

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62768; File No. SR-NYSEArca-2010-78)

August 26, 2010

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change Relating to Listing and Trading of Jefferies Commodity Real Return ETF

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 17, 2010, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 Jefferies Commodity Real Return ETF under NYSE Arca Equities Rule 8.200, Commentary .02. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and [www.nyse.com](http://www.nyse.com).

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 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.

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

<sup>2</sup> 17 CFR 240.19b-4.

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

1. Purpose

NYSE Arca Equities Rule 8.200, Commentary .02 permits the trading of Trust Issued Receipts (“TIRs”) either by listing or pursuant to unlisted trading privileges (“UTP”).<sup>3</sup> The Exchange proposes to list and trade the shares (the “Shares”) of the Jefferies Commodity Real Return ETF (the “Fund”) under NYSE Arca Equities Rule 8.200.<sup>4</sup>

The Exchange notes that the Commission has previously approved the listing and trading of other issues of Trust Issued Receipts on the American Stock Exchange LLC,<sup>5</sup> trading on NYSE Arca pursuant to unlisted trading privileges (“UTP”),<sup>6</sup> and listing on NYSE Arca.<sup>7</sup> In

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<sup>3</sup> Commentary .02 to NYSE Arca Equities Rule 8.200 applies to TIRs that invest in “Financial Instruments”. The term “Financial Instruments”, as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars and floors; and swap agreements.

<sup>4</sup> See the Pre-Effective Amendment No. 1 to Registration Statement on Form S-1, filed with the Commission on June 29, 2010 (No. 333-164811) (“Registration Statement”). The descriptions of the Fund and the Shares contained herein are based on the Registration Statement.

<sup>5</sup> See, e.g., Securities Exchange Act Release No. 58161 (July 15, 2008), 73 FR 42380 (July 21, 2008) (SR-Amex-2008-39) (order approving amendments to Amex Rule 1202, Commentary .07 and listing on Amex of 14 funds of the Commodities and Currency Trust).

<sup>6</sup> See, e.g., Securities Exchange Act Release No. 58163 (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR-NYSEArca-2008-73) (order approving UTP trading on NYSE Arca of 14 funds of the Commodities and Currency Trust).

<sup>7</sup> See, e.g., Securities Exchange Act Release No. 58457 (September 3, 2008), 73 FR 52711 (September 10, 2008) (SR-NYSEArca-2008-91) (order approving listing on NYSE Arca of 14 funds of the Commodities and Currency Trust).

addition, the Commission has approved other exchange-traded fund-like products linked to the performance of underlying commodities.<sup>8</sup>

#### Overview of the Fund<sup>9</sup>

According to the Registration Statement, the Fund will pursue its investment objective by investing substantially all of its assets in a portfolio of exchange traded futures on the commodities comprising its corresponding index, as described below, or other derivatives. The Fund establishes long positions in futures contracts on the commodities comprising the Thomson Reuters/Jefferies CRB 3 Month Forward Index (“Index”), with a view to tracking the changes, whether positive or negative, in the level of the Index over time. The Fund also may invest in one or more forward agreements, swaps, or other over-the-counter derivatives that reference a particular Index Commodity (“Futures-Linked Investment”), as described below. The Fund is also intended to reflect the excess, if any, of its interest income from its investment in 3-month U.S. Treasury bills, U.S. government issued Treasury Inflation Protection Securities (“TIPS”)<sup>10</sup> and other high credit quality short-term fixed income securities, over its expenses.

Jefferies Commodity Investment Services, LLC, a Delaware limited liability company, is the Fund’s promoter, and will serve as Managing Owner of the Fund (the “Managing Owner”).

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<sup>8</sup> See, e.g., Securities Exchange Act Release Nos. 56932 (December 7, 2007), 72 FR 71178 (December 14, 2007) (SR-NYSEArca-2007-112) (order granting accelerated approval to list iShares S&P GSCI Commodity-Indexed Trust); 59781 (April 17, 2009), 74 FR 18771 (April 24, 2009) (SR-NYSEArca-2009-28) (order granting accelerated approval for NYSE Arca listing the ETFs Silver Trust); 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR-NYSEArca-2009-40) (order granting accelerated approval for NYSE Arca listing the ETFs Gold Trust).

<sup>9</sup> Terms relating to the Fund, the Shares and the Index referred to, but not defined, herein are defined in the Registration Statement.

