

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84872; File No. SR-NYSEArca-2018-92)

December 19, 2018

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Reflecting Changes to Certain Representations Relating to the Horizons S&P 500 Covered Call ETF

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on December 6, 2018, 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 and II 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 reflect changes to certain representations made in the proposed rule changes previously filed with the Commission pursuant to Rule 19b-4 relating to the Horizons S&P 500 Covered Call ETF (the “Target Fund”). Shares of the Target Fund are currently listed and traded on the Exchange under NYSE Arca Rule 5.2-E(j)(3). The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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.

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

1. Purpose

The Commission has approved the listing and trading on the Exchange of shares (“Shares”) of the Target Fund, under NYSE Arca Rule 5.2-E(j)(3) (formerly NYSE Arca Equities Rule 5.2(j)(3)), which governs the listing and trading of Investment Company Units.⁴ The Target Fund’s Shares are currently listed and traded on the Exchange under NYSE Arca Rule 5.2-E(j)(3).⁵ The Target Fund is a series of the Horizons ETF Trust I (“Trust”).⁶

⁴ An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). See NYSE Arca Rule 5.2-E(j)(3)(A).

⁵ The Commission issued notice of a proposed rule change to permit listing and trading of Shares of the Target Fund in Securities Exchange Act Release Nos. 68351 (December 4, 2012), 77 FR 73500 (December 10, 2012) (SR–NYSEArca–2012–131) (Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of the Horizons S&P 500 Covered Call ETF, Horizons S&P Financial Select Sector Covered Call ETF, and Horizons S&P Energy Select Sector Covered Call ETF under NYSE Arca Equities Rule 5.2(j)(3)) (“Prior Notice”); 68708 (January 23, 2013), 78 FR 6161 (January 29, 2013) (SR–NYSEArca–2012–131) (Order Approving Proposed Rule Change Relating to Listing and Trading of Shares of the Horizons S&P 500 Covered Call ETF, Horizons S&P Financial Select Sector Covered Call ETF, and Horizons S&P Energy Select Sector Covered Call ETF under NYSE Arca Equities Rule 5.2(j)(3)) (“Prior Order” and,

Global X Funds has filed a combined prospectus and proxy statement (the “Proxy Statement”) with the Commission on Form N-14 describing a “Plan of Reorganization and Termination” pursuant to which, following approval of the Target Fund’s shareholders, all or substantially all of the assets and all of the stated liabilities included in the financial statements of the Target Fund would be transferred to a corresponding, newly-formed fund of Global X Funds, described below. The Global X S&P 500® Covered Call ETF (the “Acquiring Fund”) was established solely for the purpose of acquiring the assets and assuming the liabilities of the Target Fund and continuing the Target Fund’s business. If shareholders of the Target Fund approve the Plan of Reorganization and Termination, the Target Fund will be reorganized into the Acquiring Fund (the “Reorganization”), and shareholders will receive shares of the Acquiring Fund of the same number and with the same aggregate net asset value as the Target Fund immediately prior to the Reorganization in complete liquidation and dissolution of the Target Fund, and shareholders of the Target Fund would become shareholders of the Acquiring Fund. According to the Proxy Statement, the investment objective of the Acquiring Fund will be the same as that of the Target Fund following implementation of the Plan of Reorganization and Termination.⁷ Following shareholder approval and closing of the Reorganization, shareholders

together with the Prior Notice, the “Prior Release”). See also, Securities Exchange Act Release No. 82190 (November 30, 2017), 82 FR 57635 (December 6, 2017) (SR–NYSEArca–2017–123) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reflect a Change to the Investment Objective and the Underlying Index for the Horizons S&P 500 Covered Call ETF) (“Second Prior Release” and, together with the “Prior Release”, “Prior Releases”).

⁶ The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (“1940 Act”). On September 25, 2017, the Trust filed with the Commission an amendment to its Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (“1933 Act”), and under the 1940 Act relating to the Target Fund (File Nos. 333–183155 and 811–22732) (“Registration Statement”).

⁷ See registration statement on Form N-14 under the 1933 Act, dated October 3, 2018 (File No. 333-227685).

will receive shares of the Acquiring Fund of the same number and with the same aggregate net asset value as the Target Fund immediately prior to the Reorganization in complete liquidation and dissolution of the Target Fund, and shareholders of the Target Fund would become shareholders of the Acquiring Fund.

In this proposed rule change, the Exchange proposes to reflect a change to certain representations made in the Prior Releases, as described above,⁸ which changes would be implemented as a result of the Reorganization.⁹

Horizons S&P 500 Covered Call ETF¹⁰

The Prior Releases stated the name of the Target Fund as Horizons S&P 500 Covered Call ETF. Following the Reorganization, the name of the Acquiring Fund will be Global X S&P 500® Covered Call ETF.

The Target Fund is currently a series of the Horizons ETF Trust I.¹¹ Following the Reorganization, the Acquiring Fund will be a series of Global X Funds. The Target Fund's

⁸ See note 5, *supra*.

