

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="53"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2016"/> - * <input type="text" value="67"/> Amendment No. (req. for Amendments *) <input type="text" value="1"/>
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Filing by NYSE Arca, Inc.  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

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

**Contact Information**

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

First Name \*  Last Name \*

Title \*

E-mail \*

Telephone \*  Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date  Associate General Counsel

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 EFFS 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 Natixis Seeyond International Minimum Volatility ETF under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares”).

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.



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 (“Shares”) of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares<sup>3</sup>: Natixis Seeyond International Minimum Volatility ETF (“Fund”).<sup>4</sup>

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

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

<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) (“1940 Act”) organized as an open-end investment company or similar entity

The Shares will be offered by Natixis ETF Trust (the “Trust”), which is registered with the Commission as an open-end management investment company.<sup>5</sup> NGAM Advisors, L.P. will serve as the investment adviser and administrator to the Fund (the “Adviser” or “Administrator”). Natixis Asset Management U.S., LLC (“Natixis AM US”) will serve as the Fund’s sub-adviser (“Sub-Adviser”). State Street Bank and Trust Company (the “Custodian” or “Transfer Agent”) will serve as custodian and transfer agent for the Fund.

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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 previously 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. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR-NYSEArca-2010-57) (order approving listing and trading of AdviserShares WCM/BNY Mellon Focused Growth ADR ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR-NYSEArca-2010-79) (order approving listing and trading of Cambria Global Tactical ETF); 71540 (February 12, 2014), 79 FR 9515 (February 19, 2014) (SR-NYSEArca-2013-138) (order approving listing and trading of shares of the iShares Enhanced International Large-Cap ETF and iShares Enhanced International Small-Cap ETF).

<sup>5</sup> The Trust is registered under the 1940 Act. On March 14, 2016, the Trust filed with the Commission its initial 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 Fund (File Nos. 333-210156 and 811-23146) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30654 (August 20, 2013) (File No. 812-13942-02) (“Exemptive Order”).

This Amendment No. 1 to SR-NYSEArca-2016-67 replaces SR-NYSEArca-2016-67 as originally filed and supersedes such filing in its entirety.

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>6</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. The Adviser and Sub-Adviser are not a registered broker-dealer but are affiliated with a broker-dealer and have implemented a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. In the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

#### Principal Investments

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<sup>6</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 are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

According to the Registration Statement, the Fund will seek long-term capital appreciation with less volatility than international equity markets.

Under normal circumstances<sup>7</sup>, the Fund will invest primarily in non-U.S. equity securities, which are the following: common stocks and “Depositary Receipts”<sup>8</sup>. The Fund may invest in companies of any size and typically will invest in a number of different countries throughout the world. The Fund’s investments may include non-U.S. equity securities traded “over-the-counter” (“OTC”) as well as those traded on a U.S. or foreign securities exchange. The portfolio may also be exposed to currencies other than the U.S. dollar.

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<sup>7</sup> The term “under normal circumstances” includes, but is not limited to, the absence of extreme volatility or trading halts in the securities markets or the financial markets generally; circumstances under which the Fund’s investments are made for temporary defensive purposes; operational issues (e.g., systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

<sup>8</sup> Depositary Receipts are instruments issued by banks that represent an interest in equity securities held by arrangement with the bank. Depositary receipts can be either “sponsored” or “unsponsored.” Sponsored depositary receipts are issued by banks in cooperation with the issuer of the underlying equity securities. Unsponsored depositary receipts are arranged without involvement by the issuer of the underlying equity securities and, therefore, less information about the issuer of the underlying equity securities may be available and the price may be more volatile than in the case of sponsored depositary receipts. American Depositary Receipts (“ADRs”) are depositary receipts that are bought and sold in the United States and are typically issued by a U.S. bank or trust company which evidence ownership of underlying securities by a foreign corporation. Investments in common stock of foreign corporations may be in the form of ADRs and Global Depositary Receipts (“GDRs”) (collectively “Depositary Receipts”). Depositary Receipts are receipts, typically issued by a bank or trust company, which evidence ownership of underlying securities issued by a foreign corporation. For ADRs, the depository is typically a U.S. financial institution and the underlying securities are issued by a foreign issuer. For other Depositary Receipts, the depository may be a foreign or a U.S. entity, and the underlying securities may have a foreign or a U.S. issuer. Depositary Receipts will not necessarily be denominated in the same currency as their underlying securities. Generally, ADRs, in registered form, are designed for use in the U.S. securities market. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world. Not more than 10% of the Fund’s assets will be invested in non-exchange-listed ADRs.

When building and managing the Fund's portfolio, the Sub-Adviser will employ both quantitative and qualitative factors in an effort to identify securities that demonstrate lower volatility and, in combination with other securities, reduce the Fund's overall volatility relative to the developed international equity market. In assessing the following three quantitative factors, the Sub-Adviser will consider both long and short term time horizons that it believes will enable the Fund to reduce overall volatility: (1) the volatility of each individual equity security; (2) the correlation of each individual equity security to all other equity securities in the Fund's investment universe, as defined by international developed market equities; and (3) the weight of each equity security within the portfolio.

Through a qualitative assessment the Sub-Adviser will review a range of factors including company specific risks as well as overall portfolio construction and implementation considerations. Taken together, the quantitative and qualitative process seeks to generate returns while lowering overall portfolio volatility.

The Sub-Adviser will construct the Fund's portfolio using a three step process, described below. The Sub-Adviser first will conduct a preliminary review of the equity securities within the investment universe, as defined by international developed market equities. Developed markets are economies that the Adviser believes are generally recognized to be fully developed markets, as measured by gross national income, financial market capitalization and/or other factors. This initial filtering is designed to exclude dual listings and eliminate stocks that the Sub-Adviser believes have insufficient history, liquidity and country-specific risk, such as corporate actions, mergers or acquisitions.

