

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57395; File No. SR-NYSEArca-2008-25)

February 28, 2008

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Managed Fund Shares, Trading Hours and Halts, Listing Fees Applicable to Managed Fund Shares, and the Listing and Trading of Shares of the PowerShares Active AlphaQ Fund, PowerShares Active Alpha Multi-Cap Fund, PowerShares Active Mega-Cap Portfolio, and the PowerShares Active Low Duration Portfolio

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 27, 2008, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (“NYSE Arca Equities”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially 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: (1) add new NYSE Arca Equities Rule 8.600 to permit the listing and trading, or trading pursuant to unlisted trading privileges (“UTP”), of securities issued by an actively managed, open-end investment management company (“Managed Fund Shares”); (2) list and trade the shares (“Shares”) of the PowerShares Active AlphaQ Fund, PowerShares Active Alpha Multi-Cap Fund, PowerShares Active Mega-Cap Portfolio, and the PowerShares Active Low Duration Portfolio (collectively, the “Funds”); (3) amend NYSE Arca Equities Rule 7.34 (Trading Sessions) to reference Managed Fund Shares; and (4) amend its listing fees to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

include Managed Fund Shares under the term “Derivative Securities Products.” The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and 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 Exchange 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 these 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 aspects of such statements.

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

1. Purpose

The Exchange proposes to add new NYSE Arca Equities Rule 8.600 to permit the listing and trading, or trading pursuant to UTP, of Managed Fund Shares, which are securities issued by an actively managed, open-end investment management company. The Exchange also proposes to amend NYSE Arca Equities Rule 7.34 (Trading Sessions) to reference Managed Fund Shares in paragraph (a)(3)(A), relating to hours of the Exchange’s Core Trading Session, and paragraph (a)(4)(A), relating to trading halts when trading pursuant to UTP during the Exchange’s Opening Session. In addition, the Exchange proposes to amend its listing fees by incorporating Managed Fund Shares in the term “Derivative Securities Products.” Finally, pursuant to new NYSE Arca Equities Rule 8.600, the Exchange proposes to list and trade the Shares of the Funds.

Proposed Listing Rules for Managed Fund Shares

Under proposed NYSE Arca Equities Rule 8.600(c)(1), a “Managed Fund Share” is a security that: (1) represents an interest in a registered investment company (“Investment Company”) organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies; (2) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (“NAV”); and (3) when aggregated in the same specified minimum number, may be redeemed at a holder’s request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV.

Proposed NYSE Arca Equities Rule 8.600(c)(2) defines “Disclosed Portfolio” as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company’s calculation of the NAV at the end of the business day. Proposed NYSE Arca Equities Rule 8.600(c)(3) defines “Portfolio Indicative Value” as the estimated indicative value of a Managed Fund Share based on current information regarding the value of the securities and other assets in the Disclosed Portfolio. Finally, proposed NYSE Arca Equities Rule 8.600(c)(4) defines “Reporting Authority” as, in respect of a particular series of Managed Fund Shares, the Corporation,³ an institution, or a reporting service designated by the Corporation or by the exchange that lists a particular series of Managed Fund Shares (if the Corporation is trading such series pursuant to UTP) as the official source for

³ The “Corporation” means NYSE Arca Equities. See NYSE Arca Equities Rule 1.1(k) (defining Corporation).

calculating and reporting information relating to such series, including, but not limited to, the (i) Portfolio Indicative Value, (ii) the Disclosed Portfolio, (iii) the amount of any cash distribution to holders of Managed Fund Shares, (iv) NAV, or (v) other information relating to the issuance, redemption, or trading of Managed Fund Shares. A series of Managed Fund Shares may have more than one Reporting Authority, each having different functions.

