

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71349; File No. SR-NYSEArca-2014-05)

January 17, 2014

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Reflect a Change to the Means of Achieving the Investment Objective Applicable to the STAR™ Global Buy-Write ETF

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on January 15, 2014, 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 Exchange. 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 proposes to reflect a change to the means of achieving the investment objective applicable to the STAR™ Global Buy-Write ETF. The shares of the Fund are currently listed and traded on the Exchange under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares”).

The text of the proposed rule change is available on the Exchange’s website at www.nyse.com, 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved the listing and trading on the Exchange of shares (“Shares”) of the Fund under NYSE Arca Equities Rule 8.600⁴ (“Managed Fund Shares”).⁵ The Shares are offered by the AdvisorShares Trust (“Trust”), which is established as a Delaware statutory trust and is registered with the Commission as an open-end investment company.⁶

⁴ The Commission originally approved the listing and trading of the Shares on the Exchange in Securities Exchange Act Release No. 67552 (August 1, 2012), 77 FR 47131 (August 7, 2012) (SR-NYSEArca-2012-55) (“Prior Order”). Notice of the proposed rule change was published in Securities Exchange Act Release No. 67183 (June 12, 2012), 77 FR 36314 (June 18, 2012) (SR-NYSEArca-2012-55) (“Prior Notice” and, together with the Prior Order, the “Prior Release”).

⁵ A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment advisor consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

⁶ The Trust is registered under the 1940 Act. On October 28, 2011, the Trust filed an amendment to its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) (“1933 Act”) and under the 1940 Act relating to the Fund (File Nos. 333-157876 and 811-22110) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under

AdvisorShares Investments, LLC is the investment adviser (“Adviser”) to the Fund. Partnervest Advisory Services, LLC serves as sub-adviser for the Fund (“Sub-Adviser”). The Shares of the Fund are currently listed and traded on the Exchange.

In this proposed rule change, the Exchange proposes to make the following change, described below, to the investment strategy the Sub-Adviser will use to obtain the Fund’s investment objective (the “Proposed Amendment”).⁷ As stated in the Prior Release, according to the Registration Statement, the Fund is a “fund-of-funds” and, under normal market conditions, intends to invest at least 60% of its total assets in exchange-traded funds (“ETFs”)⁸ and exchange-traded notes (“ETNs”)⁹ that seek to track a diversified basket of global indices and investment sectors and in exchange-traded pooled investment vehicles that invest directly in commodities or currencies and that are registered pursuant to the 1933 Act (together with ETFs and ETNs, “Underlying ETPs”).¹⁰

the 1940 Act. See Investment Company Act Release No. 28822 (July 20, 2009) (File No. 812-13488) (“Exemptive Order”).

⁷ The Proposed Amendment described herein will be effective upon filing with the Commission of another amendment to the Trust’s Registration Statement or supplement thereto. See note 6, *supra*. The Adviser represents that the Adviser and the Sub-Adviser have managed and will continue to manage the Fund in the manner described in the Prior Release, and the Fund will not implement the Proposed Amendment described herein until the instant proposed rule change is operative.

⁸ For purposes of this proposed rule change, and as stated in the Prior Release, ETFs are securities registered under the 1940 Act such as those listed and traded on the Exchange under NYSE Arca Equities Rules 5.2(j)(3), 8.100, and 8.600.

⁹ For purposes of this proposed rule change, and, as stated in the Prior Release, ETNs are securities that are registered pursuant to the 1933 Act such as those listed and traded on the Exchange pursuant to NYSE Arca Equities Rule 5.2(j)(6).

¹⁰ Underlying ETPs include, in addition to ETFs and ETNs, the following securities: Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as

As stated in the Prior Release, the Fund, through its investment in Underlying ETPs, may purchase equity securities traded in the U.S. on registered exchanges or the over-the-counter market.¹¹ Going forward, while continuing to invest, under normal market conditions, at least 60% of its total assets in Underlying ETPs, as described above, the Fund proposes to also invest directly in exchange-traded equity securities other than Underlying ETPs. All such other exchange-traded equity securities will be listed and traded in the U.S. on national securities exchanges. As stated in the Prior Release, except for Underlying ETPs that may hold non-U.S. issues, the Fund will not otherwise invest in non-U.S.-registered issues.

