

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74780; File No. SR-NASDAQ-2015-012)

April 22, 2015

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 Listing and Trading of the Shares of the WisdomTree Western Unconstrained Bond Fund of the WisdomTree Trust

I. Introduction

On February 18, 2015, The NASDAQ Stock Market LLC (“Nasdaq” or “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 list and trade the shares (“Shares”) of the WisdomTree Western Unconstrained Bond Fund (“Fund”) under Nasdaq Rule 5735. The proposed rule change was published for comment in the Federal Register on March 11, 2015.³ On March 18, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ The Commission received no comments on the proposal. This order grants approval of the proposed rule change, as modified by Amendment No. 1 thereto.

¹ 15 U.S.C.78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 74448 (Mar. 5, 2015), 80 FR 12832 (“Notice”).

⁴ In Amendment No. 1 to the proposed rule change, the Exchange clarified the use of the defined terms “Debt Instruments” and “Money Market Securities,” and removed certain technical redundancies. Because Amendment No. 1 to the proposed rule change seeks to make certain clarifications and technical corrections, and does not materially affect the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 does not require notice and comment.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the WisdomTree Trust (“Trust”), which is registered with the Commission as an investment company and has filed a registration statement on Form N-1A (“Registration Statement”) with the Commission on behalf of the Fund.⁵

WisdomTree Asset Management, Inc. will be the investment adviser (“Adviser”) to the Fund, and Western Asset Management Company will serve as sub-adviser (“Sub-Adviser”). State Street Bank and Trust Company will serve as the administrator, custodian, and transfer agent for the Trust, and ALPS Distributors, Inc. will serve as the distributor.

The Exchange represents that neither the Adviser nor Sub-Adviser is registered as, or is affiliated with, a broker-dealer.⁶ The Exchange also represents that the Shares will be subject to

⁵ According to the Exchange, the Trust has filed an amendment to its Registration Statement on Form N-1A for the Fund, dated December 19, 2014, under the Securities Act of 1933 (“Securities Act”) and the Investment Company Act of 1940 (“1940 Act”) (File Nos. 333-132380 and 811-21864). The Exchange also represents that the Trust has obtained an order from the Commission granting certain exemptive relief under the 1940 Act (“Exemptive Order”). In compliance with Nasdaq Rule 5735(b)(5), which applies to Managed Fund Shares based on an international or global portfolio, the Trust’s application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act.

⁶ See Nasdaq Rule 5735(g). The Exchange states that, in the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, the Adviser, the Sub-Adviser, or any new adviser or sub-adviser, as the case may be, will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate, as applicable, regarding access to information concerning the composition of or changes to the portfolio, and will be subject to

Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares, and that for initial and continued listing, the Fund must be in compliance with Rule 10A-3 under the Act.⁷

The Exchange has made the following representations and statements in describing the Fund and its investment strategy, including, among other things, portfolio holdings and investment restrictions.

A. The Exchange's Description of the Principal Investments of the Fund

According to the Exchange, the Fund seeks to provide a high level of total return consisting of both income and capital appreciation. The Fund intends to achieve its investment objective through direct and indirect investments in “Debt Instruments,” which will include: (i) fixed income securities, such as bonds and notes;⁸ and (ii) other debt obligations and certain derivatives and other instruments based on Debt Instruments or currency, each as described below. Under normal market conditions,⁹ the Fund intends to invest at least 80% of its net assets

procedures designed to prevent the use and dissemination of material, non-public information regarding the portfolio.

⁷ See 17 CFR 240.10A-3.

⁸ The Fund may invest in fixed income securities that have variable or floating interest rates 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. 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 The term “under normal market conditions” includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

in Debt Instruments (but not more than 35% of Fund assets in derivatives that are Debt Instruments).