Proposed NYSE Arca Equities Rule 8.600(d) sets forth the initial and continued listing criteria applicable to Managed Fund Shares. Proposed Rule 8.600(d)(1) provides that, for each series of Managed Fund Shares, the Corporation will establish a minimum number of Managed Fund Shares required to be outstanding at the time of commencement of trading. In addition, the Corporation will obtain a representation from the issuer of each series of Managed Fund Shares that the NAV per share for the series will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Proposed NYSE Arca Equities Rule 8.600(d)(2) provides that each series of Managed Fund Shares will be listed and traded subject to application of the following continued listing criteria: (1) the Portfolio Indicative Value for Managed Fund Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the Managed Fund Shares trade on the Corporation; (2) the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time; and (3) 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 the portfolio.

Proposed NYSE Arca Equities Rule 8.600(d)(2)(C) provides that the Corporation will consider the suspension of trading in, or removal from listing of, a series of Managed Fund Shares under any of the following circumstances: (1) if, following the initial twelve-month period after commencement of trading on the Exchange of a series of Managed Fund Shares, there are fewer than 50 beneficial holders of the series of Management Fund Shares for 30 or more consecutive trading days; (2) if the value of the Portfolio Indicative Value is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time; (3) if the Investment Company issuing the Managed Fund Shares has failed to file any filings required by the Commission or if the Corporation is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission to the Investment Company with respect to the series of Managed Fund Shares; or (4) if such other event shall occur or condition exists which, in the opinion of the Corporation, makes further dealings on the Corporation inadvisable.

Proposed NYSE Arca Equities Rule 8.600(d)(2)(D) provides that, if the Portfolio Indicative Value of a series of Managed Fund Shares is not being disseminated as required, the Corporation may halt trading during the day in which the interruption to the dissemination of the Portfolio Indicative Value occurs. If the interruption to the dissemination of the Portfolio Indicative Value persists past the trading day in which it occurred, the Corporation will halt trading no later than the beginning of the trading day following the interruption. If a series of Managed Fund Shares is trading on the Corporation pursuant to UTP, the Corporation will halt trading in that series as specified in NYSE Arca Equities Rule 7.34(a), as proposed to be amended. In addition, if the Exchange becomes aware that the NAV or the Disclosed Portfolio with respect to a series of Managed Fund Shares is not disseminated to all market participants at

the same time, it will halt trading in such series until such time as the NAV or the Disclosed Portfolio is available to all market participants.

Proposed NYSE Arca Equities Rule 8.600(d)(2)(E) provides that, upon termination of an Investment Company, the Corporation requires that Managed Fund Shares issued in connection with such entity be removed from Corporation listing. Proposed NYSE Arca Equities Rule 8.600(d)(2)(F) provides that voting rights shall be as set forth in the applicable Investment Company prospectus. Proposed NYSE Arca Equities Rule 8.600(e) relates to the limitation of Corporation liability.

Proposed Commentary .01 to new NYSE Arca Equities Rule 8.600 provides that the Corporation will file separate proposals under Section 19(b) of the Act before the listing and/or trading of Managed Fund Shares. Proposed Commentary .02 provides that transactions in Managed Fund Shares will occur during the trading hours specified in NYSE Arca Equities Rule 7.34(a), as proposed to be amended. Proposed Commentary .03 provides that the minimum price variation for quoting and entry of orders in Managed Fund Shares is \$0.01. Proposed Commentary .04 provides that the Exchange will implement written surveillance procedures for Managed Fund Shares.

Proposed Commentary .05 to new NYSE Arca Equities Rule 8.600, which is substantially similar to existing Commentary .01(i) to NYSE Arca Equities Rule 5.2(j)(3), provides that, for Managed Fund Shares based on an international or global portfolio, the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 (“1940 Act”) for the series of Managed Fund Shares must state that such series must 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 of 1933 (“Securities Act”). Proposed Commentary .06 to new NYSE Arca Equities Rule 8.600 , which is substantially similar to existing Commentary .01(h) to NYSE Arca Equities Rule 5.2(j)(3), sets forth certain obligations of ETP Holders⁴ with respect to Managed Fund Shares that receive an exemption from certain prospectus delivery requirements under Section 24(d) of the 1940 Act.

