



March 14, 2016

Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

Re: File No. SR-BATS-2015-94, Amendment No. 1

Dear Mr. Fields:

On February 26, 2016, BATS Exchange, Inc. (the "Exchange") filed with the Securities and Exchange Commission (the "Commission") Amendment No. 1 to SR-BATS-2015-94, an amendment which clarified certain components of the original proposal, which was submitted on December 28, 2015. The Exchange submitted proposal SR-BATS-2015-94 in order to list and trade shares of the SPDR DoubleLine Emerging Markets Fixed Income ETF of the SSgA Active Trust under BATS Rule 14.11(i) and Amendment No. 1 in particular was filed in order to clarify certain points and add additional details to the proposal. In order to provide notice for public review of this Amendment No. 1, in addition to posting on the Exchange's public website, the Exchange is filing this comment letter with the Commission.

Sincerely,

  
Kyle Murray  
Assistant General Counsel

Required fields are shown with yellow backgrounds and asterisks.

Filing by **BATS Exchange**  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input type="checkbox"/>	Amendment * <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
	Section 3C(b)(2) * <input type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
 Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

**Contact Information**  
 Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \*       Last Name \*   
 Title \*   
 E-mail \*   
 Telephone \*       Fax

**Signature**  
 Pursuant to the requirements of the Securities Exchange Act of 1934,  
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.  
 (Title \*)

Date         
 By         
 (Name \*)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to list and trade shares of the SPDR® DoubleLine® Emerging Markets Fixed Income ETF (the “Fund”) of the SSgA Active Trust (the “Trust”) under BATS Rule 14.11(i) (“Managed Fund Shares”). The shares of the Fund are collectively referred to herein as the “Shares.”

- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange on February 11, 2014. Exchange staff will advise the Board of Directors of the Exchange of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Eric Swanson  
EVP, General Counsel

Kyle Murray  
Assistant General Counsel

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

<sup>2</sup> 17 CFR 240.19b-4.

(913) 815-7000

(913) 815-7121

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

(a) Purpose

This Amendment No. 1 to SR-BATS-2015-94 amends and replaces in its entirety the proposal as originally submitted on December 28, 2015. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional details about the Fund.

The Exchange proposes to list and trade the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.<sup>3</sup> The Fund will be an actively managed fund. The Shares will be offered by the Trust, which was established as a Massachusetts business trust on March 30, 2011. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N-1A (“Registration Statement”) with the Commission.<sup>4</sup>

Description of the Shares and the Fund

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<sup>3</sup> The Commission approved BATS Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

<sup>4</sup> See Registration Statement on Form N-1A for the Trust, dated October 8, 2015 (File Nos. 333-173276 and 811-22542). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”) (the “Exemptive Order”). See Investment Company Act Release No. 29524 (December 13, 2010) (File No. 812-13487).

SSGA Funds Management, Inc. will be the investment adviser (“SSGA FM” or “Adviser”) to the Fund. The Adviser will serve as the administrator for the Fund (the “Administrator”). DoubleLine Capital LP will be the Fund’s sub-adviser (“Sub-Adviser”). State Street Global Markets, LLC (the “Distributor”) will be the principal underwriter and distributor of the Fund’s Shares. State Street Bank and Trust Company (the “Sub-Administrator”, “Custodian”, “Transfer Agent” or “Lending Agent”) will serve as sub-administrator, custodian, transfer agent, and, where applicable, lending agent for the Fund.

BATS Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.<sup>5</sup> In addition, Rule 14.11(i)(7) further

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<sup>5</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and its related personnel as well as the Sub-Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i)

requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to BATS Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser and Sub-Adviser are not registered as a broker-dealer but the Adviser is affiliated with a broker-dealer and has implemented a "fire wall" with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. The Sub-Adviser is not affiliated with a broker-dealer. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

SPDR® DoubleLine Emerging Markets Fixed Income ETF

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above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

According to the Registration Statement, the Fund will seek to provide high total return from current income and capital appreciation. To achieve its objective, the Fund will invest, under normal circumstances, at least 80% of its net assets (plus the amount of borrowings for investment purposes) in emerging market fixed income securities, as described further in the Principal Holding, Other Portfolio Holdings, and Investment Restrictions sections below.<sup>6</sup> The Fund is an actively-managed fund that does not seek to replicate the performance of a specified index.

Under normal market conditions, the Sub-Adviser intends to seek to construct an investment portfolio with a weighted average effective duration of no less than two years and no more than eight years. The effective duration of the portfolio may vary materially from its target, from time to time, and there is no assurance that the effective duration of the Fund's investment portfolio will not exceed its target.

The Fund may invest without limit in investments denominated in any currency, but expects to invest a portion of its assets in investments denominated in the U.S. dollar.

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<sup>6</sup> Generally, as used in this proposed rule change, the terms debt security, debt obligation, bond, fixed income instrument and fixed income security are used interchangeably. These terms should be considered to include any evidence of indebtedness, including, by way of example, a security or instrument having one or more of the following characteristics: a security or instrument issued at a discount to its face value, a security or instrument that pays interest at a fixed, floating, or variable rate, or a security or instrument with a stated principal amount that requires repayment of some or all of that principal amount to the holder of the security. These terms are interpreted broadly to include any instrument or security evidencing what is commonly referred to as an IOU rather than evidencing the corporate ownership of equity unless that equity represents an indirect or derivative interest in one or more debt securities. For this purpose, the terms also include instruments that are intended to provide one or more of the characteristics of a direct investment in one or more debt securities.



Securities held by the Fund may be sold at any time. By way of example, sales may occur when the Sub-Adviser perceives deterioration in the credit fundamentals of the issuer, when the Sub-Adviser believes there are negative macro geo-political considerations that may affect the issuer, when the Sub-Adviser determines to take advantage of a better investment opportunity, or the individual security has reached the Sub-Adviser's sell target.

In allocating investments among various emerging market countries, the Sub-Adviser attempts to analyze internal political, market and economic factors. These factors may include public finances, monetary policy, external accounts, financial markets, foreign investment regulations, stability of exchange rate policy, and labor conditions. In certain situations or market conditions, the Fund may temporarily depart from its normal investment policies and strategies provided that the alternative is in the best interest of the Fund. For example, the Fund may hold a higher than normal proportion of its assets in cash in times of extreme market stress.

#### Principal Holdings

The Fund intends to achieve its investment objective by investing, under normal circumstances,<sup>7</sup> at least 80% of its net assets (plus the amount of borrowings for

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<sup>7</sup> The term "under normal circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

investment purposes) in fixed income instruments (“Fixed Income Securities”), subject to certain limits described below. For purposes of this filing, Fixed Income Securities will be defined as the following instruments: fixed income securities issued or guaranteed by foreign corporations or foreign governments, including securities issued or guaranteed by companies (including hybrid securities),<sup>8</sup> financial institutions, or government entities in emerging market countries; corporate or government bonds; sovereign debt; structured securities;<sup>9</sup> foreign currency transactions; certain derivatives; exchange-traded foreign equity securities and preferred securities; zero coupon bonds; credit linked notes; pass through notes; bank loans;<sup>10</sup> and perpetual maturity bonds. Fixed Income Securities may have fixed or variable interest rates<sup>11</sup> and any maturity.

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<sup>8</sup> A hybrid security may be created by combining an income-producing debt security and the right to receive payment based on the change in the price of an equity security. The Fund may invest in hybrid securities related to emerging market countries.

<sup>9</sup> Structured securities generally includes privately-issued and publicly-issued structured securities, including certain publicly-issued structured securities that are not agency securities. The Fund may invest up to 20% of its portfolio in structured securities and junior bank loans. Examples include, but are not limited to: asset-backed securities backed by assets such as consumer receivables, credit cards, student loans, and equipment leases; asset-backed commercial paper; credit linked notes; and secured funding notes.

<sup>10</sup> As noted above, the Fund may invest up to 20% of its portfolio in structured securities and junior bank loans.