Specifically, the Fund intends to invest in the following Debt Instruments:

(1) instruments denominated in U.S. dollars or local currencies; (2) securities or other debt obligations issued by corporations or agencies that may receive financial support or backing from local government; (3) securities or other debt obligations issued by supranational organizations, such as the European Investment Bank, International Bank for Reconstructions and Development, the International Finance Corporation, or other regional development banks; (4) “Government securities,” as defined in Section 3(a)(42) of the Act (“Government Securities”); (5) securities issued or guaranteed by non-U.S. governments, agencies, and instrumentalities; (6) municipal securities (including taxable and tax-exempt municipal securities), as defined in Section 3(a)(29) of the Act; (7) “Puttable” bonds (bonds that give the holder the right to sell the bond to the issuer prior to the bond’s maturity), when the put date is within a 24 month period; and “busted” convertible securities (convertible securities that are trading well below their conversion values minimizing the likelihood that they will ever reach their convertible prices prior to maturity); (8) loan participation notes;¹⁰ (9) zero-coupon securities and interest-only securities; (10) debt securities linked to inflation rates of the U.S. and non-U.S. countries; (11) repurchase agreements backed by Government Securities and non-U.S. government securities;¹¹ (12) bank loans (including senior loans); (13) Money Market

¹⁰ According to the Exchange, the Fund may invest in loan participation notes that have a minimum outstanding principal amount of \$200 million that the Adviser or Sub-Adviser deems to be liquid.

¹¹ The Fund may enter into repurchase agreements with counterparties that are deemed to present acceptable credit risks, and may enter into reverse repurchase agreements, which involve the sale of securities held by the Fund subject to its agreement to repurchase the

Securities;¹² and (14) mortgage-backed securities (including commercial mortgage-backed securities, collateralized mortgage obligations, adjustable rate mortgage back securities, and interest-only mortgage-backed securities, including, in each case, agency mortgage-backed securities, GSE-issued or guaranteed mortgage-backed securities, and privately issued mortgage-backed securities) and asset-backed securities.¹³

The Fund intends to invest in Debt Instruments originating primarily in developed and emerging markets countries.¹⁴ The Fund's exposure to any single corporate issuer generally will be limited to 10% of the Fund's assets, and the Fund's exposure to any single sovereign issuer generally will be limited to 25% of the Fund's assets (excluding exempted securities as defined in Section 3(a)(12) of the Act). In addition, the Fund's exposure to any one country (other than the United States) generally will be limited to 30% of the Fund's assets, though this percentage may change from time to time in response to economic events and changes to the respective credit ratings of the Debt Instruments in such country.

securities at an agreed upon date or upon demand and at a price reflecting a market rate of interest.

¹² "Money Market Securities" include: short-term, high quality securities issued or guaranteed by the U.S. government or non-U.S. governments, their agencies and instrumentalities; repurchase agreements backed by U.S. government securities and non-U.S. government securities; money market mutual funds; and deposit and other obligations of U.S. and non-U.S. banks and financial institutions. In the event the Fund engages in these temporary defensive strategies that are inconsistent with its investment strategies, the Fund's ability to achieve its investment objectives may be limited.

¹³ The Fund may invest up to 20% of its net assets, in the aggregate, in privately issued mortgage-backed securities and privately-issued ABS. Debt Instruments will also include debt securities which are secured with collateral consisting of mortgage-backed securities or asset-backed securities.

¹⁴ The Fund may invest up to 50% of Fund assets in securities issued by issuers that are organized in or maintain their principal place of business in emerging market countries.

The Fund may invest in Debt Instruments with effective or final maturities of any length. The Fund will seek to keep the average effective duration of its portfolio between -5 and 10 years under normal market conditions. Effective duration is an indication of an investment's interest rate risk or how sensitive an investment or a fund is to changes in interest rates. Generally, a fund or instrument with a longer effective duration is more sensitive to interest rate fluctuations, and, therefore, more volatile, than a similar fund with a shorter effective duration. To potentially protect the Fund against the impact of rising rates, the Adviser or Sub-Adviser may take the duration of the Fund below zero through strategic short positions in instruments such as U.S. Treasury futures (subject to the Fund's limits on investments in derivative instruments as described below). A negative duration suggests that the Fund may benefit from a rise in rates.¹⁵ The Fund's actual portfolio duration may be longer or shorter depending on market conditions.