Amendments to NYSE Arca Equities Rule 7.34

The Exchange proposes to amend NYSE Arca Equities Rule 7.34(a)(3)(A) to add Managed Fund Shares to the list of securities for which the Core Trading Session on the Exchange concludes at 4:15 p.m. Eastern Time or “ET.” In addition, the Exchange proposes to amend NYSE Arca Equities Rule 7.34(a)(4)(A) to include Managed Fund Shares under “Derivative Securities Products” in connection with trading halts for trading pursuant to UTP on the Exchange.

Amendments to Listing Fees

The Exchange proposes to add Managed Fund Shares to the securities included under the term “Derivative Securities Products,” as defined in the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services.

Key Features of Managed Fund Shares

Registered Investment Company. A Managed Fund Share means a security that represents an interest in an investment company registered under the 1940 Act organized as an

⁴ An “ETP Holder” is a sole proprietorship, partnership, corporation, limited liability company, or other organization in good standing that has been issued an Equity Trading Permit or “ETP.” An ETP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. See NYSE Arca Equities Rule 1.1(m) and (n) (defining ETP and ETP Holder).

open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, the open-end investment company that issues shares of an index-based exchange-traded fund (“Index ETF”) seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index, or combination thereof.

1940 Act Exemptive Relief. The 1940 Act contemplates two categories of investment companies: those which issue redeemable securities, i.e., open-end investment companies; and those which do not, i.e., closed-end investment companies. Index ETF shares are redeemable, but only in large blocks of shares (not individually), so it is not certain whether they are considered redeemable under the 1940 Act. Because Index ETFs do not fit neatly into either the open-end category or the closed-end category, Index ETFs have had to seek exemptive relief from the Commission to be registered as an open-end investment company. Managed Fund Shares share key structural features with Index ETFs, such as creation and redemption in large blocks of shares being the most important one, that result in the need for exemptive relief, and therefore, Managed Fund Shares will require relief from the same provisions of the 1940 Act.⁵

⁵ The Exchange states that the PowerShares Actively Managed Exchange-Traded Fund Trust (“Trust”) is registered under the 1940 Act. On November 26, 2007 the Trust filed with the Commission a Registration Statement for the Funds on Form N-1A under the Securities Act and under the 1940 Act (File Nos. 333-147622 and 811-22148) (“Registration Statement”). On November 16, 2007 the Trust filed with the Commission on Form 40-6C/A an Amended and Restated Application (“Application”) for an Amended Order under Sections 6(c) and 17(b) of the 1940 Act (File No. 812-13386-04). See Investment Company Act Release No. 28140 (February 1, 2008), 73 FR 7328 (February 7, 2008) (File No. 812-13386) (providing notice of application for an exemptive order under Section 6 of the 1940 Act).

Intraday Trading. Like Index ETFs, Managed Fund Shares will be listed and traded on a national securities exchange and, therefore, will be available for sale and purchase on an intraday-basis, like other listed securities. In contrast, shares of managed mutual funds may only be purchased and sold (issued and redeemed) in direct transactions with the fund, once each day.

Creation and Redemption of Shares. Managed Fund Shares will be issued and redeemed on a daily basis at NAV, as with Index ETFs. And like Index ETFs, creations and redemptions for Managed Fund Shares must be in large specified blocks of shares called “Creation Units.” Purchases and sales of shares in amounts smaller than the number of shares required for a Creation Unit may be effected only in the secondary market and not directly with the fund.

For most Index ETFs, the creation and redemption process is effected “in kind.” Creation “in kind” typically means that the investor – usually a brokerage house or large institutional investor – purchases the Creation Unit with a “Portfolio Deposit” equal in value to the aggregate NAV of the shares in the Creation Unit. The Portfolio Deposit generally consists of a basket of securities that reflects the composition of the Index ETF’s portfolio. Similarly, an investor redeeming shares in the Index ETF receives in exchange for shares in the Index ETF the securities in the “Redemption Basket,” which is usually the same as the Portfolio Deposit and consists of securities that reflect the composition of the Index ETF’s portfolio. The Portfolio Deposit often includes a small cash component to make the value of the deposit or basket exactly equal to the aggregate NAV. Most Index ETFs also permit cash creations and redemptions under specified, limited, circumstances.

