useful estimates of the value of intraday trades, they cannot be used to calculate with precision the dollar value of the Shares to be bought or sold.

Nasdaq Rules 4120 and in Nasdaq Rule 5745(d)(2)(C). Additionally, Nasdaq may cease trading Shares if other unusual conditions or circumstances exist which, in the opinion of Nasdaq, make further dealings on Nasdaq detrimental to the maintenance of a fair and orderly market. To manage the risk of a non-regulatory Share trading halt, Nasdaq has in place back-up processes and procedures to ensure orderly trading. Because, in NAV-Based Trading, all trade execution prices are linked to end-of-day NAV, buyers and sellers of Shares should be less exposed to risk of loss due to intraday trading halts than buyers and sellers of conventional exchange-traded funds (“ETFs”) and other exchange-traded securities.

Trading Rules

Nasdaq deems Shares to be equity securities, thus rendering trading in Shares to be subject to Nasdaq’s existing rules governing the trading of equity securities. Nasdaq will allow trading in Shares from 9:30 a.m. until 4:00 p.m. Eastern Time.

Surveillance

The Exchange represents that trading in Shares will be subject to the existing trading surveillances, administered by both Nasdaq and the Financial Industry Regulatory Authority, Inc. (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.²² The Exchange represents that these procedures are adequate to properly monitor trading of Shares on the Exchange and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity.

²² FINRA provides surveillance of trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”)²³ regarding trading in Shares, and in exchange-traded securities and instruments held by the Funds (to the extent such exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of a Fund’s portfolio holdings), and FINRA may obtain trading information regarding such trading from other markets and other entities. In addition, the Exchange may obtain information regarding trading in Shares, and in exchange-traded securities and instruments held by the Funds (to the extent such exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of a Fund’s portfolio holdings), from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading in a Fund, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for

²³ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of a Fund’s portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

purchases and redemptions of Shares in Creation Units (and noting that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in Shares to customers; (3) how information regarding the IIV and Composition File is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing Shares prior to or concurrently with the confirmation of a transaction; and (5) information regarding NAV-Based Trading protocols.

As noted above, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. The Information Circular will discuss the effect of this characteristic on existing order types. The Information Circular also will identify the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Funds. Members purchasing Shares from a Fund for resale to investors will deliver a summary prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular also will reference that the Funds are subject to various fees and expenses described in the Registration Statements. The Information Circular will also disclose the trading hours of the Shares and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Fund's website.

Information regarding Fund trading protocols will be disseminated to Nasdaq members in accordance with current processes for newly listed products. Nasdaq intends to provide its

members with a detailed explanation of NAV-Based Trading through a Trading Alert issued prior to the commencement of trading in Shares on the Exchange.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act²⁴ in general, and Section 6(b)(5) of the Act²⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares would be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5745. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Shares on Nasdaq and to deter and detect violations of Exchange rules and the applicable federal securities laws. The Adviser is affiliated with a broker-dealer and has implemented a “fire wall” between the investment adviser and the broker-dealer affiliate with respect to access to information concerning the composition and/or changes to the Funds’ portfolio holdings. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement, to the extent necessary.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Exchange will obtain a representation from

²⁴ 15 U.S.C. 78f(b).

²⁵ 15 U.S.C. 78f(b)(5).

each issuer of Shares that the NAV per Share will be calculated on each business day that the New York Stock Exchange is open for trading and that the NAV will be made available to all market participants at the same time. In addition, a large amount of information would be publicly available regarding the Funds and the Shares, thereby promoting market transparency.

Prior to the commencement of market trading in Shares, the Funds will be required to establish and maintain a public website through which its current prospectus may be downloaded. The website will display additional Fund information updated on a daily basis, including the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) intraday high, low, average and closing prices of Shares in Exchange trading; (b) the Closing Bid/Ask Midpoint; and (c) the Closing Bid/Ask Spread. The website will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints and Closing Bid/Ask Spreads over time. The Composition File will be disseminated through the NSCC before the open of trading in Shares on each business day and also will be made available to the public each day on a free website. The Exchange will obtain a representation from the issuer of the Shares that the IIV will be calculated and disseminated on an intraday basis at intervals of not more than 15 minutes during trading on the Exchange and provided to Nasdaq for dissemination via GIDS. A complete list of current portfolio positions for the Funds will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. Funds may provide more frequent disclosures of portfolio positions at their discretion.

Transactions in Shares will be reported to the Consolidated Tape at the time of execution in proxy price format and will be disseminated to member firms and market data services through Nasdaq's trading service and market data interfaces, as defined above. Once each

Fund's daily NAV has been calculated and the final price of its intraday Share trades has been determined, Nasdaq will deliver a confirmation with final pricing to the transacting parties. At the end of the day, Nasdaq will also post a newly created FTP file with the final transaction data for the trading and market data services. The Exchange expects that information regarding NAV-based trading prices and volumes of Shares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services. Because Shares will trade at prices based on the next-determined NAV, investors will be able to buy and sell individual Shares at a known premium or discount to NAV that they can limit by transacting using limit orders at the time of order entry. Trading in Shares will be subject to Nasdaq Rules 5745(d)(2)(B) and (C), which provide for the suspension of trading or trading halts under certain circumstances, including if, in the view of the Exchange, trading in Shares becomes inadvisable.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of the Funds, which seek to provide investors with access to a broad range of actively managed investment strategies in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure to ensure a tight relationship between market trading prices and NAV.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In

fact, the Exchange believes that the introduction of the Funds would promote competition by making available to investors a broad range of actively managed investment strategies in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure to ensure a tight relationship between market trading prices and NAV. Moreover, the Exchange believes that the proposed method of Share trading would provide investors with transparency of trading costs, and the ability to control trading costs using limit orders, that is not available for conventionally traded ETFs.

These developments could significantly enhance competition to the benefit of the markets and investors.

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

Written comments were neither solicited nor received.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) by order approve or disapprove such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

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-NASDAQ-2015-036 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2015-036. 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office 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-NASDAQ-2015-036 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Brent J. Fields
Secretary

²⁶ 17 CFR 200.30-3(a)(12).