

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72901; File No. SR-NYSEArca-2014-10)

August 22, 2014

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Adopt NYSE Arca Equities Rule 8.900, Which Permits the Listing and Trading of Managed Portfolio Shares, and to List and Trade Shares of the ActiveSharesSM Large-Cap Fund, ActiveSharesSM Mid-Cap Fund, and ActiveSharesSM Multi-Cap Fund Pursuant to that Rule

On February 7, 2014, NYSE Arca, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt new NYSE Arca Equities Rule 8.900, which would govern the listing and trading of Managed Portfolio Shares, and to list and trade shares of the ActiveSharesSM Large-Cap Fund, ActiveSharesSM Mid-Cap Fund, and ActiveSharesSM Multi-Cap Fund (collectively, “Funds”) under proposed NYSE Arca Equities Rule 8.900. The proposed rule change was published for comment in the Federal Register on February 26, 2014.³ The Commission received one comment letter on the proposed rule change.⁴ On April 7, 2014, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 71588 (Feb. 20, 2014), 79 FR 10848 (“Notice”), available at <http://www.sec.gov/rules/sro/nysearca.shtml>.

⁴ See Letter from Gary L. Gastineau, President, ETF Consultants.com, Inc., to Elizabeth M. Murphy, Secretary, Commission (Mar. 18, 2014) (“Gastineau Letter”).

⁵ 15 U.S.C. 78s(b)(2).

rule change.⁶ The Commission received two additional comment letters on the proposed rule change, including a letter from the Exchange in support of its proposal.⁷ On May 27, 2014, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁸ to determine whether to approve or disapprove the proposed rule change.⁹ In the Order Instituting Proceedings, the Commission solicited responses to specified matters related to the proposal.¹⁰ The Commission subsequently received a second letter from one of the commenters.¹¹

⁶ See Securities Exchange Act Release No. 71895, 79 FR 20285 (Apr. 11, 2014). The Commission designated a longer period within which to take action on the proposed rule change and designated May 27, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁷ See Letter from Dennis J. DeCore, Former Co-Head U.S. Index Arbitrage (1997-2007), Nomura Securities, to Elizabeth M. Murphy, Secretary, Commission (Apr. 8, 2014); and Letter from Martha Redding, Chief Counsel and Assistant Corporate Secretary, NYSE Euronext, to Secretary, Commission (May 14, 2014).

⁸ 15 U.S.C. 78s(b)(2)(B).

⁹ See Securities Exchange Act Release No. 72255, 79 FR 31362 (Jun. 2, 2014) (“Order Instituting Proceedings”). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change’s consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be “designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,” and “to protect investors and the public interest.” See *id.*, 79 FR at 31368.

¹⁰ See Notice, *supra* note 3, 79 FR at 31368 (specifically soliciting comment on the statements of the Exchange contained in the Notice, the issues raised by the opposing commenter, the Exchange’s responses to those issues, and any other issues raised by the listing and trading of an actively managed exchange-traded fund that does not make daily public disclosure of its investment portfolio).

¹¹ See Letter from Gary L. Gastineau, President, ETF Consultants.com, Inc., to Elizabeth M. Murphy, Secretary, Commission (Jun. 23, 2014). All comments on this proposal are available at <http://www.sec.gov/comments/sr-nysearca-2014-10/nysearca201410.shtml>.

Section 19(b)(2) of the Act¹² provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on February 26, 2014.¹³ The 180th day after publication of the notice of the filing of the proposed rule change in the Federal Register is August 25, 2014.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, the issues raised in the comment letters that have been submitted in response to the proposed rule change (including the Exchange's responses to other comment letters), and the comment letter submitted in response to the Order Instituting Proceedings.

¹² 15 U.S.C. 78s(b)(2).

¹³ See supra note 3 and accompanying text.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁴ designates October 24, 2014, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NYSEArca-2014-10).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Kevin M. O'Neill
Deputy Secretary

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(57).