



**Martha Redding**  
Senior Counsel  
Assistant Secretary

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January 19, 2016

**VIA E-MAIL**

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

Re: Securities Exchange Act Rel. 34-76761 (SR-NYSEArca-2015-107)

Dear Mr. Fields:

NYSE Arca, Inc. filed the attached Amendment No. 1 to the above-referenced filing on January 15, 2016.

Sincerely,

A handwritten signature in blue ink, appearing to be "BJF", written in a cursive style.

Encl. (Amendment No. 1 to SR-NYSEArca-2015-107)

*Required fields are shown with yellow backgrounds and asterisks.*

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

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

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

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposed Rule Change Relating to Listing and Trading of Shares of the REX Gold Hedged S and P 500 ETF and the REX Gold Hedged FTSE Emerging Markets ETF under NYSE Arca Equities Rule 8.600

**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       Assistant Secretary

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.

Martha Redding,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

Add Remove View

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

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”), through its wholly-owned subsidiary NYSE Arca Equities, Inc. (“NYSE Arca Equities” or the “Corporation”), proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares”): The REX Gold Hedged S&P 500 ETF and the REX Gold Hedged FTSE Emerging Markets ETF.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1.

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.

- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change is being submitted to the Securities and Exchange Commission (the “Commission”) by Exchange staff pursuant to authority delegated to it by the NYSE Arca Board of Directors and the NYSE Arca Equities Board of Directors.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Michael Cavalier  
Counsel  
NYSE Group, Inc.  
(212) 656-2474

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

- (a) Purpose

The Exchange proposes to list and trade shares (the “Shares”) of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of

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

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

Managed Fund Shares<sup>3</sup>: the REX Gold Hedged S&P 500 ETF and the REX Gold Hedged FTSE Emerging Markets ETF (each a “Fund” and, collectively, the “Funds”).<sup>4</sup>

The Shares will be offered by Exchange Traded Concepts Trust (the “Trust”), a Delaware statutory trust. Exchange Traded Concepts, LLC will serve as the investment adviser to the Funds (“Adviser”). Vident Investment Advisory, LLC (the “Sub-Adviser”) will serve as sub-adviser to the Funds.<sup>5</sup>

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

<sup>4</sup> The Commission has approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. See, e.g., Securities Exchange Act Release Nos. 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR-NYSEArca-2010-79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 70055 (July 29, 2013) (SR-NYSEArca-2013-52) (order approving proposed rule change relating to listing and trading of shares of the First Trust Morningstar Managed Futures Strategy Fund under NYSE Arca Equities Rule 8.600); and 71456 (January 31, 2014), 79 FR 7258 (February 6, 2014) (SR-NYSEArca-2013-116) (order approving proposed rule change relating to listing and trading of shares of the AdvisorShares International Gold ETF, AdvisorShares Gartman Gold/Yen ETF, AdvisorShares Gartman Gold/British Pound ETF, and AdvisorShares Gartman Gold/Euro ETF under NYSE Arca Equities Rule 8.600).

<sup>5</sup> The Trust is registered under the 1940 Act. On October 9, 2015, the Trust filed with the Commission an amendment to its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”), and under the 1940 Act relating to the Funds (File Nos. 333-156529 and 811-22263) (“Registration Statement”). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 30445, April 2, 2013 (File No. 812-13969) (“Exemptive Order”).

This Amendment No. 1 to SR-NYSEArca-2015-107 replaces SR-NYSEArca-2015-107 as originally filed and supersedes such filing in its entirety.

SEI Investments Distribution Co. (“SIDCO”), (the “Distributor”) will be the principal underwriter and distributor of the Funds’ Shares. SEI Investments Global Funds Services (the “Administrator”) will serve as the administrator, custodian, transfer agent and fund accounting agent for the Funds.<sup>6</sup>

Commentary .06 to Rule 8.600 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. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund’s portfolio.<sup>7</sup> Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 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. Neither the Adviser nor the Sub-Adviser is a broker-dealer or affiliated with a broker-dealer.

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<sup>6</sup> The Funds are subject to regulation under the Commodity Exchange Act (“CEA”) and Commodity Futures Trading Commission (“CFTC”) rules as commodity pools. The Adviser is registered as a commodity pool operator (“CPO”), and the Funds will be operated in accordance with CFTC rules.

<sup>7</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 Sub-Adviser and their related personnel will be 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 violations, 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.

In the event (a) the Adviser or Sub-Adviser becomes a registered broker-dealer or becomes 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 its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

#### The REX Gold Hedged S&P 500 ETF—Principal Investments

According to the Registration Statement, the Fund will seek to outperform the total return performance of the S&P 500 Dynamic Gold Hedged Index (the “S&P Benchmark”) by actively hedging the returns of the S&P 500<sup>®</sup> Index using gold futures.

The Fund will seek to achieve its investment objective of outperforming the S&P Benchmark by providing exposure to a gold-hedged U.S. large-cap portfolio using a quantitative, rules-based strategy. The Fund will invest at least 80% of its assets (plus the amount of any borrowings for investment purposes) in (i) U.S. exchange-listed large-cap U.S. stocks; (ii) gold futures<sup>8</sup>; (iii) exchange-traded funds (“ETFs”)<sup>9</sup> and exchange-traded closed-end funds (together with ETFs, the “Underlying Funds”) that provide exposure to large-cap U.S. stocks; (iv) ETFs, commodity-related pooled vehicles<sup>10</sup> and exchange-traded notes (“ETNs”)<sup>11</sup> that

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<sup>8</sup> The Fund will gain exposure to gold futures through investment in the Subsidiary, as described below, and will not invest directly in gold futures.

<sup>9</sup> For purposes of this filing, ETFs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depository Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The Underlying Funds in which a Fund will invest all will be listed and traded on national securities exchanges. While the Funds may invest in inverse ETFs, the Funds will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETFs.

<sup>10</sup> For purposes of the filing, commodity-related pooled vehicles will mean: Equity Gold Shares (as described in NYSE Arca Equities Rule 5.2(j)(5)); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500). The Fund will gain exposure to commodity-related pooled vehicles through investment in the Subsidiary, as described below, and will not invest directly in commodity-related pooled vehicles.

provide exposure to gold; and (v) futures that provide exposure to the S&P 500<sup>®</sup> Index. The Fund will not invest in non-U.S. stocks.

The Fund will seek to achieve a similar level of volatility as that of the S&P Benchmark, although there is no assurance it will do so.

According to the Registration Statement, the S&P Benchmark seeks to reflect the returns of a portfolio of S&P 500<sup>®</sup> stocks, hedged with a long gold futures overlay. Specifically, the S&P Benchmark measures the total return performance of a hypothetical portfolio consisting of securities that compose the S&P 500<sup>®</sup> Index, which measures the performance of the large-capitalization sector of the U.S. equity market, and a long position in gold futures contracts, the notional value of which is comparable to the value of the S&P Benchmark's equity component.

The Sub-Adviser will continuously monitor the Fund's holdings in order to enhance performance while still providing approximately equal notional exposure to equity securities and gold futures contracts.

According to the Registration Statement, futures contracts, by their terms, have stated expirations and, at a specified point in time prior to expiration, trading in a futures contract for the current delivery month will cease. Therefore, in order to maintain exposure to gold futures contracts, the S&P Benchmark must periodically migrate out of gold futures contracts nearing expiration and into gold futures contracts that have longer remaining until expiration, a process referred to as "rolling." The impact from this continuous process of selling expiring contracts and buying longer-dated contracts is called roll yield. The S&P Benchmark rolls these futures contracts according to a predefined schedule, regardless of the liquidity or roll yield of the futures contract selected.

The Fund will look to minimize the impact of rolling futures contracts in a number of ways. For example, the Fund may roll positions in gold futures contracts before or after the scheduled roll dates for the S&P Benchmark, to the extent of favorable market prices and available liquidity. Additionally, the Fund may attempt to minimize roll costs (and maximize yields) by rolling into the gold futures contract with the largest positive or smallest negative roll yield. This strategy for taking long positions in and unwinding exposure to gold futures contracts may cause the Fund to have more or less exposure to gold futures contracts than the S&P Benchmark. Additionally, the Fund is not obligated to

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<sup>11</sup> ETNs, which will be listed on a national securities exchange, are securities such as those described in NYSE Arca Equities Rule 5.2(j)(6). While the Funds may invest in inverse ETNs, the Funds will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETNs.

rebalance its exposures at the same time that the S&P Benchmark rebalances its exposures, and the Fund may rebalance more or less frequently than the S&P Benchmark in order to ensure that the Fund's exposure to equities remains comparable to the Fund's exposure to the price of gold.