<sup>11</sup> A variable rate security provides for the automatic establishment of a new interest rate on set dates. Variable rate obligations whose interest is readjusted no less frequently than annually will be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate. The Fund may also purchase floating rate securities. A floating rate security provides for the automatic adjustment of its interest rate whenever a specified interest rate changes. Interest rates on these securities are ordinarily tied to, and are a

The Fund will generally invest in Fixed Income Securities from at least five emerging market countries,<sup>12</sup> with no more than 20% allocated to a single country. The Fund may invest in Fixed Income Securities of any credit quality, but seeks to invest no more than 20%, at the time of investment, in Fixed Income Securities that are unrated, rated BB+ or lower by Standard & Poor's Rating Service or Ba1 or lower by Moody's Investor Service, Inc. or the equivalent by any other nationally recognized statistical rating organization. Corporate bonds and certain other Fixed Income Securities rated below investment grade, or such instruments that are unrated and are determined by the Sub-Adviser to be of comparable quality, are high yield, high risk bonds, commonly known as junk bonds.

The Fund may invest in corporate bonds.<sup>13</sup> The investment return of corporate bonds reflects interest on the bond and changes in the market value of the bond. The

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percentage of, a widely recognized interest rate, such as the yield on 90-day US Treasury bills or the prime rate of a specified bank. These rates may change as often as twice daily.

<sup>12</sup> An "emerging market country" is a country that, at the time the Fund invests in the related fixed income instruments, is classified as an emerging or developing economy by any supranational organization such as the World Bank or the United Nations, or related entities, or is considered an emerging market country for purposes of constructing a major emerging market securities index. A fixed income instrument is considered to be from an emerging market country if the issuer or guarantor of the instrument is either domiciled in an emerging market country or derives a majority of its cash flow or revenue from an emerging market country.

<sup>13</sup> While the Fund is permitted to invest without restriction in corporate bonds, the Sub-Adviser expects that, under normal circumstances, the Fund will generally seek to invest in corporate bond issuances that have at least \$100,000,000 par amount outstanding. Further, component corporate bonds that in the aggregate

market value of a corporate bond may be affected by the credit rating of the corporation, the corporation's performance and perceptions of the corporation in the market place. Such corporate bonds may be investment grade or may be below investment grade.

The Fund may purchase exchange-traded common stocks and exchange-traded preferred securities of foreign corporations. The Fund's investments in common stock of foreign corporations may also be in the form of American Depositary Receipts ("ADRs"), Global Depositary Receipts ("GDRs") and European Depositary Receipts ("EDRs") (collectively "Depositary Receipts").<sup>14</sup>

The Fund may invest in sovereign debt. Sovereign debt obligations are issued or guaranteed by foreign governments or their agencies. Sovereign debt may be in the form of conventional securities or other types of debt instruments such as loans or loan

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account for at least 75% of the weight of corporate bonds will have a minimum original principal outstanding of \$100 million or more.

<sup>14</sup> Depositary Receipts are receipts, typically issued by a bank or trust company, which evidence ownership of underlying securities issued by a foreign corporation. For ADRs, the depository is typically a U.S. financial institution and the underlying securities are issued by a foreign issuer. For other Depositary Receipts, the depository may be a foreign or a U.S. entity, and the underlying securities may have a foreign or a U.S. issuer. Depositary Receipts will not necessarily be denominated in the same currency as their underlying securities. Generally, ADRs, in registered form, are designed for use in the U.S. securities market, and EDRs, in bearer form, are designated for use in European securities markets. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world. The Fund may invest in sponsored or unsponsored ADRs; however, not more than 10% of the net assets of the Fund will be invested in unsponsored ADRs. All exchange-traded equity securities in which the Fund may invest will trade on markets that are members of the Intermarket Surveillance Group ("ISG") or that have entered into a comprehensive surveillance agreement with the Exchange.

participations. Sovereign debt obligations may be either investment grade or below investment grade.

The Fund may conduct foreign currency transactions on a spot (i.e., cash) or forward basis (i.e., by entering into forward contracts to purchase or sell foreign currencies). The Fund may also invest in the following derivatives: foreign currency futures; credit default swaps; and options, swaps, futures, and forward contracts on Fixed Income Securities. These practices may be used to hedge the Fund's portfolio as well as for investment purposes; however, such practices sometimes may reduce returns or increase volatility. All such derivatives will be exchange traded or centrally cleared.

In the case of a credit default swap ("CDS"), the contract gives one party (the buyer) the right to recoup the economic value of a decline in the value of debt securities of the reference issuer if the credit event (a downgrade or default) occurs. This value is obtained by delivering a debt security of the reference issuer to the party in return for a previously agreed payment from the other party (frequently, the par value of the debt security).<sup>15</sup>

CDSs may require initial premium (discount) payments as well as periodic payments (receipts) related to the interest leg of the swap or to the default of a reference obligation. The Fund will segregate assets necessary to meet any accrued payment obligations when it is the buyer of CDSs. In cases where the Fund is a seller of a CDS, if the CDS is physically settled or cash settled, the Fund will be required to segregate the

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<sup>15</sup> The Fund will enter into CDS agreements only with counterparties that meet certain standards of creditworthiness.

full notional amount of the CDS. Such segregation will not limit the Fund's exposure to loss.

To limit the potential risk associated with derivative transactions, the Fund will segregate or " earmark " assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Trustees and in accordance with the 1940 Act (or, as permitted by applicable regulations, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures will be adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.<sup>16</sup>

The Exchange states that the Adviser believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Exchange states that the Adviser believes that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their net asset value ("NAV"), which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

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<sup>16</sup> To mitigate leveraging risk, the Adviser will segregate or " earmark " liquid assets or otherwise cover the transactions that may give rise to such risk.

### Other Portfolio Holdings

While the Adviser and Sub-Adviser, under normal circumstances, will invest at least 80% of the Fund's net assets in the instruments described above, the Adviser and Sub-Adviser may invest up to 20% of the Fund's net assets in other securities and financial instruments, as described below.

The Fund may invest in U.S. Government obligations. U.S. Government obligations are a type of bond. U.S. Government obligations include securities issued or guaranteed as to principal and interest by the U.S. Government, its agencies or instrumentalities.

The Fund may invest in U.S. equity securities. Equity securities are securities that represent an ownership interest (or the right to acquire such an interest) in a company and include common and preferred stock. The Fund's investments in such U.S. equity securities may include securities traded over-the-counter as well as those traded on a securities exchange.

The Fund may invest in repurchase agreements with commercial banks, brokers or dealers to generate income from its excess cash balances and to invest securities lending cash collateral. A repurchase agreement is an agreement under which a fund acquires a financial instrument (e.g., a security issued by the U.S. Government or an agency thereof, a banker's acceptance or a certificate of deposit) from a seller, subject to resale to the seller at an agreed upon price and date (normally, the next business day).

The Fund may also enter into reverse repurchase agreements, which involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price,

date and interest payment and have the characteristics of borrowing. The Fund's exposure to reverse repurchase agreements will be covered by securities having a value equal to or greater than such commitments. Under the 1940 Act, reverse repurchase agreements are considered borrowings. Although there is no limit on the percentage of Fund assets that can be used in connection with reverse repurchase agreements, the Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 10% of its net assets.

The Fund may lend its portfolio securities in an amount not to exceed 33 1/3% of the value of its total assets via a securities lending program through the Lending Agent, to brokers, dealers and other financial institutions desiring to borrow securities to complete transactions and for other purposes. A securities lending program allows the Fund to receive a portion of the income generated by lending its securities and investing the respective collateral. The Fund will receive collateral for each loaned security which is at least equal to 102% of the market value of that security, marked to market each trading day.

The Fund may invest in convertible securities traded on an exchange or OTC. Convertible securities are bonds, debentures, notes, or other securities that may be converted or exchanged (by the holder or by the issuer) into shares of the underlying common stock (or cash or securities of equivalent value) at a stated exchange ratio.

In addition to repurchase agreements, the Fund may invest in short-term instruments, including money market instruments, (including money market funds advised by the Adviser), cash and cash equivalents, on an ongoing basis to provide



liquidity or for other reasons. Money market instruments are generally short-term investments that may include but are not limited to: (i) shares of money market funds (including those advised by the Adviser); (ii) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities (including government-sponsored enterprises); (iii) negotiable certificates of deposit (“CDs”), bankers’ acceptances, fixed time deposits and other obligations of U.S. and foreign banks (including foreign branches) and similar institutions; (iv) commercial paper rated at the date of purchase “Prime-1” by Moody’s or “A-1” by S&P, or if unrated, of comparable quality as determined by the Adviser; (v) non-convertible corporate debt securities (e.g., bonds and debentures) with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a-7 under the 1940 Act; and (vi) short-term U.S. dollar-denominated obligations of foreign banks (including U.S. branches) that, in the opinion of the Adviser, are of comparable quality to obligations of U.S. banks which may be purchased by the Fund. Any of these instruments may be purchased on a current or a forward-settled basis. Time deposits are non-negotiable deposits maintained in banking institutions for specified periods of time at stated interest rates. Bankers’ acceptances are time drafts drawn on commercial banks by borrowers, usually in connection with international transactions.

