



DIVISION OF
TRADING AND MARKETS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

May 29, 2018

P. Georgia Bullitt
Partner
Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019-6099

Re: iShares U.S. ETF Trust, et al.

Dear Ms. Bullitt:

In your letter dated May 29, 2018, as supplemented by conversations with the staff of the Division of Trading and Markets ("Staff"), iShares U.S. ETF Trust (the "Trust") on behalf of itself, and any national securities exchange on or through which shares of the two existing series or future series ("Shares") of the Trust are listed (each, a "Listing Exchange") and/or any other trading market on which the Shares may trade, BlackRock Investments, LLC and persons or entities engaging in transactions in Shares, including Authorized Participants (as defined in your letter), requests from the Staff, or from the Securities and Exchange Commission ("Commission"), exemptions from, or interpretive or no-action advice regarding Section 11(d)(1) of the Securities Exchange Act of 1934 ("Exchange Act") and Rules 10b-10, 11d1-2, 15c1-5 and 15c1-6 under the Exchange Act.

We have enclosed a photocopy of your letter. Each defined term in this letter has the same meaning as defined in your letter, unless we note otherwise.

The Trust is registered with the Commission under the Investment Company Act of 1940 (as amended "1940 Act") as an open-end investment company. The Trust has created a new series, the iShares Gold Strategy ETF (the "Gold Fund" and together with all existing series of the Trust and all series that may be created in the future that comply with the terms of the relief requested herein, the "Funds"). Each Fund is qualified to operate and will operate as an exchange traded fund organized as an open-end investment company under the 1940 Act (an "ETF") as well as a "commodity pool" under the Commodity Exchange Act ("CEA"). The investment adviser to the Funds (the "Adviser") is registered as a commodity pool operator under the CEA, subject to regulation by the Commodity Futures Trading Commission (the "CFTC"), and as an investment adviser under the Investment Advisers Act of 1940, as amended (the

“Advisers Act”), subject to regulation by the Commission and, to a more limited extent, the States.

As discussed, we are treating your request for relief under Section 11(d)(1) of the Exchange Act, and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 thereunder, as a request that the Staff confirm that it will not recommend enforcement action to the Commission if a broker-dealer treats Shares of each of the Funds, for purposes of the relief from Section 11(d)(1) and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 provided in the Letter re: Derivative Products Committee of the Securities Industry Association (November 21, 2005) (“Class Relief Letter”), as shares of a Qualifying ETF (as defined in the Class Relief Letter).

Based on the facts and representations set forth in your letter, and without necessarily agreeing with your analysis, the Staff will not recommend enforcement action to the Commission if a broker-dealer treats Shares of a Fund, for purposes of the relief from Section 11(d)(1) of the Exchange Act and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 thereunder provided in the Class Relief Letter, as shares of a Qualifying ETF, notwithstanding the fact that the Funds will not satisfy the third condition of the Class Relief Letter, which requires an ETF to consist of a basket of twenty or more component securities, with no one component security constituting more than 25% of the total value of the ETF, and be managed to track an index. Accordingly with respect to Shares of the Funds, to the extent that a broker-dealer satisfies the other conditions in the Class Relief Letter, it could rely on the exemptive and no-action relief contained therein.

The foregoing no-action positions taken under Section 11(d)(1) of the Exchange Act, and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 thereunder, are based solely on your representations and the facts presented to the Staff, and are strictly limited to the application of those rules to transactions involving the Shares of the Funds under the circumstances described above and in your letter. Any different facts or representations may require a different response. Please note that, as a matter of policy, the Staff grants no action relief only prospectively, not retroactively.

These no-action positions are subject to modification or revocation if at any time the Commission or Staff determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, persons relying on these exemptions, interpretations, and no-action positions are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a), 10(b), and Rule 10b-5 thereunder. Responsibility for compliance with these and other provisions of the federal or state securities laws must rest with persons relying on these exemptions, interpretations, and no-action positions. The Staff expresses no view with respect to other questions that the proposed transactions may raise, including, but not limited to, the adequacy of disclosure concerning, and the applicability of other federal and state laws to, the proposed transactions.

Sincerely,



Joanne Rutkowski
Assistant Chief Counsel

May 29, 2018

Joanne Rutkowski
Assistant Chief Counsel
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Request of iShares U.S. ETF Trust, et al., for Exemptive, Interpretive or No-Action Relief from Section 11(d)(1) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 under the Exchange Act

Dear Ms. Rutkowski:

SUMMARY OF REQUEST FOR RELIEF

We are writing on behalf of iShares U.S. ETF Trust (the “**Trust**”) and each existing and future series of the Trust. The Trust, on behalf of itself and any national securities exchange on or through which shares of the two existing series¹ or future series (“**Shares**”) of the Trust are listed (each, a “**Listing Exchange**”) and/or any other trading market on which the Shares may trade (with each such market referred to herein as a “**Market**”),² BlackRock Investments, LLC (the “**Distributor**”) and persons or entities engaging in transactions in Shares, including Authorized Participants (as defined below), hereby requests from the staff of the Division of Trading and Markets (“**Staff**”) of the Securities and Exchange Commission (“**Commission**” or “**SEC**”) or from the Commission, as appropriate, exemptions from, or interpretive or no-action advice regarding Section 11(d)(1) of the Exchange Act and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 under the Exchange Act (“**Specified Trading Relief**”). No relief is being sought under Rules 101 and 102 of Regulation M or under Rule 10b-17. In lieu of obtaining custom relief with respect to Rules

¹ The iShares Commodity Select Strategy ETF (ticker: COMT), listed on the Nasdaq Stock Market and the iShares Bloomberg Roll Select Commodity Strategy ETF (ticker: CMDY and, together with COMT “the **Existing Funds**”), listed on NYSE Arca, Inc. The Existing Funds seek to rely on the relief provided by this Request for Relief in respect to Specified Trading Relief going forward in order to allow the Existing Funds to be administered in a uniform manner as all future funds to be issued by the Trust and to allow compliance testing and monitoring to be conducted in a uniform, cost-effective manner across all series funds of the Trust.

² In the future, the Trust may determine to list Shares on a Market other than the Listing Exchange. If the Trust lists Shares on a Market other than the Listing Exchange, Shares will be listed in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Exchange Act. If the Shares also trade on a Market pursuant to unlisted trading privileges, such trading will be conducted pursuant to self-regulatory organization rules that have become effective pursuant to Exchange Act Section 19(b).

101 and 102 of Regulation M, the Trust and each series of the Trust will rely on the relief granted under the Staff FAQs on Regulation M.³ Similarly, in lieu of obtaining custom relief with respect to Rule 10b-17, the Trust and each series of the Trust will rely on the relief granted under Commission Order 34-67215.⁴

The Trust is qualified to register and has registered as an open-end investment company under the Investment Company Act of 1940 (the “**1940 Act**”). The Trust has created a new series, the iShares Gold Strategy ETF (the “**Gold Fund**” and together with all existing series of the Trust and all series that may be created in the future that comply with the terms of the relief requested herein, the “**Funds**”). Each Fund is qualified to operate and will operate as an exchange traded fund organized as an open-end investment company under the 1940 Act (an “**ETF**”) as well as a “commodity pool” under the Commodity Exchange Act (“**CEA**”). The investment adviser to the Funds (the “**Adviser**”) is registered as a commodity pool operator under the CEA, subject to regulation by the Commodity Futures Trading Commission (the “**CFTC**”), and as an investment adviser under the Investment Advisers Act of 1940, as amended (the “**Advisers Act**”), subject to regulation by the Commission and, to a more limited extent, the States.

