

June 21, 2012

Ms. Michele M. Anderson
Chief
Office of Mergers and Acquisitions
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Request
for Exemptive and No-Action Relief
from Rule 14e-5, promulgated under the
Securities Exchange Act of 1934, for
an Actively Managed Exchange-Traded Fund

Dear Ms. Anderson:

The First Trust Exchange-Traded Fund IV (the "*Trust*") was organized as a Massachusetts business trust on September 15, 2010 and is registered with the Securities and Exchange Commission (the "*Commission*") as an open-end management investment company. The Trust intends to create and operate actively managed investment portfolios (referred to as "*Funds*"), including, initially, as described in more detail herein, the First Trust North American Energy Infrastructure Fund (the "*Requesting Fund*"), that issue, on a continuous offering basis, their respective shares in large aggregations of a specified number referred to as a "*Creation Unit*." The Requesting Fund was organized on September 20, 2010. The Trust launched the Requesting Fund on June 21, 2012.

The Trust, on behalf of itself, the Requesting Fund, and persons or entities engaging in transactions in shares of the Requesting Fund ("*Requesting Fund Shares*"), as the case may be, hereby requests that the Commission grant exemptive and no-action relief from Rule 14e-5 under the Securities Exchange Act of 1934, as amended (the "*Exchange Act*").

The Trust will issue and redeem shares of the Requesting Fund in Creation Units comprised of aggregations of 50,000 Requesting Fund Shares. The Trust has filed a registration statement on Form N-1A and the Requesting Fund Shares of the Requesting Fund are listed on the NYSE Arca, Inc. The Trust is overseen by a board of trustees (the "*Board*") that will maintain the composition requirements of Section 10 of the Investment Company Act of 1940, as amended (the "*1940 Act*"). The Requesting Fund has adopted fundamental policies consistent with the 1940 Act and will be classified as "non-diversified" under the 1940 Act. The Requesting Fund intends to maintain the required level of diversification, and otherwise conduct

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its operations, so as to meet the regulated investment company (“RIC”) diversification requirements of the Internal Revenue Code of 1986, as amended (the “Code”).

The Commission staff (“Staff”) has previously issued relief substantially similar to that requested herein to actively-managed exchange-traded funds (“ETFs”),¹ as well as index-based ETFs, listed and traded on a national securities exchange which meet certain conditions.² The Grail Letter and the PowerShares Letter provided relief specific to the funds described therein and, therefore, the Trust and the Requesting Fund are not entitled to rely on such letters for relief. Further, because the Requesting Fund is not an index-based ETF, it is not entitled to rely on the relief previously provided to index-based ETFs as a class. The Trust and the Requesting Fund note, however, that their proposal—the creation and issuance by an actively-managed investment company of shares that individually trade on a U.S. national securities exchange as defined in

