

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69944; File No. SR-NASDAQ-2013-079)

July 8, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the WisdomTree Global Corporate Bond Fund and the WisdomTree Emerging Markets Corporate Bond Fund

I. Introduction

On May 17, 2013, The NASDAQ Stock Market LLC (“Exchange” or “Nasdaq”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change relating to the WisdomTree Global Corporate Bond Fund (“Global Fund”) and the WisdomTree Emerging Markets Corporate Bond Fund (“Emerging Markets Fund,” and collectively with the Global Fund, the “Funds”) of the WisdomTree Trust (“Trust”). On May 20, 2013, the Exchange filed Partial Amendment No. 1 to the proposed rule change. The Commission published for comment in the Federal Register notice of the proposed rule change, as modified by Amendment No. 1 thereto, on June 4, 2013.³ The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposed Rule Change

The Commission approved the listing and trading of Shares of each of the Funds under NASDAQ Rule 5735, which governs the listing and trading of Managed Fund Shares on the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 69657 (May 29, 2013), 78 FR 33457 (“Notice”).

Exchange.⁴ The Funds are actively managed exchange-traded funds (“ETFs”). The Shares are offered by the Trust, which was established as a Delaware statutory trust on December 15, 2005.⁵ The Trust, which is registered with the Commission as an investment company, filed a registration statement on Form N-1A with the Commission on behalf of each of the Funds (each, a “Registration Statement”).⁶ WisdomTree Asset Management, Inc. is the investment adviser (“Adviser”) to the Funds. Western Asset Management Company serves as sub-adviser for the Funds (“Sub-Adviser”).

The proposed rule change seeks to: (i) allow each Fund to invest up to 40% of its net assets (calculated at the time of investment) in Rule 144A securities that have been deemed liquid by the Adviser or Sub-Adviser, in addition to the 15% investment limitation on illiquid securities (which limitation, following approval of this proposal, would include Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser); (ii) permit the Global Fund to invest up to 20% of its net assets in sovereign debt;⁷ and (iii) amend the definitions of Global

⁴ See Securities Exchange Act Release Nos. 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR-NASDAQ-2012-004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund) (“Emerging Markets Fund Order”); and 68073 (October 19, 2012), 77 FR 65237 (October 25, 2012) (SR-NASDAQ-2012-98) (order approving listing and trading of WisdomTree Global Corporate Bond Fund) (“Global Fund Order,” and collectively the “Prior Approval Orders”).

⁵ The Commission issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (“1940 Act”). See Investment Company Act Release No. 28171 (October 27, 2008) (File No. 812-13458) (“Exemptive Order”).

⁶ See Post-Effective Amendment Nos. 99 to Registration Statement on Form N-1A for the Trust, dated February 8, 2012 (File Nos. 333-132380 and 811-21864) (relating to the Emerging Markets Fund) and 139 to Registration Statement on Form N-1A for the Trust, dated October 26, 2012 (relating to the Global Fund).

⁷ Sovereign debt does not fall within the definition of Global Corporate Debt in the Global Fund Order, and it therefore would not be considered as part of the 80% minimum investment in fixed income securities that are Global Corporate Debt within the Global Fund Order. The Registration Statement defines “sovereign debt” as “debt securities of foreign governments,” for purposes of the Global Fund.

Corporate Debt in the Global Fund and Corporate and Quasi-Sovereign Debt in the Emerging Markets Fund to include both (a) inflation-protected debt, fixed income securities and other debt obligations linked to inflation rates of local economies, and (b) variable rate or floating rate securities which are readjusted on set dates (such as the last day of the month or calendar quarter) in the case of variable rates or whenever a specified interest rate change occurs in the case of a floating rate instrument.⁸

Under the Prior Approval Orders, the Funds are permitted to hold up to 15% of their respective net assets in illiquid securities (calculated at the time of investment), including (i) Rule 144A securities and (ii) loan interests (such as loan participations and assignments, but not including LPNs). Under the 1940 Act and rules thereunder, the Funds are required to monitor their respective portfolio's liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and to 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 securities.⁹

The Exchange seeks to modify the Advisor's representations in the Prior Approval Orders to increase the percentage of Rule 144A securities that each Fund may hold. Under the proposed amendment, each Fund may continue to hold up to an aggregate amount of 15% of its

⁸ Variable or floating interest rates generally reduce changes in the market price of securities from their original purchase price because, upon readjustment, such rates approximate market rates. Accordingly, as interest rates decrease or increase, the potential for capital appreciation or depreciation is less for variable or floating rate securities than for fixed rate obligations.