The Staff previously granted the Specified Trading Relief on a class basis to actively-managed, transparent ETFs (the “**Prior ETFs**”) in a letter granting exemptive, interpretive and no-action relief to WisdomTree Asset Management Inc. (the “**WisdomTree Letter**” or the “**Letter**”).⁵ The Prior ETFs described in the WisdomTree Letter invested a “smaller portion” of their assets in forward currency contracts and interest rate swaps but represented that they intended “to invest substantially all of [their]... assets in non-convertible fixed income securities and U.S. or non-U.S. money market securities that are rated “investment grade” by at least one nationally recognized statistical ratings organization” (together with comparable debt instruments, “**Fixed Income Securities**”).⁶ The WisdomTree Letter, by reference to a Class Relief Letter granted to the Securities Industry Association in 2005,⁷ included as a condition for relief by the Prior ETFs that each hold 20 or more component securities.

³ See <https://www.sec.gov/interps/legal/mrslb9.htm> (Questions relating to Exchange Traded Funds and marked “New!”).

⁴ Order Granting a Limited Exemption from Exchange Act Rule 10b-17 to Certain Actively Managed Exchange-Traded Funds Pursuant to Exchange Act Rule 10b-17(b)(2), Release No. 34-67215 (June 19, 2012).

⁵ Letter from Josephine J. Tao, Assistant Director, Division of Market Regulation to WisdomTree Asset Management Inc., dated May 9, 2008.

⁶ Although the incoming letter in the WisdomTree Letter indicated that the Prior ETFs held mainly short-term fixed income instruments, the representations in the Letter did not limit holdings to short term fixed income instruments. As a result, the Letter appears to cover any actively-managed, transparent ETF that invests in any maturity of investment grade, non-convertible fixed income securities.

⁷ Letter from the Commission, by the Division of Market Regulation, pursuant to delegated authority, by Catherine McGuire, Chief Counsel, to Securities Industry Association, dated November 21, 2005 (the “**2005 Class Relief Letter**”).

As part of its portfolio holdings, a Fund may invest in exchange traded products (“ETPs”).⁸ Consistent with prior trading relief provided by the Commission, each ETP in which a Fund invests will either: (i) satisfy the conditions of the 2005 Class Relief Letter (other than the condition that the ETP be managed to track an index of public components, which the ETP may optionally meet);⁹ (ii) have received individual relief from the Commission; or (iii) be able to rely on individual applicable trading relief granted by the Commission to other ETPs (even though not named in the letters) (a “**Relief Approved ETP**”).¹⁰ The ETPs in which the Funds will invest generally will be advised by Adviser or an affiliate of Adviser (an “**Affiliated ETP**”). In the event that a Fund holds an ETP that is not advised or sponsored by Adviser or an affiliate (a “**Non-Affiliated ETP**”), the Trust will have a reasonable belief that such ETP is a Relief Approved ETP.

Although the Funds will satisfy the first two conditions of the 2005 Class Relief Letter, the Funds will not satisfy any of the three prongs of the third condition. Specifically, the Funds will not be managed to track an index (like the Prior ETFs), and the Funds will not comply with the 20 Component Test and the 25% Test. As a result, the Funds respectfully request relief from the third condition, including from these tests.¹¹

The Trust seeks relief from the 20 Component Test because the Funds will be actively managed and, as a result, may be constrained by the applicable investment strategy in terms of the instruments needed to satisfy the strategy. The holdings of the Funds will consist primarily of: (i) interests in Subsidiaries (as defined below) that invest in Commodity-Related Instruments (as defined below); (ii) Relief Approved ETPs; (iii) cash and cash equivalent instruments (“**Cash**

⁸ The exchange traded products referenced by this Request for Relief are a diverse class of financial products that seek to provide investors with exposure to financial instruments, financial benchmarks, or investment strategies across a wide range of asset classes. ETP trading occurs on national securities exchanges and other secondary markets that are regulated by the SEC under the Exchange Act. *See, e.g., SEC Publishes Request for Public Comment on Exchange-Traded Products*, June 12, 2015.

⁹ The conditions are: (i) the ETP is an open-end investment company or unit investment trust registered with the Commission under the 1940 Act; (ii) the ETP shares are listed and trade under a rule change approved pursuant to Section 19(b) of the Exchange Act or Rule 19b-4(e); and (iii) the ETP has 20 or more component instruments (the “**20 Component Test**”), no one of which constitutes more than 25% of the total value of the ETP (the “**25% Test**”) and is managed to track an index, all of the components of which are publicly available.

¹⁰ *See* Letter from Josephine J. Tao, Assistant Director, Division of Trading and Markets, to Kathleen H. Moriarty, Index IQ ETF Trust, March 25, 2009 (Revised – April 2, 2009) (the “**Index IQ Letter**”).

¹¹ As noted above, although the Existing Funds currently operate under policies and procedures designed to ensure that they comply with the 20 Component Test and the 25% Test, they hereby seek relief to be administered without compliance with the 20 Component Test and with the modifications in the 25% Test requested herein, as well as the other terms and conditions of the relief requested for Funds hereunder, so that all Funds issued by the Trust can be administered under uniform compliance policies and monitoring procedures. In our view, providing the ability for the Trust to have one class of relief that applies to all Funds will benefit shareholders of the Funds by reducing Fund expenses.

Equivalent Instruments¹²,¹³ (iv) publicly-traded equity securities;¹⁴ and (v) high quality Fixed Income Securities, all of which are generally liquid instruments.

The Trust is also seeking modification of the condition in the 2005 Class Relief Letter that no one component security in the basket of securities held by the Fund constitutes more than 25% of the total value of the Fund. In that regard, the Trust would exclude from the 25% Test holdings in Government Securities, Foreign Government Securities (both as defined in the WisdomTree Letter),¹⁵ Cash Equivalent Instruments and Relief Approved ETPs. No Fund will hold a security that constitutes more than 25% of the total value of the Fund (other than Government Securities, Foreign Government Securities, Cash Equivalent Instruments or Relief Approved ETPs).¹⁶ In our view, these limited modifications and exceptions to the 25% Test are appropriate and consistent with the WisdomTree Letter and the Index IQ Letter. In the WisdomTree Letter, the SEC excluded from the concentration test set forth in that Letter “Government Securities and Foreign Government Securities” in recognition of the fact that those instruments did not present the types of risks that concentrated holdings of other types of securities present. Similarly, in the Index IQ Letter, relief was granted to an ETF of ETFs holding more than 25% of its total value in ETPs who operated under existing trading relief.¹⁷ Finally, with respect to Cash Equivalent Instruments, applicable Exchange Listing rules do not limit the holdings in such instruments.

We believe that the requested relief is consistent with the WisdomTree Letter. In the WisdomTree Letter, the Staff indicated that it would not respond to requests for the Specified Trading Relief relating to ETFs that are not managed to track a particular index unless the ETFs presented novel or unusual issues. Although the Funds do not present “novel or unusual issues,”

¹² Cash Equivalent Instruments are defined by the rules of the applicable Listing Exchange for each Fund. In the case of the Gold Fund, which will be listed on CboeBZX Exchange, Inc. (the “**BZX Exchange**”), Rule 14.11(i)(4)(C)(iii)(b) of the Exchange defines the term to mean “short-term instruments with maturities of less than three months, which includes (sic) only the following: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreement; (v) bank time deposits, which are monies kept on deposit with bank or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are (sic) short-term unsecured promissory notes; and (vii) money market funds.”

¹³ The Cash Equivalent Instruments are generally used as collateral for the Commodity-Related Instruments.

¹⁴ All equity securities in which the Funds invest will be listed on a U.S. national securities exchange.