The Fund may invest in Restricted Securities. Restricted Securities are securities that are not registered under the Securities Act, but which can be offered and sold to “qualified institutional buyers” under Rule 144A under the Securities Act or securities

purchased after the lapse of the appropriate distribution compliance period under Regulation S under the Securities Act.

The Fund may invest in the securities of other investment companies, including affiliated funds and money market funds, subject to applicable limitations under Section 12(d)(1) of the 1940 Act.

#### Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Restricted Securities deemed illiquid by the Adviser or Sub-Adviser<sup>17</sup> under the 1940 Act.<sup>18</sup> The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current

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<sup>17</sup> In reaching liquidity decisions, the Adviser and Sub-Adviser may consider factors including: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; the nature of the security and the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

<sup>18</sup> The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding “Restricted Securities”); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund’s portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund intends to qualify each year as a regulated investment company (a "RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended.<sup>19</sup> The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification, and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

The Fund's investments will be consistent with its investment objective and will not be used to seek to achieve leveraged or inverse leveraged returns (i.e. two times or three times the Fund's benchmark).

#### Net Asset Value

According to the Registration Statement, the NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the Exchange, generally 4:00 p.m. Eastern Time (the "NAV Calculation Time") on each day that the Exchange is open for trading, based on prices at the NAV Calculation Time. NAV per Share is calculated by dividing the Fund's net assets by the number of Fund

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<sup>19</sup> 26 U.S.C. 851.

Shares outstanding. The Fund's net assets are valued primarily on the basis of market quotations. Expenses and fees, including the management fees, will be accrued daily and taken into account for purposes of determining NAV.

Restricted Securities, repurchase agreements, and reverse repurchase agreements will generally be valued at bid prices received from independent pricing services as of the announced closing time for trading in such instruments. Spot currency transactions will generally be valued at mid prices received from an independent pricing service converted into U.S. dollars at current market rates on the date of valuation. Foreign currency forwards normally will be valued on the basis of quotes obtained from broker-dealers or third party pricing services.

According to the Adviser, U.S. Government obligations;, bonds of governments, agencies and supra-national entities; sovereign debt; corporate bonds; zero coupon bonds; pass through notes, credit linked notes, perpetual maturity bonds, and short-term instruments will generally be valued at bid prices received from independent pricing services as of the announced closing time for trading in such instruments in the respective market. In determining the value of such instruments, pricing services determine valuations for normal institutional-size trading units of such securities using valuation models or matrix pricing, which incorporates yield and/or price with respect to bonds that are considered comparable in characteristics such as rating, interest rate and maturity date and quotations from securities dealers to determine current value. Investments having a maturity of 60 days or less are generally valued at amortized cost.

Listed futures will generally be valued at the settlement price determined by the applicable exchange. Listed options will generally be valued at the last sale price on the applicable exchange. Non-exchange traded derivatives, including OTC-traded options, swaps, forwards, and structured investments, will normally be valued on the basis of quotations or equivalent indication of value supplied by a third-party pricing service or broker-dealer who makes markets in such instruments. The Fund's OTC-traded derivative instruments will generally be valued at bid prices.

Common stocks and other exchange-traded equity securities (including shares of preferred securities, convertible securities, and exchange traded investment companies (“ETPs”)) generally will be valued at the last reported sale price or the official closing price on that exchange where the security is primarily traded on the day that the valuation is made. Foreign equities and exchange-listed Depositary Receipts will be valued at the last sale or official closing price on the relevant exchange on the valuation date. If, however, neither the last sale price nor the official closing price is available, each of these securities will be valued at either the last reported sale price or official closing price as of the close of regular trading of the principal market on which the security is listed.

Un-sponsored ADRs, which are traded in the OTC market, will be valued at the last reported sale price from the OTC Bulletin Board or OTC Link LLC on the valuation date.

U.S. equity securities traded OTC, OTC-traded preferred securities, and OTC-traded convertible securities will be valued based on price quotations obtained from a broker-dealer who makes markets in such securities or other equivalent indications of value

provided by a third-party pricing service. Securities of non-exchange traded investment companies will be valued at NAV.

According to the Registration Statement, in the event that current market valuations are not readily available or are deemed unreliable, the Trust's procedures require the Oversight Committee ("Committee") to determine a security's fair value, in accordance with the 1940 Act.<sup>20</sup> In determining such value, the Committee may consider, among other things, (i) price comparisons among multiple sources, (ii) a review of corporate actions and news events, and (iii) a review of relevant financial indicators (e.g., movement in interest rates and market indices). In these cases, the Fund's NAV may reflect certain portfolio securities' fair values rather than their market prices.

#### Creation and Redemption of Shares

The NAV of Shares of the Fund will be determined once each business day, normally 4:00 p.m. Eastern time. The Fund currently anticipates that a Creation Unit will

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<sup>20</sup> If a security's market price is not readily available or is deemed unreliable, the security will be valued by another method that the Board believes will better reflect fair value in accordance with the Trust's valuation policies and procedures and in accordance with the 1940 Act. The Board has delegated the process of valuing securities for which market quotations are not readily available or are deemed unreliable to the Committee. The Committee, subject to oversight by the Board, may use fair value pricing in a variety of circumstances, including but not limited to, situations when trading in a security has been suspended or halted. Accordingly, the Fund's NAV may reflect certain securities' fair values rather than their market prices. Fair value pricing involves subjective judgments and it is possible that the fair value determination for a security is materially different than the value that could be received on the sale of the security. The Committee has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund.

consist of 50,000 Shares, though this number may change from time to time, including prior to the listing of the Fund. The exact number of Shares that will comprise a Creation Unit will be disclosed in the Registration Statement of the Fund. The Trust will issue and sell Shares of the Fund only in Creation Units on a continuous basis, without a sales load (but subject to transaction fees), at their NAV per Share next determined after receipt of an order, on any business day, in proper form. Creation and redemption will typically occur in cash, however, the Trust retains discretion to conduct such transactions on an in-kind basis or a combination of cash and in-kind, as further described below.

The consideration for purchase of a Creation Unit of the Fund generally will consist of either (i) the in-kind deposit of a designated portfolio of securities (the “Deposit Securities”) per each Creation Unit and the Cash Component (defined below), computed as described below, or (ii) the cash value of the Deposit Securities (“Deposit Cash”) and the “Cash Component,” computed as described below. When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities that would otherwise be provided by an in-kind purchaser. Together, the Deposit Securities or Deposit Cash, as applicable, and the Cash Component constitute the “Fund Deposit,” which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The “Cash Component” is an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities or Deposit Cash, as applicable. If the Cash Component is a positive number (i.e., the NAV per Creation Unit exceeds the market value of the Deposit Securities or Deposit Cash, as applicable), the Cash Component

shall be such positive amount. If the Cash Component is a negative number (i.e., the NAV per Creation Unit is less than the market value of the Deposit Securities or Deposit Cash, as applicable), the Cash Component will be such negative amount and the creator will be entitled to receive cash in an amount equal to the Cash Component. The Cash Component serves the function of compensating for any differences between the NAV per Creation Unit and the market value of the Deposit Securities or Deposit Cash, as applicable.

The Custodian, through the National Securities Clearing Corporation (“NSCC”), will make available on each business day, prior to the opening of business on the Exchange, the list of the names and the required amount of each Deposit Security or the required amount of Deposit Cash, as applicable, to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund. Such Fund Deposit is subject to any applicable adjustments as described in the Registration Statement, in order to effect purchases of Creation Units of the Fund until such time as the next-announced composition of the Deposit Securities or the required amount of Deposit Cash, as applicable, is made available.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Transfer Agent and only on a business day.

With respect to the Fund, the Custodian, through the NSCC, will make available immediately prior to the opening of business on the Exchange (9:30 a.m. Eastern



time) on each business day, the list of the names and share quantities of the Fund's portfolio securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day ("Fund Securities"). Fund Securities received on redemption may not be identical to Deposit Securities.

