

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-94746; File No. SR-NYSEArca-2021-73)

April 19, 2022

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of the Franklin Responsibly Sourced Gold ETF under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares)

I. Introduction

On August 23, 2021, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares of the Franklin Responsibly Sourced Gold ETF under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares). The proposed rule change was published for comment in the Federal Register on September 8, 2021.³ On September 29, 2021, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.⁵ On December 6, 2021, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ On February 23, 2022,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 92840 (September 1, 2021), 86 FR 50385.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 93179, 86 FR 55033 (October 5, 2021).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 93720, 86 FR 70555 (December 10, 2021).

pursuant to Section 19(b)(2) of the Act,⁸ the Commission designated a longer period within which to issue an order approving or disapproving the proposed rule change.⁹ On March 25, 2022, the Exchange filed Amendment No. 1 to the proposed rule change.¹⁰ This Amendment No. 1, set forth in Item II below, replaces SR-NYSE Arca-2021-73 as originally filed and supersedes such filing in its entirety. The Commission has received no comment letters on the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places

⁸ 15 U.S.C. 78s(b)(2).

⁹ See Securities Exchange Act Release No. 94302, 87 FR 11761 (March 2, 2022). The Commission designated May 6, 2022, as the date by which the Commission shall either approve or disapprove the proposed rule change.

¹⁰ Amendment No. 1 is available on the Commission's website at <https://www.sec.gov/comments/sr-nysearca-2021-73/srnysearca202173.htm>. Among other things, Amendment No. 1 to the proposed rule change provided greater detail with respect to the operation of the Trust (as defined herein) and the Fund (as defined herein), including the assets held by the Fund, the LBMA Responsible Sourcing Programme (as described herein), the Responsible Gold Guidance (as described herein), creations and redemptions of the Fund's Shares (as defined herein), determination of net asset value of the Fund's Shares, and availability of information for the Fund's Shares. Amendment No. 1 also made additional and revised representations, including that all gold held by the Fund will be London Good Delivery bars and the information related to the Shares that will be provided on the Fund's website. Finally, Amendment No. 1 provided clarifications and technical edits to the proposed rule change.

specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to list and trade shares ("Shares") of the Franklin Responsibly Sourced Gold ETF (the "Fund"), under NYSE Arca Rule 8.201-E.¹¹ The Fund is a series of the Franklin Templeton Holdings Trust, a Delaware statutory trust (the "Trust"). Under NYSE Arca Rule 8.201-E, the Exchange may propose to list and/or trade Commodity-Based Trust Shares pursuant to unlisted trading privileges ("UTP").¹²

¹¹ On April 22, 2021, the Trust submitted to the Commission its confidential draft registration statement on Form S-1 (the "Registration Statement") under the Securities Act of 1933 (15 U.S.C. 77a) (the "Securities Act"). The Registrant confidentially submitted amendments to the Registration Statement on September 7, 2021, October 5, 2021, January 14, 2022 and February 22, 2022. The Jumpstart Our Business Startups Act, enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities Act provides that an "emerging growth company" may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4), or 15 days prior to anticipated effectiveness in the case of an issuer who will not conduct a road show. An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than \$1,070,000,000 total annual gross revenues during its most recently completed fiscal year. The Fund meets the definition of an emerging growth company and consequently has submitted its Form S-1 Registration Statement on a confidential basis with the Commission. The Registration Statement in [sic] not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

¹² Commodity-Based Trust Shares are securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the trust.

The Fund will not be registered as an investment company under the Investment Company Act of 1940, as amended,¹³ and is not required to register under such act. The Fund is not a commodity pool for purposes of the Commodity Exchange Act, as amended.¹⁴

The sponsor of the Fund is Franklin Holdings, LLC, a Delaware limited liability company (“Sponsor”). BNY Mellon Asset Servicing, a division of The Bank of New York Mellon (“BNYM”), serves as the Fund’s administrator (the “Administrator”) and transfer agent (the “Transfer Agent”). Delaware Trust Company, a subsidiary of the Corporation Service Company, serves as trustee of the Trust (the “Trustee”). The custodian of the Fund’s gold bullion (“Custodian”) currently is the London branch of J.P. Morgan Chase Bank, N.A.¹⁵ BNYM will serve as the custodian of the Fund’s cash, if any (the “Cash Custodian”).

The Commission has previously approved listing on the Exchange under NYSE Arca Rules 5.2-E(j)(5) and 8.201-E of the shares of other precious metals and gold-based commodity

¹³ 15 U.S.C. 80a-1.

¹⁴ 17 U.S.C. 1.