¹⁵ In the incoming letter to the WisdomTree Letter, the term “Foreign Government Securities” is defined as “obligations of foreign governments or agencies of foreign governments that are similar to “Government Securities.” The term “Government Securities”, in turn, is as defined as “government securities (as defined in Section 3(a)(42) of the Securities Exchange Act of 1934).”

¹⁶ As noted below, the Funds may invest up to (and including) 25% of their assets in a wholly-owned subsidiary. Calculation of the ownership percentage will be carried out in the manner required by Sub-Chapter M of the Internal Revenue Code of 1986.

¹⁷ See Index IQ Letter, Incoming Letter at p. 4 (noting that the underlying ETPs (defined in the Index IQ Letter as “Prior ETFs and ETVs”) will have met the conditions in specified class relief letter, will have received individual relief from the SEC or will be able to rely on individual relief letters even though they are not named parties).

we request this relief because the Funds are structured differently in some respects from the Prior ETFs described in the WisdomTree Letter. First, the Funds intend to invest in instruments providing substantial exposure to commodities, such as gold (“**Commodity-Related Instruments**”).¹⁸ In making such investments, the Funds expect to operate in compliance, in all material respects, with the requirements of Sub-Chapter M of the Internal Revenue Code of 1986. Second, in compliance with the requirements of Sub-Chapter M of the Internal Revenue Code of 1986, the Funds may invest up to (and including) 25% of their assets in a wholly-owned subsidiary (a “**Subsidiary**”), which itself invests in Commodity-Related Instruments and is not registered as an investment company under the 1940 Act.¹⁹ Third, the Funds are dually regulated by the Commission and the CFTC. Fourth, the Funds generally will seek to obtain exposure to commodities, including through investments in securities. Fifth, the Funds may invest more than 30% of its holdings in ETPs that: (a) have been approved for listing on a Listing Exchange by the Commission pursuant to Section 19(b), and (b) are Relief Approved ETPs. Investments in ETPs may be made directly by the Funds and/or through a Subsidiary.

In light of the differences between the Prior ETFs, described in the WisdomTree Letter, and the Funds, we hereby request that the Staff confirm that the Specified Trading Relief provided to other actively-managed, transparent ETFs in the WisdomTree Letter, modified as requested herein, would apply to the Funds. We believe that it would be consistent with the relief previously granted to ETFs by the Commission and the Staff, including that provided in the WisdomTree Letter, for the Commission and the Staff to grant the Specified Trading Relief to the Funds.

The Trust believes that the regulatory investor protections in place for the Funds are even more robust than those applicable to the Prior ETFs, which would favor granting relief. The Funds are regulated by both the CFTC and the SEC, and investor disclosures are broader because the Funds are subject not only to the Commission’s requirements but also to certain CFTC requirements. In addition, the Funds will operate pursuant to Commission-granted exemptive orders in a fully transparent manner, including with respect to the holdings of any Subsidiary.

This Letter is divided into five parts. Part I is a description of the Gold Fund and the Trust. Part II is a description of the Trust’s disclosure documents with respect to its Shares. Part III is a comparison of the Gold Fund and the other Funds against the Prior ETFs discussed in the WisdomTree Letter. Part IV explains our basis for why the Commission and the Staff should grant

¹⁸ Commodity-Related Instruments include the following: (1) exchange-traded futures contracts and other listed derivatives, such as options on futures and swaps traded on a designated contract market or swap execution facility, (2) over-the-counter (“**OTC**”) swaps, options, forwards, swaptions and other derivatives that are either centrally cleared or held bi-laterally, (3) security based swaps, such as swaps on ETPs investing in gold or other commodities, (4) ETPs backed by or linked to commodities, such as gold, and (5) notes, warrants, certificates of deposit, equity securities and other non-derivative instruments that provide exposure to commodities such as gold on which the principal investment strategies of the Funds are based.

¹⁹ Investment by a Fund in a Subsidiary will be carried out in a manner consistent with current U.S. federal income tax laws applicable to investment companies, which limit the ability of investment companies to invest directly in commodities and commodity interests (as defined in the CEA). Each Fund and any Subsidiary (if applicable) will be advised by BlackRock Fund Advisors (the “**Advisor**”).

the Specified Trading Relief requested for the Gold Fund and the other Funds. The final part is the Conclusion.

PART I

A. The Gold Fund and the Trust.

The Gold Fund is a series fund of the Trust. The Trust was organized as a Delaware statutory trust on June 21, 2011, is authorized to have multiple series and currently offers nine (9) separate series of Funds.

Shares of the Gold Fund are expected to be listed on the BZX Exchange. BZX Exchange has filed an proposed rule change to list and trade Shares of the Gold Fund pursuant to Section 19(b)(1) of the Exchange Act and rule 19b-4 thereunder (Release No. 34-82758; File No. SR-CboeBZX-2017-023).

The Trust will offer and sell the Shares of the Gold Fund pursuant to an amendment to its Registration Statement (Registration Nos. 811-22649 and 333-179904) on Form N-1A under the 1940 Act and the Securities Act of 1933 (“**1933 Act**”). A Registration Statement describing the Gold Fund was filed with the SEC on November 1, 2017 and has not yet become effective.

The Gold Fund will seek to achieve its investment objective of providing exposure, on a total return basis, to the price performance of gold. The Gold Fund expects to obtain all of its exposure to Commodity-Related Instruments²⁰ through its investment in a Cayman Islands Subsidiary,²¹ rather than through direct investments in Commodity-Related Instruments, in compliance with Sub-Chapter M of the Internal Revenue Code of 1986. In addition, in compliance with Sub-Chapter M of the Internal Revenue Code of 1986, the Gold Fund will invest up to (and including) 25% of its total assets in the Subsidiary.²²

The Gold Fund additionally aims to generate interest income and capital appreciation through a cash management strategy by investing directly (*i.e.*, not through the Subsidiary) in Fixed-Income Securities, and cash and Cash Equivalent Instruments. The Gold Fund will be an actively managed ETF and will not seek to replicate the performance of a specified index.

²⁰ Specifically, the Commodity-Related Instruments in which the Gold Fund may invest include: (i) exchange-traded gold futures contracts and other exchange-traded or OTC derivatives (*i.e.*, forward contracts, futures, options and swaps) that correlate to the investment returns of physical gold, based on the notional value of such derivative instruments; and (ii) ETPs backed by or linked to physical gold, which may include the iShares Gold Trust, an ETP trading on NYSE Arca, Inc. under the ticker symbol “IAU.”

²¹ Other Funds may not establish a Subsidiary or, if they do establish a Subsidiary, may establish a subsidiary outside of the Cayman Islands.

²² If the guidance provided by the Internal Revenue Service were to change, the Gold Fund expects that it would invest more or less in the Subsidiary consistent with the applicable guidance.

B. Other Parties.

1. Advisor and Sub-Advisor.

Each Fund and any Subsidiary (if applicable) will be advised by the Advisor pursuant to an Investment Advisory Agreement with the Advisor. The Advisor is a California corporation registered as an investment adviser under the Advisers Act and also registered as a commodity pool operator with the CFTC. The Advisor has offices located at 400 Howard Street, San Francisco, CA 94105. The Advisor is not affiliated (within the meaning of Section 2(a)(3) of the 1940 Act) with BZX Exchange or any other Market.

The Advisor may designate one or more sub-advisors (each, a “**Sub-Advisor**”) for each Fund. Any Sub-Advisor may be affiliated (within the meaning of Section 2(a)(3) of the 1940 Act) with the Advisor but is not expected to be affiliated with BZX Exchange or any other Market. The Advisor or the Sub-Advisor will choose each Fund’s portfolio investments and place orders to buy and sell each Fund’s portfolio investments. The Advisor does not intend to designate a Sub-Advisor in respect of the Gold Fund.