¹ See Letter from Josephine J. Tao to Grail Advisors ETF Trust, dated April 30, 2009 (revised May 6, 2009) (the “Grail Letter”); and Letter from James A. Brigagliano to PowerShares Actively Managed Exchange-Traded Fund Trust, dated April 4, 2008 (the “PowerShares Letter”). In the Letter from Josephine J. Tao to WisdomTree Trust, dated May 9, 2008 (the “WisdomTree Letter”), the Staff stated that it had repeatedly expressed its views on Exchange Act Section 11(d)(1) and Exchange Act Rules 10b-10, 11d1-2, 15c1-5 and 15c1-6 (the “Other Exchange Act Provisions”) with respect to ETFs that are not tied to an index. The Staff stated that it therefore would not respond to requests for relief under the Other Exchange Act Provisions relating to ETFs that are not managed to track a particular index unless they present novel or unusual issues. In addition, in the AdvisorShares Letter, the Staff stated that it had repeatedly expressed its views on the Other Exchange Act Provisions with respect to the extension or maintenance of credit on shares of ETFs that are comprised of underlying ETFs (“ETFs of ETFs”) in connection with secondary market transactions and that, therefore, it would not respond to requests for relief under the Other Exchange Act Provisions for new ETFs of ETFs unless they present novel or unusual issues. Because the Trust does not believe that the creation, redemption, listing or trading of Requesting Fund Shares should present any novel or unusual issues, the Trust does not request relief from the Other Exchange Act Provisions, but will rely on the applicable precedent. As indicated below, the Board has adopted a distribution and service plan under Rule 12b-1 under the 1940 Act that authorizes the Requesting Fund pursuant to Rule 12b-1 under the 1940 Act to pay an annual 12b-1 fee of up to 25 basis points calculated on the average daily net asset value of the Requesting Fund; however, no such fee is currently being paid by the Requesting Fund and the Board has not approved any such payments for the current fiscal year. We understand that the exemptive and no-action relief under Section 11(d)(1) currently would not be available to any broker-dealer that received 12b-1 fees under such a plan. See Letter from Catherine McGuire, Esq., Chief Counsel, Division of Market Regulation, to the Securities Industry Association Derivative Products Committee, dated November 21, 2005. In addition, the Trust notes that on September 10, 2010, the Staff issued the Division of Market Regulation Staff Legal Bulletin No. 9 which stated that, subject to certain conditions, actively managed ETFs, such as the Requesting Fund, could rely on the exceptions in Rules 101(c)(4) and 102(d)(4) of Regulation M under the Exchange Act which are only available to open-end investment companies, notwithstanding the fact that shares of actively managed ETFs are redeemable only in Creation Unit aggregations. Moreover, the Trust notes that on June 19, 2012, the Commission issued an order granting a limited exemption from Rule 10b-17 under the Exchange Act to any issuer of an actively managed ETF. Exchange Act Release No. 67,215 (June 19, 2012).

² See Letter from James A. Brigagliano to PowerShares Exchange-Traded Fund Trust regarding Class Relief for Exchange Traded Index Funds, dated October 24, 2006 (the “Class Relief Index ETF Letter”); and Letter from James A. Brigagliano, Assistant Director, Division of Market Regulation to Claire P. McGrath, Vice President and Special Counsel, American Stock Exchange LLC, dated August 17, 2001. See also Letter from Josephine Tao regarding Combination Exchange-traded Funds, dated June 27, 2007.

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Section 2(a)(26) of the 1940 Act (an “Exchange”), but that can only be purchased from and redeemed with the issuing investment company in large Creation Unit aggregations—is no longer novel. The Commission has in the past seventeen years considered and approved many similar proposals.³ Some of the index-based ETFs for which relief has been granted have been trading publicly for years, and the Trust is not aware of any abuses associated with them. Indeed, several of the index-based ETFs have been so embraced by investors that they are routinely among the highest volume securities on the exchanges on which they trade.

The Requesting Fund, like the funds with respect to which relief was granted in the Grail Letter and the PowerShares Letter, will differ from index-based ETFs to the extent that it is “actively managed.” However, the Requesting Fund’s portfolio will be fully transparent and thereby permit arbitrage activity to the same extent as index-based ETFs. In all other material respects, the Requesting Fund will operate in the same manner as other ETFs. Therefore, while the Requesting Fund will be actively managed, the Trust does not believe that the Requesting Fund raises any significant new regulatory issues.

This letter is divided into four parts. Part I describes the relevant parties, including the Requesting Fund; Part II describes transactions in the Requesting Fund Shares; Part III contains the request for relief; and Part IV is the conclusion.