¹⁵ The Custodian is responsible for safekeeping the Fund’s gold bullion. The Custodian will facilitate the transfer of gold in and out of the Fund through (i) the unallocated gold accounts it may maintain for each Authorized Participant (as defined below) or unallocated gold accounts that may be maintained for an Authorized Participant by another London Precious Metals Clearing Limited (“LPMCL”) clearing bank, and (ii) the unallocated and allocated gold accounts it will maintain for the Fund. As used herein, “Fund Allocated Account” means the allocated gold account of the Trust established with the Custodian on behalf of the Fund to be used to hold gold that is transferred from the Fund Unallocated Account to be held by the Fund in allocated form; the “Fund Unallocated Account” means the unallocated gold account of the Trust established with the Custodian on behalf of the Fund to be used to facilitate the transfer of gold in and out of the Fund Allocated Account. The Custodian is responsible for allocating specific bars of gold into and out of the Fund Allocated Account. The Custodian will provide the Fund with regular reports detailing the gold transfers into and out of the Fund Unallocated Account and the Fund Allocated Account and identifying the gold bars held in the Fund Allocated Account.

trusts, including the GraniteShares Gold MiniBAR Trust;¹⁶ GraniteShares Gold Trust;¹⁷ Merk Gold Trust;¹⁸ ETFS Gold Trust;¹⁹ ETFS Platinum Trust²⁰ and ETFS Palladium Trust (collectively, the “ETFS Trusts”);²¹ APMEX Physical-1 oz. Gold Redeemable Trust;²² Sprott Gold Trust;²³ SPDR Gold Trust (formerly the streetTRACKS Gold Trust);²⁴ iShares Silver Trust;²⁵ iShares COMEX Gold Trust;²⁶ and Long Dollar Gold Trust.²⁷ Prior to their listing on

¹⁶ Securities Exchange Act Release No. 84257 (September 21, 2018), 83 FR 48877 (September 27, 2018) (SR-NYSEArca-2018-55).

¹⁷ Securities Exchange Act Release No. 81077 (July 5, 2017), 82 FR 32024 (July 11, 2017) (SR-NYSEArca-2017-55).

¹⁸ Securities Exchange Act Release No. 71378 (January 23, 2014), 79 FR 4786 (January 29, 2014) (SR-NYSEArca-2013-137).

¹⁹ Securities Exchange Act Release No. 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR-NYSEArca-2009-40).

²⁰ Securities Exchange Act Release No. 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (SR-NYSEArca-2009-95).

²¹ Securities Exchange Act Release No. 61220 (December 22, 2009), 74 FR 68895 (December 29, 2009) (SR-NYSEArca-2009-94).

²² Securities Exchange Act Release No 66930 (May 7, 2012), 77 FR 27817 (May 11, 2012) (SR-NYSEArca-2012-18).

²³ Securities Exchange Act Release No. 61496 (February 4, 2010), 75 FR 6758 (February 10, 2010) (SR-NYSEArca-2009-113).

²⁴ See Securities Exchange Act Release No. 56224 (August 8, 2007), 72 FR 45850 (August 15, 2007) (SR-NYSEArca-2007-76).

²⁵ See Securities Exchange Act Release No. 58956 (November 14, 2008), 73 FR 71074 (November 24, 2008) (SR-NYSEArca-2008-124) (approving listing on the Exchange of the iShares Silver Trust).

²⁶ See Securities Exchange Act Release No. 56224 (August 8, 2007), 72 FR 45850 (August 15, 2007) (SR-NYSEArca-2007-76) (approving listing on the Exchange of the streetTRACKS Gold Trust); Securities Exchange Act Release No. 56041 (July 11, 2007), 72 FR 39114 (July 17, 2007) (SR-NYSEArca-2007-43) (order approving listing on the Exchange of iShares COMEX Gold Trust).

²⁷ See Securities Exchange Act Release No. 79518 (December 9, 2016), 81 FR 90876 (December 15, 2016) (SR-NYSEArca-2016-84) (order approving listing and trading of shares of the Long Dollar Gold Trust).

the Exchange, the Commission approved listing of shares of the streetTRACKS Gold Trust on the New York Stock Exchange (“NYSE”)²⁸ and listing of shares of iShares COMEX Gold Trust and iShares Silver Trust on the American Stock Exchange LLC.²⁹ In addition, the Commission has approved trading of shares of the streetTRACKS Gold Trust and iShares Silver Trust on the Exchange pursuant to UTP.³⁰

The Exchange represents that the Shares will satisfy the requirements of NYSE Arca Rule 8.201-E and thereby will qualify for listing on the Exchange.³¹

Operation of the Trust and Fund³²

The investment objective of the Fund will be for the Shares to reflect the performance of the price of gold bullion, less the Fund’s expenses. The Fund’s only ordinary recurring expense is the Sponsor’s annual fee. The assets of the Fund include only gold bullion and cash, if any.

²⁸ See Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR-NYSE-2004-22) (order approving listing of streetTRACKS Gold Trust on the NYSE).

