

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-77179; File No. SR-NYSEArca-2016-17)

February 19, 2016

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of the JPMorgan Diversified Alternative ETF under NYSE Arca Equities Rule 8.600

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on February 5, 2016, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares”): JPMorgan Diversified Alternative ETF. 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 it received on the proposed rule change. The text of those statements may be examined at the places

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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.

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

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

1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares<sup>4</sup> on the Exchange<sup>5</sup>: JPMorgan Diversified Alternative ETF (the “Fund”).<sup>6</sup>

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

<sup>5</sup> The Commission has previously approved listing and trading on the Exchange of 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); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR-NYSEArca-2011-95) (order approving listing and trading of PIMCO Total Return Exchange Traded Fund); 66670 (March 28, 2012), 77 FR 20087 (April 3, 2012) (SR-NYSEArca-2012-09) (order approving listing and trading of PIMCO Global Advantage Inflation-Linked Bond Strategy Fund).

<sup>6</sup> The Trust is registered under the 1940 Act. On December 14, 2015, the Trust filed with the Commission a registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”) and the 1940 Act relating to the Fund (File Nos. 333-191837 and 811-22903) (the “Registration Statement”). The Trust filed an 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. 812-13761), initially filed March 10, 2010 and most recently amended on December 23, 2015 (“Exemptive Application”); the Exemptive application was published for notice in IC Release No. 31956 on January 14, 2016. The Shares will not be listed on the Exchange until an order (“Exemptive Order”) under the 1940 Act has been issued by the Commission with respect to the Exemptive Application. Investments made by the Fund will comply with the conditions set forth in the Exemptive Order. The description of the operation of the Trust and the Fund herein

The Fund is a series of J.P. Morgan Exchange-Traded Fund Trust (“Trust”), a Delaware statutory trust. J.P. Morgan Investment Management Inc. (“Adviser”) will be the investment adviser to the Fund. The Adviser is a wholly-owned subsidiary of JPMorgan Asset Management Holdings Inc., which is a wholly-owned subsidiary of JPMorgan Chase & Co. (“JPMorgan Chase”), a bank holding company. JPMorgan Funds Management, Inc. (“Administrator”) will provide administrative services for and will oversee the other service providers of the Fund. SEI Investments Distribution Co. (“Distributor”) will be the distributor of the Fund’s Shares.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.<sup>7</sup> In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end

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is based, in part, on the Registration Statement and the Exemptive Application.

<sup>7</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

fund's portfolio. The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with one or more broker-dealers, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolios, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolios.

According to the Registration Statement, the Fund will seek to provide long term, total return. The Fund will seek to achieve its investment objective by allocating assets across several different investment strategies, including traditional and alternative investment strategies, such as those utilized by certain hedged funds.

The strategies identified by the Adviser for the Fund fall into the following broad categories: "Equity Long/Short", "Event Driven" and "Global Macro Based" (including equities, fixed income, currency and commodities) strategies, as described below. Within these broad strategies, the Adviser believes that it has identified a set of return sources present in markets that result from, among other things, assuming a particular risk or taking advantage of a behavioral bias (each a "return factor").

According to the Registration Statement, under normal market conditions<sup>8</sup>, the Fund will

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<sup>8</sup> The term "under normal market conditions" includes, but is not limited to, the absence of extreme volatility or trading halts in the securities markets or the financial markets generally; circumstances under which the Fund's investments are made for temporary defensive purposes; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, cyber attacks, natural

seek to achieve its investment objective by employing the above –referenced investment strategies to access certain of these return factors. Return factors utilized by the Fund will fall into the following broad categories depending on the strategy: equity, fixed income, currency and commodities. Each represents a potential source of investment return that results from, among other things, assuming a particular risk or taking advantage of a behavioral bias. For example, the Adviser may gain exposure to a “momentum return factor” by employing a strategy that buys securities with strong positive price momentum and shorts securities with strong negative price momentum. This strategy would seek to exploit a behavioral bias present in the market, in which investors tend to purchase securities that have recently performed well, thereby helping to contribute to continued positive price movement, and sell securities that have recently performed poorly, thereby helping to contribute to continued negative price movement. The Adviser believes that, in general, the Fund’s investment returns are attributable to the individual contributions of the various return factors. By employing this return factor based approach, the Fund will seek to provide positive total returns over time while maintaining a relatively low correlation with traditional markets. The exposure to individual return factors may vary based on the market opportunity of the individual return factors.