In addition, the Fund may invest, in the aggregate, up to 35% of its assets in the following derivatives, which are also Debt Instruments (with no more than 20% of the Fund's investments in derivative instruments that are not within the definition of "Debt Instruments"): (1) credit-linked notes;¹⁶ (2) listed futures contracts on Debt Instruments;¹⁷ (3) non-deliverable forward

¹⁵ Negative duration would occur when the total duration of the Fund's liabilities (e.g., through short positions in U.S. government securities or related futures positions) is less than the total duration of the Fund's assets.

¹⁶ The Fund will invest no more than 25% of its net assets in credit-linked notes.

¹⁷ According to the Exchange, the Adviser has registered with the Commodity Futures Trading Commission as a commodity pool operator under the Commodity Exchange Act with regard to the Fund. The futures contracts in which the Fund may invest will be listed on exchanges in the United States, Brazil, Chile, Germany, Hong Kong, Mexico, Singapore, South Korea, or the United Kingdom. Each of the futures exchange's primary financial markets regulators are signatories to the International Organization of Securities Commissions ("IOSCO") Multilateral Memorandum of Understanding ("MMOU"), which is a multi-party information sharing arrangement among financial regulators. Both

currency contracts;¹⁸ (4) currency swaps;¹⁹ (5) interest rate swaps; (6) listed currency options; and (7) listed options on futures contracts on Debt Instruments.

The Fund may invest in combinations of investments that provide similar exposure to local currency debt, such as investment in U.S. dollar denominated bonds combined with forward currency positions or swaps.²⁰ Forward currency contracts and swap positions can be incorporated with bonds denominated in non-U.S. currencies to hedge bond exposures back into U.S. dollars. Conversely, forward currency contracts and swap positions can be implemented in combination with U.S. dollar denominated bonds to create local currency bond exposures.

Additionally, the Fund's use of forward contracts and swaps may be combined with investments

the Commission and the Commodity Futures Trading Commission are signatories to the IOSCO MMOU. In addition, the futures contracts in which the Fund may invest in the United States, Germany, Hong Kong, Singapore, South Korea, or the United Kingdom will be listed on exchanges that are members of the Intermarket Surveillance Group ("ISG"), which includes affiliates of LIFFE Administration and Management, Eurex Frankfurt A.G., the Hong Kong Exchanges & Clearing Ltd., the Korea Exchange, the Singapore Exchange, Ltd., NASDAQ OMX BX, and NASDAQ OMX PHLX LLC. At least 90% of Fund assets that are invested in exchange-traded derivative instruments will be invested in instruments that trade in markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

¹⁸ According to the Exchange, the Fund may enter into forward currency contracts in order to "lock in" the exchange rate between the currency it will deliver and the currency it will receive for the duration of the contract. The Fund will invest only in currencies, and instruments that provide exposure to such currencies, that have significant foreign exchange turnover and are included in the Bank for International Settlements Triennial Central Bank Survey, December 2013 ("BIS Survey"). The Fund may invest in currencies, and instruments that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey.

¹⁹ See id.

²⁰ To the extent practicable, the Fund will invest in swaps cleared through the facilities of a centralized clearing house. The Fund may also invest in Money Market Securities that would serve as collateral for the futures contracts and swap agreements.

in short-term, high quality U.S. Money Market Securities in a manner designed to provide exposure to similar investments in local currency deposits.²¹

The Fund will use derivative instruments primarily to hedge interest rate risk and actively manage interest rate exposure and, as described below, to hedge foreign currency risk and actively manage foreign currency exposure. The Fund may also use derivative instruments to enhance returns, as a substitute for, or to gain exposure to, a position in an underlying asset, to reduce transaction costs, to maintain full market exposure (which means to adjust the characteristics of its investments to more closely approximate those of the markets in which it invests), to manage cash flows, or to preserve capital. The Fund's use of derivative instruments will be collateralized by investments in Money Market Securities and other liquid Debt