Redemption proceeds for a Creation Unit will be paid either in-kind or in cash or a combination thereof, as determined by the Trust. With respect to in-kind redemptions of the Fund, redemption proceeds for a Creation Unit will consist of Fund Securities as announced by the Custodian on the business day of the request for redemption received in proper form plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the "Cash Redemption Amount"), less a fixed redemption transaction fee and any applicable additional variable charge as set forth in the Registration Statement. In the event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the differential will be required to be made by or through an authorized participant by the redeeming shareholder. Notwithstanding the foregoing, at the Trust's discretion, an authorized participant may receive the corresponding cash value of the securities in lieu of the in-kind securities value representing one or more Fund Securities.<sup>21</sup>

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<sup>21</sup> The Adviser represents that, to the extent that the Trust permits or requires a "cash in lieu" amount, such transactions will be effected in the same or equitable manner for all Authorized Participants.

The creation/redemption order cut-off time for the Fund is expected to be 4:00 p.m. Eastern time. Creation/redemption order cut-off times may be earlier on any day that the Securities Industry and Financial Markets Association (“SIFMA”) (or applicable exchange or market on which the Fund’s investments are traded) announces an early closing time. On days when the Exchange closes earlier than normal, the Fund may require orders for Creation Units to be placed earlier in the day.

#### Availability of Information

The Fund’s website, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The website will include additional quantitative information updated on a daily basis, including, for the Fund: (1) the prior business day’s reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the “Bid/Ask Price”),<sup>22</sup> daily trading volume, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information for the Fund will also be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data

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<sup>22</sup> The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund’s NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public websites. On each business day, before commencement of trading in Shares during Regular Trading Hours<sup>23</sup> on the Exchange, the Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets (the “Disclosed Portfolio”) held by the Fund that will form the basis for the Fund’s calculation of NAV at the end of the business day.<sup>24</sup> The Disclosed Portfolio will include, as applicable: the ticker symbol; CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts, or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund’s portfolio. The website and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in BATS Rule 14.11(i)(3)(C) as the “Intraday Indicative Value,” that reflects an estimated intraday value of the Fund’s portfolio, will be disseminated. Moreover, the Intraday Indicative

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<sup>23</sup> Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

<sup>24</sup> Under accounting procedures to be followed by the Fund, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T+1”). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.<sup>25</sup> In addition, the quotations of certain of the Fund's holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States or if updated prices cannot be ascertained.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and provide a close estimate of that value throughout the trading day.

Intraday, closing, and settlement prices of common stocks and other exchange-listed instruments (including Depositary Receipts, preferred securities, convertible securities, common stock, and ETPs) will be readily available from the securities exchanges trading such securities as well as automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Intraday and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options will be available from the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing

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<sup>25</sup> Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association ("CTA") or other data feeds.

services will be available for Fixed Income Securities and U.S. government obligations. Price information regarding short-term instruments, spot currency transactions, OTC-traded derivative instruments (including options, swaps, and forward currency transactions) and non-exchange listed equity securities traded in the OTC market (including Restricted Securities, repurchase and reverse repurchase agreements, OTC equity securities, OTC-traded preferred securities, and OTC-traded convertible securities) is available from major market data vendors.

Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available on the facilities of the CTA.

#### Initial and Continued Listing

The Shares will be subject to BATS Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A-3 under the Act.<sup>26</sup> A minimum of 100,000 Shares 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 that the

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<sup>26</sup> See 17 CFR 240.10A-3.

NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

#### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. The Exchange will halt trading in the Shares under the conditions specified in BATS Rule 11.18. Trading 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 trading is not occurring in the securities and/or the financial instruments composing the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted.

#### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BATS will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BATS Rule 14.11(i)(2)(C), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is \$0.01.

#### Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. The Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange traded investment companies, U.S. equity securities, foreign equity securities, futures, and options via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.<sup>27</sup> In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine ("TRACE"). The Exchange prohibits the distribution of material non-public information by its employees.

#### Information Circular

Prior to the commencement of trading, 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

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<sup>27</sup> For a list of the current members and affiliate members of ISG, see [www.isgportal.com](http://www.isgportal.com). The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange also notes that all exchange-traded instruments, including investment company securities, futures, and options will trade on markets that are a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening<sup>28</sup> and After Hours Trading Sessions<sup>29</sup> when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a 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.

In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's

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<sup>28</sup> The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

<sup>29</sup> The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.



website. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Fund's Registration Statement.

b. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act<sup>30</sup> in general and Section 6(b)(5) of the Act<sup>31</sup> 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, 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 Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in BATS Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser to the investment company shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company

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<sup>30</sup> 15 U.S.C. 78f.

<sup>31</sup> 15 U.S.C. 78f(b)(5).

portfolio. The Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer and has implemented a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Exchange may obtain information regarding trading in the Shares and the underlying Depositary Receipts (other than non-exchange listed ADRs), exchange traded shares of investment companies, U.S. equity securities, futures, and exchange listed options via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.<sup>32</sup> In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA’s TRACE.

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<sup>32</sup> For a list of the current members and affiliate members of ISG, see [www.isgportal.com](http://www.isgportal.com). The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange also notes that all of the exchange-listed investment company securities, futures, and options will trade on markets that are a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund intends to achieve its investment objective by investing, under normal circumstances, at least 80% of its net assets in Fixed Income Securities from at least five emerging market countries, with no more than 20% allocated to a single country. The Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged or inverse leveraged returns, as stated above. While the Fund is permitted to invest without restriction in corporate bonds, the Sub-Adviser expects that, under normal circumstances, the Fund will generally seek to invest in corporate bond issuances that have at least \$100,000,000 par amount outstanding. Further, component corporate bonds that in the aggregate account for at least 75% of the weight of corporate bonds will have a minimum original principal outstanding of \$100 million or more.

In addition to the holdings in Fixed Income Securities described above as part of the Fund's principal investment strategy, the Fund may also, to a limited extent (under normal circumstances, less than 20% of the Fund's net assets) and as further described above, engage in transactions in the following:

U.S. Government obligations, U.S. equity securities, repurchase agreements, reverse repurchase agreements, portfolio lending, convertible securities, short-term instruments, Restricted Securities, and securities of other investment companies.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Restricted Securities deemed

illiquid by the Adviser or Sub-Adviser<sup>33</sup> under the 1940 Act.<sup>34</sup> The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

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 Exchange will obtain a

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<sup>33</sup> In reaching liquidity decisions, the Adviser and Sub-Adviser may consider factors including: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; the nature of the security and the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

<sup>34</sup> The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Pricing information will be available on the Fund's website including: (1) the prior business day's reported NAV, the Bid/Ask Price of the Fund, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the facilities of the CTA. The website for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in BATS Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

Finally, trading in the Shares will be subject to BATS Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's TRACE. As noted above, investors will also have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

Intraday, closing, and settlement prices of common stocks and other exchange-listed instruments (including Depositary Receipts, preferred securities, convertible securities, common stock, and ETPs) will be readily available from the securities exchanges trading such securities as well as automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Intraday and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options will be available from the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing services will be available for Fixed Income Securities and U.S. government obligations. Price information regarding short-term instruments, spot currency transactions, OTC-traded derivative instruments (including options, swaps, and forward currency transactions), and non-exchange listed equity securities traded in the OTC market (including Restricted Securities, repurchase and reverse repurchase agreements, OTC equity securities, OTC-traded preferred securities, and OTC-traded convertible securities) is available from major market data vendors.

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 an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and 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. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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

4. 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 notes that the proposed rule change will facilitate the listing and trading of an additional actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange requests the Commission to find good cause to accelerate effectiveness of this proposed rule change pursuant to Section 19(b)(2) of the Exchange Act and to approve the proposed rule change prior to the 30th day after publication of the proposed rule change in the Federal Register. The Exchange believes there is good cause to grant expedited review and accelerated effectiveness of this proposal because the issues raised are similar to those raised in other proposed rule changes that have been approved by the Commission relating to listing and trading of other issues of Managed Fund Shares on the Exchange.<sup>35</sup>

8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission

Not applicable.