2. Distributor and Authorized Participants.

BlackRock Investments, LLC, a broker-dealer registered with the Commission under the Exchange Act and a member of the Financial Industry Regulatory Authority, Inc. (“**FINRA**”), will act as the Distributor and principal underwriter of Shares of the Gold Fund and Shares of the other Funds. The Distributor will distribute Shares on an agency basis. The Distributor is an affiliate (within the meaning of Section 2(a)(3) of the 1940 Act) of the Advisor. The Distributor is not affiliated (within the meaning of Section 2(a)(3) of the 1940 Act) with BZX Exchange or any other Market.

Only entities that have entered into an authorized participant agreement with respect to creation and redemptions of Creation Units (as defined below) (an “**Authorized Participant Agreement**”) with the Distributor to become “Authorized Participants” may place orders with the Distributor to purchase or redeem Creation Units, as described below. To be an Authorized Participant, an entity must be (i) a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the National Securities Clearing Corporation (“**NSCC**”), a clearing agency that is registered with the Commission, or a DTC Participant, and (ii) which has executed an Authorized Participant Agreement. Authorized Participants may be, but are not required to be, members of the Listing Exchange. Authorized Participants are not compensated by the Trust, the Gold Fund or any other Fund in connection with the issuance or redemption of Shares.

The Authorized Participants are not affiliated (within the meaning of Section 2(a)(3) of the 1940 Act) with the Advisor or Sub-Advisor or, to the knowledge of the Trust, with BZX Exchange or any other Market.

3. Administrator/Custodian/Transfer Agent/ Fund Accounting Agent/ Securities Lending Agent.

The Trust may appoint the Advisor or other service providers to act as administrator (“**Administrator**”), custodian (“**Custodian**”), transfer agent (“**Transfer Agent**”), fund accounting agent (“**Fund Accounting Agent**”) and securities lending agent (“**Securities Lending Agent**”) for the Trust. The identity of the Advisor, Sub-Advisor, Administrator, Custodian, Transfer Agent, Fund Accounting Agent and Securities Lending Agent, as appropriate, will be disclosed in the applicable Fund’s Prospectus and/or statement of additional information.²³ If any such persons are “affiliated” persons within the meaning of Section 2(a)(3) of the 1940 Act with the Trust, the Advisor or the Distributor, such affiliation will also be disclosed and the performance of their duties and obligations will be conducted within the provisions of the 1940 Act and the rules thereunder.

C. Shares.

As described below, the Gold Fund and each other Fund will issue and redeem its Shares only in large aggregations of 25,000 Shares or more (“**Creation Units**”).²⁴ Shares will not be individually redeemable; only Shares combined into Creation Units will be redeemable. Purchasers of Creation Units will be able to unbundle the Creation Units into the individual Shares comprising such Creation Unit.

The Listing Exchange will designate one or more member firms to act as a “**Lead Market Maker**,” which firm will be responsible for maintaining depth and quality of trading in the Shares. The Lead Market Maker has quote and execution obligations and the responsibility for keeping tight spreads in the Shares. The Shares will trade on the Listing Exchange in a manner similar to the shares of the Prior ETFs.

Shares will be registered in book-entry form only; the Funds will not issue individual certificates for Shares. The Depository Trust Company (“**DTC**”) will serve as securities depository for Shares, and DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or a broker-dealer that is a participant in DTC (a “**DTC Participant**”). Beneficial owners of Shares (“**Beneficial Owners**”) will receive, at the relevant Fund’s expense, all of the statements, notices, and reports required under the 1940 Act, the CEA and other applicable laws (“**Required Materials**”).

The Trust understands that under existing industry practice, in the event the Trust requests any action of Beneficial Owners of Shares, or a Beneficial Owner desires to take any action that DTC, as the record owner of all outstanding Shares, is entitled to take, DTC would authorize the DTC Participants to take such action and that the DTC Participants would authorize the indirect

²³ The term “**Prospectus**” refers to the applicable Fund’s prospectus contained in the then-existing registration statement, as filed with the Commission. Such registration statement will also contain the Fund’s statement of additional information.

²⁴ The Gold Fund itself is expected to have a Creation Unit of 50,000 Shares.

participants and Beneficial Owners acting through such DTC Participants to take such action and would otherwise act upon the instructions of Beneficial Owners owning Shares through them. As described above, the Trust will recognize DTC or its nominee as the record owner of Shares for all purposes.

Accordingly, to exercise any rights of a holder of Shares, each Beneficial Owner must rely upon the procedures of (1) DTC, (2) DTC Participants and (3) brokers, dealers, banks and trust companies that clear through or maintain a custodial relationship with a DTC Participant, either directly or indirectly, through which such Beneficial Owner holds its interest. Moreover, because the Trust's records will reflect ownership of Shares by DTC only, the Trust will furnish the Required Materials to the DTC Participants who, in turn, will be responsible for distributing them to the Beneficial Owners. This arrangement is identical to that of the Prior ETFs.

D. Purchasing Shares.

The Trust will offer, issue and sell Shares of the Gold Fund and each other Fund in Creation Units through the Distributor on a continuous basis at the net asset value (sometimes referred to herein as “NAV”) per Share next determined after receipt of an order in proper form. The NAV of each Fund is expected to be determined generally 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 day that the NYSE is open for business. The Trust will sell and redeem Creation Units of the Gold Fund and each other Fund on every day on which the Listing Exchange on which the Fund is listed for trading is open for business and will not suspend the right of redemption or postpone the date of payment or satisfaction upon redemption for more than seven days, other than (a) any period during which the Listing Exchange is closed other than customary weekend and holiday closings, (b) any period during which trading on the Listing Exchange is suspended or restricted, (c) any period during which an emergency exists as a result of which disposal by the Trust of Commodity-Related Instruments and/or any other securities or instruments owned by it or the Subsidiary is not reasonably practicable or it is not reasonably practicable for the Trust to determine the value of its net assets, and (d) under such other circumstances as is permitted by the Commission.

Each Fund will always have a fixed number of Shares in a Creation Unit as specified in the Prospectus for such Fund, which will not be less than 25,000.²⁵

As discussed above, individual Shares will be listed on the Listing Exchange (or another Market) and traded in the secondary market in the same manner as other equity securities and the units or shares (as the case may be) of Prior ETFs currently listed and trading on a Market. The price of Shares trading in the secondary market will be based on a current bid/offer market. No secondary sales will be made to brokers or dealers at a concession by the Distributor or by any Fund. Transactions involving the sale of Shares in the secondary market—which will be between purchasers and sellers and will not involve the Gold Fund or any other Fund—will be subject to customary brokerage commissions, markups and other charges, as is the case for purchases and sales of units or shares issued by the Prior ETFs. As is the case with the Prior ETFs, the price at

²⁵ Assuming a Creation Unit of 50,000 Shares and \$25 per Share price for a Fund as of the first day of trading on the Listing Exchange, the Creation Unit value on such day would be \$1,250,000.

which Shares trade will be disciplined by arbitrage opportunities created by the ability to purchase or redeem Creation Units at NAV, which should reduce the likelihood that Shares would trade at a material premium or discount in relation to their NAV.

Redemptions of Shares of the Gold Fund (and each other Fund), which may only be made in Creation Units, will be made by the Trust in a similar manner as creations of Shares, but the process is reversed. Shares may only be directly purchased, or redeemed, by or through an Authorized Participant.