The Fund will not directly hold gold futures contracts, commodity-related pooled vehicles and options on commodity futures (as referenced below). Rather, the Fund expects to gain exposure to these instruments by investing up to 25% of its total assets, as measured at the end of every quarter of the Fund's taxable year, in a wholly-owned and controlled Cayman Islands subsidiary (the "Subsidiary"). The Subsidiary will be advised by the Adviser and the Fund's investment in the Subsidiary will primarily be intended to provide the Fund with exposure to the price of gold. The Fund's investment in the Subsidiary is expected to provide the Fund with an effective means of obtaining exposure to the commodities markets in a manner consistent with U.S. federal tax law requirements applicable to registered investment companies.

#### The REX Gold Hedged FTSE Emerging Markets ETF—Principal Investments

According to the Registration Statement, the REX Gold Hedged FTSE Emerging Markets ETF (the "Fund") will seek to outperform the total return performance of the FTSE Emerging Gold Overlay Index (the "FTSE Benchmark") by actively hedging a portfolio of emerging markets securities using gold futures.

The Fund will seek to achieve its investment objective of outperforming the FTSE Benchmark by providing exposure to a gold-hedged emerging markets portfolio using a quantitative, rules-based strategy. The Fund will invest at least 80% of its assets (plus the amount of any borrowings for investment purposes) in (i) equity securities of emerging markets companies, as such companies are classified by the FTSE Benchmark ("Emerging Markets Securities")<sup>12</sup>, (ii) gold futures<sup>13</sup>, (iii)

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<sup>12</sup> The non-U.S. equity securities in the Fund's portfolio will meet the following criteria at time of purchase: (1) non-U.S. equity securities each shall have a minimum market value of at least \$100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting. For purposes of this filing, the term "non-U.S. equity securities" includes the following (each as referenced below): common stocks and preferred securities of foreign corporations; warrants; convertible securities; master limited partnerships ("MLPs"); rights; and "Depositary Receipts" (as defined below,

ETFs and exchange-traded closed-end funds (together with ETFs, the “Underlying Funds”), ADRs<sup>14</sup>, Global Depository Receipts (“GDRs”, American Depository Shares (“ADS”), European Depository Receipts (“EDRs”), International Depository Receipts (“IDRs”, and together with ADRs, GDRs, EDRs and ADS, “Depository Receipts”) that provide exposure to Emerging Markets Securities, (iv) ETFs, commodity-related pooled vehicles<sup>15</sup> and ETNs<sup>16</sup> that provide exposure to gold, and (v) futures that provide exposure to Emerging Markets Securities. The Fund will seek to achieve a similar level of volatility as that of the FTSE Benchmark, although there is no assurance it will do so. The FTSE Benchmark classifies a market as an emerging market based on a number of considerations related to the strength of the economy and the strength of capital market systems. The FTSE Benchmark classifies a company as being an emerging markets company based on a number of factors related to incorporation, listing, governance and operations of the company.

The FTSE Benchmark seeks to reflect the returns of a portfolio of Emerging

excluding Depository Receipts that are registered under the Act and non-exchange-listed American Depository Receipts (“ADRs”).

<sup>13</sup> The Fund will gain exposure to gold futures through investment in the Subsidiary, as described below, and will not invest directly in gold futures.

<sup>14</sup> According to the Registration Statement, ADRs are receipts typically issued by United States banks and trust companies which evidence ownership of underlying securities issued by a foreign corporation. Generally, ADRs in registered form are designed for use in domestic securities markets and are traded on exchanges or over-the-counter in the United States. American Depository Shares (ADSs) are U.S. dollar-denominated equity shares of a foreign-based company available for purchase on an American stock exchange. ADSs are issued by depository banks in the United States under an agreement with the foreign issuer, and the entire issuance is called an ADR and the individual shares are referred to as ADSs. GDRs, EDRs, and IDRs are similar to ADRs in that they are certificates evidencing ownership of shares of a foreign issuer, however, GDRs, EDRs, and IDRs may be issued in bearer form and denominated in other currencies, and are generally designed for use in specific or multiple securities markets outside the U.S. EDRs, for example, are designed for use in European securities markets while GDRs are designed for use throughout the world. ADRs, GDRs, EDRs, and IDRs will not necessarily be denominated in the same currency as their underlying securities. Non-exchange-listed ADRs will not exceed 10% of the Fund’s net assets.

<sup>15</sup> See note 10, supra. The Fund will gain exposure to commodity-related pooled vehicles through investment in the Subsidiary, as described below, and will not invest directly in commodity-related pooled vehicles.

<sup>16</sup> See note 11, supra.

Markets Securities, hedged with a long gold futures overlay. Specifically, the FTSE Benchmark measures the total return performance of a hypothetical portfolio consisting of Emerging Markets Securities and a long position in gold futures, the notional value of which is comparable to the value of the FTSE Benchmark's equity component.

The Sub-Adviser will continuously monitor the Fund's holdings in order to enhance performance while still providing approximately equal notional exposure to equity securities and gold futures contracts.

According to the Registration Statement, futures contracts, by their terms, have stated expirations and, at a specified point in time prior to expiration, trading in a futures contract for the current delivery month will cease. Therefore, in order to maintain exposure to gold futures contracts, the FTSE Benchmark must periodically migrate out of gold futures contracts nearing expiration and into gold futures contracts that have longer remaining until expiration, a process referred to as "rolling." The impact from this continuous process of selling expiring contracts and buying longer-dated contracts is called roll yield. The FTSE Benchmark rolls these futures contracts according to a predefined schedule, regardless of the liquidity or roll yield of the futures contract selected.

The Fund will look to minimize the impact of rolling futures contracts in a number of ways. For example, the Fund may roll positions in gold futures contracts before or after the scheduled roll dates for the FTSE Benchmark, to the extent of favorable market prices and available liquidity. Additionally, the Fund may attempt to minimize roll costs (and maximize yields) by rolling into the gold futures contract with the largest positive or smallest negative roll yield. This strategy for taking long positions in and unwinding exposure to gold futures contracts may cause the Fund to have more or less exposure to gold futures contracts than the FTSE Benchmark. Additionally, the Fund is not obligated to rebalance its exposures at the same time that the FTSE Benchmark rebalances its exposures, and the Fund may rebalance more or less frequently than the FTSE Benchmark in order to ensure that the Fund's exposure to equities remains comparable to the Fund's exposure to the price of gold.

The Fund will not directly hold gold futures contracts, commodity-related pooled vehicles and options on commodity futures (as referenced below). Rather, the Fund expects to gain exposure to these instruments by investing up to 25% of its total assets, as measured at the end of every quarter of the Fund's taxable year, in a wholly-owned and controlled Cayman Islands subsidiary (the "Subsidiary"). The Subsidiary will be advised by the Adviser and the Fund's investment in the Subsidiary will primarily be intended to provide the Fund with exposure to the price of gold. The Fund's investment in the Subsidiary is expected to provide the Fund with an effective means of obtaining exposure to the commodities markets in a manner consistent with U.S. federal tax law requirements applicable to registered investment companies.

## Other Investments

While each Fund will invest at least 80% of its net assets in the securities and financial instruments described above, a Fund may invest its remaining assets in the securities and financial instruments described below.

In addition to the exchange-traded equity securities described above for the Funds, the Funds may invest in the following exchange-traded equity securities: exchange-traded common stock (other than large-cap U.S. stocks or Emerging Markets Securities, respectively, for the respective Funds); exchange-traded preferred stock (other than preferred stock referred to above with respect to the REX Gold Hedged S&P 500 ETF), warrants, MLPs, rights, and convertible securities.

The Funds may invest in restricted (Rule 144A) securities.

In addition to the futures transactions described above under “Principal Investments” of a Fund, the Funds may engage in other index, commodity and currency futures transactions and may engage in exchange-traded options transactions on such futures. The Funds may use futures contracts and related options for *bona fide* hedging; attempting to offset changes in the value of securities held or expected to be acquired or be disposed of; attempting to gain exposure to a particular market, index, or instrument; or other risk management purposes.

The Funds may purchase and write (sell) exchange-traded and OTC put and call options on securities, securities indices and currencies. A Fund may purchase put and call options on securities to protect against a decline in the market value of the securities in its portfolio or to anticipate an increase in the market value of securities that a Fund may seek to purchase in the future.

Each Fund will also invest in cash and cash equivalents<sup>17</sup> to collateralize its exposure to futures contracts and for investment purposes.

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<sup>17</sup> For purposes of this filing, cash equivalents include short-term instruments (instruments with maturities of less than 3 months) of the following types: (i) U.S. Government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers’ acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

Each Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans.

Each Fund may enter into reverse repurchase agreements as part of a Fund's investment strategy.

In addition, the Funds may invest in the following fixed income instruments ("Fixed Income Instruments"): U.S. government securities, namely, U.S. Treasury obligations<sup>18</sup>, U.S. government agency securities and U.S. Treasury zero-coupon bonds.