In seeking to minimize the overall volatility of the Fund, the Sub-Adviser will construct a portfolio that is systematically guided by proprietary quantitative analysis, which makes an assessment of historical volatilities and correlations within the investment universe and then estimates which combination of such stocks has the potential to display the lowest overall portfolio volatility.

The Sub-Adviser then will actively manage the portfolio by continuously monitoring for changes in volatility, liquidity and individual risk factors with the goal of avoiding detrimental risk concentration. The Sub-Adviser may sell a security when it believes that a security has acquired substantial exposure to a specific risk factor.

#### Other Investments

While the Fund, under normal circumstances, will invest primarily (more than 50% of its assets) in non-U.S. equity securities, as described above, the Fund will invest its remaining assets in the securities and financial instruments described below.

The Fund may invest in certificates of deposit (certificates representing the obligation of a bank to repay funds deposited with it for a specified period of time), time deposits (non-negotiable deposits maintained in a bank for a specified period of time up to seven days at a stated interest rate), and bankers' acceptances (credit instruments evidencing the obligation of a bank to pay a draft drawn on it by a customer).

The Fund also may purchase U.S. dollar-denominated obligations issued by foreign branches of domestic banks or foreign branches of foreign banks ("Eurodollar" obligations) and domestic branches of foreign banks ("Yankee dollar" obligations).

The Fund may invest in the following U.S. government securities: U.S. Treasury Bills; U.S. Treasury Notes and Bonds; U.S. Treasury Floating Rate Notes; and Treasury Inflation-Protected Securities ("TIPS").

The Fund may invest in other investment companies, including exchange-traded funds ("ETFs").<sup>9</sup> Investments in investment companies are typically subject to limitations prescribed by the 1940 Act.

The Fund may invest in preferred stock traded on a U.S. or foreign exchange or OTC.

The Fund may invest in U.S. or foreign exchange-traded real estate investment trusts ("REITs"), which are pooled investment vehicles that invest primarily in either real estate or real estate-related loans.

The Fund may invest in foreign debt securities. Foreign debt securities may include securities of issuers organized or headquartered outside the U.S. as well as obligations of supranational entities. The non-U.S. securities in which the Fund may invest, all or a portion of which may be non-U.S. dollar-denominated, may include the following: (i) debt obligations issued or guaranteed by non-U.S. national, provincial, state, municipal or other governments or by their agencies or instrumentalities, including "Brady Bonds"; (ii) debt obligations of supranational entities; (iii) debt obligations of the U.S. government issued in non-dollar securities; (iv) debt obligations and other fixed-income securities of foreign

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



corporate issuers<sup>10</sup>; and (v) non-U.S. dollar-denominated securities of U.S. corporate issuers.

The Fund may engage in foreign currency transactions for both hedging and investment purposes. Foreign securities in the Fund's portfolio may be denominated in foreign currencies or traded in securities markets in which settlements are made in foreign currencies.

To protect against a change in the foreign currency exchange rate between the date on which the Fund contracts to purchase or sell a security and the settlement date for the purchase or sale, to gain exposure to one or more foreign currencies or to "lock in" the equivalent of a dividend or interest payment in another currency, the Fund might purchase or sell a foreign currency on a spot (i.e., cash) basis at the prevailing spot rate.

The Fund may enter into repurchase agreements.

The Fund may invest in money market instruments. Money market instruments are high-quality, short-term securities. The Fund's money market investments at the time of purchase (other than U.S. government securities and repurchase agreements relating thereto) generally will be rated at the time of purchase in the two highest short-term rating categories as rated by a major credit agency or, if unrated, will be of comparable quality as determined by the Sub-Adviser. The Fund may invest in instruments of lesser quality and do not have any minimum credit quality restriction.

The Fund may invest in U.S. equity securities (other than Depositary Receipts) that are traded on a U.S. exchange or OTC.

To reduce the risk of changes in interest rates and securities prices, the Fund may purchase securities on a forward commitment or when-issued or delayed delivery basis, which means delivery and payment take place a number of days after the date of the commitment to purchase.

#### Net Asset Value

According to the Registration Statement, a Share's NAV will be determined at the close of regular trading on the New York Stock Exchange ("NYSE") on the days the NYSE is open for trading, normally at 4:00 p.m., Eastern time. Fund securities and other investments for which market quotations are readily available will be

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<sup>10</sup> The Adviser expects that, under normal circumstances, the Fund will invest in corporate bond issuances that have at least \$100,000,000 par amount outstanding in developed countries and at least \$200,000,000 par amount outstanding in emerging market countries.

valued at market value. The Fund may use independent pricing services recommended by the Adviser and approved by the Board of Trustees to obtain market quotations.

Fund securities and other investments will be valued at market value based on market quotations obtained or determined by independent pricing services recommended by the Adviser and approved by the Board of Trustees. Fund securities and other investments for which market quotations are not readily available, or which are deemed to be unreliable by the Adviser, will be valued at fair value as determined in good faith by the Adviser pursuant to procedures approved by the Board of Trustees, as described below. Market value will be determined as follows:

Exchange-listed equity securities will be valued at the last sale price quoted on the exchange where they are traded most extensively or, if there is no reported sale during the day, the closing bid quotation. Securities traded on the NASDAQ Global Select Market, NASDAQ Global Market and NASDAQ Capital Market are valued at the NASDAQ Official Closing Price (“NOCP”), or if lacking an NOCP, at the most recent bid quotations on the applicable NASDAQ Market. OTC equity securities (other than non-exchange-traded investment company securities) will be valued at the last sale price quoted in the market where they are traded most extensively or, if there is no reported sale during the day, the closing bid quotation as reported by an independent pricing service. If there is no sale price or closing bid quotation available unlisted equity securities will be valued using evaluated bids furnished by an independent pricing service, if available. In some foreign markets, an official close price and a last sale price may be available from the foreign exchange or market. In those cases, the official close price is used. Valuations from foreign markets are subject to the Fund’s fair value policies described below.