⁹ The Target Fund's investment adviser, Horizons ETFs Management (US) LLC, represents that it will manage the Target Fund in the manner described in the Prior Releases for the Target Fund as referenced in note 5, *supra*, and the changes described herein will not be implemented until this proposed rule change is operative.

¹⁰ On October 19, 2018, Global X Funds filed with the Commission a post-effective amendment to its registration statement on Form N-1A under the 1933 Act and under the 1940 Act relating to the Acquiring Fund (File Nos. 333-151713 and 811-22209). The October 19, 2018 filing, which became effective on October 20, 2018 creates a new entity to serve as the vehicle into which the Target Fund will be reorganized through the Plan of Reorganization and Termination contained in the Proxy Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Global X Funds under the 1940 Act. See Investment Company Act Release No. 29852 (October 28, 2011) (File No. 812-13830).

¹¹ The Prior Notice stated that the Shares of the Target Fund are offered by the Exchange Traded Concepts Trust II. In the Second Prior Release, the Trust was identified as Horizons ETF Trust I.

investment adviser is Horizons ETFs Management (US) LLC.¹² Following the Reorganization, the Acquiring Fund’s investment adviser will be Global X Management Company LLC.¹³

The Target Fund’s current principal underwriter and distributor is Foreside Fund Services, LLC. Following the Reorganization, the Acquiring Fund’s principal underwriter and distributor will be SEI Investments Distribution Co.

¹² The Prior Notice identified the Target Fund’s adviser as Exchange Traded Concepts, LLC. In the Second Prior Release, the Target Fund’s adviser was identified as Horizons ETFs Management (US) LLC.

¹³ Global X Management Company LLC is not registered as a broker-dealer but is affiliated with broker-dealers. Global X Management Company LLC has implemented and will maintain a fire wall with respect to its affiliated broker-dealers regarding access to information concerning the composition and/or changes to the Acquiring Fund’s portfolio. In the event (a) Global X Management Company LLC becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Acquiring Fund’s portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. In addition, personnel who make decisions on the Acquiring Fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Acquiring Fund’s portfolio.

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, with respect to the Acquiring Fund, Global X Management Company LLC, as 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.

The Target Fund's current transfer agent and administrator is U.S. Bancorp Fund Services, LLC. Following the Reorganization, the Acquiring Fund's administrator will be Global X Management Company LLC, the Acquiring Fund's sub-administrator will be SEI Investments Global Funds Services, and the Acquiring Fund's transfer agent will be Brown Brothers Harriman & Co.¹⁴ The Target Fund's current custodian is U.S. Bank, N.A. Following the Reorganization, the Acquiring Fund's custodian will be Brown Brothers Harriman & Co.¹⁵ The Second Prior Release stated that the Bank of New York Mellon serves as sub-custodian for the Target Fund. Following the Reorganization, the Acquiring Fund would not have a sub-custodian.

The Prior Notice stated that all orders to purchase or redeem Shares directly from the Target Fund must be placed for one or more Creation Units by 4:00 p.m., Eastern time ("E.T.") in the manner set forth in the relevant participant agreement and/or applicable order form. The Exchange proposes that, following the Reorganization, all orders to purchase or redeem Shares directly from the Acquiring Fund must be placed for one or more Creation Units by 3:00 p.m., E.T. Because the Acquiring Fund's investments in options contracts cannot be delivered in-kind as Deposit Securities (as defined below), the Acquiring Fund must directly enter into or close such options contracts in connection with any Shares purchased or redeemed directly from the Acquiring Fund.¹⁶ A cut-off time prior to 4:00 p.m., E.T., when the Acquiring Fund's net asset

¹⁴ The Prior Notice identified the Target Fund's transfer agent and administrator as Citi Fund Services Ohio, Inc. In the Second Prior Release, the Target Fund's transfer agent and administrator were identified as U.S. Bancorp Fund Services, LLC.

¹⁵ The Prior Notice identified the Target Fund's custodian as Citibank, N.A. In the Second Prior Release, the Target Fund's custodian was identified as U.S. Bank, N.A.

¹⁶ As stated in the Prior Notice, the consideration for purchase of a Creation Unit of the Target Fund generally consists of the in-kind deposit of a designated portfolio of securities ("Deposit Securities") per each Creation Unit, constituting a substantial replication, or a portfolio sampling representation, of the securities included in the Target

value will be calculated, would ensure that the Acquiring Fund would be notified of any such purchase or redemption activity with sufficient time to enter into or close options positions at the same time as the determination of the Acquiring Fund's net asset value and prior to the close of the options market at 4:15 p.m., E.T. The Exchange notes that the Commission has previously approved Exchange listing and trading of issues of Managed Fund Shares under NYSE Arca Rule 8.600-E for which the cut-off time for placing orders to create or redeem is 3:00 p.m., E.T.¹⁷

The Target Fund's current website is us.horizonsetfs.com. Following implementation of the Reorganization, the Acquiring Fund's website will be www.globalxfunds.com.