²⁹ See Securities Exchange Act Release Nos. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR-Amex-2004-38) (order approving listing of iShares COMEX Gold Trust on the American Stock Exchange LLC); 53521 (March 20, 2006), 71 FR 14967 (March 24, 2006) (SR-Amex-2005-72) (approving listing on the American Stock Exchange LLC of the iShares Silver Trust).

³⁰ See Securities Exchange Act Release Nos. 53520 (March 20, 2006), 71 FR 14977 (March 24, 2006) (SR-PCX-2005-117) (approving trading on the Exchange pursuant to UTP of the iShares Silver Trust); 51245 (February 23, 2005), 70 FR 10731 (March 4, 2005) (SR-PCX-2004-117) (approving trading on the Exchange of the streetTRACKS Gold Trust pursuant to UTP).

³¹ With respect to the application of Rule 10A-3 (17 CFR 240.10A-3) under the Act, the Fund relies on the exemption contained in Rule 10A-3(c)(7).

³² The description of the operation of the Trust, the Fund, the Shares, and the gold market contained herein are based, in part, on the Registration Statement. See note 11, supra.

Shares of the Fund will represent units of fractional undivided beneficial interest in and ownership of the net assets of the Fund.

The Fund seeks to hold only “responsibly sourced gold” in its Fund Allocated Account. The Fund defines responsibly sourced gold for this purpose as London Good Delivery gold bullion bars that were refined on or after January 1, 2012 (referred to herein as “post-2012 gold”).³³ All post-2012 gold has been refined in accordance with London Bullion Market Association’s (“LBMA”) Responsible Gold Guidance (the “Gold Guidance”).³⁴ To facilitate

³³ LBMA Good Delivery gold bullion bars refined prior to January 1, 2012 are referred to herein as “pre-2012 gold.”

³⁴ LBMA Good Delivery gold bars are currently fungible in the London OTC gold market. The Fund is not aware of and does not anticipate bifurcated pricing to develop with respect to the trading of the post-2012 gold to be held by the Fund. In the London market, precious metals are traded directly between two parties, without the involvement of an exchange. This system depends on all the bars having exactly the same specification. As described further herein, the requirements for a Good Delivery listed bar (of approximately 400 troy ounces for gold) cover: fine ounce weight; purity; and physical appearance (including marking and surface quality). No other refined gold products produced by accredited refiners fall within the scope of the Good Delivery List as defined herein. Per World Gold Council estimates, the London OTC market comprises approximately 70% of global gold notional trading volume. As noted above, the market in London trades 400 ounce Good Delivery gold bars which are stored in the member vaults of the LPMCL and the Bank of England. Only gold bars that meet the LBMA’s Good Delivery standards are acceptable in settlement of a loco London contract (*i.e.*, where the bullion traded is physically held in London). Currently, there are no pricing distinctions in the London OTC gold market based on individual features or characteristics of particular gold bars that are accepted as LBMA Good Delivery gold bars in settlement of a loco London contract such as country of origin or the date on which the gold was refined. Specifically, both pre-2012 gold and post-2012 gold are acceptable in settlement of OTC transactions in the London gold market, and there is no separate pricing or trading market for post-2012 gold. The Fund has no indication or basis to expect that separate markets will develop, particularly given that the Gold Guidance under the LBMA Responsible Sourcing Programme has been in existence for over nine years and to date there has been no deviation, even with the operation of similar gold-based exchange-traded funds in the US and Europe. See, for example, VanEck Merk® Gold Trust (OUNZ) (<https://www.vaneck.com/us/en/blogs/gold-investing/ounz-holds-responsibly-sourced-gold/>) and Invesco Physical Gold ETC (<https://www.invesco.com/uk/en/etf/insights/our-commitment-towards-responsible->

this, in transferring gold into and out of the Fund Allocated Account, the Custodian will, on a best efforts basis and subject to available liquidity, seek to allocate post-2012 gold. If, due to a lack of liquidity, the Custodian is unable to allocate post-2012 gold, the Custodian will do so as soon as reasonably practicable. All gold held by the Fund will be London Good Delivery bars.

Under normal market conditions, the Fund therefore expects to hold only post-2012 gold in the Fund Allocated Account. The Fund, however, may temporarily deviate from this policy in unusual market conditions, such as in the event of a temporary supply constraint or lack of availability, in which case the Fund will seek to come back into conformity with the policy as soon as reasonably practical. For example, at the time of a creation transaction in the Fund's Shares, only pre-2012 gold may be readily available to the Custodian. In such circumstances, the Custodian would allocate such gold to the Fund Allocated Account on a temporary basis until such time as the Custodian is able to swap out the pre-2012 gold for post-2012 gold (including, but not limited to, in connection with redemption transactions).