<sup>10</sup> TIPS are marketable securities issued by the U.S. Treasury whose principal is adjusted by changes in the Consumer Price Index (“CPI”). With inflation (a rise in the CPI), the principal increases. With deflation (a drop in the CPI), the principal decreases. (Source: [www.treasurydirect.gov](http://www.treasurydirect.gov).)

The Managing Owner will serve as the commodity pool operator and commodity trading advisor of the Fund. The Managing Owner is registered as a commodity pool operator and commodity trading advisor with the Commodity Futures Trading Commission (“CFTC”) and is a member of the National Futures Association. The Bank of New York Mellon will be the administrator, custodian and transfer agent of the Fund. ALPS Distributors, Inc. will serve as the Fund’s marketing agent.

The Index tracks the changes in the closing levels of the futures positions that would in three months comprise the Thomson Reuters/Jefferies CRB Index (“TR/J CRB Index”). The TR/J CRB Index is designed to track the changes in the closing levels of nearby rolling futures positions.<sup>11</sup>

The Fund will hold a portfolio of futures contracts on the Index Commodities (as described below), as well as cash, 3-month U.S. Treasury bills, TIPS and other high credit quality short-term fixed income securities, for deposit with the Fund’s Clearing Broker (Credit Suisse Securities (USA) LLC), as margin. The Fund’s portfolio will be traded with a view to tracking the Index over time, whether the Index is rising, falling or flat over any particular period. The Fund is not “managed” by traditional methods, which typically involve effecting changes in the composition of the Fund’s portfolio on the basis of judgments relating to economic, financial and market considerations with a view to obtaining positive results under all market conditions. To maintain the correspondence between the composition and weightings of

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<sup>11</sup> A rolling futures position is a position where, on a periodic basis, futures contracts on physical commodities specifying delivery in a particular month are sold and futures contracts specifying delivery in a later month are purchased. An investor with a rolling futures position is able to avoid taking delivery of the underlying physical commodity while maintaining exposure to those commodities. To maximize liquidity and transparency, this “rolling” process for the Index Commodities for the Index occurs over the first four Business Days of each month according to a fixed schedule as described in the Registration Statement.

the Index Commodities comprising the Index, the Managing Owner adjusts the Fund's portfolio from time-to-time to conform to periodic changes in the identity and/or relative weighting of the Index Commodities. The Managing Owner will aggregate certain of the adjustments and makes changes to the Fund's portfolio at least monthly or more frequently in the case of significant changes to the Index.<sup>12</sup>

According to the Registration Statement, the Index is designed to provide timely and accurate representation of a long-only, broadly diversified investment in commodities through a transparent and disciplined calculation methodology. The Index is currently composed of futures contracts on the following 19 physical commodities (each, an "Index Commodity" and, collectively, "Index Commodities"): aluminum, cocoa, coffee, copper, corn, cotton, crude oil, gold, heating oil, lean hogs, live cattle, natural gas, nickel, orange juice, silver, soybeans, sugar, RBOB gasoline, and wheat. The Index Commodities currently trade on United States futures exchanges, with the exception of aluminum and nickel, which trade on the London Metal Exchange.

According to the Registration Statement, as the Fund approaches or reaches position limits with respect to certain futures contracts comprising the Index and the Managing Owner determines in its commercially reasonable judgment that it has become impracticable or inefficient for any reason for the Fund to gain full or partial exposure to any Index Commodity

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<sup>12</sup> According to the Registration Statement, Jefferies Group, Inc.'s policy is to implement procedures to prevent the improper sharing of information between different departments of the company. Specifically, procedures as described in the Registration Statement create an information barrier between the personnel within Jefferies Group, Inc. who sit on the Thomson Reuters/Jefferies CRB Index Oversight Committee and other Jefferies Group, Inc.'s personnel of the Managing Owner who are involved in making portfolio management and trading decisions for the Fund, and also are intended to prevent the improper sharing of certain Index-related information to others who could act on the information to the detriment of the Fund.

by investing in a specific futures contract that is a part of the Index, the Fund may invest in a futures contract referencing the particular Index Commodity other than the specific contract that is a part of the Index, or invest in one or more Futures-Linked Investments referencing the particular Index Commodity, including forward agreements, swaps, or other OTC derivatives, or in the alternative, invest in other futures contracts or Futures-Linked Investments not based on the particular Index Commodity if, in the commercially reasonable judgment of the Managing Owner, such replacement instruments tend to exhibit trading prices that correlate with a futures contract that is a part of the Index.