Eurodollar obligations, Yankee dollar obligations, U.S. government securities, money market instruments, repurchase agreements, foreign debt securities, certificates of deposit, time deposits, and bankers’ acceptances, will be valued based on evaluated bids furnished to the Fund by an independent pricing service using market information, transactions for comparable securities and various relationships between securities, if available, or bid prices obtained from broker-dealers.

Foreign denominated assets and liabilities will be translated into U.S. dollars based upon foreign exchange rates supplied by an independent pricing service. Fund securities and other investments for which market quotations are not readily available will be valued at fair value as determined in good faith by the Adviser pursuant to procedures approved by the Board of Trustees. The Fund may also value securities and other investments at fair value in other circumstances such as when extraordinary events occur after the close of a foreign market but prior to the close of the NYSE. This may include situations relating to a single issuer (such as a declaration of bankruptcy or a delisting of the issuer’s security from the

primary market on which it has traded) as well as events affecting the securities markets in general (such as market disruptions or closings and significant fluctuations in U.S. and/or foreign markets).

Fair value pricing may require subjective determinations about the value of a security, and fair values used to determine the Fund's NAV may differ from quoted or published prices, or from prices that are used by others, for the same securities. In addition, the use of fair value pricing may not always result in adjustments to the prices of securities held by the Fund. Valuations for securities traded in the OTC market may be based on factors such as market information, transactions for comparable securities, and various relationships between securities or bid prices obtained from broker-dealers. Evaluated prices from an independent pricing service may require subjective determinations and may be different than actual market prices or prices provided by other pricing services.

Trading in some of the portfolio securities or other investments of the Fund takes place in various markets outside the United States on days and at times other than when the NYSE is open for trading. Therefore, the calculation of the Fund's NAV does not take place at the same time as the prices of many of its portfolio securities or other investments are determined, and the value of the Fund's portfolio may change on days when the Fund is not open for business and its shares may not be purchased or redeemed.

Investment company securities that are not exchange-traded will be valued at NAV.

#### Creation and Redemption of Shares

According to the Registration Statement, Shares of the Fund will be "created" at NAV by market makers, large investors and institutions only in block-size "Creation Units" of 50,000 Shares or multiples thereof. The size of a Creation Unit is subject to change. Each "creator" or "Authorized Participant" will enter into an authorized participant agreement with the Fund's distributor.

A creation transaction, which is subject to acceptance by the Fund's distributor, generally takes place when an Authorized Participant deposits into the Fund a designated portfolio of securities (including any portion of such securities for which cash may be substituted) and a specified amount of cash approximating the holdings of the Fund in exchange for a specified number of creation units.

Similarly, Shares can be redeemed only in Creation Units, generally for a designated portfolio of securities (including any portion of such securities for which cash may be substituted) held by the Fund and a specified amount of cash. Except when aggregated in Creation Units, Shares will not be redeemable by the Fund.

The prices at which creations and redemptions occur are based on the next calculation of NAV after a creation or redemption order is received in an acceptable form under the Authorized Participant agreement.

Only an Authorized Participant may create or redeem creation units directly with the Fund.

Creations and redemptions must be made through a firm that is either a member of the Continuous Net Settlement System of the National Securities Clearing Corporation or a DTC participant and has executed an agreement with the Fund's distributor with respect to creations and redemptions of Creation Units.

The consideration for purchase of Creation Units generally will consist of Deposit Securities and the Cash Component, which will generally correspond pro rata, to the extent practicable, to the Fund securities, or, as permitted by the Fund, the Cash Deposit. Together, the Deposit Securities and the Cash Component or, alternatively, the Cash Deposit, constitute the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The portfolio of securities required may, in certain limited circumstances, be different than the portfolio of securities the Fund will deliver upon redemption of Fund Shares.

The function of the Cash Component is to compensate for any differences between the NAV per Creation Unit and the "Deposit Amount" (as defined below). The Cash Component would be an amount equal to the difference between the NAV of the shares (per Creation Unit) and the "Deposit Amount," which is an amount equal to the market value of the Deposit Securities. If the Cash Component is a positive number (the NAV per Creation Unit exceeds the Deposit Amount), the Authorized Participant will deliver the Cash Component. If the Cash Component is a negative number (the NAV per Creation Unit is less than the Deposit Amount), the Authorized Participant will receive the Cash Component. Computation of the Cash Component excludes any stamp duty or other similar fees and expenses payable upon transfer of beneficial ownership of the Deposit Securities, which shall be the sole responsibility of the Authorized Participant. The Cash Component may also include a "Dividend Equivalent Payment," which enables the Fund to make a complete distribution of dividends on the next dividend payment date.

State Street Bank and Trust Company, through the National Securities Clearing Corporation ("NSCC"), will make available on each business day, prior to the opening of business (subject to amendments) on the Exchange (currently 9:30 a.m., Eastern time), the identity and the required number of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information at the end of the previous business day).

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form on a business day and only through a Participating Party or DTC Participant who has executed a Participant Agreement.

State Street, 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 identity of the Fund's securities and/or an amount of cash that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. All orders are subject to acceptance by the Transfer Agent. The Fund's securities received on redemption will generally correspond pro rata, to the extent practicable, to such Fund's securities. The Fund's securities received on redemption ("Fund Securities") may not be identical to Deposit Securities that are applicable to creations of Creation Units.