²¹ According to the Exchange, the Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser or the Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's or the Sub-Adviser's analysis will evaluate each approved counterparty using various methods of analysis and may consider such factors as the counterparty's liquidity, its reputation, the Adviser's or the Sub-Adviser's past experience with the counterparty, its known disciplinary history, and its share of market participation. The Adviser or Sub-Adviser will also attempt to mitigate the Fund's respective credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of the counterparty. The Adviser or Sub-Adviser will take various steps to limit counterparty credit risk. The Fund will enter into over-the-counter non-centrally cleared instruments only with financial institutions that meet certain credit quality standards and monitoring policies. The Fund may also use various techniques to minimize credit risk, including early termination or reset and payment, using different counterparties, and limiting the net amount due from any individual counterparty. The Fund generally will collateralize over-the-counter, non-centrally- cleared instruments with cash or certain securities. Such collateral will generally be held for the benefit of the counterparty in a segregated tri-party account at the custodian to protect the counterparty against non-payment by the Fund. In the event of a default by the counterparty, and the Fund is owed money in the over-the-counter non-centrally cleared instruments transaction, the Fund will seek withdrawal of the collateral from the segregated account and may incur certain costs exercising its right with respect to the collateral.

Instruments. All Money Market Securities acquired by the Fund will be rated investment grade,²² except that the Fund may invest in unrated Money Market Securities that are deemed by the Adviser or Sub-Adviser to be of comparable quality to Money Market Securities rated investment grade.²³

The Exchange represents that the Fund's investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objectives and policies, and will not be used to enhance leverage. The Fund will comply with the regulatory requirements of the Commission to maintain assets as "cover," maintain segregate accounts, and make margin payments when it takes positions in derivative instruments involving obligations to third parties (i.e., instruments other than purchase options). With respect to certain kinds of derivative transactions entered into by the Fund that involve obligations to make future payments to third parties, including, but not limited to, futures and forward contracts, swap contracts, the purchase of securities on a when-issued or delayed-delivery basis, or reverse repurchase agreements, the Fund, in accordance with applicable federal securities laws, rules, and interpretations thereof, will "set aside" liquid assets, or engage in other measures to "cover" open positions with respect to such transactions.

²² The term "investment grade," for purposes of Money Market Securities, means securities rated A1 or A2 by one or more Nationally Recognized Statistical Rating Organizations ("NRSROs").

²³ The determination that an unrated security is of comparable quality to a rated security (including, as applicable, an investment grade security) by the Adviser or Sub-Adviser will be based on, among other factors, a comparison between the unrated security and securities issued by similarly situated companies to determine where in the spectrum of credit quality the unrated security would fall. The Adviser or Sub-Adviser would also perform an analysis of the unrated security and its issuer similar, to the extent possible, to that performed by a NRSRO in rating similar securities and issuers.

The Exchange represents that liquidity will be an important factor in the Fund's security selection process.²⁴ Under normal market conditions, at least 80% of the Fund's net assets that are invested in Debt Instruments will be invested in Debt Instruments that are issued by issuers with outstanding debt of at least \$200 million (or the foreign currency equivalent thereof). In addition, while the Fund will be actively-managed and will not be tied to an index, the Exchange represents that the Fund's investment portfolio will meet the criteria for non-actively managed, index-based, fixed income exchange-traded funds ("ETFs") contained in Nasdaq Rule 5705(a)(4)(A).²⁵

B. The Exchange's Description of the Other Investments of the Fund

As noted above, under normal market conditions, no more than 35% of the Fund's investments will be in derivative instruments, with no more than 20% of the Fund's investments

²⁴ In reaching liquidity decisions, the Adviser or 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 the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

²⁵ See Exchange Rule 5705(a)(4)(A). The Fund will meet the following requirements of Rule 5705(a)(4)(A): (i) the index or portfolio must consist of fixed income securities (which are generally defined to include Debt Instruments) (Rule 5705(a)(4)(A)(i)); (ii) components that in the aggregate account for at least 75% of the weight of the index or portfolio must each have a minimum original principal amount outstanding of \$100 million or more (Rule 5705(a)(4)(A)(ii)); (iii) a component may be a convertible security, however, once the convertible security converts to an underlying equity security, the component is removed from the index or portfolio (Rule 5705(a)(4)(A)(iii)); (iv) no component fixed-income security (excluding Treasury Securities) will represent more than 30% of the weight of the index or portfolio, and the five highest weighted component fixed-income securities do not in the aggregate account for more than 65% of the weight of the index or portfolio (Rule 5705(a)(4)(A)(iv)); (v) an underlying index or portfolio (excluding exempted securities) must include securities from a minimum of 13 non-affiliated issuers (Rule 5705(a)(4)(A)(v)); and (vi) component securities that in the aggregate account for at least 90% of the weight of the index or portfolio must be from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more (Rule 5705(a)(4)(A)(vi)(c)).