The Exchange represents that trading in the Shares will be subject to the existing trading 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.¹² The Exchange represents that 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 applicable federal securities laws.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in equity securities (including Underlying ETPs and other exchange-traded equity securities), and exchange-traded options with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and FINRA, on behalf of the Exchange, may obtain

described in NYSE Arca Equities Rule 8.203); and closed-end funds. The Underlying ETPs are all listed and traded in the U.S. on registered exchanges.

¹¹ The Prior Release also states that the Fund invests in call options on Underlying ETPs. All such options are traded in the U.S. on national securities exchanges.

¹² FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

trading information regarding trading in equity securities (including Underlying ETPs and other exchange-traded equity securities), and exchange-traded options from such markets and other entities. In addition, the Exchange may obtain information regarding trading in equity securities (including Underlying ETPs and other exchange-traded equity securities), and exchange-traded options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

For purposes of calculating net asset value (“NAV”) of Shares of the Fund, price information for valuation of equity securities held by the Fund will be taken from the exchange where the security is primarily traded. Quotation and last-sale information for the equity securities held by the Fund will be available via the Consolidated Tape Association (“CTA”) high-speed line and from major market data vendors.

The Adviser represents that there is no change to the Fund’s investment objective. The Adviser also represents that the Proposed Amendment is consistent with the Exemptive Order under the 1940 Act and the rules thereunder. Except for the changes noted regarding the Proposed Amendment above, all other facts presented and representations made in the Prior Release remain unchanged.

The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

Terms used herein but not otherwise defined shall have the meanings ascribed to them in the Rule 19b-4 filing underlying the Prior Release.¹³

The Exchange notes that the Commission has previously approved for listing other

¹³ See note 4, *supra*.

actively-managed exchange-traded funds that invest in U.S. exchange-listed equity securities.¹⁴

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)¹⁵ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that 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 applicable federal securities laws.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in equity securities (including Underlying ETPs and other exchange-traded equity securities), and exchange-traded options with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in equity

¹⁴ See, e.g., Securities Exchange Act Release No. 71067 (December 12, 2013), 78 FR 76669 (December 18, 2013) (SR-NYSEArca-2013-105) (order approving listing and trading on NYSE Arca of SPDR MFS ETFs).

¹⁵ 15 U.S.C. 78f(b)(5).

securities (including Underlying ETPs and other exchange-traded equity securities), and exchange-traded options from such markets and other entities. In addition, the Exchange may obtain information regarding trading in equity securities (including Underlying ETPs and other exchange-traded equity securities), and exchange-traded options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that there is no change to the Fund's investment objective. The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600. The Adviser represents that the purpose of the proposed rule change is to provide additional flexibility to the Sub-Adviser to meet the Fund's investment objective by investing directly in U.S. exchange-listed equity securities.

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 continued listing and trading of an actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange believes the proposed rule change will permit the Adviser and Sub-Adviser additional flexibility in achieving the Fund's investment objective, and will permit the Fund to better

compete with other issues of Managed Fund Shares that hold equity securities traded in the U.S. on national securities exchanges.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁶ and Rule 19b-4(f)(6) thereunder.¹⁷

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay to accommodate certain investments by the Fund and Exchange trading of the Shares of the Fund without delay. The Commission believes that waiving the 30-day operative delay is consistent

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

with the protection of investors and the public interest.¹⁸ As stated in the proposal, the proposed changes do not alter the Fund's investment objective. Under the proposal, the Fund seeks to invest directly in exchange-traded equity securities other than Underlying ETPs. The Exchange states that all exchange-traded equity securities, in addition to Underlying ETPs, in which the Fund will invest will be listed and traded in the U.S. on national securities exchanges. In addition, the Exchange confirms that, except for Underlying ETPs that may hold non-U.S. issues, the Fund will not otherwise invest in non-U.S.-registered issues. The Exchange represents that, except for the changes in the proposal, all other facts and representations made in the Prior Release remain unchanged and that the Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600. Because the proposed changes do not alter the Fund's investment objective and do not raise any novel or unique regulatory issues, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- 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 No. SR-NYSEArca-2014-05 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 No. SR- NYSEArca-2014-05. 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 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 changes 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, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing will also 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 No.

SR- NYSEArca-2014-05 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.¹⁹

Kevin M. O'Neill
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).