Unless cash only redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit will generally consist of Fund Securities – as announced on the business day of the request for a redemption order received in proper form – plus cash in an amount equal to the difference between the NAV of the shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less the redemption transaction fee and variable fees described below.<sup>11</sup> Notwithstanding the foregoing, the Trust will substitute a "cash-in-lieu" amount to replace any Fund Security that is a non-deliverable instrument. The Trust may permit a "cash-in-lieu" amount for any reason at the Trust's sole discretion but is not required to do so. The amount of cash paid out in such cases will be equivalent to the value of the instrument listed as a Fund Security. In the event that the Fund Securities have a value greater than the NAV of the shares, a compensating cash payment equal to the difference

The right of redemption may be suspended or the date of payment postponed with respect to the Fund: (i) for any period during which the Exchange is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the Exchange is suspended or restricted; (iii) for any period during which an emergency exists as a result of which disposal by the Fund of securities it owns or determination of the Fund's NAV is not reasonably practicable; or (iv) in such other circumstances as permitted by the Commission.

#### Investment Restrictions

As a temporary defensive measure, the Fund may hold any portion of its assets in cash (U.S. dollars, foreign currencies or multinational currency units) and/or invest in money market instruments or high-quality debt securities as it deems appropriate.

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<sup>11</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.

The Fund intends to maintain the required level of diversification and otherwise conduct its operations so as to qualify as a “regulated investment company” for purposes of the Internal Revenue Code of 1986.<sup>12</sup>

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund’s net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.<sup>13</sup>

The Fund will not invest in options, futures or swaps.

The Fund’s investments will be consistent with the Fund’s investment objective and will not be used to enhance leverage. That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund’s investments will not be used to seek performance that is the multiple or inverse multiple (i.e., 2Xs and 3Xs) of the Fund’s primary broad-based securities benchmark index (as defined in Form N-1A).<sup>14</sup>

#### Availability of Information

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<sup>12</sup> 26 U.S.C. 851.

<sup>13</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 1933 Act).

<sup>14</sup> The Fund’s broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund’s first full calendar year of performance.

The Fund's website, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's website will include additional quantitative information updated on a daily basis, including, for the 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>15</sup> and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.<sup>16</sup>

On a daily basis, the Fund will disclose for each portfolio security or other financial instrument of the Fund the following information on the Fund's website: ticker symbol (if applicable), name of security and financial instrument, number of shares and dollar value of financial instruments held in the portfolio, and percentage weighting of the security and financial instrument in the portfolio. The website information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via NSCC. The basket represents one Creation Unit of the Fund.

In order to provide additional information regarding the indicative value of Shares of the Fund, the Exchange or a market data vendor will disseminate every 15 seconds through the facilities of the Consolidated Tape Association, or through other widely disseminated means, an updated IIV for the Fund as calculated by an information provider or market data vendor.

The Fund's IIV will be based on the current market value of the Fund's portfolio holdings that will form the basis of the Fund's calculation of NAV at the end of

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<sup>15</sup> The Bid/Ask Price of Shares of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and their service providers.

<sup>16</sup> Under accounting procedures followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

the business day as disclosed on the Fund's website prior to the business day's commencement of trading.

Investors can also obtain the Trust's Statement of Additional Information ("SAI"), the Fund's Shareholder Reports, and the Trust's Form N-CSR and Form N-SAR, filed twice a year. The Trust's SAI and Shareholder Reports are 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 will be available via the Consolidated Tape Association ("CTA") high-speed line. With respect to U.S. exchange-listed equity securities, the intra-day, closing and settlement prices of common stocks and exchange-traded equity securities (including shares of preferred securities, closed-end funds, REITs and U.S. exchange-listed Depositary Receipts) will be readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. 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. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription arrangements. Quotation information from brokers and dealers or pricing services will be available for Eurodollar obligations, Yankee dollar obligations, U.S. government securities, repurchase agreements, money market instruments, foreign debt securities, certificates of deposit, time deposits, and bankers' acceptances; unsponsored Depositary Receipts; and spot currency transactions. In addition, IIV,<sup>17</sup> which is 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

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<sup>17</sup> The IIV calculation will be an estimate of the value of the Fund's NAV per Share using market data converted into U.S. dollars at the current currency rates. The IIV price will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the IIV and the market price of the Shares may occur. This should not be viewed as a "real-time" update of the NAV per Share of the Fund, which will be calculated only once a day.



Exchange's Core Trading Session by one or more major market data vendors.<sup>18</sup> The dissemination of the IIV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to 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 exercising its discretion to halt or suspend trading in the Shares of the Fund.<sup>19</sup> Trading in Shares of the Fund 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 Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 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, Commentary .03, 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 will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A-3<sup>20</sup> under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the

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<sup>18</sup> Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from CTA or other data feeds.

<sup>19</sup> See NYSE Arca Equities Rule 7.12.

<sup>20</sup> 17 CFR 240.10A-3.

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.

### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>21</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 federal securities laws applicable to trading on the Exchange

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 Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain exchange-traded securities underlying the Shares with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>22</sup> The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s Trade Reporting and Compliance Engine (“TRACE”).

Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) shall consist of equity securities whose principal market is not a member of the

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<sup>21</sup> FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

<sup>22</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 the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

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.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

#### 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 Fund is 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>23</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. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Adviser has implemented a “fire wall” with respect to its affiliated broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain exchange-traded securities underlying the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment. The Fund will not invest in options, futures or swaps. The Fund’s investments will be consistent with its investment objective and will not be used to enhance leverage.