in derivative instruments that are not within the definition of “Debt Instruments.” The Fund may invest in the following derivative instruments that are not within the definition of “Debt Instruments”: (1) listed futures contracts (other than on Debt Instruments);²⁶ (2) total return swaps; (3) credit default swaps; and (4) listed options on futures contracts (other than on Debt Instruments).²⁷

In addition, the Fund may invest up to 20% of its net assets in one or more of the following instruments: (a) securities of other investment companies (including exchange-traded products (“ETPs”), such as other ETFs;²⁸ (b) debt instruments that do not fall within the meaning of “Debt Instruments” above, including bank loans, banker’s acceptances, bank time deposits,

²⁶ See supra note 16.

²⁷ See id.

²⁸ The Exchange states that ETPs in which the Fund may invest include, without limitation: Portfolio Depository Receipts and Index Fund Shares (as described in Nasdaq Rule 5705); Securities Linked to the Performance of Indexes and Commodities (as described in Nasdaq Rule 5710); Index-Linked Exchangeable Notes; Equity Gold Shares; Trust Certificates; Commodity-Based Trust Shares; Currency Trust Shares; Commodity Index Trust Shares; Commodity Futures Trust Shares; Partnership Units; Trust Units; Managed Trust Securities; and Currency Warrants (as described in Nasdaq Rule 5711); Alpha-Index Linked Securities (as described in Nasdaq Rule 5712); Equity-Linked Debt Securities (as described in Nasdaq Rule 5715); Trust Issued Receipts (as described in Nasdaq Rule 5720); Index Warrants (as described in Nasdaq Rule 5725); Securities Not Otherwise Specified (as described in Nasdaq Rule 5730); Managed Fund Shares (as described in Nasdaq Rule 5735); and closed-end funds. According to the Exchange, the ETPs in which the Fund may invest all will be listed and traded on U.S. registered exchanges. The Fund will invest in the securities of registered investment company ETPs consistent with the requirements of Section 12(d)(1) of the 1940 Act or any rule, regulation, or order of the Commission or interpretation thereof. The ETPs in which the Fund may invest will primarily be indexed-based ETFs that hold substantially all of their assets in securities representing a specific index. While the Fund may invest in ETPs, the Fund will not invest in leveraged or inverse leveraged (e.g., 2X, -2X) ETPs.

commercial paper, and certificates of deposit issued against funds deposited in a bank or savings and loan association; (c) U.S. and non-U.S. equity securities;²⁹ and (d) cash.³⁰

In addition, in response to adverse market, economic, political, or other conditions the Fund reserves the right to invest in U.S. government securities, Money Market Securities, and cash, without limitation, as determined by the Adviser or Sub-Adviser.

C. The Exchange's Description of Investment Restrictions of the Fund

The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid. The Fund will only buy performing debt securities and not distressed debt. Generally, a corporate bond will be required to have \$150 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. Economic and other conditions may, from time to time, lead to a decrease in the average par amount outstanding of bond issuances. Therefore, although the Fund does not intend to do so, it may invest up to 5% of its net assets in corporate bonds with less than \$150 million par amount outstanding if (1) the Adviser or Sub-Adviser deems such security to be sufficiently liquid based on its analysis of the market for such security (based on, for example, broker-dealer quotations or its analysis of the trading history of the security or the trading history of other securities issued by the issuer), (2) such investment is deemed by the Adviser or Sub-Adviser to be in the best interest of the Fund, and (3) such investment is deemed consistent with the Fund's goal of providing exposure to a broad range of countries and issuers.