The LBMA Responsible Sourcing Programme and Responsible Gold Guidance

As described above, the Fund seeks to hold only post-2012 gold. The Gold Guidance is the specific document that underpins the LBMA's Responsible Sourcing Programme, a mandatory governance framework and audit program applicable to LBMA approved Good Delivery refiners designed to promote the ethical sourcing of the global supply chain for the wholesale gold markets. The Responsible Sourcing Programme is based on the five-step framework for risk-based due diligence codified in the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict- Affected and High-Risk Areas (2010) and

[gold.html](#)), both of which state in fund website and marketing materials that they hold 100% LBMA gold refined/minted in 2012 or later. To the Fund's knowledge, these funds have not encountered any issues in holding only post-2012 gold.

the requirements detailed in the OECD Gold Supplement (2012). The Gold Guidance includes measures to address environmental and sustainability considerations (for example, management of harmful chemicals or pollutants associated with the gold mining process), avoid materials from conflict-afflicted areas, and combat money laundering, financing of terrorism, and human rights abuses, including child labor. Since January 1, 2012, each LBMA Good Delivery refinery has been required to undergo a comprehensive audit, at least annually, in order to confirm compliance with the LBMA's minimum requirements related to the responsible sourcing of gold as set forth in the Gold Guidance and to publicly report results (audits are made available on the LBMA website). The audits, among other aspects, focus on the refiner's management systems and controls, and whether they are robust and appropriate to address the refiner's risk profile with respect to priority focus areas as identified above. Additional information regarding the LBMA's efforts to promote ethical sourcing of gold and a copy of the current version of the Gold Guidance is available at <https://www.lbma.org.uk/responsible-sourcing>.

The Fund will not trade in gold futures, options, or swap contracts on any futures exchange or over-the-counter ("OTC"). The Fund will not hold or trade in commodity futures contracts, "commodity interests," or any other instruments regulated by the Commodity Exchange Act. As stated above, the Fund's Cash Custodian may hold cash proceeds from gold sales and other cash received by the Fund. The Fund's gold will be held in London.

The Fund is not a proxy for investing in physical gold. Rather, the Shares are intended to provide a cost-effective means of obtaining investment exposure through the securities markets that is similar to an investment in gold. Specifically, the Shares are intended to constitute a simple and cost-efficient means of gaining investment benefits similar to those of holding gold bullion directly, by providing investors an opportunity to participate in the gold market through

an investment in the Shares, instead of the traditional means of purchasing, storing and insuring gold.

Operation of the Gold Market

The global gold trading market consists of OTC transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options.

The OTC gold market includes spot, forward, and option and other derivative transactions conducted on a principal-to-principal basis. While this is a global, nearly 24-hour per day market, its main centers are London, New York, and Zurich.

According to the Registration Statement, most OTC market trades are cleared through London. The LBMA plays an important role in setting OTC gold trading industry standards. A London Good Delivery Bar (as described below), which is acceptable for delivery in settlement of any OTC transaction, will be acceptable for delivery to the Fund, as discussed below.

The most significant gold futures exchange is COMEX, operated by Commodities Exchange, Inc., a subsidiary of New York Mercantile Exchange, Inc., and a subsidiary of the Chicago Mercantile Exchange Group (the “CME Group”). Other commodity exchanges include the Tokyo Commodity Exchange (“TOCOM”), the Multi Commodity Exchange of India (“MCX”), the Shanghai Futures Exchange, the Shanghai Gold Exchange, ICE Futures US (the “ICE”), and the Dubai Gold & Commodities Exchange. The CME Group and ICE are members of the Intermarket Surveillance Group (“ISG”).

The London Gold Bullion Market

According to the Registration Statement, most trading in physical gold is conducted on the OTC market and is predominantly cleared through London. In addition to coordinating market activities, the LBMA acts as the principal point of contact between the market and its

regulators. A primary function of the LBMA is its involvement in the promotion of refining standards by maintenance of the “London Good Delivery Lists,” which are the lists of LBMA accredited melters and assayers of gold (“Good Delivery List”). The LBMA also coordinates market clearing and vaulting, promotes good trading practices and develops standard documentation.

The term “loco London” refers to gold bars physically held in London that meet the specifications for weight, dimensions, fineness (or purity), identifying marks (including the assay stamp of an LBMA acceptable refiner), and appearance set forth in the good delivery rules promulgated by the LBMA from time to time. Gold bars meeting these requirements are known as “London Good Delivery Bars.”

The unit of trade in London is the troy ounce, whose conversion between grams is: 1,000 grams = 32.1507465 troy ounces and 1 troy ounce = 31.1034768 grams. A London Good Delivery Bar is acceptable for delivery in settlement of a transaction on the OTC market. Typically referred to as 400-ounce bars, a London Good Delivery Bar must contain between 350 and 430 fine troy ounces of gold, with a minimum fineness (or purity) of 995 parts per 1,000 (99.5%), be of good appearance and be easy to handle and stack. The fine gold content of a gold bar is calculated by multiplying the gross weight of the bar (expressed in units of 0.025 troy ounces) by the fineness of the bar.