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 is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund’s portfolio holdings will be disclosed on its website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange’s Core Trading Session. Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) shall consist of equity

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

securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. 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, and quotation and last sale information will be available via the CTA high-speed line. The website for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. 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 Fund 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, and 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 Fund may be halted. The intra-day, closing and settlement prices of the portfolio securities are also readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, 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 an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, 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 an actively-managed exchange-traded product that will principally hold non U.S. equity securities and 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-2016-67 Amendment No. 1)

[Date]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to List and Trade Shares of the Natixis Seeyond International Minimum Volatility 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 June 13, 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 Natixis Seeyond International Minimum Volatility ETF under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares). 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 (“Shares”) of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares<sup>4</sup>: Natixis Seeyond International Minimum Volatility ETF (“Fund”).<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) (“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 previously 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. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR-NYSEArca-2010-57) (order approving listing and trading of AdviserShares WCM/BNY Mellon Focused Growth ADR ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR-NYSEArca-2010-79) (order approving listing and trading of Cambria Global Tactical ETF);



The Shares will be offered by Natixis ETF Trust (the “Trust”), which is registered with the Commission as an open-end management investment company.<sup>6</sup> NGAM Advisors, L.P. will serve as the investment adviser and administrator to the Fund (the “Adviser” or “Administrator”). Natixis Asset Management U.S., LLC (“Natixis AM US”) will serve as the Fund’s sub-adviser (“Sub-Adviser”). State Street Bank and Trust Company (the “Custodian” or “Transfer Agent”) will serve as custodian and transfer agent for the Fund.

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

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71540 (February 12, 2014), 79 FR 9515 (February 19, 2014) (SR-NYSEArca-2013-138) (order approving listing and trading of shares of the iShares Enhanced International Large-Cap ETF and iShares Enhanced International Small-Cap ETF).

<sup>6</sup> The Trust is registered under the 1940 Act. On March 14, 2016, the Trust filed with the Commission its initial 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 Fund (File Nos. 333-210156 and 811-23146) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 30654 (August 20, 2013) (File No. 812-13942-02) (“Exemptive Order”).

This Amendment No. 1 to SR-NYSEArca-2016-67 replaces SR-NYSEArca-2016-67 as originally filed and supersedes such filing in its entirety.

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. The Adviser and Sub-Adviser are not a registered broker-dealer but are affiliated with a broker-dealer and have implemented a "fire wall" with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the

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

portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

#### Principal Investments

According to the Registration Statement, the Fund will seek long-term capital appreciation with less volatility than international equity markets.

Under normal circumstances<sup>8</sup>, the Fund will invest primarily in non-U.S. equity securities, which are the following: common stocks and “Depository Receipts”<sup>9</sup>. The

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<sup>8</sup> The term “under normal circumstances” includes, but is not limited to, the absence of extreme volatility or trading halts in the securities markets or the financial markets generally; circumstances under which the Fund’s investments are made for temporary defensive purposes; operational issues (e.g., systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

<sup>9</sup> Depository Receipts are instruments issued by banks that represent an interest in equity securities held by arrangement with the bank. Depository receipts can be either “sponsored” or “unsponsored.” Sponsored depository receipts are issued by banks in cooperation with the issuer of the underlying equity securities. Unsponsored depository receipts are arranged without involvement by the issuer of the underlying equity securities and, therefore, less information about the issuer of the underlying equity securities may be available and the price may be more volatile than in the case of sponsored depository receipts. American Depository Receipts (“ADRs”) are depository receipts that are bought and sold in the United States and are typically issued by a U.S. bank or trust company which evidence ownership of underlying securities by a foreign corporation. Investments in common stock of foreign corporations may be in the form of ADRs and Global Depository Receipts (“GDRs”) (collectively “Depository Receipts”). Depository Receipts are receipts, typically issued by a bank or trust company, which evidence ownership of underlying securities issued by a foreign corporation. For ADRs, the depository is typically a U.S. financial institution and the underlying securities are issued by a foreign issuer. For other Depository Receipts, the depository may be a foreign or a U.S. entity, and the underlying securities may have a foreign or a U.S. issuer. Depository Receipts will not necessarily be denominated in the same currency as their underlying securities. Generally, ADRs, in registered form, are designed for use in the U.S. securities market. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world. Not

Fund may invest in companies of any size and typically will invest in a number of different countries throughout the world. The Fund's investments may include non-U.S. equity securities traded "over-the-counter" ("OTC") as well as those traded on a U.S. or foreign securities exchange. The portfolio may also be exposed to currencies other than the U.S. dollar.

When building and managing the Fund's portfolio, the Sub-Adviser will employ both quantitative and qualitative factors in an effort to identify securities that demonstrate lower volatility and, in combination with other securities, reduce the Fund's overall volatility relative to the developed international equity market. In assessing the following three quantitative factors, the Sub-Adviser will consider both long and short term time horizons that it believes will enable the Fund to reduce overall volatility: (1) the volatility of each individual equity security; (2) the correlation of each individual equity security to all other equity securities in the Fund's investment universe, as defined by international developed market equities; and (3) the weight of each equity security within the portfolio.

Through a qualitative assessment the Sub-Adviser will review a range of factors including company specific risks as well as overall portfolio construction and implementation considerations. Taken together, the quantitative and qualitative process seeks to generate returns while lowering overall portfolio volatility.

The Sub-Adviser will construct the Fund's portfolio using a three step process, described below. The Sub-Adviser first will conduct a preliminary review of the equity securities within the investment universe, as defined by international developed market equities.

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more than 10% of the Fund's assets will be invested in non-exchange-listed ADRs.

Developed markets are economies that the Adviser believes are generally recognized to be fully developed markets, as measured by gross national income, financial market capitalization and/or other factors. This initial filtering is designed to exclude dual listings and eliminate stocks that the Sub-Adviser believes have insufficient history, liquidity and country-specific risk, such as corporate actions, mergers or acquisitions.