²⁹ The equity securities in which the Fund may invest will be limited to securities that trade on markets that are members of the ISG. The Fund may invest in non-U.S. equity securities by means of American Depository Receipts, European Depository Receipts, and Global Depository Receipts.

³⁰ According to the Exchange, the Fund may engage in foreign currency transactions, and may invest directly in foreign currencies in the form of bank and financial institution deposits and certificates of deposit denominated in a specified non-U.S. currency.

The Fund will not concentrate 25% or more of the value of its total assets (taken at market value at the time of each investment) in any one industry, as that term is used in the 1940 Act (except that this restriction does not apply to obligations issued by the U.S. government or its respective agencies and instrumentalities or government-sponsored enterprises). The Fund intends to qualify each year as a regulated investment company (“RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended. In addition to satisfying the RIC diversification requirements, no portfolio security held by the Fund (other than U.S. government securities) will represent more than 30% of the weight of the Fund’s portfolio and the five highest weighted portfolio securities of the Fund (other than U.S. government securities) will not, in the aggregate, account for more than 65% of the weight of the Fund’s portfolio. For these purposes, the Fund may treat repurchase agreements collateralized by U.S. government securities as U.S. government securities.

The Fund may hold up to an aggregate of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser. 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.

Additional information regarding the Trust, Fund, and Shares, including investment strategies and restrictions, risks, creation and redemption procedures, fees, portfolio holdings

disclosure policies, distributions and taxes, calculation of net asset value per share (“NAV”), availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Notice, Registration Statement, and Exemptive Order, as applicable.³¹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act³² and the rules and regulations thereunder applicable to a national securities exchange.³³ In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,³⁴ which requires, among other things, that the Exchange’s rules be 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,³⁵ which sets forth the finding of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly

³¹ See Notice, supra note 3; see also Registration Statement and Exemptive Order, supra note 5 and accompanying text.

³² 15 U.S.C. 78(f).

³³ In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁴ 15 U.S.C. 78f(b)(5).

³⁵ 15 U.S.C. 78k-1(a)(1)(C)(iii).

markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities.

Quotation and last-sale information will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares and any underlying ETPs.³⁶ In addition, the Intraday Indicative Value (as defined in Nasdaq Rule 5735(c)(3)), which will be based upon the current value of the components of the Disclosed Portfolio (as defined in Nasdaq Rule 5735(c)(2)), will be available on the NASDAQ OMX Information LLC proprietary index data service,³⁷ and will be updated and widely disseminated and broadly displayed at least every 15 seconds during the Regular Market Session.³⁸ During hours when the markets for local debt and other assets in the Fund's portfolio are closed, the Intraday Indicative Value will be updated at least every 15 seconds during the Regular Market Session to reflect currency exchange fluctuations.

On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Trust will disclose on its website (www.wisdomtree.com) the identities and quantities of the portfolio of securities and other assets ("Disclosed Portfolio," as defined in Nasdaq Rule 5732(c)(2)) held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.³⁹ The NAV of the Fund will normally be

³⁶ See Notice, supra note 3, 80 FR at 12839.

³⁷ According to the Exchange, the NASDAQ OMX Global Index Data Service is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and ETFs. See id.

³⁸ See id.

³⁹ On a daily basis, the Fund will disclose on the Fund's website the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol,

determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 pm.

ET) on each business day.⁴⁰ Information regarding market price and volume of the Shares will be

CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security 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. See id. The website and information will be publicly available at no charge. See id.