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<sup>35</sup> The Commission has previously approved listing and trading on the Exchange of multiple actively managed funds under Rule 14.11(i). See, e.g., Securities Exchange Act Release Nos. 67894 (September 20, 2012), 77 FR 59227 (September 26, 2012) (SR-BATS-2012-033) (order approving Exchange listing and trading of the iShares Short Maturity Bond Fund); 68390 (December 10, 2012), 77 FR 74520 (December 14, 2012) (SR-BATS-2012-042) (order approving Exchange listing and trading of the iShares Sovereign Screened Global Bond Fund); 70986 (December 4, 2013), 78 FR 74212 (December 10, 2013) (SR-BATS-2013-051) (order approving Exchange listing and trading of the iShares Liquidity Income Fund); 72099 (May 6, 2014), 79 FR 27023 (May 12, 2014) (SR-BATS-2014-007) (order approving Exchange listing and trading shares of certain funds of the ProShares Trust); and 74338 (February 20, 2015), 80 FR 10556 (February 26, 2015) (SR-NYSEArca-2014-143) (order approving listing and trading of shares of the SPDR DoubleLine Total Return Tactical ETF).



9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1: Completed Notice of the Proposed Rule Change for publication in the Federal Register.

Exhibit 2 – 5: Not applicable.

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-BATS-2015-94 Amendment No. 1)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rule 14.11(i), Managed Fund Shares, to List and Trade Shares of the SPDR DoubleLine Emerging Markets Fixed Income ETF of the SSgA Active Trust

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on \_\_\_\_\_, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III 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 filed a proposal to list and trade shares of the SPDR® DoubleLine® Emerging Markets Fixed Income ETF (the “Fund”) of the SSgA Active Trust (the “Trust”) under BATS Rule 14.11(i) (“Managed Fund Shares”). The shares of the Fund are collectively referred to herein as the “Shares.”

The text of the proposed rule change is available at the Exchange’s website at [www.batstrading.com](http://www.batstrading.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

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

<sup>2</sup> 17 CFR 240.19b-4.

for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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. 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

This Amendment No. 1 to SR-BATS-2015-94 amends and replaces in its entirety the proposal as originally submitted on December 28, 2015. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional details about the Fund.

The Exchange proposes to list and trade the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.<sup>3</sup> The Fund will be an actively managed fund. The Shares will be offered by the Trust, which was established as a Massachusetts business trust on March 30, 2011. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N-1A ("Registration Statement") with the Commission.<sup>4</sup>

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<sup>3</sup> The Commission approved BATS Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

<sup>4</sup> See Registration Statement on Form N-1A for the Trust, dated October 8, 2015

Description of the Shares and the Fund

SSGA Funds Management, Inc. will be the investment adviser (“SSGA FM” or “Adviser”) to the Fund. The Adviser will serve as the administrator for the Fund (the “Administrator”). DoubleLine Capital LP will be the Fund’s sub-adviser (“Sub-Adviser”). State Street Global Markets, LLC (the “Distributor”) will be the principal underwriter and distributor of the Fund’s Shares. State Street Bank and Trust Company (the “Sub-Administrator”, “Custodian”, “Transfer Agent” or “Lending Agent”) will serve as sub-administrator, custodian, transfer agent, and, where applicable, lending agent for the Fund.

BATS Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.<sup>5</sup> In addition, Rule 14.11(i)(7) further

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(File Nos. 333-173276 and 811-22542). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”) (the “Exemptive Order”). See Investment Company Act Release No. 29524 (December 13, 2010) (File No. 812-13487).

<sup>5</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and its related personnel as well as the Sub-Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act.

requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to BATS Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser and Sub-Adviser are not registered as a broker-dealer but the Adviser is affiliated with a broker-dealer and has implemented a "fire wall" with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. The Sub-Adviser is not affiliated with a broker-dealer. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures

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In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

designed to prevent the use and dissemination of material non-public information regarding such portfolio.

SPDR® DoubleLine Emerging Markets Fixed Income ETF

According to the Registration Statement, the Fund will seek to provide high total return from current income and capital appreciation. To achieve its objective, the Fund will invest, under normal circumstances, at least 80% of its net assets (plus the amount of borrowings for investment purposes) in emerging market fixed income securities, as described further in the Principal Holding, Other Portfolio Holdings, and Investment Restrictions sections below.<sup>6</sup> The Fund is an actively-managed fund that does not seek to replicate the performance of a specified index.

Under normal market conditions, the Sub-Adviser intends to seek to construct an investment portfolio with a weighted average effective duration of no less than two years and no more than eight years. The effective duration of the portfolio may vary materially from its target, from time to time, and there is no assurance that the effective duration of the Fund's investment portfolio will not exceed its target.

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<sup>6</sup> Generally, as used in this proposed rule change, the terms debt security, debt obligation, bond, fixed income instrument and fixed income security are used interchangeably. These terms should be considered to include any evidence of indebtedness, including, by way of example, a security or instrument having one or more of the following characteristics: a security or instrument issued at a discount to its face value, a security or instrument that pays interest at a fixed, floating, or variable rate, or a security or instrument with a stated principal amount that requires repayment of some or all of that principal amount to the holder of the security. These terms are interpreted broadly to include any instrument or security evidencing what is commonly referred to as an IOU rather than evidencing the corporate ownership of equity unless that equity represents an indirect or derivative interest in one or more debt securities. For this purpose, the terms also include instruments that are intended to provide one or more of the characteristics of a direct investment in one or more debt securities.

The Fund may invest without limit in investments denominated in any currency, but expects to invest a portion of its assets in investments denominated in the U.S. dollar. Securities held by the Fund may be sold at any time. By way of example, sales may occur when the Sub-Adviser perceives deterioration in the credit fundamentals of the issuer, when the Sub-Adviser believes there are negative macro geo-political considerations that may affect the issuer, when the Sub-Adviser determines to take advantage of a better investment opportunity, or the individual security has reached the Sub-Adviser's sell target.

In allocating investments among various emerging market countries, the Sub-Adviser attempts to analyze internal political, market and economic factors. These factors may include public finances, monetary policy, external accounts, financial markets, foreign investment regulations, stability of exchange rate policy, and labor conditions. In certain situations or market conditions, the Fund may temporarily depart from its normal investment policies and strategies provided that the alternative is in the best interest of the Fund. For example, the Fund may hold a higher than normal proportion of its assets in cash in times of extreme market stress.

#### Principal Holdings

The Fund intends to achieve its investment objective by investing, under normal circumstances,<sup>7</sup> at least 80% of its net assets (plus the amount of borrowings for

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<sup>7</sup> The term "under normal circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

investment purposes) in fixed income instruments (“Fixed Income Securities”), subject to certain limits described below. For purposes of this filing, Fixed Income Securities will be defined as the following instruments: fixed income securities issued or guaranteed by foreign corporations or foreign governments, including securities issued or guaranteed by companies (including hybrid securities),<sup>8</sup> financial institutions, or government entities in emerging market countries; corporate or government bonds; sovereign debt; structured securities;<sup>9</sup> foreign currency transactions; certain derivatives; exchange-traded foreign equity securities and preferred securities; zero coupon bonds; credit linked notes; pass through notes; bank loans;<sup>10</sup> and perpetual maturity bonds. Fixed Income Securities may have fixed or variable interest rates<sup>11</sup> and any maturity.

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<sup>8</sup> A hybrid security may be created by combining an income-producing debt security and the right to receive payment based on the change in the price of an equity security. The Fund may invest in hybrid securities related to emerging market countries.

<sup>9</sup> Structured securities generally includes privately-issued and publicly-issued structured securities, including certain publicly-issued structured securities that are not agency securities. The Fund may invest up to 20% of its portfolio in structured securities and junior bank loans. Examples include, but are not limited to: asset-backed securities backed by assets such as consumer receivables, credit cards, student loans, and equipment leases; asset-backed commercial paper; credit linked notes; and secured funding notes.

<sup>10</sup> As noted above, the Fund may invest up to 20% of its portfolio in structured securities and junior bank loans.