The Fund may employ the following investment strategies:

- Equity Long/Short<sup>9</sup>: Equity Long/Short strategies involve simultaneous investing in equities (investing long) that the Adviser expects to increase in value and selling equities (i.e., selling short) that the adviser expects to

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or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

<sup>9</sup> In the Equity Long/Short strategies, the Fund may hold equity securities, primarily common stock, long and sell equity securities short or achieve the long and short positions through the use of a swap. The Fund may also utilize futures in these strategies.

decrease in value. Equity Long/Short seeks to profit by exploiting pricing inefficiencies between related equity securities by maintaining long and short positions.

- Event Driven<sup>10</sup>: Event Driven strategies seek to profit from investing in securities of companies on the basis that a specific event or catalyst will affect future pricing. For example, merger arbitrage strategies seek to capitalize on price discrepancies and returns generated by a corporate transaction. For example, the Fund may purchase the common stock of the company being acquired and short the common stock of the acquirer in expectation of profiting from the price differential between the purchase price of the securities and the value received for the securities as a result of or in expectation of the consummation of the merger.
- Global Macro Based Strategies<sup>11</sup>: Macro based strategies aim to exploit macro economic imbalances across the globe. The macro based strategies may be implemented through a broad range of asset classes including, but not limited to, equities, fixed income, currency and commodities. For example, this strategy will invest in the long-end of the government bond markets with the highest inflation adjusted yields and sell short the long-

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<sup>10</sup> In the Event Driven strategies, the Fund may hold equity securities, primarily common stock, long and sell equity securities short or achieve the long and short positions through the use of a swap. The Fund may also utilize futures in these strategies. In the future, the Fund may utilize long and short positions in debt securities (as described below) through the use of both physical securities or swaps.

<sup>11</sup> The Global Macro Based strategies may be implemented through equity securities, debt securities (including through investment in another fund), currency futures and forward contracts and commodities (through its investment in its Subsidiary, as described below).

end of the government bond markets with the lowest inflation adjusted yields. As an alternative example, the strategy will seek to exploit supply and demand imbalances that occur in a given commodity market by utilizing long and short exposures achieved through different derivative instruments.

See “Principal Investments” and “Other Investments” below for a description of all the investments that may be used within the Fund.

According to the Registration Statement, the Fund will invest its assets globally (including in emerging markets) to gain exposure to equity securities (across market capitalizations), debt securities<sup>12</sup>, commodities (through its subsidiary as described below) and currencies. The Fund may use both long and short positions (achieved primarily through the use of derivative instruments, as described below). At all times, the Fund will maintain a total net long market exposure. However, the Fund may have net long or net short exposure to one or more industry sectors, individual markets and/or currencies.

According to the Registration Statement, the Adviser will make use of derivatives as described below<sup>13</sup>, in implementing its strategies. Under normal market conditions, the Adviser currently expects that a significant portion of the Fund’s exposure will be attained through the use of derivatives in addition to its exposure through direct investment. The derivatives usage

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<sup>12</sup> For purposes of this filing, the term “debt securities” shall mean the following, as described further below: corporate debt, bank obligations, commercial paper, repurchase agreements and short-term funding agreements, U.S. Government obligations, inflation-linked debt securities, U.S. government sponsored mortgage-backed securities, Brady Bonds, convertible securities, obligations of supranational agencies, reverse repurchase agreements, sovereign obligations, U.S. government agency securities, and restricted securities (144A securities).

<sup>13</sup> See the description of derivatives in “Principal Investments” and “The Fund’s and the Subsidiary’s, Use of Derivatives”, infra.

will occur in both the Fund and in the Diversified Alternative Fund CS Ltd., a wholly owned subsidiary of the Fund organized under the laws of the Cayman Islands (the “Subsidiary”).<sup>14</sup> For example, in implementing Equity Long/Short strategies and Global Macro Based strategies, the Fund may use a total return swap to establish both long and short positions in order to gain the desired exposure rather than physically purchasing and selling short each instrument. Derivatives may also be used to increase gain, to effectively gain targeted equity exposure from its cash positions, to hedge various investments and/or for risk management. As a result of the Fund’s and the Subsidiary’s use of derivatives and to serve as collateral, the Fund or the Subsidiary may hold significant amounts of U.S. Treasury obligations, including Treasury bills, bonds and notes and other obligations issued or guaranteed by the U.S. Treasury, and other short-term investments, including money market funds and foreign currencies in which certain derivatives are denominated.

According to the Registration Statement, the amount that may be invested in any one instrument will vary and generally depend on the investment strategies and return factors employed by the Adviser at that time. However, with the exception of specified investment limitations for certain assets described below, there are no stated percentage limitations on the amount that can be invested in any one type of instrument, and the Adviser may, at times, invest in a smaller number of instruments. Moreover, the Fund will generally be unconstrained by any particular capitalization, style or sector and may invest in any region or country, including emerging markets.