⁴⁰ See id., 80 FR at 12838. The Exchange notes that, for purposes of calculating the Fund's NAV per Share, the Fund's investment will generally be valued using market valuations. In the event that current market valuations are not readily available or such valuations do not reflect current market value, the Trust's procedures require the Pricing Committee to determine an asset's fair value if a market price is not readily available in accordance with the 1940 Act. Bank deposits held in U.S. dollars will be valued at their actual dollar amount; bank deposits held in foreign currencies will be converted into U.S. dollars and valued at their actual amounts in U.S. dollars. According to the Adviser, Debt Instruments (as well as debt instruments not within the meaning of "Debt Instruments"), will generally be valued using prices received from independent Pricing Services as of the announced closing time for trading in fixed-income instruments in the respective market or exchange. Exchange traded assets (including without limitation, equity securities, listed futures contracts, listed currency options, listed options on futures, and ETPs) will be valued at the last reported sale price or the official closing price on that exchange where the security or other instrument is primarily traded on the day that the valuation is made. Shares of money market funds will be valued at their net asset values as reported on the applicable fund's website or to major market vendors. With respect to derivative instruments, if, however, neither the last sales price nor the official closing price is available, each of these derivative instruments will be valued at either the last reported sale price or official closing price as of the close of regular trading of the principal market on which the instrument is listed consistent with the primary benchmark. Spot currencies and non-exchange-traded derivatives, including non-deliverable forward currency contracts, currency swaps, interest rate swaps, total return swaps, credit default swaps, and credit-linked notes, will normally be valued on the basis of quotes obtained from brokers and dealers or Pricing Services using data reflecting the earlier closing of the principal markets for those assets. International Data Corporation is expected to be the primary price source for the Fund's assets. The Fund may also rely, however, on other recognized third-party pricing sources, including, without limitation, Bloomberg, WM Reuters, JP Morgan, Markit, and JJ Kenney, to provide prices for certain asset categories, including, among others, currency swaps, forward currency contracts, spot currencies, and corporate securities, in each case as determined, from time to time, by the Fund's board of trustees. Each of these pricing sources is a "Pricing Service" for purposes of this Fund.

continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.⁴¹ The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.⁴² Pricing information for ETFs and exchange-traded derivatives and other instruments will be available from the exchanges on which they trade and from major market vendors. Pricing information for Debt Instruments, forward currency contracts, spot currencies, and debt instruments that do not fall within the meaning of "Debt Instruments" as defined above will be available from major broker-dealer firms, major market data vendors, or Pricing Services, as applicable. Money market funds are typically priced once each business day, and their prices will be available through the applicable fund's website or from major market vendors.⁴³ Intra-day, executable price quotations on Debt Instruments as well as derivative instruments are available from major broker-dealer firms.⁴⁴ Intra-day price information is available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by Authorized Participants and other investors.⁴⁵ In addition, State Street Bank and Trust Company, through the National Securities Clearing Corporation, will make available on each business day, immediately prior to the opening of business on the Exchange's Core Trading Session (currently 9:30 a.m. Eastern time), the list of names and the required number or amount of each security and/or the amount of cash, to be included in the current "Fund Deposit" (based on information at the end of the previous

⁴¹ See id., 80 FR at 12839.

⁴² See id.

⁴³ See id., 80 FR at 12840.

⁴⁴ See id., 80 FR at 12842.

⁴⁵ See id.

business day) for the Fund.⁴⁶ The Fund's website will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.⁴⁷

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares 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.⁴⁸ Further, trading in the Shares will be subject to Nasdaq 5735(d)(2)(D), which sets forth circumstances under which trading in the Shares may be halted.⁴⁹ The Exchange may also halt trading in the Shares if trading is not occurring in the securities or the financial instruments constituting the Disclosed Portfolio or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.⁵⁰ Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of

⁴⁶ See id., 80 FR at 12837.

⁴⁷ See id., 80 FR at 12842.

⁴⁸ See id.

⁴⁹ See id., 80 FR at 12840.

⁵⁰ See id. See also Nasdaq Rule 5735(d)(2)(C) (providing additional considerations for the suspension of trading in or removal from listing of Managed Fund Shares on the Exchange). 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. Nasdaq will halt or pause trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. See id.

the portfolio.⁵¹ The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.⁵² The Exchange also states that neither the Adviser nor Sub-Adviser is registered as, or affiliated with, a broker-dealer.⁵³ The Financial Industry Regulatory Authority (“FINRA”), on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the U.S and non-U.S. equity securities, ETPs, listed options, and listed futures contracts and other instruments held by the Fund with other markets and other entities that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and the U.S. and non-U.S. equity securities, ETPs, listed options, listed futures contracts, and other instruments held by the Fund from such markets and other entities. FINRA, on behalf of the Exchange, also is able to obtain trading information regarding certain Debt Instruments held by the Fund reported to FINRA’s Trade

⁵¹ See Nasdaq Rule 5735(d)(2)(B)(ii).