According to the Registration Statement, the Index uses a four-tiered approach to allocate among the Index Commodities included in the Index. Group I includes only petroleum products; Group II includes seven Index Commodities which are highly liquid; Group III is comprised of four liquid Index Commodities; Group IV includes Index Commodities that may provide diversification.

All Index Commodities are equally weighted within Groups II, III and IV, as provided below.<sup>13</sup>

Thomson Reuters/Jefferies CRB Index  
Thomson Reuters/Jefferies CRB 3 Month Forward Index

Group	Index Commodity	Index Weight	Contract Months	Exchange	Trading Hours (E.T.)
I	WTI Crude Oil	23%	Jan-Dec	NYMEX	10:00 am – 2:30 pm
	Heating Oil	5%	Jan-Dec	NYMEX	10:05 am – 2:30 pm
	RBOB Gasoline	5%	Jan-Dec	NYMEX	10:05 am – 2:30 pm
	Total	33%			
	Natural Gas	6%	Jan-Dec	NYMEX	10:00 am – 2:30 pm
	Corn	6%	Mar, May, Jul, Sep,	CBOT	10:30 am – 2:15 pm

<sup>13</sup> The referenced exchanges with respect to the commodities for the Fund, as applicable, are as follows: NYMEX (New York Mercantile Exchange); COMEX (Commodity Exchange Inc.); LME (The London Metal Exchange Limited); CBOT (Chicago Board of Trade); CME (Chicago Mercantile Exchange); ICE-US, Inc. (ICE Futures U.S.).

	Soybeans	6%	Dec Jan, Mar, May, Jul, Nov	CBOT	10:30 am – 2:15 pm
II	Live Cattle	6%	Feb, Apr, Jun, Aug, Oct, Dec	CME	10:05 am – 2:00 pm
	Gold	6%	Feb, Apr, Jun, Aug, Dec	COMEX	8:20 am – 1:30 pm
	Aluminum	6%	Mar, Jun, Sep, Dec	LME	6:55 am – 12:00 pm
	Copper	6%	Mar, May, Jul, Sep, Dec	COMEX	8:10 am – 1:00 pm
	<b>Total</b>	<b>42%</b>			
	Sugar	5%	Mar, May, Jul, Oct	ICE-US	3:30 am – 2:00 pm
	Cotton	5%	Mar, May, Jul, Dec	ICE-US	9:00 pm – 2:30 pm
III	Cocoa	5%	Mar, May, Jul, Sep, Dec	ICE-US	4:00 am – 2:00 pm
	Coffee	5%	Mar, May, Jul, Sep, Dec	ICE-US	3:30 am – 2:00 pm
	<b>Total</b>	<b>20%</b>			
	Nickel	1%	Mar, Jun, Sep, Dec	LME	7:10 am – 11:55 am
	Wheat	1%	Mar, May, Jul, Sep, Dec	CBOT	10:30 am – 2:15 pm
IV	Lean Hogs	1%	Feb, Apr, Jun, Jul, Aug, Oct, Dec	CME	9:10 am – 1:00 pm
	Orange Juice	1%	Jan, Mar, May, Jul, Sep, Nov	ICE-US	8:00 a.m.-2:00 p.m.
	Silver	1%	Mar, May, Jul, Sep, Dec	COMEX	8:25 am – 1:25 pm
	<b>Total</b>	<b>5%</b>			

The Index is calculated daily by Thomson Reuters (Markets) LLC, a Thomson Reuters company (“Reuters” or the “Index Calculation Agent”). The Index began publishing in April 2007. The changes in the closing levels of the Index are reported by a number of major market data vendors. Reuters is not affiliated with a broker dealer.

Group I of the Index includes only petroleum products – WTI crude oil, heating oil and RBOB gasoline. According to the Registration Statement, these Index Commodities are among the most economically significant and frequently traded and historically have contributed meaningfully to the return and correlative characteristics of commodity benchmark indices. In order to reflect the critical role of petroleum in the global economy and maintain the diversified

nature of the Index, the Index has assigned an Index Weight of 33% to the Group I Index Commodities, represented by the crude oil, RBOB gasoline and heating oil contracts traded on the NYMEX.