<sup>11</sup> A variable rate security provides for the automatic establishment of a new interest rate on set dates. Variable rate obligations whose interest is readjusted no less frequently than annually will be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate. The Fund may also purchase floating rate securities. A floating rate security provides for the automatic adjustment of its interest rate whenever a specified interest rate changes. Interest rates on these securities are ordinarily tied to, and are a percentage of, a widely recognized interest rate, such as the yield on 90-day US Treasury bills or the prime rate of a specified bank. These rates may change as



The Fund will generally invest in Fixed Income Securities from at least five emerging market countries,<sup>12</sup> with no more than 20% allocated to a single country. The Fund may invest in Fixed Income Securities of any credit quality, but seeks to invest no more than 20%, at the time of investment, in Fixed Income Securities that are unrated, rated BB+ or lower by Standard & Poor's Rating Service or Ba1 or lower by Moody's Investor Service, Inc. or the equivalent by any other nationally recognized statistical rating organization. Corporate bonds and certain other Fixed Income Securities rated below investment grade, or such instruments that are unrated and are determined by the Sub-Adviser to be of comparable quality, are high yield, high risk bonds, commonly known as junk bonds.

The Fund may invest in corporate bonds.<sup>13</sup> The investment return of corporate bonds reflects interest on the bond and changes in the market value of the bond. The

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often as twice daily.

<sup>12</sup> An "emerging market country" is a country that, at the time the Fund invests in the related fixed income instruments, is classified as an emerging or developing economy by any supranational organization such as the World Bank or the United Nations, or related entities, or is considered an emerging market country for purposes of constructing a major emerging market securities index. A fixed income instrument is considered to be from an emerging market country if the issuer or guarantor of the instrument is either domiciled in an emerging market country or derives a majority of its cash flow or revenue from an emerging market country.

<sup>13</sup> While the Fund is permitted to invest without restriction in corporate bonds, the Sub-Adviser expects that, under normal circumstances, the Fund will generally seek to invest in corporate bond issuances that have at least \$100,000,000 par amount outstanding. Further, component corporate bonds that in the aggregate account for at least 75% of the weight of corporate bonds will have a minimum original principal outstanding of \$100 million or more.

market value of a corporate bond may be affected by the credit rating of the corporation, the corporation's performance and perceptions of the corporation in the market place.

Such corporate bonds may be investment grade or may be below investment grade.

The Fund may purchase exchange-traded common stocks and exchange-traded preferred securities of foreign corporations. The Fund's investments in common stock of foreign corporations may also be in the form of American Depositary Receipts ("ADRs"), Global Depositary Receipts ("GDRs") and European Depositary Receipts ("EDRs") (collectively "Depositary Receipts").<sup>14</sup>

The Fund may invest in sovereign debt. Sovereign debt obligations are issued or guaranteed by foreign governments or their agencies. Sovereign debt may be in the form of conventional securities or other types of debt instruments such as loans or loan participations. Sovereign debt obligations may be either investment grade or below investment grade.

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<sup>14</sup> Depositary Receipts are receipts, typically issued by a bank or trust company, which evidence ownership of underlying securities issued by a foreign corporation. For ADRs, the depository is typically a U.S. financial institution and the underlying securities are issued by a foreign issuer. For other Depositary Receipts, the depository may be a foreign or a U.S. entity, and the underlying securities may have a foreign or a U.S. issuer. Depositary Receipts will not necessarily be denominated in the same currency as their underlying securities. Generally, ADRs, in registered form, are designed for use in the U.S. securities market, and EDRs, in bearer form, are designated for use in European securities markets. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world. The Fund may invest in sponsored or unsponsored ADRs; however, not more than 10% of the net assets of the Fund will be invested in unsponsored ADRs. All exchange-traded equity securities in which the Fund may invest will trade on markets that are members of the Intermarket Surveillance Group ("ISG") or that have entered into a comprehensive surveillance agreement with the Exchange.

The Fund may conduct foreign currency transactions on a spot (i.e., cash) or forward basis (i.e., by entering into forward contracts to purchase or sell foreign currencies). The Fund may also invest in the following derivatives: foreign currency futures; credit default swaps; and options, swaps, futures, and forward contracts on Fixed Income Securities. These practices may be used to hedge the Fund's portfolio as well as for investment purposes; however, such practices sometimes may reduce returns or increase volatility. All such derivatives will be exchange traded or centrally cleared.

In the case of a credit default swap ("CDS"), the contract gives one party (the buyer) the right to recoup the economic value of a decline in the value of debt securities of the reference issuer if the credit event (a downgrade or default) occurs. This value is obtained by delivering a debt security of the reference issuer to the party in return for a previously agreed payment from the other party (frequently, the par value of the debt security).<sup>15</sup>

CDSs may require initial premium (discount) payments as well as periodic payments (receipts) related to the interest leg of the swap or to the default of a reference obligation. The Fund will segregate assets necessary to meet any accrued payment obligations when it is the buyer of CDSs. In cases where the Fund is a seller of a CDS, if the CDS is physically settled or cash settled, the Fund will be required to segregate the full notional amount of the CDS. Such segregation will not limit the Fund's exposure to loss.

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<sup>15</sup> The Fund will enter into CDS agreements only with counterparties that meet certain standards of creditworthiness.

To limit the potential risk associated with derivative transactions, the Fund will segregate or “ earmark ” assets determined to be liquid by the Adviser in accordance with procedures established by the Trust’s Board of Trustees and in accordance with the 1940 Act (or, as permitted by applicable regulations, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures will be adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund’s use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.<sup>16</sup>

The Exchange states that the Adviser believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Exchange states that the Adviser believes that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their net asset value (“NAV”), which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

#### Other Portfolio Holdings

While the Adviser and Sub-Adviser, under normal circumstances, will invest at least 80% of the Fund’s net assets in the instruments described above, the Adviser and

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<sup>16</sup> To mitigate leveraging risk, the Adviser will segregate or “ earmark ” liquid assets or otherwise cover the transactions that may give rise to such risk.

Sub-Adviser may invest up to 20% of the Fund's net assets in other securities and financial instruments, as described below.

The Fund may invest in U.S. Government obligations. U.S. Government obligations are a type of bond. U.S. Government obligations include securities issued or guaranteed as to principal and interest by the U.S. Government, its agencies or instrumentalities.

The Fund may invest in U.S. equity securities. Equity securities are securities that represent an ownership interest (or the right to acquire such an interest) in a company and include common and preferred stock. The Fund's investments in such U.S. equity securities may include securities traded over-the-counter as well as those traded on a securities exchange.

The Fund may invest in repurchase agreements with commercial banks, brokers or dealers to generate income from its excess cash balances and to invest securities lending cash collateral. A repurchase agreement is an agreement under which a fund acquires a financial instrument (e.g., a security issued by the U.S. Government or an agency thereof, a banker's acceptance or a certificate of deposit) from a seller, subject to resale to the seller at an agreed upon price and date (normally, the next business day).

The Fund may also enter into reverse repurchase agreements, which involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing. The Fund's exposure to reverse repurchase agreements will be covered by securities having a value equal to or greater than such commitments. Under the 1940 Act, reverse repurchase agreements are considered borrowings. Although there is no limit on the percentage of Fund assets that

can be used in connection with reverse repurchase agreements, the Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 10% of its net assets.

The Fund may lend its portfolio securities in an amount not to exceed 33 1/3% of the value of its total assets via a securities lending program through the Lending Agent, to brokers, dealers and other financial institutions desiring to borrow securities to complete transactions and for other purposes. A securities lending program allows the Fund to receive a portion of the income generated by lending its securities and investing the respective collateral. The Fund will receive collateral for each loaned security which is at least equal to 102% of the market value of that security, marked to market each trading day.

The Fund may invest in convertible securities traded on an exchange or OTC. Convertible securities are bonds, debentures, notes, or other securities that may be converted or exchanged (by the holder or by the issuer) into shares of the underlying common stock (or cash or securities of equivalent value) at a stated exchange ratio.

In addition to repurchase agreements, the Fund may invest in short-term instruments, including money market instruments, (including money market funds advised by the Adviser), cash and cash equivalents, on an ongoing basis to provide liquidity or for other reasons. Money market instruments are generally short-term investments that may include but are not limited to: (i) shares of money market funds (including those advised by the Adviser); (ii) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities (including government-sponsored enterprises); (iii) negotiable certificates of deposit (“CDs”), bankers’ acceptances, fixed

time deposits and other obligations of U.S. and foreign banks (including foreign branches) and similar institutions; (iv) commercial paper rated at the date of purchase “Prime-1” by Moody’s or “A-1” by S&P, or if unrated, of comparable quality as determined by the Adviser; (v) non-convertible corporate debt securities (e.g., bonds and debentures) with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a-7 under the 1940 Act; and (vi) short-term U.S. dollar-denominated obligations of foreign banks (including U.S. branches) that, in the opinion of the Adviser, are of comparable quality to obligations of U.S. banks which may be purchased by the Fund. Any of these instruments may be purchased on a current or a forward-settled basis. Time deposits are non-negotiable deposits maintained in banking institutions for specified periods of time at stated interest rates. Bankers’ acceptances are time drafts drawn on commercial banks by borrowers, usually in connection with international transactions.