Creation and Redemption of Shares

According to the Registration Statement, the Fund will create and redeem Shares on a continuous basis in one or more Creation Units. A Creation Unit equals a block of 50,000 Shares. The Fund will issue Shares in Creation Units to certain authorized participants (“Authorized Participants”) on an ongoing basis. Each Authorized Participant must be a

registered broker-dealer or other securities market participant such as a bank or other financial institution which is not required to register as a broker-dealer to engage in securities transactions, a participant in The Depository Trust Company (“DTC”), and have entered into an agreement with the Sponsor and the Administrator (the “Participant Agreement”), and have established an unallocated gold account with the Custodian or another LPMCL clearing bank.

Creation Units may be created or redeemed only by Authorized Participants. The creation and redemption of Creation Units is only made in exchange for the delivery to the Fund or the distribution by the Fund of the amount of gold represented by the Creation Units being created or redeemed. The amount of gold required to be delivered to the Fund in connection with any creation, or paid out upon redemption, is based on the combined net asset value of the number of Shares included in the Creation Units being created or redeemed as determined on the day the order to create or redeem Creation Units is properly received and accepted. Orders must be placed by 3:59:59 p.m. New York time. The day on which the Administrator receives a valid purchase or redemption order is the order date. Creation Units may only be issued or redeemed on a day that the Exchange is open for regular trading.

According to the Registration Statement, the Fund only holds gold and cash, and transacts in-kind. Each outstanding Share represents a fractional, undivided interest in the gold bullion held by the Fund. The in-kind creation and redemption transactions in Creation Unit aggregations are based on a specified quantity/number of ounces of gold bullion, which proportionately reflects the amount of gold bullion represented by the Shares outstanding at the time of creation or redemption.³⁵ The total deposit required to create each Creation Unit, or a

³⁵ The amount of gold represented by each Share of the Fund will decrease over the life of the Fund due to the sales of gold necessary to pay the Sponsor’s fee and Fund expenses. The gradual decline in the amount of gold bullion represented by the Shares will occur

“Creation Unit Gold Delivery Amount,” is an amount of gold and cash, if any, that is in the same proportion to the total assets of the Fund (net of estimated accrued expenses and other liabilities) on the date the order to purchase is properly received as the number of Shares to be created under the purchase order is in proportion to the total number of Shares outstanding on the date the order is received. An Authorized Participant who places a purchase order is responsible for transferring the Creation Unit Gold Delivery Amount to the Fund Unallocated Account.³⁶ Upon receipt, the Administrator will direct DTC to credit the number of Creation Units ordered to the Authorized Participant’s DTC account. The Custodian will transfer the Creation Unit Gold Delivery Amount from the Fund Unallocated Account to the Fund Allocated Account by allocating to the Fund Allocated Account specific bars of gold which the Custodian holds, or instructing a sub-custodian to allocate specific bars of gold held by or for the sub-custodian. As

regardless of whether the trading price of the Shares rises or falls in response to changes in the price of gold.

³⁶ Authorized Participants will not deliver specific physical gold bars to the Fund Unallocated Account in connection with creation transactions; rather, the Authorized Participant must maintain a designated unallocated account with the Custodian in order to transact in the Fund’s Shares and with the Fund Unallocated Account which functions like a ledger, and the Custodian is then solely responsible for allocating specific gold bars with the requested features (i.e., post-2012 gold) from the Fund Unallocated Account (which, again, functions like a ledger) to the Fund Allocated Account. Gold is delivered to and distributed by the Fund through credits and debits between the Authorized Participant’s unallocated account and the Fund Unallocated Account. When an Authorized Participant creates a Creation Unit aggregation of Fund Shares, gold will be transferred from the Authorized Participant to the Custodian via a debit to the Authorized Participant’s unallocated account and a credit to the Fund Unallocated Account. Typically on the same business day, the Custodian then allocates the gold to the Fund Allocated Account and stores the gold for safekeeping. All gold represented by a credit to any unallocated account represents a right to receive a specified quantity of fine ounces of gold. Thus, there is no way for Authorized Participants to deposit specified pre- or post-2012 gold with the Fund in exchange for Creation Units, as Authorized Participants have no role in (or control over) the process of selecting or allocating specific gold bars for delivery to the Fund Allocated Account.

noted above, the Custodian will, on a best efforts basis and subject to available liquidity, seek to allocate post-2012 gold to the Fund Allocated Account.

The redemption distribution from the Fund consists of a credit to the redeeming Authorized Participant's unallocated account in the amount of the Creation Unit Gold Delivery Amount. The Creation Unit Gold Delivery Amount for redemptions is the number of ounces of gold held by the Fund to be paid out upon redemption of a Creation Unit. The Custodian will transfer the redemption amount from the Fund Allocated Account to the Fund Unallocated Account and, thereafter, to the redeeming Authorized Participant's unallocated account.