The Fund will purchase a particular instrument when the Adviser believes that such instrument will allow the Fund to gain the desired exposure to a return factor. Conversely, the

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<sup>14</sup> As described below, the Subsidiary will invest only in commodity futures.



Fund will consider selling a particular instrument when it no longer provides the desired exposure to a return factor. In addition, investment decisions will take into account a return factor's contribution to the Fund's overall volatility.

### Principal Investments

According to the Registration Statement, under normal market conditions, the Fund will invest principally (i.e., more than 50% of the Fund's assets) in the securities and financial instruments described below, which may be represented by derivatives, as discussed below.

The Fund may invest in exchange-listed-and-traded common stocks, preferred stocks,<sup>15</sup> warrants and rights<sup>16</sup> of U.S. and foreign corporations,<sup>17</sup> (including emerging market securities); and U.S. and non-U.S. REITs.<sup>18</sup> Exchange-listed-and-traded common stocks, preferred stocks, warrants and rights of U.S. corporations and U.S. REITs will be traded on U.S. national

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<sup>15</sup> Preferred stock is a class of stock that generally pays a dividend at a specified rate and has preference over common stock in the payment of dividends and in liquidation (U.S. and non-U.S., including emerging markets).

<sup>16</sup> Rights are securities, typically issued with preferred stock or bonds, that give the holder the right to buy a proportionate amount of common stock at a specified price (U.S. and non-U.S., including emerging markets).

<sup>17</sup> For purposes of this filing, common stocks, preferred stocks, warrants and rights of foreign corporations; non-U.S. real estate investment trusts ("REITs") (as referenced below); and Depositary Receipts (as described below) (excluding Depositary Receipts that are registered under the Act) are referred to collectively as "non-U.S. equity securities". Under normal circumstances, the non-U.S. equity securities in the Fund's portfolio will meet the following criteria at time of purchase: (1) non-U.S. equity securities each shall have a minimum market value of at least \$100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting.

<sup>18</sup> REITs are pooled investment vehicles which invest primarily in income producing real estate or real estate related loans or interest.

securities exchanges.

The Fund may invest in exchange-listed and over-the-counter (“OTC”) Depository Receipts<sup>19</sup>.

The Fund may invest in the following cash and cash equivalents: investments in money market funds (for which the Adviser and/or its affiliates serve as investment adviser or administrator), bank obligations<sup>20</sup>, commercial paper<sup>21</sup>, repurchase agreements and short-term funding agreements<sup>22</sup>.

The Fund may invest in corporate debt<sup>23</sup>. These could include emerging market

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<sup>19</sup> Depository Receipts include American Depository Receipts (“ADRs”), Global Depository Receipts (“GDRs”) and European Depository Receipts (“EDRs”). ADRs are receipts typically issued by an American bank or trust company that evidence ownership of underlying securities issued by a foreign corporation. EDRs are receipts issued by a European bank or trust company evidencing ownership of securities issued by a foreign corporation. GDRs are receipts issued throughout the world that evidence a similar arrangement. ADRs, EDRs and GDRs may trade in foreign currencies that differ from the currency the underlying security for each ADR, EDR or GDR principally trades in. Generally, ADRs, in registered form, are designed for use in the U.S. securities markets. EDRs, in registered form, are used to access European markets. GDRs, in registered form, are tradable both in the United States and in Europe and are designed for use throughout the world. No more than 10% of the net assets of the Fund will be invested in ADRs that are not exchange-listed.

<sup>20</sup> Bank obligations include the following: bankers’ acceptances, certificates of deposit and time deposits. Bankers’ acceptances are bills of exchange or time drafts drawn on and accepted by a commercial bank. Maturities are generally six months or less. Certificates of deposit are negotiable certificates issued by a bank for a specified period of time and earning a specified return. Time deposits are non-negotiable receipts issued by a bank in exchange for the deposit of funds.

<sup>21</sup> Commercial paper consists of secured and unsecured short-term promissory notes issued by corporations and other entities. Maturities generally vary from a few days to nine months.

<sup>22</sup> Short-term funding agreements are agreements issued by banks and highly rated U.S. insurance companies such as Guaranteed Investment Contracts (“GICs”) and Bank Investment Contracts (“BICs”).

<sup>23</sup> The Adviser expects that, under normal market conditions, the Fund generally will seek to invest at least 75% of its corporate debt assets in issuances that have at least \$100,000,000 par amount outstanding in developed countries or at least \$200,000,000 par

securities.

The Fund may purchase and sell futures contracts on currencies and fixed income securities, and futures contracts on indexes of securities.

The Fund may invest in OTC and exchange-traded call and put options on equities, fixed income securities and currencies or options on indexes of equities, fixed income securities and currencies.