The investment objective of the Acquiring Fund will remain unchanged from that of the Target Fund. In addition, the Index underlying the Acquiring Fund meets and will continue to meet the representations regarding the Index as described in the Prior Releases.¹⁸ Except for the

Fund's underlying Index, together with the deposit of a specified cash payment. The consideration for redemption of a Creation Unit of the Target Fund generally consists of Deposit Securities together with a Cash Component.

¹⁷ See, e.g., Securities Exchange Act Release Nos. 73716 (December 2, 2014), 79 FR 72723 (December 8, 2014) (SR-NYSEArca-2014-134) (Notice of Filing of Proposed Rule Change Relating to Listing and Trading the following Series of IndexIQ Active ETF Trust under NYSE Arca Equities Rule 8.600: IQ Wilshire Alternative Strategies ETF); 71894 (April 7, 2014), 79 FR 20273 (April 11, 2014) (SR-NYSEArca-2014-30) (Notice of Filing of Proposed Rule Change Relating to Listing and Trading Shares of Hull Tactical US ETF under NYSE Arca Equities Rule 8.600).

¹⁸ As stated in the Second Prior Release, S&P Dow Jones Indices LLC is the "Index Provider" for the Index and is unaffiliated with the Target Fund or Horizons ETFs Management (US) LLC, the adviser for the Target Fund. Following the Reorganization, the Index Provider will be unaffiliated with the Acquiring Fund or Global X Management Company LLC. The Index Provider is not a broker-dealer and is not affiliated with a broker-dealer and has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index.

changes noted above, all other representations made in the Prior Releases remain unchanged.¹⁹

Global X Management Company LLC represents that the Target Fund and Acquiring Fund will satisfy all applicable requirements of the 1940 Act and 1933 Act in connection with the Reorganization.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)²⁰ 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, and is designed to promote just and equitable principles of trade and to protect investors and the public interest.

Global X Funds has filed the Proxy Statement describing the Reorganization pursuant to which, following approval of the Target Fund's shareholders, all or substantially all of the assets and all of the stated liabilities included in the financial statements of the Target Fund would be transferred to a corresponding, newly-formed fund of Global X Funds. This filing proposes to reflect organizational and administrative changes that would be implemented as a result of the Reorganization. As noted above, Global X Management Company LLC is not registered as a broker-dealer but is affiliated with broker-dealers. Global X Management Company LLC has implemented and will maintain a fire wall with respect to its affiliated broker-dealers regarding

¹⁹ See note 5, supra. All terms referenced but not defined herein are defined in the Prior Releases.

²⁰ 15 U.S.C. 78f (b)(5).

access to information concerning the composition and/or changes to the Acquiring Fund's portfolio. In the event (a) Global X Management Company LLC becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. According to the Proxy Statement, the investment objective of the Acquiring Fund will be the same as the investment objective of the Target Fund following implementation of the Reorganization. With respect to the proposal that orders to purchase or redeem Shares directly from the Acquiring Fund must be placed for one or more Creation Units by 3:00 p.m., E.T., a cut-off time prior to 4:00 p.m., E.T., when the Acquiring Fund's net asset value will be calculated, would ensure that the Acquiring Fund would be notified of any such purchase or redemption activity with sufficient time to enter into or close options positions at the same time as the determination of the Acquiring Fund's net asset value and prior to the close of the options market at 4:15 p.m., E.T. The Exchange notes that the Commission has previously approved Exchange listing and trading of issues of Managed Fund Shares under NYSE Arca Rule 8.600-E for which the cut-off time for placing orders to create or redeem is 3:00 p.m., E.T.²¹ The Exchange believes the proposed changes will not adversely impact investors or Exchange trading. In addition, the Index underlying the Acquiring Fund meets and will continue to meet the representations regarding the Index as described in the Prior Releases.

²¹ See note 17, supra.

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. The Exchange believes the proposed rule change will enhance competition and benefit investors and the marketplace by permitting continued listing and trading of Shares of the Acquiring Fund following implementation of the changes described above that would follow the Reorganization, which changes would not impact the investment objective of the Acquiring Fund or the Target Fund.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act²² and Rule 19b-4(f)(6) thereunder.²³

A proposed rule change filed under Rule 19b-4(f)(6)²⁴ normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)²⁵ permits the

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

²⁴ 17 CFR 240.19b-4(f)(6).

Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Commission notes that the Exchange's proposal would make organizational and administrative changes that would be implemented as a result of the Reorganization, as well as reflect a change in the cut-off time for orders to create or redeem Shares. The Commission believes that waiver of the 30-day operative delay would permit continued listing and trading of the Shares of the Acquiring Fund on the Exchange upon shareholder approval of the Reorganization.²⁶ For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.²⁷

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

²⁵ 17 CFR 240.19b-4(f)(6)(iii).

²⁶ The Commission notes that, according to the Exchange, the Target Fund and the Acquiring Fund will satisfy all applicable requirements of the 1940 Act and the 1933 Act in connection with the Reorganization.

²⁷ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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. Please include File Number SR-NYSEArca-2018-92 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2018-92. 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. Persons submitting comments

are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2018-92 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.²⁸

Brent J. Fields
Secretary

²⁸ 17 CFR 200.30-3(a)(12).