The Fund may invest in Restricted Securities. Restricted Securities are securities that are not registered under the Securities Act, but which can be offered and sold to “qualified institutional buyers” under Rule 144A under the Securities Act or securities purchased after the lapse of the appropriate distribution compliance period under Regulation S under the Securities Act.

The Fund may invest in the securities of other investment companies, including affiliated funds and money market funds, subject to applicable limitations under Section 12(d)(1) of the 1940 Act.

#### Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Restricted Securities deemed illiquid by the Adviser or Sub-Adviser<sup>17</sup> under the 1940 Act.<sup>18</sup> The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

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<sup>17</sup> In reaching liquidity decisions, the Adviser and Sub-Adviser may consider factors including: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; the nature of the security and the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

<sup>18</sup> The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).



The Fund intends to qualify each year as a regulated investment company (a “RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended.<sup>19</sup> The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification, and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

The Fund’s investments will be consistent with its investment objective and will not be used to seek to achieve leveraged or inverse leveraged returns (i.e. two times or three times the Fund’s benchmark).

#### Net Asset Value

According to the Registration Statement, the NAV of the Fund’s Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the Exchange, generally 4:00 p.m. Eastern Time (the “NAV Calculation Time”) on each day that the Exchange is open for trading, based on prices at the NAV Calculation Time. NAV per Share is calculated by dividing the Fund’s net assets by the number of Fund Shares outstanding. The Fund’s net assets are valued primarily on the basis of market quotations. Expenses and fees, including the management fees, will be accrued daily and taken into account for purposes of determining NAV.

Restricted Securities, repurchase agreements, and reverse repurchase agreements will generally be valued at bid prices received from independent pricing services as of the announced closing time for trading in such instruments. Spot currency transactions will generally be valued at mid prices received from an independent pricing service converted

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<sup>19</sup> 26 U.S.C. 851.

into U.S. dollars at current market rates on the date of valuation. Foreign currency forwards normally will be valued on the basis of quotes obtained from broker-dealers or third party pricing services.

According to the Adviser, U.S. Government obligations;, bonds of governments, agencies and supra-national entities; sovereign debt; corporate bonds; zero coupon bonds; pass through notes, credit linked notes, perpetual maturity bonds, and short-term instruments will generally be valued at bid prices received from independent pricing services as of the announced closing time for trading in such instruments in the respective market. In determining the value of such instruments, pricing services determine valuations for normal institutional-size trading units of such securities using valuation models or matrix pricing, which incorporates yield and/or price with respect to bonds that are considered comparable in characteristics such as rating, interest rate and maturity date and quotations from securities dealers to determine current value. Investments having a maturity of 60 days or less are generally valued at amortized cost.

Listed futures will generally be valued at the settlement price determined by the applicable exchange. Listed options will generally be valued at the last sale price on the applicable exchange. Non-exchange traded derivatives, including OTC-traded options, swaps, forwards, and structured investments, will normally be valued on the basis of quotations or equivalent indication of value supplied by a third- party pricing service or broker-dealer who makes markets in such instruments. The Fund's OTC-traded derivative instruments will generally be valued at bid prices.

Common stocks and other exchange-traded equity securities (including shares of preferred securities, convertible securities, and exchange traded investment companies

(“ETPs”)) generally will be valued at the last reported sale price or the official closing price on that exchange where the security is primarily traded on the day that the valuation is made. Foreign equities and exchange-listed Depositary Receipts will be valued at the last sale or official closing price on the relevant exchange on the valuation date. If, however, neither the last sale price nor the official closing price is available, each of these securities will be valued at either the last reported sale price or official closing price as of the close of regular trading of the principal market on which the security is listed. Unsponsored ADRs, which are traded in the OTC market, will be valued at the last reported sale price from the OTC Bulletin Board or OTC Link LLC on the valuation date. U.S. equity securities traded OTC, OTC-traded preferred securities, and OTC-traded convertible securities will be valued based on price quotations obtained from a broker-dealer who makes markets in such securities or other equivalent indications of value provided by a third-party pricing service. Securities of non-exchange traded investment companies will be valued at NAV.

According to the Registration Statement, in the event that current market valuations are not readily available or are deemed unreliable, the Trust’s procedures require the Oversight Committee (“Committee”) to determine a security’s fair value, in accordance with the 1940 Act.<sup>20</sup> In determining such value, the Committee may

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<sup>20</sup> If a security’s market price is not readily available or is deemed unreliable, the security will be valued by another method that the Board believes will better reflect fair value in accordance with the Trust’s valuation policies and procedures and in accordance with the 1940 Act. The Board has delegated the process of valuing securities for which market quotations are not readily available or are deemed unreliable to the Committee. The Committee, subject to oversight by the Board, may use fair value pricing in a variety of circumstances, including but not

consider, among other things, (i) price comparisons among multiple sources, (ii) a review of corporate actions and news events, and (iii) a review of relevant financial indicators (e.g., movement in interest rates and market indices). In these cases, the Fund's NAV may reflect certain portfolio securities' fair values rather than their market prices.

#### Creation and Redemption of Shares

The NAV of Shares of the Fund will be determined once each business day, normally 4:00 p.m. Eastern time. The Fund currently anticipates that a Creation Unit will consist of 50,000 Shares, though this number may change from time to time, including prior to the listing of the Fund. The exact number of Shares that will comprise a Creation Unit will be disclosed in the Registration Statement of the Fund. The Trust will issue and sell Shares of the Fund only in Creation Units on a continuous basis, without a sales load (but subject to transaction fees), at their NAV per Share next determined after receipt of an order, on any business day, in proper form. Creation and redemption will typically occur in cash, however, the Trust retains discretion to conduct such transactions on an in-kind basis or a combination of cash and in-kind, as further described below.

The consideration for purchase of a Creation Unit of the Fund generally will consist of either (i) the in-kind deposit of a designated portfolio of securities (the

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limited to, situations when trading in a security has been suspended or halted. Accordingly, the Fund's NAV may reflect certain securities' fair values rather than their market prices. Fair value pricing involves subjective judgments and it is possible that the fair value determination for a security is materially different than the value that could be received on the sale of the security. The Committee has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund.

“Deposit Securities”) per each Creation Unit and the Cash Component (defined below), computed as described below, or (ii) the cash value of the Deposit Securities (“Deposit Cash”) and the “Cash Component,” computed as described below. When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities that would otherwise be provided by an in-kind purchaser. Together, the Deposit Securities or Deposit Cash, as applicable, and the Cash Component constitute the “Fund Deposit,” which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The “Cash Component” is an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities or Deposit Cash, as applicable. If the Cash Component is a positive number (i.e., the NAV per Creation Unit exceeds the market value of the Deposit Securities or Deposit Cash, as applicable), the Cash Component shall be such positive amount. If the Cash Component is a negative number (i.e., the NAV per Creation Unit is less than the market value of the Deposit Securities or Deposit Cash, as applicable), the Cash Component will be such negative amount and the creator will be entitled to receive cash in an amount equal to the Cash Component. The Cash Component serves the function of compensating for any differences between the NAV per Creation Unit and the market value of the Deposit Securities or Deposit Cash, as applicable.

The Custodian, through the National Securities Clearing Corporation (“NSCC”), will make available on each business day, prior to the opening of business on the Exchange, the list of the names and the required amount of each Deposit Security or the required amount of Deposit Cash, as applicable, to be included in the current Fund

Deposit (based on information at the end of the previous business day) for the Fund. Such Fund Deposit is subject to any applicable adjustments as described in the Registration Statement, in order to effect purchases of Creation Units of the Fund until such time as the next-announced composition of the Deposit Securities or the required amount of Deposit Cash, as applicable, is made available.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Transfer Agent and only on a business day.