In addition to money market funds referenced above, the Fund may invest in shares of non-exchange-traded investment company securities including investment company securities for which the Adviser and/or its affiliates may serve as investment adviser or administrator, to the extent permitted by Section 12(d)(1)<sup>24</sup> of the 1940 Act and the rules thereunder.

The Fund may invest in exchange traded funds (“ETFs”)<sup>25</sup>.

The Fund may invest in swaps as follows: credit default swaps (“CDSs”), interest rate swaps, currency swaps, total return swaps on equity securities and equity index swaps.

The Fund may invest in forward and spot currency transactions. Such investments consist of non-deliverable forwards (“NDFs”), foreign forward currency contracts<sup>26</sup>, and spot currency transactions.

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amount outstanding in emerging market countries.

<sup>24</sup> 15 U.S.C. 80a-12(d)(1).

<sup>25</sup> The ETFs in which the Fund may invest will be registered under the 1940 Act and include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). Such ETFs all will be listed and traded in the U.S. on registered exchanges. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (e.g., 2X, –2X, 3X or –3X) ETFs.

<sup>26</sup> A foreign currency forward contract is a negotiated agreement between the contracting parties to exchange a specified amount of currency at a specified future time at a specified rate. The rate can be higher or lower than the spot rate between the currencies that are the subject of the contract.

The Fund may invest in U.S. Government obligations, which may include direct obligations of the U.S. Treasury, including Treasury bills, notes and bonds, all of which are backed as to principal and interest payments by the full faith and credit of the United States, and separately traded principal and interest component parts of such obligations that are transferable through the Federal book-entry system known as Separate Trading of Registered Interest and Principal of Securities (STRIPS) and Coupons Under Book Entry Safekeeping (“CUBES”).

The Fund may invest in U.S. government sponsored mortgage-backed securities.

#### Other Investments

While the Fund, under normal market conditions, will invest at least fifty percent (50%) of its assets in the securities and financial instruments described above, the Fund may invest its remaining assets in other assets and financial instruments, as described below.

The Fund will gain exposure to commodity markets indirectly by investing up to 15% of its total assets in the Subsidiary. The Subsidiary also will be advised by the Adviser. The Subsidiary will only invest in commodity futures contracts and will also hold any necessary cash or other short-term investments as collateral. The Fund will not invest in such commodity futures contracts directly.

The Fund may invest in Brady Bonds, which are securities created through the exchange of existing commercial bank loans to public and private entities in certain emerging markets for new bonds in connection with debt restructurings.

The Fund may invest in U.S. and non-U.S. convertible securities, which are bonds or preferred stock that can convert to common stock. The Fund may invest in inflation-linked debt securities, which include fixed and floating rate debt securities of varying maturities issued by the U.S. government and foreign governments.

The Fund may invest in obligations of supranational agencies, which are chartered to promote economic development and are supported by various governments and governmental agencies.

The Fund may invest in reverse repurchase agreements.

The Fund may invest in sovereign obligations, which are investments in debt obligations issued or guaranteed by a foreign sovereign government or its agencies, authorities or political subdivisions.

The Fund may invest in U.S. Government agency securities (excluding U.S. government sponsored mortgage-backed securities, referenced above) , which are securities issued or guaranteed by agencies and instrumentalities of the U.S. government. These include all types of securities issued by the Government National Mortgage Association (“Ginnie Mae”), the Federal National Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac”), including funding notes, subordinated benchmark notes, collateralized mortgage obligations (“CMOs”) and real estate mortgage investment conduits (“REMICs”).

The Fund may invest in equity and debt securities that are restricted securities (Rule 144A securities).

Under normal market conditions, the Fund may invest no more than 5% of its assets in OTC common stocks, preferred stocks, warrants, rights and contingent value rights (“CVRs”) of U.S. and foreign corporations (including emerging market securities).

#### Other Restrictions

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 illiquid by the

Adviser, consistent with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.<sup>27</sup>

The Fund may invest in other investment companies to the extent permitted by Section 12(d)(1) of the 1940 Act and rules thereunder and/or any applicable exemption or exemptive order under the 1940 Act with respect to such investments.

The Fund may invest in securities denominated in U.S. dollars, major reserve currencies, and currencies of other countries in which the Fund may invest.

The Fund may invest in both investment grade and high yield debt securities.

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>28</sup> Furthermore, the Fund may not concentrate investments in a particular industry or group of industries, as

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<sup>27</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 Securities Act).