³ The Commission has previously granted exemptive or no-action relief under Rules 10a-1, 10b-6, 10b-7, 10b-10, 10b-13, 10b-17, 11d1-2, 15c1-5, 15c1-6 and Regulation M under the Exchange Act. *See, e.g.*, Letter from Nancy Sanow, Assistant Director, Division of Market Regulation to James Duffy, Senior Vice President and General Counsel, AMEX, dated January 27, 1993 with respect to the trading of the SPDR Trust; Letter from Nancy Sanow, Assistant Director, Division of Market Regulation to James Duffy, Senior Vice President and General Counsel, AMEX, dated April 21, 1995 with respect to the trading of the MidCap SPDR Trust; Letters from Larry E. Bergmann, Senior Associate Director, Division of Market Regulation and James Brigagliano, Assistant Director, Division of Market Regulation to Stuart M. Strauss, Gordon Altman Butowsky, dated December 14, 1998 and December 22, 1998, with respect to the trading of the Select Sector SPDR Trust; Letter from James Brigagliano, Assistant Director, Division of Market Regulation to James Duffy, Executive Vice President and General Counsel, AMEX, dated March 3, 1999 with respect to the trading of the Nasdaq-100 Trust; Letter from James Brigagliano, Assistant Director, Division of Market Regulation to Kathleen Moriarty, Carter, Ledyard & Milburn, dated May 16, 2000 with respect to the trading of the iShares Trust; Letter from James Brigagliano, Assistant Director, Division of Market Regulation, to Stuart Strauss, Mayer, Brown & Platt, dated September 26, 2000 with respect to the trading of the streetTRACKS® Series Trust; Letter from James Brigagliano, Assistant Director, Division of Market Regulation to W. John McGuire, Morgan, Lewis & Bockius LLP, dated July 25, 2002 with respect to the trading of various series funds of the iShares Trust; Letter from James Brigagliano, Assistant Director, Division of Market Regulation, to Stuart Strauss, Mayer, Brown, Rowe & Maw, dated October 21, 2002 with respect to the trading of the FrescoSM Index Shares Fund; Letter from James Brigagliano, Assistant Director, Division of Market Regulation to Jack P. Drogin, Morgan, Lewis & Bockius LLP dated September 25, 2003 with respect to the trading of the iShares Lehman U.S. Treasury Inflation Protected Securities Fund and the iShares Lehman U.S. Aggregate Bond Fund (each a series of the iShares Trust).

I. PARTIES

A. THE ADVISOR AND SUBADVISOR

First Trust Advisors L.P. (the “*Advisor*”) will be the investment advisor to the Requesting Fund. The Advisor is an Illinois limited partnership, with its principal office located at 120 East Liberty Drive, Suite 400, Wheaton, Illinois 60187. The Advisor is registered as an “investment adviser” under Section 203 of the Investment Advisers Act of 1940 (the “*Advisers Act*”). The Advisor and the Requesting Fund have retained Energy Income Partners, LLC (the “*Subadvisor*”), which is also registered as an “investment adviser” under the Advisers Act, to serve as investment subadvisor to the Requesting Fund. In this capacity, the Subadvisor will be responsible for the selection and ongoing monitoring of the securities in the Requesting Fund’s investment portfolio. The Subadvisor is located at 49 Riverside Avenue, Westport, Connecticut 06880.

B. THE DISTRIBUTOR

First Trust Portfolios L.P. (the “*Distributor*”) will act as distributor and principal underwriter of the Creation Units of Requesting Fund Shares of the Requesting Fund. The Distributor is a broker-dealer registered under the Exchange Act and a member in good standing of the Financial Industry Regulatory Authority (“*FINRA*”). The Distributor will distribute Requesting Fund Shares on an agency basis. The Distributor is an “affiliated person” of the Advisor within the meaning of Section 2(a)(3)(C) of the 1940 Act. The Board has adopted a distribution and service plan for the Requesting Fund under Rule 12b-1 under the 1940 Act (a “*12b-1 Plan*”) on behalf of the Requesting Fund that authorizes the Requesting Fund to pay an annual 12b-1 fee of up to 25 basis points calculated on the average daily net asset value (“*NAV*”); however, no such fee is currently being paid by the Requesting Fund and the Board has not approved any such payments for the current fiscal year.