The Funds will invest in the securities of other investment companies, including the Underlying Funds, to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the Commission or interpretation thereof.

#### Investment in the Subsidiaries

According to the Registration Statement, each Fund will achieve commodities exposure through investment in a Subsidiary. Such investment may not exceed 25% of a Fund's total assets, as measured at the end of every quarter of a Fund's taxable year. Each Subsidiary will invest in gold futures contracts, commodity-related pooled vehicles and options on commodity futures, and other investments (cash, cash equivalents and Fixed Income Instruments with less than one year to maturity) intended to serve as margin or collateral or otherwise support the Subsidiary's derivatives positions. Unlike a Fund, the Subsidiary may invest without limitation in commodity futures and may use leveraged investment techniques. The Subsidiaries otherwise are subject to the same general investment policies and restrictions as the Funds.

According to the Registration Statement, the Subsidiaries are not registered under the 1940 Act. As an investor in its Subsidiary, each Fund, as the Subsidiary's sole shareholder, would not have the protections offered to investors in registered investment companies. However, because a Fund would wholly own and control the Subsidiary, and a Fund and Subsidiary would be managed by the Adviser, it is unlikely that the Subsidiary would take action contrary to the interests of a Fund or a Fund's shareholders. A Fund's Board of Trustees has oversight responsibility for the investment activities of the Funds, including their investments in its respective Subsidiary, and each Fund's role as the sole shareholder of its Subsidiary. Also, in managing a Subsidiary's portfolio, the Adviser and Sub-Adviser would be subject to the same investment restrictions and operational

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<sup>18</sup> U.S. Treasury obligations consist of bills, notes and bonds issued by the U.S. Treasury and separately traded interest and principal component parts of such obligations that are transferable through the federal book-entry system known as Separately Traded Registered Interest and Principal Securities ("STRIPS") and Treasury Receipts.

guidelines that apply to the management of a Fund.

#### Investment Restrictions

Each Fund will concentrate its investments (i.e., hold 25% or more of its total assets) in a particular industry or group of industries to approximately the same extent that the respective benchmark concentrates in an industry or group of industries.<sup>19</sup>

Each Fund will be classified as a non-diversified investment company under the 1940 Act. A “non-diversified” classification means that a Fund is not limited by the 1940 Act with regard to the percentage of their assets that may be invested in the securities of a single issuer.<sup>20</sup>

The Adviser will not take defensive positions in the Funds’ portfolios during periods of adverse market, economic, political, or other conditions as the Adviser intends for each Fund to remain fully invested consistent with its investment strategy under all market conditions.

Each Fund may invest up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser,<sup>21</sup> consistent with Commission guidance. Each 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 a Fund’s net assets are invested 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.<sup>22</sup>

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<sup>19</sup> The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. See, e.g., Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

<sup>20</sup> The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

<sup>21</sup> In reaching liquidity decisions, the Adviser may consider the following factors: 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; and 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>22</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.

According to the Registration Statement, each Fund will seek to qualify for treatment as a Regulated Investment Company (“RIC”) under the Internal Revenue Code.<sup>23</sup>

With respect to the REX Gold Hedged FTSE Emerging Markets ETF, the non-U.S. equity securities in such Fund’s portfolio will meet the following criteria at time of purchase<sup>24</sup>: (1) non-U.S. equity securities each shall have a minimum market value of at least \$100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund’s entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund’s entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting.

According to the Registration Statement, the Funds are subject to regulation under the Commodity Exchange Act and CFTC rules as commodity pools. The Adviser is registered as a commodity pool operator, and the Funds will be operated in accordance with CFTC rules.

Each Fund’s investments will be consistent with its investment objective and will not be used to enhance leverage. While a Fund may invest in inverse ETFs and

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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).

<sup>23</sup> 26 U.S.C. 851.

<sup>24</sup> These criteria are similar to certain “generic” listing criteria in NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(B), which relate to criteria applicable to an index or portfolio of U.S. and non-U.S. stocks underlying a series of Investment Company Units to be listed and traded on the Exchange pursuant to Rule 19b-4(e) under the Act.

ETNs, a Fund will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETFs and ETNs.

### Creation of Shares

According to the Registration Statement, the Trust will issue and sell shares of each Fund only in Creation Units of at least 50,000 Shares each on a continuous basis through the Distributor, at their NAV next determined after receipt, on any business day of an order received in proper form.

The consideration for purchase of a Creation Unit of a Fund generally will consist of an in-kind deposit of a designated portfolio of securities – the “Deposit Securities” – per each Creation Unit constituting a substantial replication, or a representation, of the securities included in a Fund’s portfolio and an amount of cash – the Cash Component – computed as described below. Together, the Deposit Securities 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. If the Cash Component is a positive number (i.e., the NAV per Creation Unit exceeds the market value of the Deposit Securities), 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), the Cash Component shall be such negative amount and the creator will be entitled to receive cash from a Fund 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.

The Administrator, through the National Securities Clearing Corporation (“NSCC”), will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern Time), the list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) for each Fund.

The Trust reserves the right to permit or require the substitution of an amount of cash – i.e., a “cash in lieu” amount – to be added to the Cash Component to replace any Deposit Security which may not be available in sufficient quantity for delivery or which may not be eligible for transfer, or which may not be eligible for trading by an Authorized Participant (as defined below) or the investor for which it is acting. The Trust also reserves the right to offer an “all cash” option for creations of Creation Units for each Fund.<sup>25</sup>

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The Adviser represents that, to the extent the Trust effects the creation or redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

In addition to the list of names and numbers of securities constituting the current Deposit Securities of a Fund Deposit, the Administrator, through the NSCC, also will make available on each business day, the estimated Cash Component, effective through and including the previous business day, per outstanding Creation Unit of each Fund.

To be eligible to place orders with the Distributor to create a Creation Unit of a Fund, an entity must be (i) a “Participating Party,” *i.e.*, a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC, a clearing agency that is registered with the Commission; or (ii) a Depository Trust Company (“DTC”) Participant, and, in each case, must have executed an agreement with the Trust, the Distributor and the Administrator with respect to creations and redemptions of Creation Units (“Participant Agreement”). A Participating Party and DTC Participant are collectively referred to as an “Authorized Participant.”

All orders to create or redeem Creation Units must be placed for one or more Creation Unit size aggregations of at least 50,000 Shares and must be received by the Distributor no later than 3:00 p.m., Eastern Time, an hour earlier than the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., Eastern Time) (“Closing Time”), in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares of each Fund as next determined on such date after receipt of the order in proper form.

If permitted by the Adviser or Sub-Adviser in its sole discretion with respect to a Fund, an Authorized Participant may also agree to enter into or arrange for an exchange of a futures contract for a related position (“EFCRP”) or block trade with the relevant Fund or its Subsidiary whereby the Authorized Participant would also transfer to such Fund a number and type of exchange-traded futures contracts at or near the closing settlement price for such contracts on the purchase order date. Similarly, the Sub-Adviser in its sole discretion may agree with an Authorized Participant to use an EFCRP or block trade to effect an order to redeem Creation Units.<sup>26</sup>

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<sup>26</sup> According to the Registration Statement, an EFCRP is a technique permitted by the rules of certain futures exchanges that, as utilized by a Fund in the Sub-Adviser’s discretion, would allow such Fund or its Subsidiary to take a position in a futures contract from an Authorized Participant, or give futures contracts to an Authorized Participant, in the case of a redemption, rather than to enter the futures exchange markets to obtain such a position. An EFCRP by itself will not change either party’s net risk position materially. Because the futures position that a Fund would otherwise need to take in order to meet its investment objective can be obtained without unnecessarily impacting the financial or futures markets or their pricing, EFCRPs can generally be viewed as transactions beneficial to a Fund. A block trade is a technique that permits certain funds to obtain a futures position without going through the market auction system and can generally be viewed as a transaction beneficial to such funds.

### Redemption of Shares

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by a Fund through the Administrator and only on a business day. The Trust will not redeem Shares in amounts less than Creation Units. Beneficial owners must accumulate enough Shares in the secondary market to constitute a Creation Unit in order to have such Shares redeemed by the Trust.

With respect to the Funds, the Administrator, through the NSCC, will make available immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern Time) on each business day, the “Fund Securities” that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. Fund Securities received on redemption may not be identical to Deposit Securities which are applicable to creations of Creation Units.

Unless cash redemptions are available or specified for a Fund, the redemption proceeds for a Creation Unit generally will consist of Fund Securities, as announced by the Administrator 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 receipt of a request in proper form, and the value of the Fund Securities (the “Cash Redemption Amount”), less a redemption transaction fee. 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.

