

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70798; File No. SR-NYSEArca-2013-111)

November 1, 2013

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to List and Trade Shares of Manna Core Equity Enhanced Dividend Income Fund Under NYSEArca Equities Rule 8.600

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on October 23, 2013, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade shares of the following (“Managed Fund Shares”): Manna Core Equity Enhanced Dividend Income Fund under NYSE Arca Equities Rule 8.600. The text of the proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

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

it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares<sup>4</sup> on the Exchange: Manna Core Equity Enhanced Dividend Income Fund (the “Fund”).<sup>5</sup> The Shares of the Fund will be offered by ETF Actively Managed Trust (the “Trust”). The Trust will be registered with the Securities and Exchange Commission (“Commission”) as an open-end management investment company.<sup>6</sup> ETF Issuer Solutions, Inc. will serve as the investment

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

<sup>5</sup> The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.*, Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR-NYSEArca-2009-55) (order approving listing and trading of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR-NYSEArca-2010-79) (order approving listing and trading of Cambria Global Tactical ETF).

<sup>6</sup> The Trust is registered under the 1940 Act. On April 2, 2013, the Trust filed a registration statement on Form N-1A under the Securities Act of 1933 (the “1933 Act”) (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333-187668 and 811-22819) (the “Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. The Trust filed an Amended

adviser to the Fund (the “Adviser”). ETF Distributors LLC (the “Distributor”) will be the principal distributor of the Fund’s Shares. Manna ETFs Management LLC (the “Sub-Adviser”) will serve as sub-adviser for the Fund. The Bank of New York Mellon will serve as the administrator, accountant, custodian and transfer agent for the Fund (“Administrator,” “Accountant,” “Custodian” and “Transfer Agent,” respectively).

The Fund will be classified as a “diversified” investment company under the 1940 Act.<sup>7</sup>

The Fund intends to qualify for and to elect treatment as a separate regulated investment company (“RIC”) under Subchapter M of the Internal Revenue Code.<sup>8</sup>

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition of and/or changes to such investment company portfolio. Commentary .06 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund’s portfolio.<sup>9</sup> Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to

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and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812-14080), dated June 19, 2013 (“Exemptive Application”). The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 30607 (July 23, 2013) (“Exemptive Order”). Investments made by the Fund will comply with the conditions set forth in the Exemptive Application and the Exemptive Order.

<sup>7</sup> The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

<sup>8</sup> 26 U.S.C. 851 et seq.

<sup>9</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act

NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable open-end fund’s portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser and Sub-Adviser are not registered as a broker-dealer; however the Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio. In the event (a) the Adviser or any sub-adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, they will implement a fire wall with respect to their relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

#### Principal Fund Investments

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

According to the Registration Statement, the Fund seeks long-term capital appreciation and income primarily through purchases and short sales of U.S. and international equity securities. The Fund will seek to achieve its investment objective by normally<sup>10</sup> investing up to 100% (but not less than 80%) of its net assets between its Core Position, Dividend Position and Short Position (each as defined below). The Fund expects to invest in a portfolio of U.S. common stocks or exchange traded funds (“ETFs”) selected by the Sub-Adviser to reflect a broad spectrum (i.e., positions in companies of different market capitalizations) of the U.S. equity market (the “Core Position”). The Fund also expects to invest in a portfolio that may contain U.S. and non-U.S. common stocks, American Depositary Receipts (“ADRs”), participation notes, or other equity securities listed on U.S. or non-U.S. exchanges or traded over the counter that the Sub-Adviser expects to generate dividend income to the Fund (the “Dividend Position”). The Fund also expects to sell short a portfolio of common stocks, index- or sector-based ETFs, other investment companies, exchange traded notes (“ETNs”) and other exchange traded products (“ETPs”)<sup>11</sup>, other securities or index- or sector-based futures contracts all of

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<sup>10</sup> The term “normally” includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. According to the Registration Statement, in certain adverse market, economic, political, or other conditions, the Fund may temporarily depart from its normal investment policies and strategies provided that the alternative is consistent with the Fund’s investment objective and is in the best interest of the Fund. The Fund may determine that market conditions warrant investing in cash or cash equivalents, such as money market instruments, and to the extent permitted by applicable law and the Fund’s investment restrictions, shares of other investment companies. Under such circumstances, the Fund may invest up to 100% of its assets in these investments.