E. Procedures Applicable To Purchases Of Funds.

1. Deposits of Assets and/or Securities.

The Gold Fund expects that creations of Shares will generally be effected on a partial in-kind/partial cash basis.²⁶ To purchase Shares directly from the Gold Fund or any other Fund, an Authorized Participant must deposit with such Fund the “**Portfolio Deposit**,” which generally consists of an in-kind deposit of a designated portfolio of securities and instruments (“**Portfolio Instruments**”), cash in lieu of securities and instruments that may not be transferred in kind (“**Cash Deposit**”) and a specified amount of cash (the “**Cash Component**”). On each day the Listing Exchange is open for business, prior to the opening of trading on the Listing Exchange, the Advisor or the relevant Sub-Advisor will make available through the NSCC the required Portfolio Deposit, Cash Deposit and Cash Component.

2. Placement of Purchase Orders.

As mentioned above, all purchase orders for Shares in Creation Units of the Gold Fund or any other Fund must be placed by or through an Authorized Participant. A purchase order must be received by the Distributor prior to a Fund’s purchase cut-off time in order to receive that day’s NAV per Share. All other procedures set forth in the Authorized Participant Agreement must be followed in order for an Authorized Participant to receive the NAV determined on that day. For the Gold Fund and each other Fund, the Custodian shall cause any sub-custodian(s) of such Fund to maintain an account into which the Authorized Participant shall deliver, on behalf of itself or the party on whose behalf it is acting, the Portfolio Deposit, with any appropriate adjustments as advised by the Trust.

Purchases of Creation Units of Shares of the Gold Fund or any other Fund by an Authorized Participant generally will settle no later than the second (2nd) Business Day²⁷ following the trade date (generally expressed as “**T+2**”).²⁸ The Gold Fund (and each other Fund) reserves the right to

²⁶ The Gold Fund (and each other Fund) reserves the right to authorize purchases of Creation Units either partially for cash, solely for cash or solely in-kind.

²⁷ The term “**Business Day**” refers to each day that a Fund is open for business, including as required by Section 22(e) of the 1940 Act.

²⁸ To the extent that the standard date for the delivery and settlement of Portfolio Instruments is shortened from T+2 to T+1 or T, the Trust expects that the time for the delivery and settlement of purchases or redemptions of Creation

settle Creation Unit transactions on a basis other than T+2, including a shorter settlement period, if necessary or appropriate under the circumstances and compliant with applicable law and the Fund's Prospectus and/or statement of additional information. For example, the Gold Fund (and each other Fund) reserves the right to settle Creation Unit transactions on a basis other than T+2, in order to accommodate non-U.S. market holiday schedules, to account for different treatment among non-U.S. and U.S. markets of dividend record dates and ex-dividend dates (*i.e.*, the last day the holder of a security can sell the security and still receive dividends payable on the security) and in certain other circumstances, as disclosed in its Prospectus and/or statement of additional information.

3. Transaction Fee on Purchases of Creation Units.

The Trust may impose transaction fees ("**Transaction Fees**")²⁹ in connection with the purchase of Creation Units, as disclosed in the Prospectus and/or statement of additional information for each Fund. The exact amount of any such Transaction Fees for the Gold Fund and the other Funds will be determined by the Trust on a Fund by Fund basis. The purpose of this fee is to protect the continuing shareholders of the Trust against the possible dilutive transactional expenses including operational processing and brokerage costs associated with establishing and liquidating portfolio positions in connection with the purchase of Creation Units.

The maximum Transaction Fee for the Gold Fund and the other Funds, and any variations or waivers thereof, will be fully disclosed in the applicable Fund's current Prospectus. From time to time and for such periods as the Trust in its sole discretion may determine, the Transaction Fees for purchase or redemption of Creation Units of a Fund may be increased, decreased or otherwise modified. Such changes and variations will be effected by an amendment or supplement to the then current Registration Statement for the Gold Fund or such other Fund. Such Transaction Fees will be limited to amounts that will have been determined by the Advisor to be appropriate and will take into account transaction and operational processing costs associated with the recent purchases and sales of securities and other instruments held by the Fund.

F. Procedures Applicable To Redemptions Of the Gold Fund and the other Funds.

1. Redemption Proceeds.

The payment upon redemption ("**Redemption Payment**") of a Creation Unit generally will consist of a designated portfolio of securities and instruments ("**Fund Instruments**") plus cash in lieu of securities and instruments that cannot be transferred in-kind, in each case, that are applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day for the Gold Fund or another Fund, plus an amount of cash equal to the difference between the net asset value of the Shares being redeemed, as next determined after the receipt of

Units of Shares of a Fund by an Authorized Participant may be similarly shortened, consistent with disclosure for the Fund in its Prospectus and/or statement of additional information.

²⁹ If a purchase consists solely or partially of cash, such Transaction Fees may include certain brokerage, tax, foreign exchange, execution, price movement and other costs and expenses related to the execution of trades resulting from such transaction.

a redemption request in proper form, and the NAV of such Fund, less a redemption Transaction Fee, as further described in the Prospectus for the applicable Fund.³⁰

The Advisor or Sub-Advisor will make the composition of the Redemption Payment available through NSCC, DTC or the Distributor.

2. Placement of Redemption Orders.

In order to redeem Shares in Creation Units of the Gold Fund or the other Funds, Shares equal to a Creation Unit must be delivered by an Authorized Participant; investors other than Authorized Participants are responsible for making arrangements for a redemption request to be made through an Authorized Participant. An order to redeem Shares in Creation Unit(s) of the Gold Fund or any other Fund is deemed received by the Trust if: (i) an Authorized Participant has transferred or caused to be transferred to the Fund's transfer agent the Creation Unit redeemed through the book-entry system of DTC in such manner and as of such time provided in the handbook for Authorized Participants; (ii) a request in form satisfactory to the Fund is received by the Distributor or its agent from the Authorized Participant on behalf of itself or another redeeming investor by the order cut-off time; and (iii) all other procedures set forth in the Authorized Participant Agreement are properly followed. Deliveries of redemption proceeds to redeeming Authorized Participants generally will be made within two (2) Business Days. The Gold Fund and each other Fund reserves the right to settle redemption transactions on a basis other than T+2, including a shorter settlement period, if necessary or appropriate under the circumstances and compliant with applicable law and the disclosure set forth in the Fund's Prospectus and/or statement of additional information. For example, the Gold Fund and each other Fund reserves the right to settle redemption transactions on a basis other than T+2 to accommodate non-U.S. market holiday schedules, to account for different treatment among non-U.S. and U.S. markets of dividend record dates and dividend ex-dates (*i.e.*, the last date the holder of a security can sell the security and still receive dividends payable on the security sold) and in certain other circumstances. Under certain instances, it may take more than seven days, but up to a maximum of 14 days, to deliver redemption proceeds.

Because securities and other instruments held by the Gold Fund or the other Funds may trade on days that the Listing Exchange for the applicable Fund is closed or are otherwise not Business Days for such Fund, Authorized Participants may not be able to redeem Shares of such Fund, or to purchase and sell Shares of such Fund on the Listing Exchange for such Fund, on days when the NAV of such Fund could be significantly affected by events in the relevant foreign markets.

³⁰ The Gold Fund and each other Fund reserves the right to redeem Creation Units either partially for cash, solely for cash or solely in-kind.

3. Transaction Fee on Redemption of Creation Units.

The Trust may impose Transaction Fees³¹ in connection with the redemption of Creation Units of the Gold Fund or another Fund as disclosed in the applicable Fund's Prospectus and/or statement of additional information. The exact amount of any Transaction Fee will be determined by the Trust on a Fund by Fund basis. The purpose of this fee is to protect the continuing shareholders of the Trust against the possible dilutive transactional expenses including operational processing and brokerage costs associated with establishing and liquidating portfolio positions in connection with the redemption of Creation Units. The maximum Transaction Fee for the Gold Fund and the other Funds, and any variations or waivers thereof, will be fully disclosed in the applicable Fund's current Prospectus and/or statement of additional information. In all cases such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities.