If it is not possible to effect deliveries of the Fund Securities, the Trust may in its discretion exercise its option to redeem such shares in cash, and the redeeming “Beneficial Owner” will be required to receive its redemption proceeds in cash. In addition, an investor may request a redemption in cash which a Fund may, in its sole discretion, permit. In either case, the investor will receive a cash payment equal to the NAV of its Shares based on the NAV of Shares of a Fund next determined after the redemption request is received in proper form (minus a redemption transaction fee and additional charge for requested cash redemptions, to offset the Trust’s brokerage and other transaction costs associated with the disposition of Fund Securities). Each Fund may also, in its sole discretion, upon request of a shareholder, provide such redeemer a portfolio of securities which differs from the exact composition of the Fund Securities but does not differ in NAV.

The right of redemption may be suspended or the date of payment postponed with respect to a Fund (1) for any period during which the Exchange is closed (other than customary weekend and holiday closings); (2) for any period during which trading on the Exchange is suspended or restricted; (3) for any period during which an emergency exists as a result of which disposal of the Shares of a Fund or

determination of the Shares' NAV is not reasonably practicable; or (4) in such other circumstance as is permitted by the Commission.

#### Net Asset Value

The NAV per Share of each Fund will be computed by dividing the value of the net assets of a Fund (i.e., the value of its total assets less total liabilities) by the total number of Shares of a Fund outstanding, rounded to the nearest cent. Expenses and fees, including without limitation, the management, administration and distribution fees, will be accrued daily and taken into account for purposes of determining NAV per Share. The NAV per Share for each Fund will be calculated by the Administrator and determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., Eastern Time) on each day that such exchange is open.

In computing a Fund's NAV, a Fund's securities holdings will be valued based on their last readily available market price. Price information on exchange-listed securities, including common stocks, preferred stocks, warrants, convertible securities, MLPs, rights, Underlying Funds, ETNs, Depositary Receipts and commodity-related pooled vehicles in which a Fund invests, will be taken from the exchange where the security is primarily traded. Other portfolio securities and assets for which market quotations are not readily available or determined to not represent the current fair value will be valued based on fair value as determined in good faith by the Sub-Adviser in accordance with procedures adopted by the Board.

Futures contracts and exchange-traded options on futures will be valued at the settlement or closing price determined by the applicable exchange. Exchange-traded options contracts will be valued at their most recent sale price. OTC options normally will be valued on the basis of quotes obtained from a third-party broker-dealer who makes markets in such securities or on the basis of quotes obtained from a third-party pricing service.

Cash and cash equivalents (with the exception of money market funds) may be valued at market values, as furnished by recognized dealers in such securities or assets. Cash equivalents (with the exception of money market funds) also may be valued on the basis of information furnished by an independent pricing service that uses a valuation matrix which incorporates both dealer-supplied valuations and electronic data processing techniques. Shares of money market funds held by each Fund will be valued at their respective NAVs.

Fixed Income Instruments, Rule 144A 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 fixed-income instruments in the respective market.

Non-exchange-traded ADRs will be valued at the last quoted mid-price on the primary market on which they are traded.

### Availability of Information

The Funds' website, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Funds that may be downloaded. The Funds' website will include additional quantitative information updated on a daily basis, including, for each Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),<sup>27</sup> and a calculation of the premium or 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. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Funds' website will disclose the Disclosed Portfolio that will form the basis for each Fund's calculation of NAV at the end of the business day.<sup>28</sup>

On a daily basis, the Funds will disclose on the Funds' website the following information regarding each portfolio holding of a Fund and its respective Subsidiary, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); 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 a Fund's portfolio. The website information will be publicly available at no charge.

In addition, a basket composition file (i.e., the Deposit Securities), which includes the security names and share quantities (as applicable) required to be delivered in exchange for Fund Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange via the NSCC. The basket will represent one Creation Unit of a Fund.

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<sup>27</sup> The Bid/Ask Price of Shares of each Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of a Fund's NAV. The records relating to Bid/Ask Prices will be retained by a Fund and its service providers.

<sup>28</sup> Under accounting procedures followed by the Funds, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Funds 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.

Investors will also be able to obtain the Trust's Statement of Additional Information ("SAI"), a Fund's Shareholder Reports, and its Form N-CSR and Form N-SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission's website at [www.sec.gov](http://www.sec.gov). Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares, Underlying Funds, ETNs and other U.S. exchange-traded equities, will be available via the Consolidated Tape Association ("CTA") high-speed line, and, for equity securities that are U.S. exchange-listed, will be available from the national securities exchange on which they are listed. With respect to non-U.S. exchange-listed equity securities, intra-day, closing and settlement prices of common stocks and other equity securities (including shares of preferred securities, and non-U.S. Depositary Receipts), will be available from the foreign exchanges on which such securities trade as well as from major market data vendors. Price information for money market funds will be available from the investment company's website and from market data vendors. Price information relating to cash, cash equivalents, futures, options, options on futures, Depositary Receipts, Rule 144A securities, repurchase agreements, reverse repurchase agreements, the S&P Benchmark and the FTSE Benchmark will be available from major market data vendors. Information relating to futures and exchange-traded options on futures also will be available from the exchange on which such instruments are traded. Information relating to U.S. exchange-traded options will be available via the Options Price Reporting Authority. Pricing information regarding each asset class in which a Fund will invest will generally be available through nationally recognized data service providers through subscription agreements.

In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.<sup>29</sup> The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of each Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in

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Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

exercising its discretion to halt or suspend trading in the Shares of the Funds.<sup>30</sup> Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also 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 comprising the Disclosed Portfolio of the Funds; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Funds 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. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. Eastern Time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00, for which the MPV for order entry is \$0.0001.

The Shares of each Fund will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Adviser, as the "Reporting Authority", will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of a Fund's portfolio. The Exchange represents that, for initial and/or continued listing, each Fund will be in compliance with Rule 10A-3<sup>31</sup> under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares of each Fund that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) will be made available to all market participants at the same time.

### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing

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<sup>30</sup> See NYSE Arca Equities Rule 7.12.

<sup>31</sup> 17 CFR 240.10A-3.

trading surveillances, administered by regulatory staff of the Exchange or the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>32</sup> The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The regulatory staff of the Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, certain exchange-listed equity securities, certain futures, certain options on futures, and certain exchange-traded options with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the regulatory staff of the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>33</sup> FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA’s Trade Reporting and Compliance Engine (“TRACE”).

Not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts or options contracts shall consist of futures contracts or options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

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

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<sup>32</sup> FINRA surveils certain trading activity on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

<sup>33</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org). The Exchange notes that not all components of the Disclosed Portfolio for a Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

### Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders 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 Bulletin will reference that the Funds will be subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern Time each trading day.

#### (b) Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>34</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. Trading in the Shares will be subject to the existing trading surveillances, administered by the regulatory staff of the Exchange or FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The regulatory staff of the Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, certain exchange-listed equity securities, certain futures, certain options on futures, and certain exchange-traded options with other markets and other entities that are members of the ISG,

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15 U.S.C. 78f(b)(5).

and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

With respect to the Rex Gold Hedged FTSE Emerging Markets ETF, the non-U.S. equity securities in the Fund's portfolio will meet the following criteria at time of purchase: (1) non-U.S. equity securities each shall have a minimum market value of at least \$100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting.

Not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts or options contracts shall consist of futures contracts or options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. While a Fund may invest in inverse ETFs and ETNs, a Fund will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETFs and ETNs.

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 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 will be publicly available regarding the Funds and the Shares, thereby promoting market transparency.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares, Underlying Funds and other U.S. exchange-traded equities, will be available via the CTA high-speed line, and, for equity securities that are U.S. exchange-listed, will be available from the national securities exchange on which they are listed. Price information for money market funds will be available from the investment company's website and from market data

vendors. Price information relating to cash, cash equivalents, futures, options, options on futures, Depositary Receipts, Rule 144A securities, repurchase agreements, reverse repurchase agreements, the S&P Benchmark and the FTSE Benchmark will be available from major market data vendors. Information relating to futures and exchange-traded options on futures also will be available from the exchange on which such instruments are traded. Information relating to U.S. exchange-traded options will be available via the Options Price Reporting Authority. Pricing information regarding each asset class in which a Fund will invest will generally be available through nationally recognized data service providers through subscription agreements.

In addition, the Portfolio Indicative Value will be widely disseminated by the Exchange at least every 15 seconds during the Core Trading Session. The Funds' website will include a form of the prospectus for the Funds that may be downloaded, as well as additional quantitative information updated on a daily basis. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Funds' website will disclose the Disclosed Portfolio that will form the basis for each Fund's calculation of NAV at the end of the business day.