<sup>28</sup> 26 U.S.C. 851 et seq.

concentration is defined under the 1940 Act, the rules or regulations thereunder or any exemption therefrom, as such statute, rules or regulations may be amended or interpreted from time to time.<sup>29</sup>

The Fund is a diversified series of the Trust. The Fund intends to meet the diversification requirements of the 1940 Act.<sup>30</sup>

The Fund's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage (although certain derivatives may result in leverage). That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's (and the Subsidiary's) investments will not be used to seek performance that is the multiple or inverse multiple (i.e., 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N-1A).<sup>31</sup>

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<sup>29</sup> The Registration Statement states that, for purposes of the Fund's fundamental investment policy regarding industry concentration, "to concentrate" generally means to invest more than 25% of the Fund's total assets, taken at market value at the time of investment. For the Fund this restriction does not apply to securities issued or guaranteed by the U.S. government, any state or territory of the U.S., its agencies, instrumentalities, or political subdivisions, or repurchase agreements secured thereby, and futures and options transactions issued or guaranteed by any of the foregoing. For purposes of fundamental investment policies involving industry concentration, "group of industries" means a group of related industries, as determined in good faith by the Adviser, based on published classifications or other sources. For purposes of fundamental investment policies regarding industry concentration, the Adviser may classify issuers by industry in accordance with classifications set forth in the Directory of Companies Filing Annual Reports with the SEC or other sources. In the absence of such classification or if the Adviser determines in good faith based on its own information that the economic characteristics affecting a particular issuer make it more appropriate to be considered engaged in a different industry, the Adviser may classify an issuer accordingly. Accordingly, the composition of an industry or group of industries may change from time to time. For purposes of fundamental investment policies involving industry concentration, "group of industries" means a group of related industries, as determined in good faith by the Adviser based on published classifications or other sources.

<sup>30</sup> The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

<sup>31</sup> The Fund's broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of

## The Fund's and the Subsidiary's Use of Derivatives

The Fund proposes to seek certain exposures through transactions in the specific derivative instruments described above. The derivatives usage may occur in the Fund or the Subsidiary (provided that the Subsidiary will invest only in commodity futures). The derivatives to be used are futures, swaps, NDFs, foreign forward currency contracts, and call and put options. Derivatives, which are instruments that have a value based on another instrument, exchange rate or index, may also be used as substitutes for securities in which the Fund can invest. The Fund may use these derivative instruments to increase gain, to effectively gain targeted exposure from its cash positions, to hedge various investments and/or for risk management.

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. To limit the potential risk associated with such transactions, the Fund will segregate or " earmark " assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Trustees (the "Board") and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.<sup>32</sup> Because the markets for certain assets, or

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performance.

<sup>32</sup> To mitigate leveraging risk, the Adviser will segregate or " earmark " liquid assets or otherwise cover the transactions that may give rise to such risk.



the assets themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure.

#### Creation and Redemption of Shares

According to the Registration Statement, the consideration for a purchase of Creation Units will generally be cash, but may consist of an in-kind deposit of a designated portfolio of equity securities and other investments (the “Deposit Instruments”) and an amount of cash computed as described below (the “Cash Amount”) under some circumstances. The Cash Amount together with the Deposit Instruments, as applicable, are referred to as the “Portfolio Deposit,” which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

In the event the Fund requires Deposit Instruments and a Cash Amount in consideration for purchasing a Creation Unit, the function of the Cash Amount is to compensate for any differences between the NAV per Creation Unit and the Deposit Amount (as defined below). The Cash Amount would be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the “Deposit Amount,” which is an amount equal to the aggregate market value of the Deposit Instruments. If the Cash Amount is a positive number (the NAV per Creation Unit exceeds the Deposit Amount), the Authorized Participant will deliver the Cash Amount. If the Cash Amount is a negative number (the NAV per Creation Unit is less than the Deposit Amount), the Authorized Participant will receive the Cash Amount. The Administrator, through the National Securities Clearing Corporation (“NSCC”), will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. Eastern time (“E.T.”)), the list of the names and the required number of shares of each Deposit

Instrument to be included in the current Portfolio Deposit (based on information at the end of the previous business day), as well as information regarding the Cash Amount for the Fund. Such Portfolio Deposit is applicable, subject to any adjustments as described below, in order to effect creations of Creation Units of the Fund until such time as the next-announced Portfolio Deposit composition is made available.

The identity and number of the Deposit Instruments and Cash Amount required for the Portfolio Deposit for the Fund changes as rebalancing adjustments and corporate action events are reflected from time to time by the Adviser with a view to the investment objective of the Fund. In addition, the Trust reserves the right to accept a basket of securities or cash that differs from Deposit Instruments or to permit the substitution of an amount of cash (i.e., a “cash in lieu” amount) to be added to the Cash Amount to replace any Deposit Instrument which may, among other reasons, not be available in sufficient quantity for delivery, not be permitted to be re-registered in the name of the Trust as a result of an in-kind creation order pursuant to local law or market convention or for other reasons as described in the Registration Statement, or which may not be eligible for trading by a Participating Party (defined below). In light of the foregoing, in order to seek to replicate the in-kind creation order process, the Trust expects to purchase the Deposit Instruments represented by the cash in lieu amount in the secondary market.