Net Asset Value ("NAV")

To determine the Fund's NAV, the Administrator will value the gold held by the Fund on the basis of the LBMA Gold Price PM, as published by the ICE Benchmark Administration Limited (the "IBA"). IBA operates electronic auctions for spot, unallocated loco London gold, providing a market-based platform for buyers and sellers to trade. The auctions are run at 10:30 a.m. and 3:00 p.m. London time for gold. The final auction prices are published to the market as the LBMA Gold Price AM and the LBMA Gold Price PM, respectively.³⁷

The Administrator will calculate the NAV on each day the Exchange is open for regular trading, at the earlier LBMA Gold Price PM for the day or 12:00 PM New York time. If no LBMA Gold Price (AM or PM) is made on a particular evaluation day or if the LBMA Gold Price PM has not been announced by 12:00 PM New York time on a particular evaluation day,

³⁷ The LBMA Gold Price is the global benchmark price for unallocated gold delivered in London. According to the IBA, producers, the investment community, banks and central banks, fabricators, jewelers and other consumers as well as market participants from around the globe, transact during the IBA Gold Auctions and use the benchmarks as reference prices. The LBMA Gold Price facilitates spot, monthly averaging, cash-settlement, location swaps, fixed for floating swaps, options and other derivative transactions.

the next most recent LBMA Gold Price AM or PM will be used in the determination of the NAV, unless the Sponsor determines that such price is inappropriate to use as the basis for such determination.

Once the value of the gold has been determined, the Administrator will subtract all estimated accrued expenses and other liabilities of the Fund from the total value of the gold and any cash of the Fund. The resulting figure is the NAV. The Administrator will determine the NAV per Share by dividing the NAV of the Fund by the number of Shares outstanding as of the close of trading on the Exchange.

With respect to the theoretical possibility that a pricing premium or discount or official deviation in the LBMA gold spot price arises between post-2012 gold and pre-2012 gold, the Fund's valuation of its gold holdings would reflect the appropriate spot price or fair value of such holdings with a view to mitigating the risk of shareholder dilution. For example, the Fund generally values its gold holdings on the basis of the LBMA Gold Price PM, as described above. To the extent that it is determined that the LBMA Gold Price PM no longer reflects an accurate measure of the value of the Fund's gold holdings, or to the extent that the LBMA begins providing two different prices – one for pre-2012 gold and one for post-2012 gold – the Fund would adjust its valuation accordingly. Further, the Fund only holds gold and cash, and transacts in-kind. Each outstanding Share represents a fractional, undivided interest in the gold bullion held by the Fund. The in-kind creation and redemption transactions in creation unit aggregations are based on a specified quantity/number of ounces of gold bullion, which proportionately reflects the amount of gold bullion represented by the Shares outstanding at the time of creation/redemption.³⁸ The Fund also has other levers in the event of theoretical pricing

³⁸ See supra note 35.

deviations or increased costs with respect to its post-2012 gold holdings, including imposing additional creation and redemption transaction fees on Authorized Participants transacting in the Fund's Shares as appropriate in the Sponsor's discretion. Accordingly, the Fund reserves the right to take appropriate steps to seek to ensure that the Fund and its shareholders are not adversely impacted in such a scenario.

Availability of Information Regarding Gold

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as gold over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of information about gold and gold markets available on public websites and through professional and subscription services.

Investors may obtain gold pricing information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers, such as Reuters and Bloomberg.

Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of gold and last sale prices of gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on gold prices directly from market participants. Complete real-time data for gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on gold, ranging from those specializing in precious

metals to sites maintained by major newspapers. In addition, the LBMA Gold Price is publicly available at no charge at www.lbma.org.uk.

Availability of Information

The intraday indicative value (“IIV”) per Share for the Shares will be disseminated by one or more major market data vendors on at least a 15 second delayed basis as required by NYSE Arca Rule 8.201-E(e)(2)(v). The IIV will be calculated based on the amount of gold and cash (if any) held by the Fund and a price of gold derived from updated bids and offers indicative of the spot price of gold, adjusted to reflect estimated price changes based on real time proxy pricing updates.³⁹

The Fund’s website (<https://www.franklintempleton.com/investments/options/exchange-traded-funds/products/31714/SINGLCLASS/franklin-responsibly-sourced-gold-etf/FGLD>) will contain the following information, on a per Share basis: (a) the Official Closing Price⁴⁰ and a calculation of the premium or discount of such Official Closing Price against the Fund’s NAV, as of the prior business day, expressed as a percentage of such NAV; (b) a table showing the number of days the Shares of the Fund traded at a premium or discount during the most recently completed calendar year and the most recently completed calendar quarters since that year; (c) a line graph showing the Shares’ premiums or discounts for the most recently completed calendar year and the most recently completed calendar quarters since that year; (d) data in chart format displaying the frequency distribution of discounts and premiums of the Official Closing Price

³⁹ The IIV on a per Share basis disseminated during the Exchange’s Core Trading Session, as defined in NYSE Arca Rule 7.34-E, should not be viewed as a real-time update of the NAV, which is calculated once a day.