On a daily basis, the Funds will disclose on the Funds' website the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); 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 a Fund's portfolio. Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Funds' holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 additional types of actively-managed exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, as noted above, investors

will have ready access to information regarding the Funds' holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 additional types of actively-managed exchange-traded products based on the price of gold and other financial instruments 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

The Exchange does not consent at this time to an extension of any time period for Commission action.

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

Not applicable.

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

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 - Form of Notice of Proposed Rule Change for Federal Register

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NYSEARCA-2015-107, Amendment No. 1)

[Date]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of the REX Gold Hedged S&P 500 ETF and the REX Gold Hedged FTSE Emerging Markets ETF under NYSE Arca Equities Rule 8.600

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on January 15, 2016, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares”): The REX Gold Hedged S&P 500 ETF and the REX Gold Hedged FTSE Emerging Markets ETF. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to list and trade shares (the “Shares”) of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares<sup>4</sup>: the REX Gold Hedged S&P 500 ETF and the REX Gold Hedged FTSE Emerging Markets ETF (each a “Fund” and, collectively, the “Funds”).<sup>5</sup>

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<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (the “1940 Act”) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>5</sup> The Commission has approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.*, Securities Exchange Act Release Nos. 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR-NYSEArca-2010-79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 70055 (July 29, 2013) (SR-NYSEArca-2013-52) (order

The Shares will be offered by Exchange Traded Concepts Trust (the “Trust”), a Delaware statutory trust. Exchange Traded Concepts, LLC will serve as the investment adviser to the Funds (“Adviser”). Vident Investment Advisory, LLC (the “Sub-Adviser”) will serve as sub-adviser to the Funds.<sup>6</sup>

SEI Investments Distribution Co. (“SIDCO”), (the “Distributor”) will be the principal underwriter and distributor of the Funds’ Shares. SEI Investments Global Funds Services (the “Administrator”) will serve as the administrator, custodian, transfer agent and fund accounting agent for the Funds.<sup>7</sup>

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer,

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approving proposed rule change relating to listing and trading of shares of the First Trust Morningstar Managed Futures Strategy Fund under NYSE Arca Equities Rule 8.600); and 71456 (January 31, 2014), 79 FR 7258 (February 6, 2014) (SR-NYSEArca-2013-116) (order approving proposed rule change relating to listing and trading of shares of the AdvisorShares International Gold ETF, AdvisorShares Gartman Gold/Yen ETF, AdvisorShares Gartman Gold/British Pound ETF, and AdvisorShares Gartman Gold/Euro ETF under NYSE Arca Equities Rule 8.600).

<sup>6</sup> The Trust is registered under the 1940 Act. On October 9, 2015, the Trust filed with the Commission an amendment to its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”), and under the 1940 Act relating to the Funds (File Nos. 333-156529 and 811-22263) (“Registration Statement”). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 30445, April 2, 2013 (File No. 812-13969) (“Exemptive Order”).

This Amendment No. 1 to SR-NYSEArca-2015-107 replaces SR-NYSEArca-2015-107 as originally filed and supersedes such filing in its entirety.

<sup>7</sup> The Funds are subject to regulation under the Commodity Exchange Act (“CEA”) and Commodity Futures Trading Commission (“CFTC”) rules as commodity pools. The Adviser is registered as a commodity pool operator (“CPO”), and the Funds will be operated in accordance with CFTC rules.

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. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund’s portfolio.<sup>8</sup> Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 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. Neither the Adviser nor the Sub-Adviser is a broker-dealer or affiliated with a broker-dealer.

In the event (a) the Adviser or Sub-Adviser becomes a registered broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a

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<sup>8</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 Sub-Adviser and their related personnel will be 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 violations, 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.

registered broker-dealer, or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

#### The REX Gold Hedged S&P 500 ETF—Principal Investments

According to the Registration Statement, the Fund will seek to outperform the total return performance of the S&P 500 Dynamic Gold Hedged Index (the “S&P Benchmark”) by actively hedging the returns of the S&P 500<sup>®</sup> Index using gold futures. The Fund will seek to achieve its investment objective of outperforming the S&P Benchmark by providing exposure to a gold-hedged U.S. large-cap portfolio using a quantitative, rules-based strategy. The Fund will invest at least 80% of its assets (plus the amount of any borrowings for investment purposes) in (i) U.S. exchange-listed large-cap U.S. stocks; (ii) gold futures<sup>9</sup>; (iii) exchange-traded funds (“ETFs”)<sup>10</sup> and exchange-traded closed-end funds (together with ETFs, the “Underlying Funds”) that provide exposure to large-cap U.S. stocks; (iv) ETFs, commodity-related pooled vehicles<sup>11</sup> and

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<sup>9</sup> The Fund will gain exposure to gold futures through investment in the Subsidiary, as described below, and will not invest directly in gold futures.

<sup>10</sup> For purposes of this filing, ETFs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depository Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The Underlying Funds in which a Fund will invest all will be listed and traded on national securities exchanges. While the Funds may invest in inverse ETFs, the Funds will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETFs.

<sup>11</sup> For purposes of the filing, commodity-related pooled vehicles will mean: Equity Gold Shares (as described in NYSE Arca Equities Rule 5.2(j)(5)); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based

exchange-traded notes (“ETNs”)<sup>12</sup> that provide exposure to gold; and (v) futures that provide exposure to the S&P 500<sup>®</sup> Index. The Fund will not invest in non-U.S. stocks.

The Fund will seek to achieve a similar level of volatility as that of the S&P Benchmark, although there is no assurance it will do so.

According to the Registration Statement, the S&P Benchmark seeks to reflect the returns of a portfolio of S&P 500<sup>®</sup> stocks, hedged with a long gold futures overlay. Specifically, the S&P Benchmark measures the total return performance of a hypothetical portfolio consisting of securities that compose the S&P 500<sup>®</sup> Index, which measures the performance of the large-capitalization sector of the U.S. equity market, and a long position in gold futures contracts, the notional value of which is comparable to the value of the S&P Benchmark’s equity component.

The Sub-Adviser will continuously monitor the Fund’s holdings in order to enhance performance while still providing approximately equal notional exposure to equity securities and gold futures contracts.

According to the Registration Statement, futures contracts, by their terms, have stated expirations and, at a specified point in time prior to expiration, trading in a futures

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Trust Shares (as described in NYSE Arca Equities Rule 8.201); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500). The Fund will gain exposure to commodity-related pooled vehicles through investment in the Subsidiary, as described below, and will not invest directly in commodity-related pooled vehicles.

<sup>12</sup> ETNs, which will be listed on a national securities exchange, are securities such as those described in NYSE Arca Equities Rule 5.2(j)(6). While the Funds may invest in inverse ETNs, the Funds will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETNs.

contract for the current delivery month will cease. Therefore, in order to maintain exposure to gold futures contracts, the S&P Benchmark must periodically migrate out of gold futures contracts nearing expiration and into gold futures contracts that have longer remaining until expiration, a process referred to as “rolling.” The impact from this continuous process of selling expiring contracts and buying longer-dated contracts is called roll yield. The S&P Benchmark rolls these futures contracts according to a predefined schedule, regardless of the liquidity or roll yield of the futures contract selected.

The Fund will look to minimize the impact of rolling futures contracts in a number of ways. For example, the Fund may roll positions in gold futures contracts before or after the scheduled roll dates for the S&P Benchmark, to the extent of favorable market prices and available liquidity. Additionally, the Fund may attempt to minimize roll costs (and maximize yields) by rolling into the gold futures contract with the largest positive or smallest negative roll yield. This strategy for taking long positions in and unwinding exposure to gold futures contracts may cause the Fund to have more or less exposure to gold futures contracts than the S&P Benchmark. Additionally, the Fund is not obligated to rebalance its exposures at the same time that the S&P Benchmark rebalances its exposures, and the Fund may rebalance more or less frequently than the S&P Benchmark in order to ensure that the Fund’s exposure to equities remains comparable to the Fund’s exposure to the price of gold.

The Fund will not directly hold gold futures contracts, commodity-related pooled vehicles and options on commodity futures (as referenced below). Rather, the Fund expects to gain exposure to these instruments by investing up to 25% of its total assets, as

measured at the end of every quarter of the Fund's taxable year, in a wholly-owned and controlled Cayman Islands subsidiary (the "Subsidiary"). The Subsidiary will be advised by the Adviser and the Fund's investment in the Subsidiary will primarily be intended to provide the Fund with exposure to the price of gold. The Fund's investment in the Subsidiary is expected to provide the Fund with an effective means of obtaining exposure to the commodities markets in a manner consistent with U.S. federal tax law requirements applicable to registered investment companies.