In addition to the list of names and numbers of securities constituting the current Deposit Instruments of a Portfolio Deposit, the Administrator, through the NSCC, also will make available on each business day, the estimated Cash Component adjusted through the close of the trading day.

#### Procedures for Creation of Creation Units

To be eligible to place orders with the Distributor to create Creation Units of the Fund, an

entity or person either must be (1) a “Participating Party,” i.e., a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC; or (2) a Depository Trust Company (“DTC”) Participant, which, in either case, must have executed an agreement with the Distributor (as it may be amended from time to time in accordance with its terms) (“Participant Agreement”) (discussed below). A Participating Party and DTC Participant are collectively referred to as an “Authorized Participant.” All orders to create Creation Units must be received by the Distributor no later than the closing time of the regular trading session on the Exchange (“Closing Time”) (ordinarily 4:00 p.m. E.T.), in each case on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of the Fund as determined on such date.

#### Redemption of Creation Units

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, only on a business day and only through a Participating Party or DTC Participant who has executed a Participant Agreement. The Trust will not redeem Shares in amounts less than Creation Units.

Although the Fund will generally pay redemption proceeds in cash, there may be instances when it will make redemptions in-kind. In these instances, the Administrator, through NSCC, makes available immediately prior to the opening of business on the Exchange (currently 9:30 a.m. E.T.) on each day that the Exchange is open for business, the identity of the Fund’s assets and/or an amount of cash that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. Unless cash redemptions are permitted or required for the Fund, the redemption proceeds for a Creation Unit generally consist of Redemption Instruments as announced by the Administrator on the business day of the

request for redemption, 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 Redemption Instruments, less the redemption transaction fee and variable fees described below.

Should the Redemption Instruments have a value greater than the NAV of the Shares being redeemed, a compensating cash payment to the Trust equal to the differential plus the applicable redemption transaction fee will be required to be arranged for by or on behalf of the redeeming shareholder. The Fund reserves the right to honor a redemption request by delivering a basket of securities or cash that differs from the Redemption Instruments.<sup>33</sup>

#### Valuation Methodology for Purposes of Determining Net Asset Value

The NAV of Shares, under normal market conditions, will be calculated each business day as of the close of the Exchange, which is typically 4:00 p.m. E.T. On occasion, the Exchange will close before 4:00 p.m. E.T. When that happens, NAV will be calculated as of the time the Exchange closes. The price at which a purchase of a Creation Unit is effected is based on the next calculation of NAV after the order is received in proper form.

Securities for which market quotations are readily available will generally be valued at their current market value. Other securities and assets, including securities for which market quotations are not readily available or market quotations are determined not to be reliable; or, if their value has been materially affected by events occurring after the close of trading on the exchange or market on which the security is principally traded but before the Fund's NAV is calculated, may be valued at fair value in accordance with policies and procedures adopted by

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<sup>33</sup> The Adviser represents that, to the extent the Trust effects the creation or redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

the Trust's Board of Trustees. Fair value represents a good faith determination of the value of a security or other asset based upon specifically applied procedures. Fair valuation may require subjective determinations.

U.S. exchange-traded common stocks, preferred stocks, warrants, rights, REITs, and Depositary Receipts will be valued at the last sale price or official market closing price on the primary exchange on which such security trades. Exchange-traded non-U.S. equity securities will be valued at the last sale price or official market closing price on the primary exchange on which such security trades.

OTC equity securities will be priced utilizing market quotations provided by approved pricing services or by broker quotation. For OTC warrants, rights and CVRs, if no pricing service or broker quotation is available, then the warrant, right or CVR will be valued intrinsically based on the terms of issuance.

Shares of non-exchange-traded open-end investment companies will be valued at their current day NAV published by the relevant fund. ETFs will be valued at the last sale price or official market closing price on the primary exchange on which such ETF trades.

CDS, interest rate swaps, currency swaps, total return swaps, index swaps, and commodity swaps will be priced utilizing market quotations provided by approved pricing services.

Forward and spot currency transactions will be valued based on foreign exchange rates obtained from an approved pricing service, using spot and forward rates available at the time net asset value of the Fund is calculated.

Commercial paper will be valued at prices supplied by approved pricing services which is generally based on bid-side quotations.

Options traded on U.S. exchanges shall be valued at the composite mean price, using the National Best Bid and Offer quotes (“NBBO”) on the valuation date. NBBO consists of the highest bid price and lowest ask price across any of the exchanges on which an option is quoted.