⁴⁰ The term “Official Closing Price” is defined in NYSE Arca Rule 1.1(II) as the reference price to determine the closing price in a security for purposes of Rule 7–E Equities Trading, and the procedures for determining the Official Closing Price are set forth in that rule.

against the NAV, within appropriate ranges, for each of the four previous calendar quarters; and (e) the daily holdings of the Fund, before 9:30 a.m. E.T. on each Exchange trading day. The website for the Fund will also provide its prospectus. The NAV of the Fund will be published on each day that the NYSE Arca is open for regular trading and will be posted on the Fund's website. Finally, the Fund's website will be updated once daily to provide the last sale price of the Shares as traded in the U.S. market at the end of regular trading. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Criteria for Initial and Continued Listing

The Fund will be subject to the criteria in NYSE Arca Rule 8.201-E(e) for initial and continued listing of the Shares.

A minimum of 100,000 Shares will be required to be outstanding at the start of trading, which is equivalent to 1,317 fine ounces of gold or approximately \$2,500,000 as of February 18, 2022. The Exchange believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide adequate market liquidity.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Rule 7.34-E(a). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6-E Commentary .03, the minimum price

variation (“MPV”) for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00, for which the MPV for order entry is \$0.0001.

Further, NYSE Arca Rule 8.201-E sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Rule 8.201-E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying gold, any related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3 requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange,

make trading in the Shares inadvisable. These may include: (1) the extent to which conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.⁴¹ The Exchange will halt trading in the Shares if the NAV of the Fund is not calculated or disseminated daily. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority Inc. ("FINRA"), on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.⁴² The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity.

⁴¹ See NYSE Arca Rule 7.12-E.

⁴² FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.⁴³

Also, pursuant to NYSE Arca Rule 8.201-E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying gold, gold futures contracts, options on gold futures, or any other gold derivatives through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

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

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

⁴³ For a list of the current members of ISG, see www.isgportal.org.

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

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Units (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2-E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical gold, that the Commission has no jurisdiction over the trading of gold as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of gold futures contracts and options on gold futures contracts.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)⁴⁴ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201-E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

⁴⁴ 15 U.S.C. 78f(b)(5).

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of gold price and gold market information available on public websites and through professional and subscription services. Investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Fund's website will provide pricing information for gold spot prices and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information websites and other information service providers. The NAV of the Fund will be published on each day that the NYSE Arca is open for regular trading and will be posted on the Fund's website. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds as required by NYSE Arca Rule 8.201-E(e)(2)(v). In addition, the LBMA Gold Price is publicly available at no charge at www.lbma.org.uk. The Fund's website will also provide its prospectus, as well as the two most recent reports to stockholders. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the

Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding gold pricing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical gold.

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

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

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴⁵ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,⁴⁶ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

⁴⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴⁶ 15 U.S.C. 78f(b)(5).

The Commission believes that the proposed rule change is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately. The NAV of the Fund will be published on each day that the NYSE Arca is open for regular trading and will be posted on the Fund's website. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds as required by NYSE Arca Rule 8.201-E(e)(2)(v). The IIV will be calculated based on the amount of gold and cash (if any) held by the Fund and a price of gold derived from updated bids and offers indicative of the spot price of gold, adjusted to reflect estimated price changes based on real time proxy pricing updates. Based on the information provided by the Exchange, the Commission believes that there is no separate market for post-2012 gold. All gold held by the Fund will be London Good Delivery bars. The LBMA Gold Price is publicly available at no charge at www.lbma.org.uk.

Additionally, the website for the Fund⁴⁷ will contain the following information, on a per Share basis: (a) the Official Closing Price and a calculation of the premium or discount of such Official Closing Price against the Fund's NAV, as of the prior business day, expressed as a percentage of such NAV; (b) a table showing the number of days the Shares of the Fund traded at a premium or discount during the most recently completed calendar year and the most recently completed calendar quarters since that year; (c) a line graph showing the Shares' premiums or discounts for the most recently completed calendar year and the most recently completed calendar quarters since that year; (d) data in chart format displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate

⁴⁷ <https://www.franklintempleton.com/investments/options/exchange-traded-funds/products/31714/SINGLCLASS/franklin-responsibly-sourced-gold-etf/FGLD>

ranges, for each of the four previous calendar quarters; and (e) the daily holdings of the Fund, before 9:30 a.m. E.T. on each Exchange trading day. The website for the Fund will also provide the Fund's prospectus as well as the two most recent reports to shareholders.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The Fund's website will be updated once daily to provide the last sale price of the Shares as traded in the U.S. market at the end of regular trading. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. While the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as gold over the Consolidated Tape, the last sale price for the Shares will be disseminated over the Consolidated Tape. In addition, there is a considerable amount of information about gold and gold markets available on public websites and through professional and subscription services. Investors may obtain gold pricing information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers.⁴⁸

The Commission also believes that the proposal is reasonably designed to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange represents that it will halt trading in the Shares if the NAV of the Fund is not calculated or disseminated daily. If

⁴⁸ As the Exchange states, Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of gold and last sale prices of gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on gold prices directly from market participants. Complete real-time data for gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers.

the IIV is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV occurs. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption. With respect to trading halts, the Exchange states that it may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.