<sup>11</sup> For purposes of this proposed rule change, ETPs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca

which trade on U.S. and non-U.S. exchanges selected for the purpose of hedging against country or currency risk associated with the investments in the Dividend Position, or because they are likely to underperform the market or lose value in the near term (the “Short Position”).

The Fund will be an actively managed ETF and thus does not seek to replicate the performance of a specific index. Instead, the Fund will use an active investment strategy to meet its investment objective. The Sub-Adviser, subject to the oversight of the Adviser and the Board of Trustees of the Trust (the “Board of Trustees”), will have discretion on a daily basis to manage the Fund’s portfolio in accordance with the Fund’s investment objective and investment policies.

According to the Registration Statement, the Sub-Adviser will typically seek to invest the Core Position in a portfolio of common stocks and ETPs selected by the Sub-Adviser to reflect a broad spectrum (i.e., positions in companies of different market capitalizations) of the U.S. equity market. The Core Position may invest in the common stock of issuers of any market capitalization and there are no requirements as to the number of securities the Core Position must hold.

According to the Registration Statement, the Fund may invest in any type of ETF, including index based ETFs, sector based ETFs, and fixed-income ETFs. The Fund may hold ETFs with portfolios comprised of domestic or foreign stocks or bonds or any combination thereof. However, due to legal limitations, the Fund will be prevented from purchasing more

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Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Trust Units (as described in NYSE Arca Equities Rule 8.500); Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The ETPs all will be listed and traded in the U.S. on registered exchanges. While the Funds may invest in inverse ETPs, the Funds will not invest in leveraged or inverse leveraged ETPs (e.g., 2X or 3X).

than 3% of an ETF's outstanding shares unless: (i) the ETF or the Fund has received an order for exemptive relief from the 3% limitation from the Commission that is applicable to the Fund; and (ii) the ETF and the Fund take appropriate steps to comply with any conditions in such order.

According to the Registration Statement, in order to implement the Dividend Position's strategy, the Sub-Adviser will seek to maximize the level of dividend income that the Dividend Position receives, through the purchase of U.S. and non-U.S. securities that the Sub-Adviser expects to generate dividend income for the Dividend Position. To participate in non-U.S. developed or emerging markets, the Dividend Position may invest in debt or equity securities, ADRs, participation notes, and other securities listed on U.S. or non-U.S. exchanges or U.S. securities traded over the counter. The Fund will invest only in foreign securities and ADRs that are traded on an exchange that is a member of the Intermarket Surveillance Group ("ISG") or with which the Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Sub-Adviser expects to seek to participate in special dividend situations and engage in dividend capture trading. Special dividend situations may include those where issuers decide to return large cash balances to shareholders as one-time dividend payments.<sup>12</sup>

According to the Registration Statement, the Fund expects to establish Short Positions, representing up to 30% of the Fund's principal investments, in securities selected by the Sub-Adviser for the purpose of hedging against country, currency, sector or other risk associated with the investments in the Dividend Position, in an attempt to establish, between the Dividend

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<sup>12</sup> In a dividend capture trade, the Fund sells a stock on or after the stock's dividend date and uses the sale proceeds to purchase one or more other stocks that are expected to pay dividends before the next dividend payment on the stock being sold. Through this rotation practice, the Fund may receive more dividend payments over a given period of time than if it held a single stock.