⁹ Illiquid securities were defined in the Emerging Markets Fund Order to include securities that cannot be sold or disposed of within seven days in the ordinary course of business at approximately the amount at which a fund has valued such securities. Illiquid securities were defined in the Global Fund Order to 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. See Prior Approval Orders, supra note 4.

net assets in illiquid securities (calculated at the time of investment), including (i) Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser, and (ii) loan interests (including loan participations and assignments, but not including LPNs).¹⁰ In addition, each Fund would be permitted under the proposal to hold up to an additional 40% of its net assets (calculated at the time of investment) in Rule 144A securities, so long as those Rule 144A securities are not deemed illiquid by the Adviser or Sub-Adviser. The proposed rule change would, therefore, exclude liquid Rule 144A securities from the 15% limitation on investments in illiquid securities and limit each Fund's investment in liquid Rule 144A securities to 40% of the Fund's net assets. The Adviser represents that each Fund's holdings in Rule 144A securities not deemed illiquid by it or the Sub-Adviser will be comprised of issuances with more than \$100 million principal outstanding.

The Adviser represents that the purpose of this aspect of the proposed change is to provide the Sub-Adviser greater flexibility to meet each Fund's investment objectives. Rule 144A securities are securities that are not registered under the Securities Act and which can only be offered and sold to "qualified institutional buyers" under Rule 144A of the Securities Act.¹¹

¹⁰ While the ultimate responsibility for determination of liquidity of securities (including Rule 144A securities) lies with each Fund's Board of Directors, the Funds' Sub-Adviser is responsible for complying with each Fund's restrictions on investing in illiquid securities on a day-to-day basis. In doing that, the Sub-Adviser makes ongoing determinations about the liquidity of Rule 144A securities in which the respective Fund may invest. In reaching liquidity decisions, the Adviser represents that the Sub-Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and of the marketplace trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer). See Securities Act Release No. 6862 (April 23, 1990), 55 FR 17933, 17940 (April 30, 1990) (Resale of Restricted Securities; Changes to Method of Determining Holding Period of Restricted Securities Under Rules 144 and 145). See also Notice, *supra* note 3.

¹¹ The term "qualified institutional buyer" (QIB) is defined in Rule 144A(a)(1). 17 CFR

The Exchange notes that Rule 144A was adopted, in part, to promote a more liquid resale market in unregistered securities among institutional investors,¹² and the Adviser represents that liquid institutional markets for Rule 144A securities, including those Rule 144A securities generally held by the Funds, have developed. The Adviser represents that, for example, most reference benchmarks for non-investment grade corporate bonds include more than 25% Rule 144A securities.¹³ The Adviser does not expect a materially different result for the Funds since the market for investment grade bonds,¹⁴ which the Funds each hold, is typically more liquid than the market for similar non-investment grade bonds. The Adviser further notes that the average issue size for Rule 144A securities is comparable to the average issue size for registered securities within most high yield bond indices. Finally, the Adviser represents that currently-

230.144A(a)(1).

¹² See Securities Act Release No. 6862 (April 23, 1990), 55 FR 17933 (April 30, 1990).

¹³ See, e.g., Merrill Lynch High Yield Master II index (“Master II index”), which as of November 6, 2012, was comprised of 32% Rule 144A securities. The Master II index is the benchmark index for the American Century High-Yield Inv ETF (ABHIX). Also, as of March 6, 2013, Barclays High Yield Very Liquid Index was comprised of 43% Rule 144A securities. That index is the benchmark for the SPDR Barclays High Yield Bond ETF (JNK).

¹⁴ The Global Fund intends to have 55% or more of its assets invested in investment grade securities, though this percentage may change from time to time in response to economic events and changes in the credit ratings of such issuers. See Global Fund Order at 65238. The Emerging Markets Fund expects to have 65% or more of its assets invested in investment grade securities, though this percentage may change in response to economic events and changes to the ratings of such issuers. See Emerging Markets Order at 13380.

The Global Fund Order defines the term “investment grade” to mean securities rated in the Baa/BBB categories or above by one or more nationally recognized statistical rating organizations (“NRSROs”). If a security is rated by multiple NRSROs, each Fund will treat the security as being rated in the highest rating category received from an NRSRO. Rating categories may include sub-categories or gradations indicating relative standing. See Global Fund Order at note 11. The Emerging Markets Fund Order does not define the term “investment grade.” However, the Adviser represents that it intends to apply the definition of “investment” grade” in the Global Fund Order to the Emerging Markets Fund. See Notice, supra note 3; see also, Prior Approval Orders, supra note 4.

listed high yield bond ETFs typically include a significant percentage of Rule 144A securities within their respective portfolios.¹⁵ Based on these representations, the Exchange believes there is ample existing precedent, and that its proposal is consistent with such precedent, to permit each Fund to invest up to 40% of its net assets (calculated at the time of investment) in liquid Rule 144A securities, in addition to the 15% limitation on illiquid securities, including illiquid Rule 144A securities.