Managed Fund Shares may use one or more of the following three approaches to creation and redemption: (1) “in kind” creation and redemption using a Portfolio Deposit that reflects the

composition of the fund; (2) cash creation and redemption; or (3) “in kind” creation and redemption using a Portfolio Deposit consisting of securities that do not reflect the composition of the fund, but instead investments in other securities including, for example, specified Index ETFs.

Portfolio Disclosure. One common feature of Index ETFs is disclosure of the contents of the Portfolio Deposit on a daily basis. Aside from providing the information required for daily creation and redemption, the Portfolio Deposit gives market participants a basis for estimating the intraday value of the fund, and thus, providing a basis for the arbitrage that keeps the market price of Index ETFs generally in line with the NAV of the Index ETF.

While Managed Fund Shares may use an in-kind or cash creation and redemption mechanism, as noted above, each series of Managed Fund Shares will disclose daily the identities and quantities of the portfolio of securities and other assets (i.e., the Disclosed Portfolio) held by the applicable fund that will form the basis for the fund’s calculation of NAV at the end of the business day.

Portfolio Indicative Value.⁶ For each series of Managed Fund Shares, an estimated value, defined in the proposed rules as the “Portfolio Indicative Value,” that reflects an estimated intraday value of the fund portfolio will be disseminated. The Portfolio Indicative Value will be based on the current value of the components of the Disclosed Portfolio and will be disseminated by the Exchange at least every 15 seconds during the Core Trading Session through the facilities of the Consolidated Tape Association (“CTA”). The dissemination of the Portfolio Indicative

⁶ The Portfolio Indicative Value is comparable to the Intraday Indicative Value for Index ETFs. This value of the estimated NAV of a share of an Index ETF is for investors, professionals, and persons wishing to create or redeem shares in Index ETFs.

Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of a series of Managed Fund Shares on a daily basis and to provide a close estimate of that value throughout the trading day.

Description of the Funds and the Trust

The Shares will be offered by the Trust, a business trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.⁷ The Trust currently consists of the four Funds, each a separate, actively managed exchange-traded fund. The Funds will not purchase or sell securities in markets outside the United States.

The Exchange represents that the Shares will conform to the initial and continued listing criteria under proposed NYSE Arca Equities Rule 8.600.⁸ PowerShares Capital Management LLC is the investment advisor to the Funds and is registered as an investment adviser under the Investment Advisers Act of 1940 (the “Advisers Act”). AER Advisors, Inc. (“AER”) is the subadvisor to the PowerShares Active AlphaQ Fund and the PowerShares Active Alpha Multi-Cap Fund (the “Initial AER Funds”) and is registered as an investment adviser under the Advisers Act. Invesco Institutional (N.A.) Inc. (“Invesco”) is the subadvisor to the PowerShares Active Mega-Cap Portfolio and the PowerShares Active Low Duration Portfolio (the “Initial Invesco Funds”) and is also registered as an investment adviser under the Advisers Act.⁹ AIM Distributors, Inc. serves as the principal underwriter and distributor for each of the Funds.

⁷ See supra note 5.

⁸ The Exchange further represents that, for initial and/or continued listing, Managed Fund Shares must also be in compliance with Rule 10A-3 under the Act, as provided by NYSE Arca Equities Rule 5.3. See 17 CFR 240.10A-3.

⁹ The Exchange states that the information provided herein is based on information included in the Application. While PowerShares Capital Management LLC will manage

AER will employ its stock screening methodology in the management of the Initial AER Funds. In employing its methodology, AER will track and rate all U.S. stocks of companies with over a \$400 million market capitalization and listed on a national securities exchange. It is anticipated by AER that less than 3% of all securities in the Master List (as defined in the Application) will be American Depositary Receipts (“ADRs”) and that ADRs will not represent more than 3% of any one Fund. Each Initial AER Fund’s investment objective will be to provide long-term capital appreciation by investing, under normal conditions, at least 95% of its total assets in stocks represented in its appropriate universe as determined by AER. The balance of the Initial AER Fund’s assets may be invested in cash and money market instruments. Each Initial AER Fund’s benchmark index will be a broad-based index relevant to its investment objective, strategy, and market capitalization. AER anticipates that the benchmark indexes for the Initial AER Funds will be as follows: (1) NASDAQ 100 Index for the PowerShares Active AlphaQ Fund; and (2) S&P 500 Index for the PowerShares Active Alpha Multi-Cap Fund.