Group II is comprised of futures contracts on the Index Commodities that are traded in markets that are highly liquid. These seven markets represent a diverse cross section across several commodity sectors. Each Index Commodity is assigned an Index Weight of 6% of the Index. In turn, Group II constitutes 42% of the Index.

Group III is comprised of futures contracts on Index Commodities that are traded in markets that are liquid. These four Index Commodities include a second cross section of diverse and liquid markets in order to diversify the Index. Each Index Commodity in Group III is assigned an Index Weight of 5% of the Index. In turn, Group III constitutes 20% of the Index.

Group IV is comprised of futures contracts on Index Commodities that may provide additional diversification to the Index by increasing the exposure of the Index to the Softs, Grains, Industrial Metals, Meats and Precious Metals markets. Each Index Commodity in Group IV is assigned an Index Weight of 1% of the Index. In turn, Group IV constitutes 5% of the Index.

#### Rebalancing Methodology

According to the Registration Statement, the Index employs arithmetic averaging with monthly rebalancing, while maintaining a uniform exposure to the various Index Commodities over time.

The Index Commodities are rebalanced monthly, generally following the close of business on the sixth Business Day of each month, to return to the specified dollar weights, referenced as “Index Weight” in the table above. This rebalancing is achieved by selling Index



Commodities that have gained in value relative to other Index Commodities and buying Index Commodities that have lost in value relative to other Index Commodities. This monthly rebalancing helps to maintain both the stability and consistency of the Index and the consistent exposure to the Index Weights of the underlying Index Commodities over time.

The Fund will meet the initial and continued listing requirements applicable to Trust Issued Receipts in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto. With respect to application of Rule 10A-3<sup>14</sup> under the Act, the Trust relies on the exception contained in Rule 10A-3(c)(7).<sup>15</sup> A minimum of 100,000 Shares of the Fund will be outstanding as of the start of trading on the Exchange.

A more detailed description of the Shares, the Fund, the Index and the Index Commodities, as well as investment risks, is set forth in the Registration Statement.

#### Availability of Information Regarding the Shares

The Web site for the Fund ([www.jamfunds.com/jcis](http://www.jamfunds.com/jcis)) and/or the Exchange, which are publicly accessible at no charge, will contain the following information: (a) the current net asset value (“NAV”) per share daily and the prior business day’s NAV and the reported closing price; (b) the midpoint of the bid-ask price in relation to the NAV as of the time the NAV is calculated (the “Bid-Ask Price”); (c) calculation of the premium or discount of such price against such NAV; (d) the bid-ask price of Shares determined using the highest bid and lowest offer as of the time of calculation of the NAV; (e) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four previous calendar quarters; (f) the prospectus; and (g) other applicable

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<sup>14</sup> 17 CFR 240.10A-3.

<sup>15</sup> 17 CFR 240.10A-3(c)(7).

quantitative information. The Fund will also disseminate Fund holdings on a daily basis on the Fund's Web site.

The Index Calculation Agent calculates the closing level of each Index on both an excess return basis and a total return basis. An excess return index reflects the changes in market value over time, whether positive or negative, of the Index Commodities. A total return is the sum of the changes in market value over time, whether positive or negative, of the Index Commodities incorporating the return of 3-month U.S. Treasury bills. The Fund is designed to track the Index as calculated on an excess return, not a total return, basis.

In order to calculate the indicative Index levels, the Index Calculation Agent determines the real time price of each Index Commodity every 15 seconds. The Index Calculation Agent then applies a set of rules to these values to create the indicative level of the Index. These rules are consistent with the rules which the Index Calculation Agent applies at the end of each trading day to calculate the closing levels of the Index.

The Intra-day Indicative Value ("IIV") per Share of the Fund is calculated by applying the percentage price change of the Fund's holdings in futures contracts to the last published NAV of the Fund. The Index Calculation Agent will publish this value every 15 seconds through one or more major market data vendors. The Index Calculation Agent will publish the closing level of the Index daily. The Managing Owner will publish the NAV of the Fund and the NAV per Share of the Fund daily. Additionally, the Index Calculation Agent will publish the intra-day level of the Index, and the Managing Owner will publish the indicative value per Share of the Fund (quoted in U.S. dollars) once every fifteen seconds throughout each trading day. All of the foregoing information will be published as follows:

The intra-day level of the Index and the IIV per Share of the Fund (each quoted in U.S. dollars) will be published once every fifteen seconds throughout each trading day through one or more major market data vendors and on the Managing Owner's Web site.