Position and the Short Positions, a market neutral position with respect to the countries and currency in which the Dividend Position is invested. The Fund may also invest in Short Positions in securities that the Sub-Adviser believes are likely to underperform the market or lose value in the near term. To implement the Short Positions, the Sub-Adviser expects to typically sell short a portfolio of equities, index- or sector-based ETF's, other investment companies, index- or sector-based futures contracts or other securities that trade on U.S. and non-U.S. exchanges.<sup>13</sup> According to the Registration Statement, the proceeds from the Short Positions (i.e., cash received from selling securities short) will typically be used to fund the acquisition of the Fund's investments in the Dividend Position.

#### Other Fund Investments

According to the Registration Statement, although the Fund expects to invest not less than 80% of its assets as described above, the Fund has flexibility to invest in other types of securities when the Sub-Adviser believes they offer more attractive opportunities or to meet liquidity, redemption, and short-term investing needs.

According to the Registration Statement, the Fund may invest up to 20% of its assets in securities convertible into common stock. Convertible securities eligible for purchase by the Fund include convertible bonds, convertible preferred stocks, and warrants. The Fund will not invest directly in real estate, but may invest in readily marketable securities issued by companies that invest in real estate or interests therein. The Fund may also invest in readily marketable interests in real estate investment trusts.

#### General Limitations

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<sup>13</sup> To participate in non-U.S. developed or emerging markets, the Fund may invest in ETFs, ADRs, futures contracts and other securities listed on U.S. or non-U.S. exchanges or traded over the counter that are intended to track the non-U.S. equity markets or market sectors in which the Sub-Adviser seeks exposure.



The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed to be illiquid by the Sub-Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.<sup>14</sup>

The Fund may lend portfolio securities in an amount equal to up to 33% of its total assets to broker-dealers, major banks, or other recognized domestic institutional borrowers of securities which the Sub-Adviser has determined are creditworthy under guidelines established by the Board of Trustees. The Fund may not lend securities to any company affiliated with the Sub-Adviser. Each loan of securities will be collateralized by cash, securities, or letters of credit. The Fund might experience a loss if the borrower defaults on the loan.

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<sup>14</sup> The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

The Fund will not purchase the securities of issuers conducting their principal business activity in the same industry if, immediately after the purchase and as a result thereof, the value of the Fund's investments in that industry would equal or exceed 25% of the current value of the Fund's total assets, provided that this restriction does not limit the Fund's: (i) investments in securities of other investment companies, (ii) investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or (iii) investments in repurchase agreements collateralized by U.S. government securities.<sup>15</sup>

The Fund will not invest in swaps. The Fund's investments will be consistent with its respective investment objective.

No more than 10% of the net assets of the Fund will be invested in unsponsored ADRs.

#### Creation and Redemption of Shares

According to the Registration Statement, the Fund will issue and redeem Shares on a continuous basis at net asset value ("NAV") in aggregations of 50,000 Shares ("Creation Units").

The consideration for purchase of a Creation Unit of the Fund generally consists of an in-kind deposit of a designated portfolio of securities (the "Deposit Securities") per each Creation Unit constituting a substantial replication, or a representation, of the securities included in the Fund's portfolio and an amount of cash (the "Cash Component"). Together, the Deposit Securities and the Cash Component constitute the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

The Cash Component is an amount equal to the difference between the NAV of the shares (per Creation Unit) and the market value of the Deposit Securities. If the Cash Component

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<sup>15</sup> See Form N-1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. See, e.g., Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

is a positive number (*i.e.*, the NAV per Creation Unit exceeds the market value of the Deposit Securities), the Cash Component shall be such positive amount. If the Cash Component is a negative number (*i.e.*, the NAV per Creation Unit is less than the market value of the Deposit Securities), the Cash Component shall be such negative amount and the creator will be entitled to receive cash from the Fund in an amount equal to the Cash Component. The Cash Component serves the function of compensating for any differences between the NAV per Creation Unit and the market value of the Deposit Securities.