Additionally, NYSE Arca Rule 8.201-E(g) sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Rule 8.201-E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying gold, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3-E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product,

applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).⁴⁹

Moreover, the Commission concludes that the proposal is reasonably designed to mitigate the Shares' susceptibility to manipulation and misuse of nonpublic information in trading in the Shares, consistent with Section 6(b)(5) of the Act,⁵⁰ because the Shares will be subject to the Exchange's and other rules below. Specifically:

- (1) The Fund will be subject to the criteria in NYSE Arca Rule 8.201-E(e) for initial and continued listing of the Shares.
- (2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Rule 7.34-E(a).
- (3) The Exchange deems the Shares to be equity securities, thus rendering trading in the Trust subject to the Exchange's existing rules governing the trading of equity securities.
- (4) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of

⁴⁹ The Exchange confirms that it has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

⁵⁰ 15 U.S.C. 78f(b)(5).

Exchange rules and applicable federal securities laws.⁵¹ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. These surveillances generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

- (5) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.
- (6) Pursuant to NYSE Arca Rule 8.201-E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying gold, gold futures contracts, options on gold futures, or any other gold derivatives, through ETP Holders acting as

⁵¹ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

- registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.
- (7) The Exchange has a general policy prohibiting the distribution of material, non-public information by its employees.
- (8) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) the procedures for purchases and redemptions of Shares in Creation Units (including noting that Shares are not individually redeemable); (b) NYSE Arca Rule 9.2-E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) how information regarding the IIV is disseminated; (d) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (e) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (f) trading information. The Exchange states that investors purchasing Shares directly from the Fund will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses as will be described in the Registration Statement, the fact that there is no regulated source of last sale information regarding physical gold, that the Commission has no jurisdiction over the trading of gold as a

physical commodity, and that the CFTC has regulatory jurisdiction over the trading of gold futures contracts and options on gold futures contracts. The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

- (9) A minimum of 100,000 Shares will be required to be outstanding at the start of trading.

In addition, pursuant to Commentary .04 of NYSE Arca Rule 8.201-E, all statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Fund on the Exchange. The issuer must notify the Exchange of any failure by the Fund to comply with the continued listing requirements. Pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor⁵² for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

⁵² The Commission notes that certain proposals for the listing and trading of exchange-traded products include a representation that the exchange will “surveil” for compliance with the continued listing requirements. See, e.g., Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428, 20432 (April 7, 2016) (SR-BATS-2016-04). In the context of this representation, it is the Commission’s view that “monitor” and “surveil” both mean ongoing oversight of compliance with the continued listing requirements. Therefore, the Commission does not view “monitor” as a more or less stringent obligation than “surveil” with respect to the continued listing requirements.

Accordingly, for the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act⁵³ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on the Proposed Rule Change, as Modified by Amendment No. 1

Interested persons are invited to submit written views, data, and arguments concerning whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2021-73 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NYSEArca-2021-73. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those

⁵³ 15 U.S.C. 78f(b)(5).

that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2021-73 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the Federal Register. As stated above, among other things, Amendment No. 1 to the proposed rule change, among other things, went into greater detail with respect to the operation of the Trust and the Fund, including the assets held by the Fund, the LBMA Responsible Sourcing Programme, the Responsible Gold Guidance, creations and redemptions of the Fund's Shares, determination of net asset value of the Fund's Shares, and availability of information for the Fund's Shares. Amendment No. 1 also made additional and revised representations, including that all gold held by the Fund will be London Good Delivery bars and the information related to the Shares that will be provided on the Fund's website. Finally, Amendment No. 1 provided clarifications and technical edits to the proposed rule change. These changes and additional information in Amendment No. 1 assist the Commission in evaluating the

Exchange's proposal and in determining that it is consistent with the Act. The Commission believes that such changes and additional information do not raise unique or novel regulatory issues under the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁵⁴ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁵⁵ that the proposed rule change (SR-NYSEArca-2021-73), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁶

J. Matthew DeLesDernier
Assistant Secretary

⁵⁴ 15 U.S.C. 78s(b)(2).

⁵⁵ Id.

⁵⁶ 17 CFR 200.30-3(a)(12).