C. THE REQUESTING FUND

The investment objective of the Requesting Fund is to seek total return. Under normal market conditions, the Requesting Fund intends to invest at least 80% of its net assets (plus the amount of any borrowing for investment purposes) in equity securities of companies deemed by the Subadvisor to be engaged in the energy infrastructure sector. These companies principally include publicly-traded master limited partnerships and limited liability companies taxed as partnerships (“*MLPs*”), MLP affiliates, Canadian income trusts and their successor companies (collectively, “*Canadian Income Equities*”), pipeline companies, utilities, and other companies that derive at least 50% of their revenues from operating or providing services in support of infrastructure assets such as pipelines, power transmission and petroleum and natural gas storage in the petroleum, natural gas and power generation industries (collectively, “*Energy Infrastructure Companies*”). The Fund will be generally concentrated in Energy Infrastructure Companies. In addition, under normal market conditions, the Requesting Fund will invest at least 80% of its net assets (plus the amount of any borrowing for investment purposes) in equity securities of companies headquartered or incorporated in the United States and Canada.

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The Requesting Fund may also use derivative investments to hedge against interest rate and market risks. The Requesting Fund may engage in currency hedging transactions, including buying or selling options or entering into other transactions including futures, forward contracts, swaps and other derivatives transactions. The Requesting Fund may sell covered call options.

D. OTHER SERVICE PROVIDERS

The Trust expects to appoint an entity or entities to provide administrative, custodial, transfer agency, fund accounting and dividend disbursing functions for the Requesting Fund. The entity providing custodial services is hereafter the “*Custodian*” and the entity serving as transfer agent for the Requesting Fund is hereafter the “*Transfer Agent*.”

II. TRANSACTIONS IN REQUESTING FUND SHARES

A. REQUESTING FUND SHARES

The Requesting Fund will issue and redeem Requesting Fund Shares only in Creation Units comprised of 50,000 Requesting Fund Shares. Requesting Fund Shares will be listed on an Exchange and will trade in the secondary market in the same manner as other equity securities. One or more Exchange specialists or market makers, as applicable, will be assigned to the Requesting Fund Shares. Neither the Distributor nor any other affiliated person of the Requesting Fund, the Advisor or the Subadvisor will maintain a secondary market in Requesting Fund Shares.

Requesting Fund Shares will be registered in book-entry form only; the Requesting Fund will not issue Requesting Fund Shares certificates. The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York (the “*DTC*”), or its nominee will be the record or registered owner of all outstanding Requesting Fund Shares. Beneficial ownership of Requesting Fund Shares (owners of such beneficial interests referred to herein as “*Beneficial Owners*”) will be shown on the records of the DTC or DTC participants (“*DTC and DTC Participants*”). Shareholders will exercise their rights in such securities indirectly through the DTC and DTC Participants. The references herein to owners or holders of such Requesting Fund Shares shall reflect the rights of persons holding an interest in such securities as they may indirectly exercise such rights through the DTC and DTC Participants, except as otherwise specified. No shareholder shall have the right to receive a certificate representing such Requesting Fund Shares. Delivery of all notices, statements, shareholder reports and other communications from the Requesting Fund to Beneficial Owners will be through the customary practices and facilities of the DTC and DTC Participants.

B. SALES OF REQUESTING FUND SHARES

The Requesting Fund will sell Requesting Fund Shares to investors through Authorized Participants (as defined below) only in Creation Units through the Distributor on a continuous basis at the NAV per share next determined after an order in proper form is received. The consideration for purchase of Creation Units of the Requesting Fund may consist of (i) cash in

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lieu of all or a portion of the Deposit Securities, as defined below, and/or (ii) a designated portfolio of equity securities (the “*Deposit Securities*”) designated by the Advisor (and/or the Subadvisor), together with the deposit or refund of a specified cash payment (the “*Cash Component*”). Together, the Deposit Securities and the Cash Component (including the cash in lieu amount) constitute the “*Fund Deposit*,” which represents the minimum initial and subsequent investment amount for a Creation Unit of the Requesting Fund. The Trust will issue and sell Creation Units of the Requesting Fund on any day that the Trust is open for business, including as required by Section 22(e) of the 1940 Act (each a “*Business Day*”). The net asset value (“*NAV*”) of the Requesting Fund will be determined as of the close of the regular trading session on the New York Stock Exchange (“*NYSE*”) (ordinarily 4:00 p.m. Eastern time) on each Business Day.