In seeking to minimize the overall volatility of the Fund, the Sub-Adviser will construct a portfolio that is systematically guided by proprietary quantitative analysis, which makes an assessment of historical volatilities and correlations within the investment universe and then estimates which combination of such stocks has the potential to display the lowest overall portfolio volatility.

The Sub-Adviser then will actively manage the portfolio by continuously monitoring for changes in volatility, liquidity and individual risk factors with the goal of avoiding detrimental risk concentration. The Sub-Adviser may sell a security when it believes that a security has acquired substantial exposure to a specific risk factor.

#### Other Investments

While the Fund, under normal circumstances, will invest primarily (more than 50% of its assets) in non-U.S. equity securities, as described above, the Fund will invest its remaining assets in the securities and financial instruments described below.

The Fund may invest in certificates of deposit (certificates representing the obligation of a bank to repay funds deposited with it for a specified period of time), time deposits (non-negotiable deposits maintained in a bank for a specified period of time up to seven days at a stated interest rate), and bankers' acceptances (credit instruments evidencing the obligation of a bank to pay a draft drawn on it by a customer).

The Fund also may purchase U.S. dollar-denominated obligations issued by foreign branches of domestic banks or foreign branches of foreign banks (“Eurodollar” obligations) and domestic branches of foreign banks (“Yankee dollar” obligations).

The Fund may invest in the following U.S. government securities: U.S. Treasury Bills; U.S. Treasury Notes and Bonds; U.S. Treasury Floating Rate Notes; and Treasury Inflation-Protected Securities (“TIPS”).

The Fund may invest in other investment companies, including exchange-traded funds (“ETFs”).<sup>10</sup> Investments in investment companies are typically subject to limitations prescribed by the 1940 Act.

The Fund may invest in preferred stock traded on a U.S. or foreign exchange or OTC.

The Fund may invest in U.S. or foreign exchange-traded real estate investment trusts (“REITs”), which are pooled investment vehicles that invest primarily in either real estate or real estate-related loans.

The Fund may invest in foreign debt securities. Foreign debt securities may include securities of issuers organized or headquartered outside the U.S. as well as obligations of supranational entities. The non-U.S. securities in which the Fund may invest, all or a portion of which may be non-U.S. dollar-denominated, may include the following: (i) debt obligations issued or guaranteed by non-U.S. national, provincial,

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

state, municipal or other governments or by their agencies or instrumentalities, including “Brady Bonds”; (ii) debt obligations of supranational entities; (iii) debt obligations of the U.S. government issued in non-dollar securities; (iv) debt obligations and other fixed-income securities of foreign corporate issuers<sup>11</sup>; and (v) non-U.S. dollar-denominated securities of U.S. corporate issuers.

The Fund may engage in foreign currency transactions for both hedging and investment purposes. Foreign securities in the Fund’s portfolio may be denominated in foreign currencies or traded in securities markets in which settlements are made in foreign currencies.

To protect against a change in the foreign currency exchange rate between the date on which the Fund contracts to purchase or sell a security and the settlement date for the purchase or sale, to gain exposure to one or more foreign currencies or to “lock in” the equivalent of a dividend or interest payment in another currency, the Fund might purchase or sell a foreign currency on a spot (i.e., cash) basis at the prevailing spot rate.

The Fund may enter into repurchase agreements.

The Fund may invest in money market instruments. Money market instruments are high-quality, short-term securities. The Fund’s money market investments at the time of purchase (other than U.S. government securities and repurchase agreements relating thereto) generally will be rated at the time of purchase in the two highest short-term rating categories as rated by a major credit agency or, if unrated, will be of comparable

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<sup>11</sup> The Adviser expects that, under normal circumstances, the Fund will invest in corporate bond issuances that have at least \$100,000,000 par amount outstanding in developed countries and at least \$200,000,000 par amount outstanding in emerging market countries.

quality as determined by the Sub-Adviser. The Fund may invest in instruments of lesser quality and do not have any minimum credit quality restriction.

The Fund may invest in U.S. equity securities (other than Depositary Receipts) that are traded on a U.S. exchange or OTC.

To reduce the risk of changes in interest rates and securities prices, the Fund may purchase securities on a forward commitment or when-issued or delayed delivery basis, which means delivery and payment take place a number of days after the date of the commitment to purchase.

#### Net Asset Value

According to the Registration Statement, a Share's NAV will be determined at the close of regular trading on the New York Stock Exchange ("NYSE") on the days the NYSE is open for trading, normally at 4:00 p.m., Eastern time. Fund securities and other investments for which market quotations are readily available will be valued at market value. The Fund may use independent pricing services recommended by the Adviser and approved by the Board of Trustees to obtain market quotations.

Fund securities and other investments will be valued at market value based on market quotations obtained or determined by independent pricing services recommended by the Adviser and approved by the Board of Trustees. Fund securities and other investments for which market quotations are not readily available, or which are deemed to be unreliable by the Adviser, will be valued at fair value as determined in good faith by the Adviser pursuant to procedures approved by the Board of Trustees, as described below. Market value will be determined as follows:



Exchange-listed equity securities will be valued at the last sale price quoted on the exchange where they are traded most extensively or, if there is no reported sale during the day, the closing bid quotation. Securities traded on the NASDAQ Global Select Market, NASDAQ Global Market and NASDAQ Capital Market are valued at the NASDAQ Official Closing Price (“NOCP”), or if lacking an NOCP, at the most recent bid quotations on the applicable NASDAQ Market. OTC equity securities (other than non-exchange-traded investment company securities) will be valued at the last sale price quoted in the market where they are traded most extensively or, if there is no reported sale during the day, the closing bid quotation as reported by an independent pricing service. If there is no sale price or closing bid quotation available unlisted equity securities will be valued using evaluated bids furnished by an independent pricing service, if available. In some foreign markets, an official close price and a last sale price may be available from the foreign exchange or market. In those cases, the official close price is used. Valuations from foreign markets are subject to the Fund’s fair value policies described below.