⁵² See Notice, *supra* note 3, 80 FR at 12840.

⁵³ See *supra* note 6 and accompanying text. The Exchange further represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (“Advisers Act”). As a result, the Adviser, the Sub-Adviser, and their 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 applicable federal securities laws as defined in Rule 204A-1(e)(4). Accordingly, procedures designed to prevent the communication and misuse of nonpublic 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.

Reporting and Compliance Engine.⁵⁴ In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.⁵⁵

The Exchange represents that it 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. In support of this proposal, the Exchange has also made the following representations:

- (1) The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.
- (2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.
- (3) Prior to the commencement of trading of the Shares, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) the procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2310, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how and by whom information regarding the Intraday Indicative Value and Disclosed Portfolio are disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value

⁵⁴ See Notice, *supra* note 3, 80 FR at 12840.

⁵⁵ For a list of the current members of ISG, see www.isgportal.org.

will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

- (4) Trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.⁵⁶ 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.
- (5) For initial and continued listing, the Fund must be in compliance with Rule 10A-3 under the Act.⁵⁷
- (6) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.
- (7) Under normal circumstances, the Fund will invest at least 80% of its net assets in Debt Instruments, and no more than 35% of Fund assets in derivatives that are Debt Instruments. In addition, the Fund will invest no more than 20% of its net assets in derivative instruments that are not Debt Instruments.
- (8) The Fund may hold up to an aggregate of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser. The Fund will monitor its portfolio

⁵⁶ According to the Exchange, FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. See Notice, supra note 3, 80 FR at 12840.

⁵⁷ 17 CFR 240.10A-3.

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.

- (9) While the Fund may invest in ETPs, the Fund will not invest in leveraged or inverse leveraged ETPs.
- (10) The Fund may invest in loan participation notes that have a minimum outstanding principal amount of \$200 million that the Adviser or Sub-Adviser deems to be liquid. In addition, the Fund will invest no more than 25% of its net assets in credit-linked notes.
- (11) At least 90% of Fund assets that are invested in exchange-traded derivative instruments will be invested in instruments that trade in markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the equity securities in which the Fund may invest will be limited to securities that trade on markets that are members of the ISG.
- (12) The Fund will invest only in currencies, and instruments that provide exposure to such currencies, that have significant foreign exchange turnover and are included in the BIS Survey. The Fund may invest in currencies, and instruments that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey.

- (13) The Adviser or the Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's or the Sub-Adviser's analysis will evaluate each approved counterparty using various methods of analysis and may consider such factors as the counterparty's liquidity, its reputation, the Adviser's or the Sub-Adviser's past experience with the counterparty, its known disciplinary history, and its share of market participation. The Adviser or Sub-Adviser will also attempt to mitigate the Fund's respective credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of the counterparty. The Adviser or Sub-Adviser will take various steps to limit counterparty credit risk.
- (14) Under normal market conditions, at least 80% of the Fund's net assets that are invested in Debt Instruments will be invested in Debt Instruments that are issued by issuers with outstanding debt of at least \$200 million (or the foreign currency equivalent thereof). In addition, while the Fund will be actively-managed and will not be tied to an index, the Exchange represents that the Fund's investment portfolio will meet the criteria for non-actively managed, index-based, fixed income ETFs contained in Nasdaq Rule 5705(a)(4)(A).
- (15) The Fund may invest up to 20% of its net assets, in the aggregate, in privately issued mortgage backed securities and privately-issued ABSs.
- (16) The Exchange represents that the Fund's investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objectives and policies, and will not be used to enhance leverage.

The Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735 to be initially and continuously listed and traded on the Exchange. This approval order is based on all of the Exchange's representations and description of the Fund, including those set forth above and in the Notice.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁵⁸ that the proposed rule change (SR-NASDAQ-2015-012), 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.⁵⁹

Brent J. Fields
Secretary

⁵⁸ 15 U.S.C. 78s(b)(2).

⁵⁹ 17 CFR 200.30-3(a)(12).