In order to be eligible to place orders with the Distributor and to create a Creation Unit of the Requesting Fund, an entity must be a DTC Participant and must have executed an agreement with the Distributor and Transfer Agent with respect to creations and redemptions of Creation Units (a “*Participant Agreement*”). A DTC Participant is also referred to as an “*Authorized Participant*.”

All standard orders to create a Creation Unit must be received by the Transfer Agent no later than the order cut-off time as described in the applicable Participant Agreement (ordinarily, 4:00 p.m. Eastern Time) (the “*Order Cut-Off Time*”) on the date such order is placed, in order for creation of Creation Units to be effected based on the NAV of Requesting Fund Shares as next determined on such date. In the case of custom orders,⁴ the purchase order must be received no later than 3:00 p.m. Eastern Time (or such other time as specified in the Participant Agreement).

A Creation Unit aggregation will generally not be issued until the transfer of good title to the Trust of the portfolio of Deposit Securities, the payment of the Cash Component, the payment of the creation transaction fee⁵ and the payment of any other required cash amounts have been completed.⁶ The Trust may reject any order not submitted in proper form.

⁴ A custom order may be placed by an Authorized Participant in the event that the Trust permits or requires the substitution of an amount of cash to be added to the Cash Component to replace any Deposit Security which, for example, may not be available in sufficient quantity for delivery or which may not be eligible for trading by such Authorized Participant or the investor for which it is acting. The Requesting Fund may require custom orders for Creation Units to be placed earlier in the day.

⁵ Purchasers and redeemers of Creation Units must pay a transaction fee (the “*Transaction Fee*”). The Transaction Fee is applicable to each purchase or redemption transaction regardless of the number of Creation Units purchased or redeemed in the transaction. The Transaction Fee may vary and is based on the composition of the securities included in the Requesting Fund’s portfolio and the countries in which the transactions are settled.

⁶ To the extent contemplated by the applicable Participant Agreement, Creation Units will be issued to the Authorized Participant notwithstanding the fact that the corresponding Fund Deposit has not been received in part or in whole, in reliance on the undertaking of the Authorized Participant to deliver the missing Deposit Securities or cash, as applicable, as soon as possible, which undertaking shall be secured by the Authorized Participant’s delivery and maintenance of collateral.

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C. REDEMPTIONS OF REQUESTING FUND SHARES

Beneficial Owners of Requesting Fund Shares must accumulate enough Requesting Fund Shares to constitute a Creation Unit in order to redeem through the Trust. Orders to redeem Creation Units must be delivered through an Authorized Participant that has executed a Participant Agreement. Creation Units will be redeemable at the NAV next determined after receipt of a request for redemption by the Trust. Requesting Fund Shares will be redeemed in Creation Units in exchange for cash or a particular portfolio of securities (“*Fund Securities*” and individually, a “*Fund Security*”). The Trust will redeem Requesting Fund Shares of the Requesting Fund on any Business Day. Redemption requests must be received by the Order Cut-Off Time (ordinarily, 4:00 p.m. Eastern Time) to be redeemed that day. In the case of custom redemptions,⁷ the order must be received no later than 3:00 p.m. Eastern Time (or such other time as specified in the applicable Participant Agreement). The Trust’s Custodian, 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, with respect to Funds that use an in-kind redemption process, the list of Deposit Securities (the “*Creation List*”) which will be applicable to a purchase and the list of Fund Securities (the “*Redemption List*”) that will be applicable to redemption requests received in proper form on that day.