Options traded on foreign exchanges are valued at the settled price on the valuation date, or if no settled price is available, at the last sale price available prior to the calculation of the Fund’s net asset value.

Futures traded on U.S. and foreign exchanges are valued at the settled price, or if no settled price is available, at the last sale price as of the close of the exchanges on the valuation date.

OTC derivatives are priced utilizing market quotations provided by approved pricing services.

In addition, non-Western Hemisphere equity securities or derivatives involving non-Western Hemisphere equity reference obligations are normally subject to adjustment (fair value) each day by applying a fair value factor provided by approved pricing services to the values obtained as described above.

Convertible securities will be valued at prices supplied by approved pricing services which is generally based on bid-side quotations.

Corporate debt securities will be valued at prices supplied by approved pricing services which is generally based on bid-side quotations.

Inflation-linked debt securities, mortgage-backed securities, bank obligations, Brady Bonds, short-term funding agreements, repurchase agreements, reverse repurchase agreements, U.S. Government agency securities, U.S. Government obligations, sovereign obligations, obligations of supranational agencies and Rule 144A securities will be valued at prices supplied

by approved pricing services which is generally based on bid-side quotations.

Derivatives Valuation Methodology for Purposes of Determining Intra-day Indicative Value

On each business day, before commencement of trading in Fund Shares on NYSE Arca, the Fund will disclose on its website the identities and quantities of the portfolio instruments and other assets held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.

In order to provide additional information regarding the intra-day value of Shares of the Fund, the NYSE Arca or a market data vendor will disseminate every 15 seconds through the facilities of the Consolidated Tape Association or other widely disseminated means an updated Intra-day Indicative Value ("IIV") for the Fund as calculated by a third party market data provider.

A third party market data provider will calculate the IIV for the Fund. The third party market data provider may use market quotes if available or may fair value securities against proxies (such as swap or yield curves).

With respect to specific derivatives:

- NDFs and foreign forward currency contracts may be valued intraday using market quotes, or another proxy as determined to be appropriate by the third party market data provider.
- Futures may be valued intraday using the relevant futures exchange data, or another proxy as determined to be appropriate by the third party market data provider.
- Interest rate swaps and cross-currency swaps may be mapped to a swap

curve and valued intraday based on changes of the swap curve, or another proxy as determined to be appropriate by the third party market data provider.

- Credit default swaps may be valued using intraday data from market vendors, or based on underlying asset price, or another proxy as determined to be appropriate by the third party market data provider.
- Total return swaps may be valued intraday using the underlying asset price, or another proxy as determined to be appropriate by the third party market data provider.
- Exchange listed options may be valued intraday using the relevant exchange data, or another proxy as determined to be appropriate by the third party market data provider.
- OTC options may be valued intraday through option valuation models (e.g., Black-Scholes) or using exchange traded options as a proxy, or another proxy as determined to be appropriate by the third party market data provider.

#### Disclosed Portfolio

The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Adviser will disclose on the Fund's website the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the



holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The website information will be publicly available at no charge.

#### Impact on Arbitrage Mechanism

The Adviser believes there will be minimal impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser believes that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Adviser does not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible for in-kind transfer, they will typically be substituted with a "cash in lieu" amount when the Fund processes purchases or redemptions of creation units in-kind.

#### Availability of Information

The Fund's website ([www.jpmorganfunds.com](http://www.jpmorganfunds.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) daily trading volume, the prior business day's reported closing price, NAV or mid-point of the bid/ask spread at the time of calculation of such NAV

(the “Bid/Ask Price”),<sup>34</sup> and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Adviser will disclose on the Fund’s website the Disclosed Portfolio for the Fund as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund’s calculation of NAV at the end of the business day.<sup>35</sup>

The Fund’s portfolio holdings (including those of the Subsidiary) will be disclosed on its website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day.

Investors can also obtain the Trust’s Statement of Additional Information (“SAI”), the Fund’s Shareholder Reports, and its Form N-CSR and Form N-SAR, filed twice a year. The Trust’s SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission’s website at [www.sec.gov](http://www.sec.gov).

Quotation and last sale information for the Shares and for portfolio holdings of the Fund that are U.S. exchange listed, including common stocks, preferred stocks, warrants, rights, ETFs, REITs, and U.S. exchange-traded ADRs will be available via the Consolidated Tape Association

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<sup>34</sup> The Bid/Ask Price of the Fund’s Shares 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. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

<sup>35</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.

(“CTA”) high speed line. Quotation and last sale information for such U.S. exchange-listed securities, as well as futures will be available from the exchange on which they are listed. Quotation and last sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority. Quotation and last sale information for non-U.S. equity securities will be available from the exchanges on which they trade and from major market data vendors, as applicable. Price information for OTC common stocks, preferred stocks, warrants, rights and CVRs will be available from the Fund’s website or from major market data vendors.