The Administrator, through the National Securities Clearing Corporation (“NSCC”), makes available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern Time), the list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund. Such Fund Deposit is applicable in order to effect creations of Creation Units of the Fund until such time as the next-announced composition of the Deposit Securities is made available.

The identity and number of shares of the Deposit Securities required for the Fund Deposit for the Fund changes as rebalancing adjustments and corporate action events are reflected from time to time by the portfolio managers with a view to the investment objective of the Fund. In addition, the Trust reserves the right to permit or require the substitution of an amount of cash to be added to the Cash Component to replace any Deposit Security which may not be available. In addition to the list of names and numbers of securities constituting the current Deposit Securities of the Fund Deposit, the Administrator, through the NSCC, also makes available on each business day, the estimated Cash Component, effective through and including the previous business day, per outstanding Creation Unit of the Fund.

All purchase orders must be placed by or through an “Authorized Participant.” An Authorized Participant must be either a broker-dealer or other participant in the Continuous Net Settlement System (“Clearing Process”) of the NSCC or a participant in The Depository Trust Company (“DTC”) with access to the DTC system, and must execute an agreement with the Trust, the Distributor and the Administrator that governs transactions in the Fund’s Creation Units.

Fund Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and the Fund through the Administrator and only on a business day. The Trust will not redeem shares in amounts less than Creation Units.

The redemption proceeds for a Creation Unit generally will consist of securities held by the Fund (the “Fund Securities”)(as announced on the Fund’s website prior to the commencement of trading on the business day of the request for redemption received in proper form) plus cash in an amount equal to the difference between the NAV of the shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the “Cash Redemption Amount”), less a redemption transaction fee. In the event that the Fund Securities have a value greater than the NAV of the shares, a compensating cash payment equal to the differential will be required to be made by or through an Authorized Participant by the redeeming shareholder.

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

disposal of the shares of the Fund or determination of the shares' NAV is not reasonably practicable<sup>16</sup>; or (4) in such other circumstance as is permitted by the Commission.

Detailed descriptions of the Fund's procedures for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, risks, and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement or on the website for the Fund ([www.mannaetfs.com](http://www.mannaetfs.com)), as applicable.

#### Determination of Net Asset Value

According to the Registration Statement, the NAV per Share for the Fund will be computed by dividing the value of the net assets of the Fund (*i.e.*, the value of its total assets less total liabilities) by the total number of Shares outstanding, rounded to the nearest cent. Expenses and fees, including the management fee, will be accrued daily and taken into account for purposes of determining NAV. The NAV of the Fund will be determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., Eastern time) on each day that such exchange is open.

In computing the Fund's NAV, the value of the Fund's portfolio holdings is based on such holdings' closing price on local markets when available. When a portfolio holding's market price is not readily available or does not otherwise accurately reflect the fair value of such security, the Fund will use such holding's fair value as determined in good faith in accordance with the Fund's fair value pricing procedures, which will be approved by the Board of Trustees. Fair value pricing may be used, for example, in situations where (i) portfolio holdings, such as holdings with small capitalizations, are so thinly traded that there have been no transactions for that portfolio holding over an extended period of time; (ii) an event occurs after

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<sup>16</sup> Pursuant to NYSE Arca Equities Rule 7.34(5), trading in the Shares will be halted if the Fund's NAV is not calculated.

the close of the exchange on which a portfolio holding is principally traded that is likely to change the value of the portfolio holding prior to the Fund's NAV calculation; (iii) the exchange on which the portfolio holding is principally traded closes early; or (iv) trading of the particular portfolio holding is halted during the day and does not resume prior to the Fund's NAV calculation. In addition, the Fund may fair value foreign equity portfolio holdings each day the Fund calculates its NAV. Accordingly, the Fund's NAV may reflect certain portfolio holdings' fair values rather than their market prices.

In valuing non-exchange traded securities, the Fund will first use publicly-available pricing sources, including Bloomberg, IDC, and Reuters. Non-exchange traded securities will only be fair valued if their market prices are not readily available.