The Requesting Fund will have the right to make redemption payments in cash, in-kind or a combination of each, provided the value of its redemption payments equals the NAV per Requesting Fund Share.⁸ At the discretion of the Requesting Fund, a Beneficial Owner might also receive the cash equivalent of a Fund Security upon request (for example, if it was restrained by regulation or policy from transacting in the securities, perhaps because of another transaction with or for the issuer of those securities). Unless cash redemptions are available or specified for the Requesting Fund, the redemption proceeds for a Creation Unit will consist of Fund Securities plus or minus a “*Cash Redemption Amount*” as the case may be (collectively a “*Fund Redemption*”). The Cash Redemption Amount is cash in an amount equal to the difference between the NAV of the Creation Unit being redeemed and the market value of the Fund Securities. Accordingly, to the extent that the Fund Securities on the Redemption List have a value greater than the NAV of the Requesting Fund Shares being redeemed, a cash payment equal to the differential is required to be paid by the redeeming investor to the Requesting Fund. A redeeming investor also will pay a Transaction Fee calculated in the same manner as a Transaction Fee payable in connection with the purchase of a Creation Unit.

⁷ Custom redemption orders may be placed by an Authorized Participant in the event that the Trust permits or requires the substitution of an amount of cash to replace any Fund Securities which, for example, may not be eligible for trading by such Authorized Participant or the investor for which it is effecting the transaction.

⁸ To the extent contemplated by the applicable Participant Agreement, in the event the Authorized Participant has submitted a redemption request in proper form and is unable to transfer all or part of the Creation Unit to be redeemed to the Transfer Agent, on behalf of the Requesting Fund, at or prior to the Order Cut-Off Time on the date such redemption request is submitted, the Transfer Agent may nonetheless accept the redemption request in reliance on the undertaking by the Authorized Participant to deliver the missing Requesting Fund Shares as soon as possible, which undertaking shall be secured by the Authorized Participant’s delivery and maintenance of collateral.

III. REQUEST FOR RELIEF FROM RULE 14E-5

Rule 14e-5 prohibits a person who makes a cash tender offer or exchange offer for any equity security from directly or indirectly purchasing such security (or a security immediately convertible into or exchangeable for or exercisable for such security (a “*related security*”)) otherwise than pursuant to such tender offer or exchange offer. The Rule also applies to, among various other persons specified in the Rule and referred to as “*Covered Persons*,” the dealer-manager of a tender or exchange offer. Accordingly, the Rule may pertain to a Covered Person acting as a dealer-manager of a tender or exchange offer for an equity security in which the Requesting Fund invests.

The Trust respectfully requests that the Commission grant an exemption from Rule 14e-5 to permit any dealer-manager of a tender or exchange offer for an equity security in which the Requesting Fund invests (including a member or member organization of an Exchange or other market) during the existence of such offer: (1) to redeem Requesting Fund Shares in one or more Creation Units for Fund Securities that may include a security subject to the tender or exchange offer, and (2) to engage in secondary market transactions in Requesting Fund Shares during such offer.

The acquisition of individual Fund Securities by means of redemptions of Requesting Fund Shares would be impractical and extremely inefficient in view of the requirement that a minimum of 50,000 Requesting Fund Shares (*i.e.*, a Creation Unit) be redeemed. In addition, application of the Rule’s prohibition would impede the valid and useful market and arbitrage activity which would assist secondary market trading and improve Requesting Fund Share pricing efficiency. In no case would redemptions of Requesting Fund Shares or secondary market transactions by dealer-managers relying on the relief be effected for the purpose of facilitating a tender offer. Accordingly, purchases and redemptions of Requesting Fund Shares in the circumstances described would not appear to result in the abuses at which Rule 14e-5 is directed.

In addition to the above request for relief, the Trust is requesting no-action relief in connection with purchases of Creation Units of Requesting Fund Shares by broker-dealers acting as dealer-managers of tender offers for securities in which the Requesting Fund invests. The Trust acknowledges that Rule 14e-5(b)(5) provides an exception to its prohibition for purchases or arrangements to purchase a basket of securities containing a subject security or a related security if (i) the purchase or arrangement is made in the ordinary course of business and not to facilitate the tender offer, (ii) the basket contains 20 or more securities and (iii) covered securities and related securities do not comprise more than 5% of the value of the basket (the “*Basket Exception*”). As indicated by the Commission in the release adopting Rule 14e-5,⁹ transactions in baskets in accordance with the Basket Exception provide little opportunity for a Covered Person to facilitate an offer¹⁰ or for a security holder to exact a premium from the

⁹ See Exchange Act Release No. 42,055 (October 22, 1999) (the “*Rule 14e-5 Adopting Release*”).