The Adviser represents that it does not believe that the ability of the Funds' agent to calculate Net Asset Value ("NAV") and an indicative intra-day value ("IIV") for each Fund, and disseminate such IIV every 15 seconds throughout the trading day, has been impeded by the Funds' current Rule 144A holdings limited to 15% of net assets, and the Adviser does not expect that permitting each Fund to increase its liquid Rule 144A holdings as set forth above will impede the ability of the Funds' agent to calculate an NAV and an IIV and disseminate such IIV every 15 seconds throughout the trading day.

In addition to modifying the percentage of Rule 144A holdings in which the Funds may

¹⁵ For example, the Adviser represents that as of November 6, 2012, more than 30% of the investment portfolio of the actively-managed Peritus High Yield ETF was comprised of Rule 144A securities. See Securities Exchange Act Release Nos. 63329 (November 17, 2010), 75 FR 71760 (November 24, 2010) (SR-NYSEArca-2010-86) (order approving proposed rule change relating to listing and trading of Peritus High Yield ETF); and 63041 (October 5, 2010), 75 FR 62905 (October 13, 2010) (SR-NYSEArca-2010-86) (notice of filing of proposed rule change to list the Peritus High Yield ETF). See also Securities Exchange Act Release No. 66818 (April 17, 2012), 77 FR 24233 (April 23, 2012) (SR-NYSEArca-2012-33) (notice of filing and immediate effectiveness of proposed rule change regarding Peritus High Yield ETF). The Adviser also represents that the investment strategies of various index-based high yield ETFs permit active use of Rule 144A securities, provided such securities are deemed liquid. See, e.g., prospectus for SPDR Barclays Capital High Yield Bond ETF, https://www.spdrs.com/library-content/public/SPDR_SERIES%20TRUST_SAI.pdf, which explicitly permits the fund to invest in Rule 144A securities deemed liquid. The Adviser represents that as of November 6, 2012, the portfolio of the SPDR Barclays High Yield Bond ETF included approximately 37% Rule 144A securities.

invest, the Exchange also proposes that the requirements of the Global Fund Order be modified to permit the Global Fund to invest up to 20% of its net assets in sovereign debt, which regarding the Global Fund, is defined as “debt securities of foreign governments.”¹⁶

Finally, the Exchange proposes to modify the definition of Global Corporate Debt with respect to the Global Fund and Corporate and Quasi-Sovereign Debt with respect to the Emerging Markets Fund to include inflation protected debt and certain variable rate or floating rate securities.

The Global Fund Order defined Global Corporate Debt to include fixed income securities, such as bonds, notes, or other debt obligations, including LPNs, as well as debt instruments denominated in U.S. dollars or local currencies. Global Corporate Debt also included fixed income securities or debt obligations issued by companies or agencies that may receive financial support or backing from local governments, as well as money market securities as defined therein.¹⁷

The Emerging Markets Fund Order defined Corporate and Quasi-Sovereign Debt as fixed income securities of emerging market countries, such as bonds, notes or other debt obligations, including LPNs, as well as other instruments, such as derivative instruments, collateralized by money market securities, as defined therein. Quasi-Sovereign Debt referred specifically to fixed income securities or debt obligations that are issued by companies or agencies that may receive financial support or backing from a local government.

The Exchange proposes that the Prior Approval Orders be modified to amend the definitions of Global Corporate Debt with respect to the Global Fund and Corporate and Quasi-Sovereign Debt with respect to the Emerging Markets Fund, to include (i) inflation-protected

¹⁶ See supra, note 7.

¹⁷ See Global Fund Order, supra note 4.

debt, including fixed income securities and other debt obligations linked to inflation rates of local economies, and (ii) variable rate or floating rate securities which are readjusted on set dates (such as the last day of the month or calendar quarter) in the case of variable rates or whenever a specified interest rate change occurs in the case of a floating rate instrument. The Adviser represents that these proposed changes regarding permitted investments would allow the Funds to invest in a broader range of market sectors and thus would help further the Funds' investment objectives to obtain both income and capital appreciation through direct and indirect investments in Global Corporate Debt or Corporate and Quasi-Sovereign Debt, as applicable, and other investments.

Additional information regarding the Funds, such as pricing and valuation, including NAV, can be found in the Notice and Prior Approval Orders.

Except for the changes discussed herein, all other facts presented and representations made in the Rule 19b-4¹⁸ filings underlying the Prior Approval Orders remain unchanged. The Exchange represents that the changes proposed would be consistent with the Exemptive Order¹⁹ and the 1940 Act and rules thereunder.

III. Discussion and Commission's Findings

The Commission believes that the proposal is consistent with Section 6(b) of the Act,²⁰ in general, and Section 6(b)(5) of the Act,²¹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and

¹⁸ 17 CFR 240.19b-4.