#### The REX Gold Hedged FTSE Emerging Markets ETF—Principal Investments

According to the Registration Statement, the REX Gold Hedged FTSE Emerging Markets ETF (the "Fund") will seek to outperform the total return performance of the FTSE Emerging Gold Overlay Index (the "FTSE Benchmark") by actively hedging a portfolio of emerging markets securities using gold futures.

The Fund will seek to achieve its investment objective of outperforming the FTSE Benchmark by providing exposure to a gold-hedged emerging markets portfolio using a quantitative, rules-based strategy. The Fund will invest at least 80% of its assets (plus the amount of any borrowings for investment purposes) in (i) equity securities of emerging markets companies, as such companies are classified by the FTSE Benchmark ("Emerging Markets Securities")<sup>13</sup>, (ii) gold futures<sup>14</sup>, (iii) ETFs and exchange-traded

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<sup>13</sup> The non-U.S. equity securities in the Fund's portfolio will meet the following criteria at time of purchase: (1) non-U.S. equity securities each shall have a minimum market value of at least \$100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (4) each non-U.S.

closed-end funds (together with ETFs, the “Underlying Funds”), ADRs<sup>15</sup>, Global Depository Receipts (“GDRs”, American Depositary Shares (“ADS”), European Depository Receipts (“EDRs”), International Depository Receipts (“IDRs”, and together with ADRs, GDRs, EDRs and ADS, “Depository Receipts”) that provide exposure to Emerging Markets Securities, (iv) ETFs, commodity-related pooled vehicles<sup>16</sup> and ETNs<sup>17</sup> that provide exposure to gold, and (v) futures that provide exposure to Emerging

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equity security shall be listed and traded on an exchange that has last-sale reporting. For purposes of this filing, the term “non-U.S. equity securities” includes the following (each as referenced below): common stocks and preferred securities of foreign corporations; warrants; convertible securities; master limited partnerships (“MLPs”); rights; and “Depository Receipts” (as defined below, excluding Depository Receipts that are registered under the Act and non-exchange-listed American Depositary Receipts (“ADRs”).

<sup>14</sup> The Fund will gain exposure to gold futures through investment in the Subsidiary, as described below, and will not invest directly in gold futures.

<sup>15</sup> According to the Registration Statement, ADRs are receipts typically issued by United States banks and trust companies which evidence ownership of underlying securities issued by a foreign corporation. Generally, ADRs in registered form are designed for use in domestic securities markets and are traded on exchanges or over-the-counter in the United States. American Depositary Shares (ADSs) are U.S. dollar-denominated equity shares of a foreign-based company available for purchase on an American stock exchange. ADSs are issued by depository banks in the United States under an agreement with the foreign issuer, and the entire issuance is called an ADR and the individual shares are referred to as ADSs. GDRs, EDRs, and IDRs are similar to ADRs in that they are certificates evidencing ownership of shares of a foreign issuer, however, GDRs, EDRs, and IDRs may be issued in bearer form and denominated in other currencies, and are generally designed for use in specific or multiple securities markets outside the U.S. EDRs, for example, are designed for use in European securities markets while GDRs are designed for use throughout the world. ADRs, GDRs, EDRs, and IDRs will not necessarily be denominated in the same currency as their underlying securities. Non-exchange-listed ADRs will not exceed 10% of the Fund’s net assets.

<sup>16</sup> See note 11, supra. The Fund will gain exposure to commodity-related pooled vehicles through investment in the Subsidiary, as described below, and will not invest directly in commodity-related pooled vehicles.

<sup>17</sup> See note 12, supra.

Markets Securities. The Fund will seek to achieve a similar level of volatility as that of the FTSE Benchmark, although there is no assurance it will do so. The FTSE Benchmark classifies a market as an emerging market based on a number of considerations related to the strength of the economy and the strength of capital market systems. The FTSE Benchmark classifies a company as being an emerging markets company based on a number of factors related to incorporation, listing, governance and operations of the company.

The FTSE Benchmark seeks to reflect the returns of a portfolio of Emerging Markets Securities, hedged with a long gold futures overlay. Specifically, the FTSE Benchmark measures the total return performance of a hypothetical portfolio consisting of Emerging Markets Securities and a long position in gold futures, the notional value of which is comparable to the value of the FTSE Benchmark's equity component.

The Sub-Adviser will continuously monitor the Fund's holdings in order to enhance performance while still providing approximately equal notional exposure to equity securities and gold futures contracts.

According to the Registration Statement, futures contracts, by their terms, have stated expirations and, at a specified point in time prior to expiration, trading in a futures contract for the current delivery month will cease. Therefore, in order to maintain exposure to gold futures contracts, the FTSE Benchmark must periodically migrate out of gold futures contracts nearing expiration and into gold futures contracts that have longer remaining until expiration, a process referred to as "rolling." The impact from this continuous process of selling expiring contracts and buying longer-dated contracts is called roll yield. The FTSE Benchmark rolls these futures contracts according to a

predefined schedule, regardless of the liquidity or roll yield of the futures contract selected.

The Fund will look to minimize the impact of rolling futures contracts in a number of ways. For example, the Fund may roll positions in gold futures contracts before or after the scheduled roll dates for the FTSE Benchmark, to the extent of favorable market prices and available liquidity. Additionally, the Fund may attempt to minimize roll costs (and maximize yields) by rolling into the gold futures contract with the largest positive or smallest negative roll yield. This strategy for taking long positions in and unwinding exposure to gold futures contracts may cause the Fund to have more or less exposure to gold futures contracts than the FTSE Benchmark. Additionally, the Fund is not obligated to rebalance its exposures at the same time that the FTSE Benchmark rebalances its exposures, and the Fund may rebalance more or less frequently than the FTSE Benchmark in order to ensure that the Fund's exposure to equities remains comparable to the Fund's exposure to the price of gold.

The Fund will not directly hold gold futures contracts, commodity-related pooled vehicles and options on commodity futures (as referenced below). Rather, the Fund expects to gain exposure to these instruments by investing up to 25% of its total assets, as measured at the end of every quarter of the Fund's taxable year, in a wholly-owned and controlled Cayman Islands subsidiary (the "Subsidiary"). The Subsidiary will be advised by the Adviser and the Fund's investment in the Subsidiary will primarily be intended to provide the Fund with exposure to the price of gold. The Fund's investment in the Subsidiary is expected to provide the Fund with an effective means of obtaining exposure to the commodities markets in a manner consistent with U.S. federal tax law

requirements applicable to registered investment companies.

#### Other Investments

While each Fund will invest at least 80% of its net assets in the securities and financial instruments described above, a Fund may invest its remaining assets in the securities and financial instruments described below.

In addition to the exchange-traded equity securities described above for the Funds, the Funds may invest in the following exchange-traded equity securities: exchange-traded common stock (other than large-cap U.S. stocks or Emerging Markets Securities, respectively, for the respective Funds); exchange-traded preferred stock (other than preferred stock referred to above with respect to the REX Gold Hedged S&P 500 ETF), warrants, MLPs, rights, and convertible securities.

The Funds may invest in restricted (Rule 144A) securities.

In addition to the futures transactions described above under “Principal Investments” of a Fund, the Funds may engage in other index, commodity and currency futures transactions and may engage in exchange-traded options transactions on such futures. The Funds may use futures contracts and related options for *bona fide* hedging; attempting to offset changes in the value of securities held or expected to be acquired or be disposed of; attempting to gain exposure to a particular market, index, or instrument; or other risk management purposes.

The Funds may purchase and write (sell) exchange-traded and OTC put and call options on securities, securities indices and currencies. A Fund may purchase put and call options on securities to protect against a decline in the market value of the securities

in its portfolio or to anticipate an increase in the market value of securities that a Fund may seek to purchase in the future.

Each Fund will also invest in cash and cash equivalents<sup>18</sup> to collateralize its exposure to futures contracts and for investment purposes.

Each Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans.

Each Fund may enter into reverse repurchase agreements as part of a Fund's investment strategy.

In addition, the Funds may invest in the following fixed income instruments ("Fixed Income Instruments"): U.S. government securities, namely, U.S. Treasury obligations<sup>19</sup>, U.S. government agency securities and U.S. Treasury zero-coupon bonds.

The Funds will invest in the securities of other investment companies, including the Underlying Funds, to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the

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<sup>18</sup> For purposes of this filing, cash equivalents include short-term instruments (instruments with maturities of less than 3 months) of the following types: (i) U.S. Government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

<sup>19</sup> U.S. Treasury obligations consist of bills, notes and bonds issued by the U.S. Treasury and separately traded interest and principal component parts of such obligations that are transferable through the federal book-entry system known as Separately Traded Registered Interest and Principal Securities ("STRIPS") and Treasury Receipts.

Commission or interpretation thereof.