E. Potential Investors And Users Of Shares.

The Advisor believes there will be three main types of market participants interested in buying and selling Shares of the Gold Fund in Creation Units:

- (1) institutional investors who wish to obtain exposure to gold, and who choose to invest in Shares because Shares are a cost effective means to obtain exposure, Shares are subject to both Commission and CFTC regulatory oversight, and Shares can be bought and sold intra-day, unlike most investment company securities and many commodity funds;
- (2) arbitrageurs who seek to profit from any slight premium or discount in the market price of individual Shares on the Listing Exchange versus the NAV of those Shares; and
- (3) the Lead Market Maker, who may from time to time find it appropriate to purchase or redeem Creation Units in connection with its market-making activities on the Listing Exchange.

The Advisor expects that secondary market purchasers of Shares of the Gold Fund (as well as of the other Funds) will include both institutional and retail investors.

PART II

A. Disclosure Documents.

The primary disclosure document with respect to the Shares for the Gold Fund as well as for each other Fund will be the Prospectus for such Fund. As with all investment company

³¹ If a redemption consists solely or partially of cash, such Transaction Fees may include certain brokerage, tax, foreign exchange, execution, price movement and other costs and expenses related to the execution of trades resulting from such transaction.

securities, the purchase of Shares in Creation Units from the Gold Fund or any other Fund will be accompanied or preceded by a Prospectus, subject to a change in applicable law.

With respect to disclosure in the Prospectus concerning the non-redeemability of Shares, the Gold Fund and the other Funds will observe the following policies: (1) no Fund marketing materials (other than as required in the Fund's Prospectus) will reference an "open-end fund" or "mutual fund," except to compare and contrast a Fund with conventional mutual funds; (2) in all marketing materials where the features or method of obtaining, buying or selling Shares traded on the Listing Exchange are described, there will be an appropriate statement or statements to the effect that Shares are not individually redeemable; (3) neither the Gold Fund nor any of the Funds will be advertised or marketed as open-end investment companies, *i.e.*, as mutual funds, which offer individually redeemable securities; and (4) any advertising material where features of obtaining, buying or selling Creation Units are described or where there is reference to redeemability will prominently disclose that Shares are not individually redeemable and that only owners of Shares who are Authorized Participants may acquire Shares from the Gold Fund or the other applicable Fund and tender those Shares for redemption to such Fund and any such purchase or redemption by such Authorized Participant must be in Creation Units only.

The Prospectus and/or the statement of additional information will also indicate that the proposed method by which Shares will be purchased and traded may raise certain issues under applicable securities laws. Because new Shares are continuously offered to the public and, thus, may be created and issued on an ongoing basis, at any point during the life of the relevant Fund, a "distribution," as such term is used in the 1933 Act, may be occurring. Broker-dealers and other persons will be cautioned in the Prospectus and/or the statement of additional information that some activities on their part may, depending on the circumstances, result in their being deemed participants in a distribution in a manner which could render them statutory underwriters and subject them to the prospectus delivery and liability provisions of the 1933 Act. The Prospectus and/or the statement of additional information will also state that a determination of whether one is an underwriter must take into account all the facts and circumstances pertaining to the activities of the broker-dealer or its client in the particular cases, and may provide examples of activities that could lead to categorization as an underwriter. The Prospectus and/or the statement of additional information will also state that dealers who are not "underwriters," but are participating in a distribution (as contrasted to ordinary secondary trading transactions), and thus dealing with Shares that are part of an "unsold allotment" within the meaning of Section 4(a)(3)(C) of the 1933 Act, would be unable to take advantage of the prospectus-delivery exemption provided by Section 4(a)(3) of the 1933 Act.³²

³² The Trust notes that prospectus delivery is not required in certain instances, including purchases of Shares by an investor who has previously been delivered a Prospectus (until such prospectus is supplemented or otherwise updated) and unsolicited brokers' transactions in Shares (pursuant to Section 4(a)(4) of the 1933 Act). Also, firms that do incur a prospectus-delivery obligation with respect to Shares will be reminded that under Securities Act Rule 153, a prospectus-delivery obligation under Section 5(b)(2) of the Securities Act owed to a member of the Market in connection with a sale on such Market, is satisfied by the fact that the Prospectus is available at such Market upon request. The Prospectus and/or statement of additional information also will note that the prospectus delivery mechanism provided in Rule 153 is only available with respect to transactions on the Market.

The Distributor will coordinate the production and distribution of the Prospectus to broker-dealers. It will be the responsibility of the broker-dealers to ensure that a Prospectus is provided to each secondary market purchaser of Shares to the extent required by applicable law.

B. Website.

As discussed more fully below, the portfolio holdings of the Gold Fund and the other Funds (including any portfolio holdings held indirectly through a Subsidiary) will be disclosed on the public website of the Listing Exchange and/or the Trust.³³ The Trust's agent will calculate the estimated NAV (as discussed below) for each Fund. The estimated NAV will be disseminated by the Listing Exchange.

PART III

The Gold Fund and the other Funds will operate in a manner that is similar to the operation of the Prior ETFs. Specifically, like the Prior ETFs, each of the following will be true of the Funds:

- (i) Shares will be issued by an open-end management investment company that is registered with the Commission;
- (ii) The Funds' Custodian or other agent, in consultation with the Adviser and/or subadviser (if any), will make available on each Business Day, immediately prior to the opening of trading on the Listing Exchange, the list of names and the required number of shares of each security included in the current Portfolio Deposit (based on information at the end of the previous Business Day) for the relevant Fund. In the same manner, the Custodian or other agent also will make available the previous day's Cash Component as well as the estimated Cash Component for the current day;
- (iii) The Funds will continuously redeem, at NAV, Creation Units of Shares, and it is expected that the secondary market price of the Shares should not vary substantially from the NAV of the Shares;
- (iv) The Shares will be listed and traded on a Listing Exchange;
- (v) On each Business Day, prior to the opening of the applicable Listing Exchange, each Fund will disclose on its Website, the identities and quantities of the

³³ The Trust will comply with its obligations, imposed by recent amendments to Form N-1A, to disclose in its policies and procedures with respect to the disclosure of its portfolio holdings and to include in its Prospectus and/or statement of additional information a description of each Fund's policies and procedures. See Release No. IC-26418.

Commodity-Related Instruments, Fixed-Income Securities, ETPs³⁴ and cash and cash equivalent instruments that form the basis for each of the Funds' calculation of NAV at the end of the Business Day. Similarly, the Website for the Gold Fund and each other Fund will contain the following information on a per-Share basis for each Fund: (i) the prior Business Day's closing NAV and closing market price (based on the mid-point of the bid-asked spread at the time such Fund's NAV is calculated or the close of ETF trading on the Listing Exchange ("**Bid-Asked Price**")), and a calculation of the premium or discount of the Bid-Asked Price in relation to the closing NAV; and (2) data for a period covering at least the four previous calendar quarters (or life of the applicable Fund, if shorter) indicating how frequently such Fund's Shares traded at a premium or discount to NAV based on the daily Bid-Asked Price and closing NAV, and the magnitude of such premiums and discounts;

- (vi) The Listing Exchange will disseminate: (A) continuously through the trading day, through the facilities of the consolidated tape, the market value of a Share; and (B) every 15 seconds during regular Listing Exchange trading hours, a calculation of the estimated NAV of a Share;
- (vii) Information about the Shares and the prices of the Fixed Income Securities, ETPs, cash equivalent instruments and listed Commodity-Related Instruments will be readily available from a variety of sources throughout each Business Day. Pricing for OTC derivatives are available from the applicable counterparty, and, in some cases, through Bloomberg and/or other pricing sources; and
- (viii) Fixed Income Securities (other than Government Securities, Foreign Government Securities or Cash Equivalent Instruments) held by a Fund will be diversified across multiple non-affiliated issuers.