¹⁰ As discussed in the Rule 14e-5 Adopting Release, “*facilitation of an offer*” includes purchases intended to bid up the market price of the covered or related security, and includes buying a basket to strip out the covered security in an effort to get the offeror the number of shares it is seeking.

offeror. Given that the purchases and redemptions of Creation Units of ETFs in general typically involve baskets of securities, broker-dealers acting as dealer-managers of tender offers for securities in which the Requesting Fund invests may, in certain cases, be able to rely on the Basket Exception in purchasing Creation Units of Requesting Fund Shares. From time to time, however, as in the case of other ETFs, a change in the composition of the portfolio securities of the Requesting Fund may result in a change in the basket that has been established for purposes of purchasing its Creation Units. As a consequence, the basket could contain less than 20 securities and/or covered securities and related securities could comprise more than 5% of the value of the basket. For example, a liquidation of the issuer of one of the securities or a merger involving the acquisition of the issuer of one of the securities could cause the number of securities in the basket to fall below 20 and/or could cause covered securities and related securities to comprise more than 5% of the value of the basket. Additionally, as a result of fluctuations in the market value of the securities held in the basket, covered securities and related securities could, at times, comprise more than 5% of the value of the basket. Accordingly, to address situations (including but not limited to the foregoing examples) where the basket contains less than 20 securities and/or covered securities and related securities comprise more than 5% of the value of the basket, the Trust respectfully requests that the Staff take a no-action position under Rule 14e-5 if a broker-dealer (including a member or member organization of an Exchange) acting as a dealer-manager of a tender offer for any securities in which the Requesting Fund invests purchases such securities in the secondary market for the purpose of tendering such securities to purchase one or more Creation Units of Requesting Fund Shares, if such purchases are effected as adjustments to the basket in the ordinary course of business as a result of a change in the composition of the Requesting Fund's portfolio and are not effected for the purpose of facilitating such tender offer. Relief would be necessary in order to permit such broker-dealers to effect purchases of Creation Units of Requesting Fund Shares under such circumstances given that the Basket Exception would not be available. We respectfully submit that granting this relief would represent a slight extension of the Basket Exception in order to accommodate a potential factual circumstance associated with the operation of ETFs and would remain consistent with the rationale underlying the adoption of the Basket Exception. We note, in particular, that purchases would not be effected for the purpose of facilitating a tender offer and therefore would not appear to result in the abuses at which Rule 14e-5 is directed. Further, we note that the Commission has previously granted similar relief to actively managed ETFs¹¹ and index-based ETFs.¹²

The Trust understands that, except as permitted by the relief from Rule 14e-5 requested herein, any person acting as a dealer-manager is required to comply with the requirements of Rule 14e-5.

¹¹ See, e.g., the Grail Letter and the PowerShares Letter, *supra* note 1.

¹² See, e.g., the Class Relief Index ETF Letter, *supra* note 2. In the case of an index-based ETF, the adjustments to the basket would occur as a result of a change in the composition of the relevant index.

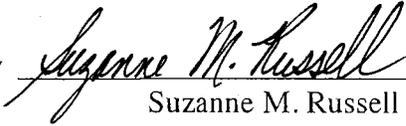
IV. CONCLUSION

Based on the foregoing, the Trust respectfully requests that the Commission and the Staff grant the relief requested herein. The forms of relief requested are substantially similar to those actions that the Commission and the Staff have taken in similar circumstances.

Thank you for your consideration of this request. Should you have any questions or require additional information, please call the undersigned at (312) 845-3446 or Felice Foundos at (312) 845-3864.

Very truly yours,

CHAPMAN AND CUTLER LLP

By  _____
Suzanne M. Russell

cc: Peggy Kim