Quotation information for OTC options, cash equivalents, swaps, Brady Bonds, inflation-linked debt instruments, obligations of supranational agencies, money market funds, non-exchange-listed investment company securities (other than money market funds), Rule 144A securities, U.S. Government obligations, U.S. Government agency obligations, sovereign obligations, corporate debt, inflation-linked debt securities, and reverse repurchase agreements may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. The U.S. dollar value of foreign securities, instruments and currencies can be derived by using foreign currency exchange rate quotations obtained from nationally recognized pricing services. Forwards and spot currency price information will be available from major market data vendors.

In addition, the Portfolio Indicative Value (“PIV”), as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.<sup>36</sup> The dissemination of the PIV, together with the Disclosed Portfolio, will allow investors to determine the approximate value of the

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<sup>36</sup> Currently, it is the Exchange’s understanding that several major market data vendors display and/or make widely available PIVs taken from the CTA or other data feeds.

underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.<sup>37</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 of the Fund inadvisable. These may include: (1) the extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. 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

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<sup>37</sup> See NYSE Arca Equities Rule 7.12.

is \$0.0001.

The Shares of the Fund 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>38</sup> under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares of 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 of the Fund that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by regulatory staff of the Exchange, or the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>39</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.

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<sup>38</sup> 17 CFR 240 10A-3.

<sup>39</sup> FINRA surveils certain trading activity on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

The regulatory staff of the Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, certain exchange-listed equity securities, certain futures, and certain exchange-traded options with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the regulatory staff of the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>40</sup> FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s Trade Reporting and Compliance Engine (“TRACE”).

Under normal circumstances, the non-U.S. equity securities in the Fund’s portfolio will meet the following criteria at time of purchase: (1) non-U.S. equity securities each shall have a minimum market value of at least \$100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund’s entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund’s entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting.

Not more than 10% of the net assets of the Fund in the aggregate invested in futures

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<sup>40</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.

contracts or exchange-traded options shall consist of futures contracts or options whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

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

#### Information Bulletin

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 of the Fund. Specifically, the Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Units (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 PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV and the Disclosed Portfolio 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 of the Fund will be calculated after 4:00 p.m. E.T. 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>41</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by regulatory staff of the Exchange or FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. 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 regulatory staff of the Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, certain exchange-listed equity securities, certain futures, and certain exchange-traded options with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such

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<sup>41</sup> 15 U.S.C. 78f(b)(5).



markets and other entities. In addition, the regulatory staff of the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. Under normal circumstances, the non-U.S. equity securities in the Fund's portfolio will meet the following criteria at time of purchase: (1) non-U.S. equity securities each shall have a minimum market value of at least \$100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting. Not more than 10% of the net assets of the Fund in the aggregate invested in futures contracts or exchange-traded options shall consist of futures contracts or options whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

The PIV, as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. 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 illiquid by the Adviser, consistent with Commission guidance.

The Shares of the Fund 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 under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares of 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 of the Fund 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 respective Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on its website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. On a daily basis, the Fund will disclose on its website the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The website information will be publicly available at no charge.

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

from the Commission's website at [www.sec.gov](http://www.sec.gov). Quotation and last sale information for the Shares and for portfolio holdings of the Fund that are U.S. exchange listed, including common stocks, preferred stocks, warrants, rights, ETFs, REITs, and U.S. exchange-traded ADRs will be available via the CTA high speed line. Quotation and last sale information for such U.S. exchange-listed securities, as well as futures will be available from the exchange on which they are listed. Quotation and last sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority. Quotation and last sale information for non-U.S. equity securities will be available from the exchanges on which they trade and from major market data vendors.

Quotation information for OTC options, cash equivalents, swaps, Brady Bonds, inflation-linked debt instruments, obligations of supranational agencies, money market funds, Rule 144A securities, U.S. Government obligations, U.S. Government agency obligations, sovereign obligations, corporate debt, and reverse repurchase agreements may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. The U.S. dollar value of foreign securities, instruments and currencies can be derived by using foreign currency exchange rate quotations obtained from nationally recognized pricing services. Forwards and spot currency price information will be available from major market data vendors.

The website for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares of the Fund. 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 PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares. The Fund's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage (although certain derivatives may result in leverage). That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (i.e., 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N-1A).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares of the Fund and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio for the Fund, and quotation and last sale information for the Shares of the Fund.

**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 holds fixed income and equity securities and that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

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

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

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR- SR-NYSEArca-2016-17 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2016-17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you

wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2016-17 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>42</sup>

Brent J. Fields  
Secretary

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<sup>42</sup> 17 CFR 200.30-3(a)(12).