### Investment in the Subsidiaries

According to the Registration Statement, each Fund will achieve commodities exposure through investment in a Subsidiary. Such investment may not exceed 25% of a Fund's total assets, as measured at the end of every quarter of a Fund's taxable year. Each Subsidiary will invest in gold futures contracts, commodity-related pooled vehicles and options on commodity futures, and other investments (cash, cash equivalents and Fixed Income Instruments with less than one year to maturity) intended to serve as margin or collateral or otherwise support the Subsidiary's derivatives positions. Unlike a Fund, the Subsidiary may invest without limitation in commodity futures and may use leveraged investment techniques. The Subsidiaries otherwise are subject to the same general investment policies and restrictions as the Funds.

According to the Registration Statement, the Subsidiaries are not registered under the 1940 Act. As an investor in its Subsidiary, each Fund, as the Subsidiary's sole shareholder, would not have the protections offered to investors in registered investment companies. However, because a Fund would wholly own and control the Subsidiary, and a Fund and Subsidiary would be managed by the Adviser, it is unlikely that the Subsidiary would take action contrary to the interests of a Fund or a Fund's shareholders. A Fund's Board of Trustees has oversight responsibility for the investment activities of the Funds, including their investments in its respective Subsidiary, and each Fund's role as the sole shareholder of its Subsidiary. Also, in managing a Subsidiary's portfolio, the Adviser and Sub-Adviser would be subject to the same investment restrictions and operational guidelines that apply to the management of a Fund.

## Investment Restrictions

Each Fund will concentrate its investments (i.e., hold 25% or more of its total assets) in a particular industry or group of industries to approximately the same extent that the respective benchmark concentrates in an industry or group of industries.<sup>20</sup>

Each Fund will be classified as a non-diversified investment company under the 1940 Act. A “non-diversified” classification means that a Fund is not limited by the 1940 Act with regard to the percentage of their assets that may be invested in the securities of a single issuer.<sup>21</sup>

The Adviser will not take defensive positions in the Funds’ portfolios during periods of adverse market, economic, political, or other conditions as the Adviser intends for each Fund to remain fully invested consistent with its investment strategy under all market conditions.

Each Fund may invest up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser,<sup>22</sup> consistent with Commission guidance. Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of

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<sup>20</sup> The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. See, e.g., Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

<sup>21</sup> The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

<sup>22</sup> In reaching liquidity decisions, the Adviser may consider the following factors: 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; and 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).

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 a Fund's net assets are invested 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.<sup>23</sup>

According to the Registration Statement, each Fund will seek to qualify for treatment as a Regulated Investment Company ("RIC") under the Internal Revenue Code.<sup>24</sup>

With respect to the REX Gold Hedged FTSE Emerging Markets ETF, the non-U.S. equity securities in such Fund's portfolio will meet the following criteria at time of purchase<sup>25</sup>: (1) non-U.S. equity securities each shall have a minimum market value of at

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<sup>23</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).

<sup>24</sup> 26 U.S.C. 851.

<sup>25</sup> These criteria are similar to certain "generic" listing criteria in NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(B), which relate to criteria applicable to an index or portfolio of U.S. and non-U.S. stocks underlying a series of Investment Company Units to be listed and traded on the Exchange pursuant to Rule 19b-4(e) under the Act.

least \$100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting.

According to the Registration Statement, the Funds are subject to regulation under the Commodity Exchange Act and CFTC rules as commodity pools. The Adviser is registered as a commodity pool operator, and the Funds will be operated in accordance with CFTC rules.

Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. While a Fund may invest in inverse ETFs and ETNs, a Fund will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETFs and ETNs.

#### Creation of Shares

According to the Registration Statement, the Trust will issue and sell shares of each Fund only in Creation Units of at least 50,000 Shares each on a continuous basis through the Distributor, at their NAV next determined after receipt, on any business day of an order received in proper form.

The consideration for purchase of a Creation Unit of a Fund generally will consist of an in-kind deposit of a designated portfolio of securities – the “Deposit Securities” – per each Creation Unit constituting a substantial replication, or a representation, of the

securities included in a Fund's portfolio and an amount of cash – the Cash Component – computed as described below. Together, the Deposit Securities 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. If the Cash Component is a positive number (i.e., the NAV per Creation Unit exceeds the market value of the Deposit Securities), 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), the Cash Component shall be such negative amount and the creator will be entitled to receive cash from a Fund 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.

The Administrator, through the National Securities Clearing Corporation (“NSCC”), will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern Time), the list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) for each Fund.

The Trust reserves the right to permit or require the substitution of an amount of cash – i.e., a “cash in lieu” amount – to be added to the Cash Component to replace any Deposit Security which may not be available in sufficient quantity for delivery or which may not be eligible for transfer, or which may not be eligible for trading by an Authorized Participant (as defined below) or the investor for which it is acting. The Trust

also reserves the right to offer an “all cash” option for creations of Creation Units for each Fund.<sup>26</sup>

In addition to the list of names and numbers of securities constituting the current Deposit Securities of a Fund Deposit, the Administrator, through the NSCC, also will make available on each business day, the estimated Cash Component, effective through and including the previous business day, per outstanding Creation Unit of each Fund.

To be eligible to place orders with the Distributor to create a Creation Unit of a Fund, an entity must be (i) a “Participating Party,” *i.e.*, a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC, a clearing agency that is registered with the Commission; or (ii) a Depository Trust Company (“DTC”) Participant, and, in each case, must have executed an agreement with the Trust, the Distributor and the Administrator with respect to creations and redemptions of Creation Units (“Participant Agreement”). A Participating Party and DTC Participant are collectively referred to as an “Authorized Participant.”

All orders to create or redeem Creation Units must be placed for one or more Creation Unit size aggregations of at least 50,000 Shares and must be received by the Distributor no later than 3:00 p.m., Eastern Time, an hour earlier than the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., Eastern Time) (“Closing Time”), in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares of each Fund as next determined on such date after receipt of the order in proper form.

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<sup>26</sup> The Adviser represents that, to the extent the Trust effects the creation or redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

If permitted by the Adviser or Sub-Adviser in its sole discretion with respect to a Fund, an Authorized Participant may also agree to enter into or arrange for an exchange of a futures contract for a related position (“EFCRP”) or block trade with the relevant Fund or its Subsidiary whereby the Authorized Participant would also transfer to such Fund a number and type of exchange-traded futures contracts at or near the closing settlement price for such contracts on the purchase order date. Similarly, the Sub-Adviser in its sole discretion may agree with an Authorized Participant to use an EFCRP or block trade to effect an order to redeem Creation Units.<sup>27</sup>

#### Redemption of Shares

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by a Fund through the Administrator and only on a business day. The Trust will not redeem Shares in amounts less than Creation Units. Beneficial owners must accumulate enough Shares in the secondary market to constitute a Creation Unit in order to have such Shares redeemed by the Trust.

With respect to the Funds, the Administrator, through the NSCC, will make available immediately prior to the opening of business on the Exchange (currently 9:30

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<sup>27</sup> According to the Registration Statement, an EFCRP is a technique permitted by the rules of certain futures exchanges that, as utilized by a Fund in the Sub-Adviser’s discretion, would allow such Fund or its Subsidiary to take a position in a futures contract from an Authorized Participant, or give futures contracts to an Authorized Participant, in the case of a redemption, rather than to enter the futures exchange markets to obtain such a position. An EFCRP by itself will not change either party’s net risk position materially. Because the futures position that a Fund would otherwise need to take in order to meet its investment objective can be obtained without unnecessarily impacting the financial or futures markets or their pricing, EFCRPs can generally be viewed as transactions beneficial to a Fund. A block trade is a technique that permits certain funds to obtain a futures position without going through the market auction system and can generally be viewed as a transaction beneficial to such funds.

a.m., Eastern Time) on each business day, the “Fund Securities” that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. Fund Securities received on redemption may not be identical to Deposit Securities which are applicable to creations of Creation Units.

Unless cash redemptions are available or specified for a Fund, the redemption proceeds for a Creation Unit generally will consist of Fund Securities, as announced by the Administrator 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 receipt of a request in proper form, and the value of the Fund Securities (the “Cash Redemption Amount”), less a redemption transaction fee. 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.

If it is not possible to effect deliveries of the Fund Securities, the Trust may in its discretion exercise its option to redeem such shares in cash, and the redeeming “Beneficial Owner” will be required to receive its redemption proceeds in cash. In addition, an investor may request a redemption in cash which a Fund may, in its sole discretion, permit. In either case, the investor will receive a cash payment equal to the NAV of its Shares based on the NAV of Shares of a Fund next determined after the redemption request is received in proper form (minus a redemption transaction fee and additional charge for requested cash redemptions, to offset the Trust’s brokerage and other transaction costs associated with the disposition of Fund Securities). Each Fund may also, in its sole discretion, upon request of a shareholder, provide such redeemer a

portfolio of securities which differs from the exact composition of the Fund Securities but does not differ in NAV.