¹⁹ See supra, note 5.

²⁰ 15 U.S.C. 78f.

²¹ 15 U.S.C. 78f(b)(5).

to remove impediments to and perfect the mechanism of a free and open market and a national market system.²²

The Commission understands that, while one aspect of this proposal will allow each Fund to invest up to 40% of its net assets (calculated at the time of investment) in liquid Rule 144A securities, the Funds will continue to be capped at 15% of their respective net assets (calculated at the time of investment) in illiquid securities, including illiquid Rule 144A securities and loan participations or assignments (but not including LPNs). The Sub-Adviser, who is responsible for day-to-day decisions regarding liquidity of securities, may consider the following factors regarding liquidity: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and of the marketplace trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).²³ Ultimately, however, each Fund's Board of Directors has responsibility for determining the liquidity of securities (including Rule 144A securities) held by the Funds. The Commission notes that the Adviser represents that each Fund's holdings in Rule 144A securities deemed liquid by the Sub-Adviser will be part of an issuance with more than \$100 million in principal outstanding. Finally, the Exchange has stated that the Adviser represents it does not expect that the proposed rule change will impede the ability of the Funds' agent to calculate an NAV and an IIV and disseminate such IIV every 15 seconds throughout the trading day.

²² In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²³ See Securities Act Release No. 6862 (April 23, 1990), 55 FR 17933, 17940 (April 30, 1990) (Resale of Restricted Securities; Changes to Method of Determining Holding Period of Restricted Securities Under Rules 144 and 145). See also supra, note 10.

The Commission further notes that pursuant to the 1940 Act and rules thereunder, the Funds are required to monitor their respective portfolio's liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and to 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 securities.

Thus, the Commission finds that providing the Adviser and Sub-Adviser additional flexibility with respect to investing in a larger percentage of investments in Rule 144A Securities, given the protections discussed above, is consistent with the Act.

The Exchange also proposes to allow the Global Fund to invest up to 20% of its net assets in sovereign debt, which is defined as "debt securities of foreign governments."²⁴ Given that the Global Fund will continue to have at least 80% of its net assets in Global Corporate Debt that are fixed income securities and the Fund's limitation regarding non-investment grade securities, the Commission believes it is consistent with the Act for the Exchange to allow up to 20% of net assets of the Global Fund in sovereign debt.

Finally, the Commission believes that it is consistent with the Act for the Exchange to amend the definition of Global Corporate Debt in the Global Fund and Corporate and Quasi-Sovereign Debt in the Emerging Markets Fund, as set forth in the Prior Approval Orders, to include (i) inflation-protected debt, fixed income securities and other debt obligations linked to inflation rates of local economies, and (ii) variable rate or floating rate securities which are readjusted on set dates (such as the last day of the month or calendar quarter) in the case of

²⁴ Sovereign debt, according to the Exchange, enjoys a relationship to foreign governments that is not unlike that of Treasury debt securities and the U.S. government. See Notice, supra note 3.

variable rates or whenever a specified interest rate change occurs in the case of a floating rate instrument. The Commission believes that this expansion of the definition is reasonable, given the characteristics of these securities, and would permit the Funds to invest in a broader range of market sectors, and thereby help further the Fund's objectives to obtain both income and capital appreciation through direct and indirect investments in Global Corporate Debt or Corporate and Quasi-Sovereign Debt, as applicable, and other investments. Thus, the Commission finds this aspect of the proposal is consistent with the Act.²⁵

Importantly, the Commission notes that the Shares will continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NASDAQ Rule 5735. In addition, the Adviser represents there is no change to either Fund's investment objective, and except for the limited changes discussed herein, all other facts represented and representations made in the Rule 19b-4²⁶ filings underlying the Prior Approval Orders, and representations and findings set forth in the Prior Approval Orders, remain unchanged. The Exchange represents that the changes proposed would be consistent with the Exemptive Order²⁷ and the 1940 Act and rules thereunder.

This approval order is based on the Exchange's representations.

²⁵ See, e.g., Securities Act Release Nos. 65458 (September 30, 2011), 76 FR 62112 (October 6, 2011) (SR-NYSEArca-2011-54) and 64935 (July 20, 2011), 76 FR 44966 (July 27, 2011) (SR-NYSEArca-2011-31).

²⁶ 17 CFR 240.19b-4.

²⁷ See supra, note 5.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act²⁸ and the rules and regulations thereunder applicable to a national securities exchange.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²⁹ that the proposed rule change (SR-NASDAQ-2013-079), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Kevin M. O'Neill
Deputy Secretary

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ 15 U.S.C. 78s(b)(2).

³⁰ 17 CFR 200.30-3(a)(12).