The most recent end-of-day Index closing level will be published as of the close of the NYSE Arca each trading day on the consolidated tape, Reuters and/or Bloomberg and on the Managing Owner's Web site.

The most recent end-of-day NAV of the Fund will be published as of the close of business by major market data vendors and on the Managing Owner's Web site. In addition, the most recent end-of-day NAV of the Fund will be published the following morning on the consolidated tape.

The NAV for the Fund will be disseminated to all market participants at the same time. The Exchange also will disseminate on a daily basis via CTA information with respect to recent NAV and shares outstanding. The Exchange will also make available on its Web site daily trading volume of each of the Shares, closing prices of such Shares, and the corresponding NAV. The closing prices and settlement prices of futures on the Index Commodities are also readily available from the Web sites of the applicable futures exchanges, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. The relevant futures exchanges also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites. The specific contract specifications for the futures contracts are also available on such Web sites, as well as other financial informational sources. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

### Dissemination of Intra-Day Indicative Value

In addition, in order to provide updated information relating to the Fund for use by investors and market professionals, an updated IIV will be calculated. The IIV is calculated by using the prior day's closing NAV per share of the Fund as a base and updating that value throughout the trading day to reflect changes in the value of the Index Commodities. The IIV disseminated during NYSE Arca trading hours should not be viewed as an actual real time update of the NAV, which is calculated only once a day.

The IIV will be disseminated on a per Share basis by one or more major market data vendors every 15 seconds during NYSE Arca Core Trading Session of 9:30 a.m. to 4:00 p.m. Eastern Time ("E.T."). The value of a Share may be influenced by non-concurrent trading hours between NYSE Arca and the applicable futures exchange when the Shares are traded on NYSE Arca after normal trading hours of such futures exchanges.

The Exchange believes that dissemination of the IIV provides additional information regarding the Fund that is not otherwise available to the public and is useful to professionals and investors in connection with the related Shares trading on the Exchange or the creation or redemption of such Shares.

### 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. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

The trading of the Shares will be subject to NYSE Arca Equities Rule 8.200(e), which sets forth certain restrictions on ETP Holders acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance. See “Surveillance” below for more information.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the underlying futures contracts, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange’s “circuit breaker” rule<sup>16</sup> or by the halt or suspension of trading of the underlying futures contracts.

The Exchange represents that the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV, the Index or the value of the underlying futures contracts occurs. If the interruption to the dissemination of the IIV, the Index or the value of the underlying futures contracts persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

### Surveillance

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<sup>16</sup> See NYSE Arca Equities Rule 7.12.

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, including Trust Issued Receipts, to monitor trading in the Shares. 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 Exchange's current trading surveillances focus on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange is able to obtain information regarding trading in the Shares, the physical commodities included in, or options, futures or options on futures on, Shares through ETP Holders, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the exchanges that are members of the Intermarket Surveillance Group ("ISG").<sup>17</sup> CME Group, Inc., which includes CME, CBOT, NYMEX and COMEX, is a member of ISG. In addition, the Exchange has entered into a comprehensive surveillance sharing agreement with LME and ICE Futures U.S. that applies with respect to trading in futures on the applicable Index Commodities. A list of ISG members is available at [www.isgportal.org](http://www.isgportal.org).

In addition, with respect to Fund assets traded on exchanges, not more than 10% of the weight of such assets in the aggregate shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a

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<sup>17</sup> The Exchange notes that not all futures contracts or other financial instruments held by the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

comprehensive surveillance sharing agreement.

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 ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV will not be calculated or publicly disseminated; (2) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (3) 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; (4) how information regarding the IIV 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 Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Bulletin will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also

reference that the CFTC has regulatory jurisdiction over the Index Commodities traded on U.S. markets.

The Information Bulletin will also disclose the trading hours of the Shares of the Fund and that the NAV for the Shares is calculated after 4:00 p.m. E.T. each trading day. The Bulletin will disclose that information about the Shares of the Funds is publicly available on the Fund's Web site.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>18</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>19</sup> 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 to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change will permit the listing of an additional issuance of Trust Issued Receipts on the Exchange that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the listing and trading criteria set forth in Rule 8.200 are intended to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).



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

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

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period 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-NYSEArca-2010-78 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2010-78. 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 Web site (<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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File

Number SR-NYSEArca-2010-78 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>20</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>20</sup> 17 CFR 200.30-3(a)(12).