With respect to the Fund, the Custodian, through the NSCC, will make available immediately prior to the opening of business on the Exchange (9:30 a.m. Eastern time) on each business day, the list of the names and share quantities of the Fund's portfolio securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day ("Fund Securities"). Fund Securities received on redemption may not be identical to Deposit Securities.

Redemption proceeds for a Creation Unit will be paid either in-kind or in cash or a combination thereof, as determined by the Trust. With respect to in-kind redemptions of the Fund, redemption proceeds for a Creation Unit will consist of Fund Securities as announced by the Custodian on the business day of the request for redemption received in proper form plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the "Cash Redemption Amount"), less a fixed redemption transaction fee and any applicable additional variable charge as set forth in the Registration Statement. In the event that the Fund Securities have a value greater

than the NAV of the Shares, a compensating cash payment equal to the differential will be required to be made by or through an authorized participant by the redeeming shareholder. Notwithstanding the foregoing, at the Trust's discretion, an authorized participant may receive the corresponding cash value of the securities in lieu of the in-kind securities value representing one or more Fund Securities.<sup>21</sup>

The creation/redemption order cut-off time for the Fund is expected to be 4:00 p.m. Eastern time. Creation/redemption order cut-off times may be earlier on any day that the Securities Industry and Financial Markets Association ("SIFMA") (or applicable exchange or market on which the Fund's investments are traded) announces an early closing time. On days when the Exchange closes earlier than normal, the Fund may require orders for Creation Units to be placed earlier in the day.

#### Availability of Information

The Fund's website, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The website will include additional quantitative information updated on a daily basis, including, for the Fund: (1) the prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),<sup>22</sup> daily trading volume, and a calculation of the premium and discount of the Bid/Ask Price

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<sup>21</sup> The Adviser represents that, to the extent that the Trust permits or requires a "cash in lieu" amount, such transactions will be effected in the same or equitable manner for all Authorized Participants.

<sup>22</sup> The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information for the Fund will also be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public websites. On each business day, before commencement of trading in Shares during Regular Trading Hours<sup>23</sup> on the Exchange, the Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets (the “Disclosed Portfolio”) held by the Fund that will form the basis for the Fund’s calculation of NAV at the end of the business day.<sup>24</sup> The Disclosed Portfolio will include, as applicable: the ticker symbol; CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts, or units); maturity date, if any; coupon rate, if any; effective date, if any;

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<sup>23</sup> Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

<sup>24</sup> Under accounting procedures to be followed by the Fund, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T+1”). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.



market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The website and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in BATS Rule 14.11(i)(3)(C) as the "Intraday Indicative Value," that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.<sup>25</sup> In addition, the quotations of certain of the Fund's holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States or if updated prices cannot be ascertained.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and provide a close estimate of that value throughout the trading day.

Intraday, closing, and settlement prices of common stocks and other exchange-listed instruments (including Depositary Receipts, preferred securities, convertible securities, common stock, and ETPs) will be readily available from the securities exchanges trading such securities as well as automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters.

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<sup>25</sup> Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association ("CTA") or other data feeds.

Intraday and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options will be available from the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing services will be available for Fixed Income Securities and U.S. government obligations. Price information regarding short-term instruments, spot currency transactions, OTC-traded derivative instruments (including options, swaps, and forward currency transactions) and non-exchange listed equity securities traded in the OTC market (including Restricted Securities, repurchase and reverse repurchase agreements, OTC equity securities, OTC-traded preferred securities, and OTC-traded convertible securities) is available from major market data vendors.

Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available on the facilities of the CTA.

#### Initial and Continued Listing

The Shares will be subject to BATS Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A-3 under the Act.<sup>26</sup> A minimum of 100,000 Shares will be outstanding at the

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<sup>26</sup> See 17 CFR 240.10A-3.

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 that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

#### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. The Exchange will halt trading in the Shares under the conditions specified in BATS Rule 11.18. Trading 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 trading is not occurring in the securities and/or the financial instruments composing the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted.

#### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BATS will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BATS Rule 14.11(i)(2)(C), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is \$0.01.

### Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. The Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange traded investment companies, U.S. equity securities, foreign equity securities, futures, and options via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.<sup>27</sup> In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine ("TRACE"). The Exchange prohibits the distribution of material non-public information by its employees.

### Information Circular

Prior to the commencement of trading, 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

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<sup>27</sup> For a list of the current members and affiliate members of ISG, see [www.isgportal.com](http://www.isgportal.com). The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange also notes that all exchange-traded instruments, including investment company securities, futures, and options will trade on markets that are a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening<sup>28</sup> and After Hours Trading Sessions<sup>29</sup> when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a 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.

In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's

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<sup>28</sup> The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

<sup>29</sup> The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

website. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Fund's Registration Statement.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act<sup>30</sup> in general and Section 6(b)(5) of the Act<sup>31</sup> 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, 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 Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in BATS Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser to the investment company shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company

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<sup>30</sup> 15 U.S.C. 78f.

<sup>31</sup> 15 U.S.C. 78f(b)(5).

portfolio. The Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer and has implemented a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Exchange may obtain information regarding trading in the Shares and the underlying Depositary Receipts (other than non-exchange listed ADRs), exchange traded shares of investment companies, U.S. equity securities, futures, and exchange listed options via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.<sup>32</sup> In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA’s TRACE.

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<sup>32</sup> For a list of the current members and affiliate members of ISG, see [www.isgportal.com](http://www.isgportal.com). The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange also notes that all of the exchange-listed investment company securities, futures, and options will trade on markets that are a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund intends to achieve its investment objective by investing, under normal circumstances, at least 80% of its net assets in Fixed Income Securities from at least five emerging market countries, with no more than 20% allocated to a single country. The Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged or inverse leveraged returns, as stated above. While the Fund is permitted to invest without restriction in corporate bonds, the Sub-Adviser expects that, under normal circumstances, the Fund will generally seek to invest in corporate bond issuances that have at least \$100,000,000 par amount outstanding. Further, component corporate bonds that in the aggregate account for at least 75% of the weight of corporate bonds will have a minimum original principal outstanding of \$100 million or more.

In addition to the holdings in Fixed Income Securities described above as part of the Fund's principal investment strategy, the Fund may also, to a limited extent (under normal circumstances, less than 20% of the Fund's net assets) and as further described above, engage in transactions in the following:

U.S. Government obligations, U.S. equity securities, repurchase agreements, reverse repurchase agreements, portfolio lending, convertible securities, short-term instruments, Restricted Securities, and securities of other investment companies.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Restricted Securities deemed



illiquid by the Adviser or Sub-Adviser<sup>33</sup> under the 1940 Act.<sup>34</sup> The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

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 Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated

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<sup>33</sup> In reaching liquidity decisions, the Adviser and Sub-Adviser may consider factors including: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; the nature of the security and the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

<sup>34</sup> The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Pricing information will be available on the Fund's website including: (1) the prior business day's reported NAV, the Bid/Ask Price of the Fund, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the facilities of the CTA. The website for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in BATS Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to BATS Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. In addition, the

Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's TRACE. As noted above, investors will also have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

Intraday, closing, and settlement prices of common stocks and other exchange-listed instruments (including Depositary Receipts, preferred securities, convertible securities, common stock, and ETPs) will be readily available from the securities exchanges trading such securities as well as automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Intraday and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options will be available from the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing services will be available for Fixed Income Securities and U.S. government obligations. Price information regarding short-term instruments, spot currency transactions, OTC-traded derivative instruments (including options, swaps, and forward currency transactions), and non-exchange listed equity securities traded in the OTC market (including Restricted Securities, repurchase and reverse repurchase agreements, OTC equity securities, OTC-traded preferred securities, and OTC-traded convertible securities) is available from major market data vendors.

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 an additional type of actively-managed exchange-traded product

that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and 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. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that 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 impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 (i) as the Commission may designate up to 90 days of such date

if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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 proposal 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 No. SR-BATS-2015-94 Amendment No. 1 on the subject line.

##### Paper Comments:

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

All submissions should refer to File No. SR-BATS-2015-94 Amendment No. 1. 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, 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-BATS-2015-94 Amendment No. 1 and should be submitted on or before [\_\_\_\_\_21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>35</sup>

Robert W. Errett  
Deputy Secretary

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<sup>35</sup> 17 CFR 200.30-3(a)(12).