The right of redemption may be suspended or the date of payment postponed with respect to a Fund (1) for any period during which the Exchange is closed (other than customary weekend and holiday closings); (2) for any period during which trading on the Exchange is suspended or restricted; (3) for any period during which an emergency exists as a result of which disposal of the Shares of a Fund or determination of the Shares' NAV is not reasonably practicable; or (4) in such other circumstance as is permitted by the Commission.

#### Net Asset Value

The NAV per Share of each Fund will be computed by dividing the value of the net assets of a Fund (i.e., the value of its total assets less total liabilities) by the total number of Shares of a Fund outstanding, rounded to the nearest cent. Expenses and fees, including without limitation, the management, administration and distribution fees, will be accrued daily and taken into account for purposes of determining NAV per Share. The NAV per Share for each Fund will be calculated by the Administrator and determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., Eastern Time) on each day that such exchange is open.

In computing a Fund's NAV, a Fund's securities holdings will be valued based on their last readily available market price. Price information on exchange-listed securities, including common stocks, preferred stocks, warrants, convertible securities, MLPs, rights, Underlying Funds, ETNs, Depositary Receipts and commodity-related pooled vehicles in which a Fund invests, will be taken from the exchange where the security is

primarily traded. Other portfolio securities and assets for which market quotations are not readily available or determined to not represent the current fair value will be valued based on fair value as determined in good faith by the Sub-Adviser in accordance with procedures adopted by the Board.

Futures contracts and exchange-traded options on futures will be valued at the settlement or closing price determined by the applicable exchange. Exchange-traded options contracts will be valued at their most recent sale price. OTC options normally will be valued on the basis of quotes obtained from a third-party broker-dealer who makes markets in such securities or on the basis of quotes obtained from a third-party pricing service.

Cash and cash equivalents (with the exception of money market funds) may be valued at market values, as furnished by recognized dealers in such securities or assets. Cash equivalents (with the exception of money market funds) also may be valued on the basis of information furnished by an independent pricing service that uses a valuation matrix which incorporates both dealer-supplied valuations and electronic data processing techniques. Shares of money market funds held by each Fund will be valued at their respective NAVs.

Fixed Income Instruments, Rule 144A 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 fixed-income instruments in the respective market.

Non-exchange-traded ADRs will be valued at the last quoted mid-price on the primary market on which they are traded.

### Availability of Information

The Funds' website, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Funds that may be downloaded. The Funds' website will include additional quantitative information updated on a daily basis, including, for each Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),<sup>28</sup> and a calculation of the premium or 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. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Funds' website will disclose the Disclosed Portfolio that will form the basis for each Fund's calculation of NAV at the end of the business day.<sup>29</sup>

On a daily basis, the Funds will disclose on the Funds' website the following information regarding each portfolio holding of a Fund and its respective Subsidiary, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options,

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<sup>28</sup> The Bid/Ask Price of Shares of each Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of a Fund's NAV. The records relating to Bid/Ask Prices will be retained by a Fund and its service providers.

<sup>29</sup> Under accounting procedures followed by the Funds, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Funds 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.

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 a Fund's portfolio. The website information will be publicly available at no charge.

In addition, a basket composition file (i.e., the Deposit Securities), which includes the security names and share quantities (as applicable) required to be delivered in exchange for Fund Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange via the NSCC. The basket will represent one Creation Unit of a Fund.

Investors will also be able to obtain the Trust's Statement of Additional Information ("SAI"), a Fund's Shareholder Reports, and its Form N-CSR and Form N-SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission's website at [www.sec.gov](http://www.sec.gov). Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares, Underlying Funds, ETNs and other U.S. exchange-traded equities, will be available via the Consolidated Tape Association ("CTA") high-speed line, and, for equity securities that are U.S. exchange-listed, will be available from the national securities exchange on

which they are listed. With respect to non-U.S. exchange-listed equity securities, intra-day, closing and settlement prices of common stocks and other equity securities (including shares of preferred securities, and non-U.S. Depositary Receipts), will be available from the foreign exchanges on which such securities trade as well as from major market data vendors. Price information for money market funds will be available from the investment company's website and from market data vendors. Price information relating to cash, cash equivalents, futures, options, options on futures, Depositary Receipts, Rule 144A securities, repurchase agreements, reverse repurchase agreements, the S&P Benchmark and the FTSE Benchmark will be available from major market data vendors. Information relating to futures and exchange-traded options on futures also will be available from the exchange on which such instruments are traded. Information relating to U.S. exchange-traded options will be available via the Options Price Reporting Authority. Pricing information regarding each asset class in which a Fund will invest will generally be available through nationally recognized data service providers through subscription agreements.

In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.<sup>30</sup> The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of each Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

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<sup>30</sup> Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

### 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 Funds.<sup>31</sup> Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also 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 comprising the Disclosed Portfolio of the Funds; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Funds 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. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. Eastern Time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00, for which the MPV for order entry is \$0.0001.

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<sup>31</sup> See NYSE Arca Equities Rule 7.12.

The Shares of each Fund will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Adviser, as the “Reporting Authority”, will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of a Fund’s portfolio. The Exchange represents that, for initial and/or continued listing, each Fund will be in compliance with Rule 10A-3<sup>32</sup> under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares of each Fund that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) will be made available to all market participants at the same time.

#### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by regulatory staff of the Exchange or the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>33</sup> The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

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<sup>32</sup> 17 CFR 240.10A-3.

<sup>33</sup> FINRA surveils certain trading activity on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The regulatory staff of the Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, certain exchange-listed equity securities, certain futures, certain options on futures, and certain exchange-traded options with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the regulatory staff of the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>34</sup> FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA’s Trade Reporting and Compliance Engine (“TRACE”).

Not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts or options contracts shall consist of futures contracts or options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

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<sup>34</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org). The Exchange notes that not all components of the Disclosed Portfolio for a Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

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

### Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders 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 Bulletin will reference that the Funds will be subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern Time each trading day.

### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under

Section 6(b)(5)<sup>35</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. Trading in the Shares will be subject to the existing trading surveillances, administered by the regulatory staff of the Exchange or FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The regulatory staff of the Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, certain exchange-listed equity securities, certain futures, certain options on futures, and certain exchange-traded options with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

With respect to the Rex Gold Hedged FTSE Emerging Markets ETF, the non-U.S. equity securities in the Fund's portfolio will meet the following criteria at time of

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<sup>35</sup> 15 U.S.C. 78f(b)(5).

purchase: (1) non-U.S. equity securities each shall have a minimum market value of at least \$100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting.

Not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts or options contracts shall consist of futures contracts or options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. While a Fund may invest in inverse ETFs and ETNs, a Fund will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETFs and ETNs.

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 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 will be publicly available regarding the Funds and the Shares, thereby promoting market transparency.

Information regarding market price and trading volume of the Shares will be

continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares, Underlying Funds and other U.S. exchange-traded equities, will be available via the CTA high-speed line, and, for equity securities that are U.S. exchange-listed, will be available from the national securities exchange on which they are listed. Price information for money market funds will be available from the investment company's website and from market data vendors. Price information relating to cash, cash equivalents, futures, options, options on futures, Depositary Receipts, Rule 144A securities, repurchase agreements, reverse repurchase agreements, the S&P Benchmark and the FTSE Benchmark will be available from major market data vendors. Information relating to futures and exchange-traded options on futures also will be available from the exchange on which such instruments are traded. Information relating to U.S. exchange-traded options will be available via the Options Price Reporting Authority. Pricing information regarding each asset class in which a Fund will invest will generally be available through nationally recognized data service providers through subscription agreements.

In addition, the Portfolio Indicative Value will be widely disseminated by the Exchange at least every 15 seconds during the Core Trading Session. The Funds' website will include a form of the prospectus for the Funds that may be downloaded, as well as additional quantitative information updated on a daily basis. On each business day, before commencement of trading in Shares in the Core Trading Session on the

Exchange, the Funds' website will disclose the Disclosed Portfolio that will form the basis for each Fund's calculation of NAV at the end of the business day.

On a daily basis, the Funds will disclose on the Funds' website the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); 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 a Fund's portfolio. Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Funds' holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 additional types of actively-managed exchange-traded products

that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, as noted above, investors will have ready access to information regarding the Funds' holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 additional types of actively-managed exchange-traded products based on the price of gold and other financial instruments 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

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

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

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2015-107 on the subject line.

Paper comments:

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

All submissions should refer to File Number NYSEARCA-2015-107. 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 a.m.

and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number NYSEARCA-2015-107 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

Robert W. Errett  
Deputy Secretary

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<sup>36</sup> 17 CFR 200.30-3(a)(12).