Eurodollar obligations, Yankee dollar obligations, U.S. government securities, money market instruments, repurchase agreements, foreign debt securities, certificates of deposit, time deposits, and bankers’ acceptances, will be valued based on evaluated bids furnished to the Fund by an independent pricing service using market information, transactions for comparable securities and various relationships between securities, if available, or bid prices obtained from broker-dealers.

Foreign denominated assets and liabilities will be translated into U.S. dollars based upon foreign exchange rates supplied by an independent pricing service. Fund

securities and other investments for which market quotations are not readily available will be valued at fair value as determined in good faith by the Adviser pursuant to procedures approved by the Board of Trustees. The Fund may also value securities and other investments at fair value in other circumstances such as when extraordinary events occur after the close of a foreign market but prior to the close of the NYSE. This may include situations relating to a single issuer (such as a declaration of bankruptcy or a delisting of the issuer's security from the primary market on which it has traded) as well as events affecting the securities markets in general (such as market disruptions or closings and significant fluctuations in U.S. and/or foreign markets).

Fair value pricing may require subjective determinations about the value of a security, and fair values used to determine the Fund's NAV may differ from quoted or published prices, or from prices that are used by others, for the same securities. In addition, the use of fair value pricing may not always result in adjustments to the prices of securities held by the Fund. Valuations for securities traded in the OTC market may be based on factors such as market information, transactions for comparable securities, and various relationships between securities or bid prices obtained from broker-dealers. Evaluated prices from an independent pricing service may require subjective determinations and may be different than actual market prices or prices provided by other pricing services.

Trading in some of the portfolio securities or other investments of the Fund takes place in various markets outside the United States on days and at times other than when the NYSE is open for trading. Therefore, the calculation of the Fund's NAV does not take place at the same time as the prices of many of its portfolio securities or other

investments are determined, and the value of the Fund's portfolio may change on days when the Fund is not open for business and its shares may not be purchased or redeemed.

Investment company securities that are not exchange-traded will be valued at NAV.

#### Creation and Redemption of Shares

According to the Registration Statement, Shares of the Fund will be "created" at NAV by market makers, large investors and institutions only in block-size "Creation Units" of 50,000 Shares or multiples thereof. The size of a Creation Unit is subject to change. Each "creator" or "Authorized Participant" will enter into an authorized participant agreement with the Fund's distributor.

A creation transaction, which is subject to acceptance by the Fund's distributor, generally takes place when an Authorized Participant deposits into the Fund a designated portfolio of securities (including any portion of such securities for which cash may be substituted) and a specified amount of cash approximating the holdings of the Fund in exchange for a specified number of creation units.

Similarly, Shares can be redeemed only in Creation Units, generally for a designated portfolio of securities (including any portion of such securities for which cash may be substituted) held by the Fund and a specified amount of cash. Except when aggregated in Creation Units, Shares will not be redeemable by the Fund.

The prices at which creations and redemptions occur are based on the next calculation of NAV after a creation or redemption order is received in an acceptable form under the Authorized Participant agreement.

Only an Authorized Participant may create or redeem creation units directly with the Fund.

Creations and redemptions must be made through a firm that is either a member of the Continuous Net Settlement System of the National Securities Clearing Corporation or a DTC participant and has executed an agreement with the Fund's distributor with respect to creations and redemptions of Creation Units.

The consideration for purchase of Creation Units generally will consist of Deposit Securities and the Cash Component, which will generally correspond pro rata, to the extent practicable, to the Fund securities, or, as permitted by the Fund, the Cash Deposit. Together, the Deposit Securities and the Cash Component or, alternatively, the Cash Deposit, constitute the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The portfolio of securities required may, in certain limited circumstances, be different than the portfolio of securities the Fund will deliver upon redemption of Fund Shares.

The function of the Cash Component is to compensate for any differences between the NAV per Creation Unit and the "Deposit Amount" (as defined below). The Cash Component would be an amount equal to the difference between the NAV of the shares (per Creation Unit) and the "Deposit Amount," which is an amount equal to the market value of the Deposit Securities. If the Cash Component is a positive number (the NAV per Creation Unit exceeds the Deposit Amount), the Authorized Participant will deliver the Cash Component. If the Cash Component is a negative number (the NAV per Creation Unit is less than the Deposit Amount), the Authorized Participant will receive the Cash Component. Computation of the Cash Component excludes any stamp duty or other similar fees and expenses payable upon transfer of beneficial ownership of the Deposit Securities, which shall be the sole responsibility of the Authorized Participant.

The Cash Component may also include a “Dividend Equivalent Payment,” which enables the Fund to make a complete distribution of dividends on the next dividend payment date. State Street Bank and Trust Company, through the National Securities Clearing Corporation (“NSCC”), will make available on each business day, prior to the opening of business (subject to amendments) on the Exchange (currently 9:30 a.m., Eastern time), the identity and the required number of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information at the end of the previous business day).

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form on a business day and only through a Participating Party or DTC Participant who has executed a Participant Agreement. State Street, 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 identity of the Fund’s securities and/or an amount of cash that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. All orders are subject to acceptance by the Transfer Agent. The Fund’s securities received on redemption will generally correspond pro rata, to the extent practicable, to such Fund’s securities. The Fund’s securities received on redemption (“Fund Securities”) may not be identical to Deposit Securities that are applicable to creations of Creation Units. Unless cash only redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit will generally consist of Fund Securities – as announced on the business day of the request for a redemption order received in proper form – plus cash in an amount equal to the difference between the

NAV of the shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less the redemption transaction fee and variable fees described below.<sup>12</sup> Notwithstanding the foregoing, the Trust will substitute a “cash-in-lieu” amount to replace any Fund Security that is a non-deliverable instrument. The Trust may permit a “cash-in-lieu” amount for any reason at the Trust’s sole discretion but is not required to do so. The amount of cash paid out in such cases will be equivalent to the value of the instrument listed as a Fund Security. In the event that the Fund Securities have a value greater than the NAV of the shares, a compensating cash payment equal to the difference

The right of redemption may be suspended or the date of payment postponed with respect to the Fund: (i) for any period during which the Exchange is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the Exchange is suspended or restricted; (iii) for any period during which an emergency exists as a result of which disposal by the Fund of securities it owns or determination of the Fund’s NAV is not reasonably practicable; or (iv) in such other circumstances as permitted by the Commission.