The Funds differ from the Prior ETFs in the following ways:

- (i) They may not invest "substantially all" of their assets in Fixed Income Securities;
- (ii) In compliance with the requirements of Sub-Chapter M of the Internal Revenue Code of 1986, they may invest up to (and including) 25% of their assets in a Subsidiary;
- (iii) They are dually regulated by the Commission and the CFTC;
- (iv) They generally will seek to obtain exposure to commodities;
- (v) They may not satisfy the 20 Component Test;

³⁴ The holdings of Affiliated ETPs owned by the Funds will be disclosed on the iShares's website. Prior to investing in a Non-Affiliated ETP, a Fund will have a reasonable belief that the holdings of such ETP will be disclosed on the Non-Affiliated ETP's own website.

- (vi) In calculating the 25% Test, no Fund will subject Government Securities, Foreign Government Securities, Cash Equivalent Instruments or Relief Approved ETPs held by the Funds to the 25% Test;³⁵
- (vii) Although, like the Prior ETFs, no Fixed Income Securities held by a Fund will represent more than 30% of the weight of a Fund and the five highest weighted Fixed Income Securities of a Fund will not account for more than 65% of the weight of the Fund, unlike the Prior ETFs, which only excluded Government Securities and Foreign Government Securities from the applicable 30% and 65% limits on holdings, the Funds will also exclude from such 30% and 65% limits all Cash Equivalent Instruments in addition to Government Securities and Foreign Government Securities;³⁶ and
- (viii) The Funds may invest more than 30% of their holdings in other ETPs that: (a) have been approved for listing on a Listing Exchange by the Commission pursuant to Section 19(b); and (b) are Relief Approved ETPs.

The Funds believe that these differences should not make the Funds ineligible for the Specified Trading Relief. As dually-regulated entities, the Funds are subject to more scrutiny and additional disclosure requirements as compared to the Prior ETFs. In addition, all of the Commodity-Related Instruments in which the Funds may invest are subject to regulation by the Commission, the CFTC or the prudential regulators and most of such Commodity-Related Instruments are subject to public trade reporting.³⁷ Third, the only instrument in which a Fund may have a concentrated holding is an ETP that is listed and traded on a Listing Exchange and has been subject to the listing process under Section 19(b) of the Exchange Act.³⁸ In light of the regulatory safeguards and transparency associated with these particular features of the Funds (as compared to the Prior ETFs), Specified Trading Relief is appropriate and should be granted.

The relief requested in this Letter is identical to the Specified Trading Relief granted by the Commission and the Staff to the Prior ETFs in the WisdomTree Letter.

³⁵ The relief granted in the WisdomTree Letter is conditioned on the requirement that the Prior ETFs (described in that Letter) “meet all of the conditions of a Qualifying ETF” as defined in the 2005 Class Relief Letter other than the condition that such Prior ETFs be managed to track a particular index. *See* WisdomTree Letter at p. 5.

³⁶ The representation in the WisdomTree Letter related not only to Fixed Income Securities but to any “portfolio security.” In the case of the Gold Fund and the other Funds, a Fund’s investment in ETPs may represent more than 30% of the weight of the Fund, although all such ETPs will be Relief Approved ETPs.

³⁷ To the extent that a Fund were to obtain exposure to commodities through a commodity-linked certificate of deposit, purchase of that Commodity-Related Instrument would not be trade reportable. Similarly, Funds may invest in currency forwards, which are required to be trade reported on a regulatory basis but not to the public market.

³⁸ As noted above, all ETPs held by the Funds will be Relief Approved ETPs.

PART IV

A. Requests For Relief

The Trust, on behalf of itself, the Gold Fund, the other Funds, the applicable Listing Exchanges, other Markets, the Distributor, Authorized Participants and persons or entities engaging in transactions in the Shares, requests that the Commission and its Staff grant exemptive, interpretive or no-action relief from Section 11(d)(1) of the Exchange Act and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 under the Exchange Act to allow the Gold Fund and the other Funds to operate and trade in accordance with the exemptive relief granted to the Trust by the Commission.

1. Rule 10b-10.

Exchange Act Rule 10b-10 requires a broker or dealer effecting a transaction in a security for a customer to give or send written notification to such customer disclosing the information specified in paragraph (a) of Rule 10b-10, including the identity, price and number of shares or units (or principal amount) of the security purchased or sold. The Trust requests that the Commission provide exemptive relief from application of Rule 10b-10, as discussed below, with respect to the creation (*i.e.*, issuance) or redemption of Shares (all of which are in Creation Unit size aggregations). The Trust is not requesting exemptive or interpretive relief from Rule 10b-10 in connection with purchases and sales of Shares in the secondary market. This relief is consistent with the fact that purchases and sales of Shares are not trade reportable and the fact that the transfer of securities to create or redeem ETFs is not considered by FINRA to be an over-the-counter transaction subject to real-time trade reporting and dissemination under FINRA rules and, thus, is not assessed regulatory transaction fees.³⁹

The Trust proposes that Authorized Participants and other broker-dealers acting for their customers in depositing Portfolio Instruments and cash in exchange for Creation Units or redeeming Shares in Creation Unit size aggregations for Fund Instruments and cash be permitted to provide such customers with a statement of the number of Creation Units created or redeemed without providing a statement of the identity, number and price of the individual Portfolio Instruments tendered to the Trust for purposes of creation of Creation Units, or the identity, number and price of the Fund Instruments to be delivered by the Trust to the redeeming Authorized Participant or customer redeeming through the Authorized Participant. The composition of the basket of Portfolio Instruments to be tendered to the Trust through the Custodian for creation purposes and of the basket of Fund Instruments to be delivered on redemption will be disseminated by the Custodian on each Business Day and will be applicable to requests for creations or redemption, as the case may be, on that day. This information will be made available to requesting Authorized Participants and other broker-dealers or other persons through the NSCC. Moreover, institutions and market professionals will be readily able to calculate independently such information based on publicly available information and the basket information published by a Fund each Business Day. The Trust anticipates that any institution or broker-dealer engaging in creation or redemption transactions would have done so only with knowledge of the composition

³⁹ See FINRA Rules 6282, 6380A, 6380B and 6622 relating to trade reporting. See also FINRA Regulatory Notice 11-40. (Aug. 2011).

of the applicable basket to be delivered on creation or received on redemption, so that specific information on the Portfolio Instruments to be delivered on creation or Fund Instruments to be received on redemption in the Rule 10b-10 notification would be redundant.

The Trust agrees that any exemptive or interpretive relief under Rule 10b-10 with respect to creations and redemptions be subject to the following conditions:

- (1) Confirmation statements of creation and redemption transactions in Shares will contain all of the information specified in paragraph (a) of Rule 10b-10 other than identity, price, and number of Portfolio Instruments or Fund Instruments in the applicable creation basket or redemption basket;
- (2) Any confirmation statement of a creation or redemption transaction in Shares that omits the identity, price, or number of Portfolio Instruments or Fund Instruments will contain a statement that such omitted information will be provided to the customer upon request; and
- (3) All such requests will be fulfilled in a timely manner in accordance with paragraph (c) of Rule 10b-10.