To the extent the assets of the Fund are invested in the other open-end investment companies that are registered under the 1940 Act, the Fund's NAV is calculated based upon the NAVs reported by such registered open-end investment companies, and the prospectuses for these companies explain the circumstances under which they will use fair value pricing and the effects of using fair value pricing.

#### Availability of Information

The Fund's website ([www.mannaetfs.com](http://www.mannaetfs.com)), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's website will include additional quantitative information updated on a daily basis, including, for the Fund, (1) the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),<sup>17</sup>

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<sup>17</sup> The Bid/Ask Price of the Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV.

and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.<sup>18</sup>

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

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

Investors can also obtain the Trust's Statement of Additional Information ("SAI"), the Fund's Shareholder Reports, and the Trust's Form N-CSR and Form N-SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or

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The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

<sup>18</sup> Under accounting procedures to be followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

downloaded from the Commission’s website at [www.sec.gov](http://www.sec.gov). Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. Information regarding the previous day’s closing price and trading volume information for the Shares are expected to be published daily in the financial section of newspapers. Quotation and last sale information for the Shares and any underlying ETPs, sponsored ADRs and common stock will be available via the Consolidated Tape Association (“CTA”) high-speed line. In addition, the Indicative Optimized Portfolio Value (“IOPV”),<sup>19</sup> which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.<sup>20</sup> Price information for futures and non-exchange traded securities held by the Fund will be available from publicly-available pricing sources, including Bloomberg, IDC, and Reuters.

The IOPV will be calculated by an independent third party calculator and will be calculated based on the same portfolio holdings disclosed on the Fund’s website.

The dissemination of the IOPV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day. The intra-day, closing and

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<sup>19</sup> The IOPV calculations will be estimates of the value of the Fund’s NAV per Share using market data converted into U.S. dollars at the current currency rates. The IOPV price will be based on quotes and closing prices from the securities’ local market and may not reflect events that occur subsequent to the local market’s close. The quotations of certain Fund holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States. Premiums and discounts between the IOPV and the market price may occur. This should not be viewed as a “real-time” update of the NAV per Share of the Fund, which will be calculated only once a day.

<sup>20</sup> Currently, it is the Exchange’s understanding that several major market data vendors display and/or make widely available IOPVs taken from the CTA or other data feeds.



settlement prices of the portfolio securities and other Fund investments will also be readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

#### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.<sup>21</sup> Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares may be halted.

#### Trading Rules

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<sup>21</sup> See NYSE Arca Equities Rule 7.12, Commentary .04.

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A-3<sup>22</sup> under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) will be made available to all market participants at the same time.

#### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable

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<sup>22</sup> 17 CFR 240.10A-3.

federal securities laws.<sup>23</sup> The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

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

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded securities held by the Fund with other markets that are members of the ISG and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and exchange-traded securities held by the Fund from such markets or other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded securities held by the Fund from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>24</sup>

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

#### Information Bulletin

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<sup>23</sup> FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

<sup>24</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org). The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (“ETP”) Holders in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated; (4) how information regarding the IOPV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern time each trading day.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>25</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

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<sup>25</sup> 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio. In the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, they will implement a “fire wall” with respect to their relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund’s portfolio. FINRA, on behalf of 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. It is expected that not more than 10% of the net assets of the Fund will be invested in unsponsored ADRs. The Fund will invest only in foreign securities and ADRs that are traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Fund may invest up to 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Sub-Adviser.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation

from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the IOPV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The website for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IOPV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws and FINRA, on behalf of 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. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IOPV, the Disclosed Portfolio, and quotation and last sale information for the Shares. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

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

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

Within 45 days of the date of publication of this notice in the Federal Register or within

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

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

#### IV. Solicitation of Comments

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

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2013-111 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2013-111. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications



relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2013-111, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>26</sup> 17 CFR 200.30-3(a)(12).