#### Investment Restrictions

As a temporary defensive measure, the Fund may hold any portion of its assets in cash (U.S. dollars, foreign currencies or multinational currency units) and/or invest in money market instruments or high-quality debt securities as it deems appropriate.

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<sup>12</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.

The Fund intends to maintain the required level of diversification and otherwise conduct its operations so as to qualify as a “regulated investment company” for purposes of the Internal Revenue Code of 1986.<sup>13</sup>

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund’s net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.<sup>14</sup>

The Fund will not invest in options, futures or swaps.

The Fund’s investments will be consistent with the Fund’s investment objective and will not be used to enhance leverage. That is, while the Fund will be permitted to

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<sup>13</sup> 26 U.S.C. 851.

<sup>14</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 1933 Act).

borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (i.e., 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N-1A).<sup>15</sup>

#### Availability of Information

The Fund's website, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's website will include additional quantitative information updated on a daily basis, including, for the 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>16</sup> and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.<sup>17</sup>

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<sup>15</sup> The Fund's broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

<sup>16</sup> The Bid/Ask Price of Shares of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and their service providers.

<sup>17</sup> Under accounting procedures followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of



On a daily basis, the Fund will disclose for each portfolio security or other financial instrument of the Fund the following information on the Fund's website: ticker symbol (if applicable), name of security and financial instrument, number of shares and dollar value of financial instruments held in the portfolio, and percentage weighting of the security and financial instrument in the portfolio. The website information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via NSCC. The basket represents one Creation Unit of the Fund. In order to provide additional information regarding the indicative value of Shares of the Fund, the Exchange or a market data vendor will disseminate every 15 seconds through the facilities of the Consolidated Tape Association, or through other widely disseminated means, an updated IIV for the Fund as calculated by an information provider or market data vendor.

The Fund's IIV will be based on the current market value of the Fund's portfolio holdings that will form the basis of the Fund's calculation of NAV at the end of the business day as disclosed on the Fund's website prior to the business day's commencement of trading.

Investors can also obtain the Trust's Statement of Additional Information ("SAI"), the Fund's Shareholder Reports, and the Trust's Form N-CSR and Form N-SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free

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the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

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 will be available via the Consolidated Tape Association ("CTA") high-speed line. With respect to U.S. exchange-listed equity securities, the intra-day, closing and settlement prices of common stocks and exchange-traded equity securities (including shares of preferred securities, closed-end funds, REITs and U.S. exchange-listed Depositary Receipts) will be readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. 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. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription arrangements. Quotation information from brokers and dealers or pricing services will be available for Eurodollar obligations, Yankee dollar obligations, U.S. government securities, repurchase agreements, money market instruments, foreign debt securities, certificates of deposit, time deposits, and

bankers' acceptances; unsponsored Depositary Receipts; and spot currency transactions. In addition, IIV,<sup>18</sup> which is 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 Exchange's Core Trading Session by one or more major market data vendors.<sup>19</sup> The dissemination of the IIV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to 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 exercising its discretion to halt or suspend trading in the Shares of the Fund.<sup>20</sup> Trading in Shares of the Fund 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 Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a

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<sup>18</sup> The IIV calculation will be an estimate of the value of the Fund's NAV per Share using market data converted into U.S. dollars at the current currency rates. The IIV price will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the IIV and the market price of the Shares may occur. This should not be viewed as a "real-time" update of the NAV per Share of the Fund, which will be calculated only once a day.

<sup>19</sup> Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from CTA or other data feeds.

<sup>20</sup> See NYSE Arca Equities Rule 7.12.

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 Fund may be halted.

### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 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, Commentary .03, 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 will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A-3<sup>21</sup> under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

### Surveillance

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<sup>21</sup> 17 CFR 240.10A-3.

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>22</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 federal securities laws applicable to trading on the Exchange.

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 Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain exchange-traded securities underlying the Shares with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from markets and

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<sup>22</sup> FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>23</sup> The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine ("TRACE").

Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) shall consist of equity securities whose principal market is not a member of the 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.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

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<sup>23</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 the 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 Fund is 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>24</sup> that an exchange have rules that are designed to prevent fraudulent and

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<sup>24</sup> 15 U.S.C. 78f(b)(5).

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. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Adviser has implemented a “fire wall” with respect to its affiliated broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain exchange-traded securities underlying the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). The Fund will not invest in



options, futures or swaps. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

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 is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on its website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) shall consist of equity securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. 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, and quotation and last sale information will be available via the CTA high-speed line. The website for the Fund will include a form of

the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. 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 Fund 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, and 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 Fund may be halted. The intra-day, closing and settlement prices of the portfolio securities are also readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, 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 an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors

will have ready access to information regarding the Fund's holdings, the IIV, 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 an actively-managed exchange-traded product that will principally hold non U.S. equity securities and 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-2016-67 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 SR-NYSEARCA-2016-67. 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 SR-NYSEARCA-2016-67 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>25</sup>

Robert W. Errett  
Deputy Secretary

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<sup>25</sup> 17 CFR 200.30-3(a)(12).