2. Section 11(d)(1); Rule 11d1-2.

Section 11(d)(1) of the Exchange Act generally prohibits a person who is acting as a broker or a dealer from effecting any transaction in which the broker-dealer extends credit to a customer on any security which was part of a new issue in the distribution of which such broker or dealer participated as a member of a selling syndicate or group within thirty days prior to such transaction. Exchange Act Rule 11d1-2 provides an exemption from Section 11(d)(1) for securities issued by a registered open-end investment company or unit investment trust with respect to transactions by a broker-dealer who extends credit on such security, provided that the person to whom credit has been extended has owned the security for more than thirty days.

The Staff has previously issued class relief under Section 11(d)(1) and Rule 11d1-2 with respect to ETFs that meet specified conditions set forth in the 2005 Class Relief Letter.⁴⁰ The Trust requests that similar relief be extended to the Gold Fund and the other Funds subject to the conditions enumerated in the 2005 Class Relief Letter modified as follows: (i) elimination of the condition that the Funds be linked to a diversified securities index having a specified number of component equities, (ii) elimination of the condition that each Fund satisfy the 20 Component Test and (iii) retention of the condition that the Funds satisfy the 25% Test, modified so that the calculation need not be performed with respect to holdings in Government Securities, Foreign Government Securities, Cash Equivalent Instruments and Relief Approved ETFs. As the Staff recognized in the WisdomTree Letter, relief under Section 11(d) is appropriate in the case of ETFs, such as the Funds, that are actively managed and generally satisfy the conditions for a Qualifying ETF, as defined in the 2005 Class Relief Letter. The first two of those conditions are as follows: (i) the ETF is an open-end investment company or unit investment trust registered with the

⁴⁰ See Note 9 *supra* for a list of these conditions.

Commission under the 1940 Act; and (ii) the shares of the ETF are listed and traded on a market that has obtained approval from the Commission pursuant to Section 19(b) of the Exchange Act of a rule change regarding the listing and trading of the ETF shares on the market (or that is relying on Rule 19b-4(e) to list and trade the ETF shares). The Funds, like the Prior ETFs, satisfy the first two conditions of the 2005 Class Relief Letter.

The Funds will not, however, satisfy all of the elements in the third condition in the 2005 Class Relief Letter. First, like the Prior ETFs, the Funds are actively managed and, thus, will not satisfy the requirement in the third condition that they be managed in accordance with an index. Second, unlike the Prior ETFs described in the WisdomTree Letter, the Funds will not satisfy the 20 Component Test. As described above, the holdings of the Funds will consist primarily of: (i) interests in Subsidiaries that invest in Commodity-Related Instruments; (ii) Relief Approved ETPs; (iii) cash and Cash Equivalent Instruments; (iv) publicly-traded equity securities; and (v) high quality Fixed Income Securities, all of which are generally liquid instruments.

We believe that relief from the 20 Component Test is warranted because the Funds will be actively managed and, as a result, from time to time, may be constrained by the investment strategy in terms of the number of instruments that are needed to satisfy the strategy. We note that this request is consistent with relief granted by the Staff in the index-based ETF of ETFs context, where the Staff granted relief from the 20 Component Test for an index-based ETF of ETFs holding index-based Relief Approved ETPs.⁴¹ In light of the fact that the Staff granted relief in that context, we believe that it is appropriate to grant relief in this context as well. We are also seeking modification of 25% Test condition in the 2005 Class Relief Letter to allow a Fund to hold positions in Government Securities, Foreign Government Securities, Cash Equivalent Instruments and shares of Relief Approved ETPs that are in excess of 25% of the total value of the Fund while applying the 25% Test to other securities held by the Fund. In our view, excluding Government and Foreign Government Securities, Cash Equivalent Instruments and Relief Approved ETPs from the 25% Test is consistent with the Index IQ Letter (which excluded from the 25% Test Relief Approved ETPs), the WisdomTree Letter (which excluded from a similar concentration test⁴² Government and Foreign Government Securities) and the rules of the Listing Exchanges (which generally do not limit holdings by ETPs in Cash Equivalent Instruments).

The 2005 Class Relief Letter imposes additional requirements, unrelated to the definition of “Qualifying ETF,” which also are satisfied by the Gold Fund and the other Funds. First, under the 2005 Class Relief Letter, the Authorized Participant or broker-dealer or their associations may not receive from the Funds or its affiliated persons any payment, compensation or economic incentive to promote or sell the Shares other than non-cash compensation permitted under NASD Rule 2830 (l) (now FINRA Rule 2340(l)). Neither the Gold Fund nor the other Funds intend to pay Rule 12b-1 fees and there is no program in place with respect to the Gold Fund or the other Funds for any affiliated persons of the Trust to pay other compensation to broker-dealers for

⁴¹ See Index IQ Letter.

⁴² The WisdomTree Letter excluded Government Securities and Foreign Government Securities from the following two tests: (i) no portfolio securities may represent more than 30% of the weight of a Fund and (ii) the five highest weighted portfolio securities of a Fund will not in the aggregate account for more than 65% of the weight of a fund.

distributing the Shares. Similarly, as required in the 2005 Class Relief Letter, to the extent that the relief provided under Section 11(d) is not available (*e.g.*, because an affiliate of the Gold Fund or the other Funds makes a payment to a broker-dealer for distribution of Shares of a Fund), Authorized Participants and broker-dealers relying on the Specified Trading Relief may still extend, maintain or arrange for the extension or maintenance of credit on or for a customer on Shares of the Funds provided that such extension, maintenance or arrangement is not made before thirty days have passed from the date the Shares on which credit is to be extended, maintained or arranged were purchased by the customer. Authorized Participants will not rely on the 2005 Class Relief Letter to extend, maintain or arrange for credit on Shares until 30 days after launch of the Gold Fund or the other Funds, as required by the 2005 Class Relief Letter.

3. Rules 15c1-5 and 15c1-6.

Exchange Act Rule 15c1-5 requires a broker or dealer controlled by, controlling, or under common control with the issuer of a security who induces the purchase or sale by a customer of the security to disclose the existence of such control before entering into a contract with or for such customer for the purchase or sale of such security. Rule 15c1-6 requires a broker or dealer to send a customer written notification of its participation in the primary distribution of any security in which it effects any transaction in or for such customer's account or induces the purchase or sale of such security by such customer.

The Trust believes that disclosure by a broker-dealer of a control relationship with the issuer of a portfolio security held by the Fund, or of a participation in the distribution of one of the Fund's portfolio securities, would impose an unnecessary and unjustifiable burden on broker-dealers engaging in Share transactions for their customers. There is no realistic potential for manipulating one of the Fund's portfolio securities' market price by means of transactions in Shares. Such a strategy would be both expensive and inefficient. Application of the Rules 15c1-5 and Rule 15c1-6 could adversely affect the attractiveness of the Shares to broker-dealers and thereby affect market liquidity and the utility of the Shares as a form of basket trading. The Trust, therefore, requests the Staff to grant no-action relief from application of the rules with respect to creations and redemptions of Shares.

CONCLUSION

Based on the foregoing, the Trust respectfully requests that the Commission and the Division of Market Regulation grant the Specified Trading Relief requested herein for the Funds (including both the Existing Funds and all future Funds). The forms of relief requested are similar to those granted by the Commission and Staff in similar circumstances.

Joanne Rutkowski
May 29, 2018
Page 22

Thank you for your consideration of this request. Should you have any questions or require additional information, please do not hesitate to call Georgia Bullitt at (212) 728-8250 or Ben Haskin at 202-303-1124.

Very truly yours,



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