The PowerShares Active Mega-Cap Portfolio’s investment objective, which is long-term growth of capital, seeks to invest, normally, at least 80% of its assets in a diversified portfolio of equity securities of mega-capitalization companies. The principal type of equity securities purchased by the Fund is common stock. The PowerShares Active Mega-Cap Portfolio may also invest in derivative instruments such as futures contracts and equity linked derivatives.

The PowerShares Active Low Duration Portfolio’s investment objective, which is to provide total return, seeks to exceed the total return of the Lehman Brothers 1-3 Year U.S. Treasury Index by investing, normally, at least 80% of its assets in a diversified portfolio of U.S.

the Funds, the Funds’ board of trustees will have overall responsibility for the Funds’ operations. The Exchange represents that the composition of the board is, and will be, in compliance with the requirements of Section 10 of the 1940 Act.

government and corporate debt securities. The PowerShares Active Low Duration Portfolio may invest in structured securitized debt securities, such as asset-backed securities and both residential and commercial mortgage-backed securities, and the Fund's investments may include investments in derivative instruments. Derivative instruments that the Fund may invest in include, but are not limited to, swaps, including interest rate, total return, and credit default swaps, put options, call options, and futures contracts and options on futures contracts. The Fund may also utilize other strategies such as dollar rolls and reverse repurchase agreements. The Fund may also invest up to 25% of its total assets in non-investment grade securities (junk bonds).

The Creation Unit size for each of the Funds will be 50,000 Shares.

Availability of Information

The Funds' Web site (www.powershares.com), which will be publicly available prior to the public offering of the Shares, will include a form of the prospectus for each Fund that may be downloaded. The Web site will include for each Fund additional quantitative information updated on a daily basis, including: (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),¹⁰ and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of the Core

¹⁰ The Bid/Ask Price of a Fund is determined using the highest bid and the lowest offer on the Exchange as of the time of calculation of such Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Funds and their service providers.

Trading Session, each Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.¹¹

Investors interested in a particular Fund can also obtain the Trust's Statement of Additional Information ("SAI"), each Fund's Shareholder Reports, and its Form N-CSR and Form N-SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission's Web site (www.sec.gov).

Information regarding market price and volume is and will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the facilities of the CTA. In addition, the Portfolio Indicative Value will be disseminated by the Exchange at least every 15 seconds during the Core Trading Session through the facilities of CTA. The NAV of each Fund will normally be determined as of the close of the regular trading session on the New York Stock Exchange LLC (ordinarily 4:00 p.m. ET) on each business day.

Trading Halts

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 a Fund.¹² Trading in the Shares of the Funds will be halted if the circuit breaker parameters under NYSE Arca Equities Rule 7.12 are

¹¹ Under accounting procedures followed by the Funds, trades made on the prior business day ("T") will be booked and reflected in the NAV on the current business day ("T+1"). Accordingly, the Funds will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

reached. 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. These may include: (1) the extent to which trading is not occurring in the securities comprising the Disclosed Portfolio and/or the financial instruments of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to proposed NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which trading in the Shares of a Fund may be halted.

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. The Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. ET, in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange states that it has appropriate rules to facilitate transactions in the Shares during all trading sessions.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (which will include Managed Fund Shares) 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. The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and, where appropriate, investigations are opened to review the behavior of all relevant parties for all

¹² See Commentary .04 to NYSE Arca Equities Rule 7.12.

relevant trading violations. The Exchange may obtain information via the Intermarket Surveillance Group (“ISG”) from other exchanges who are members or affiliate members of ISG.¹³ In addition, 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 (“Bulletin”) of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) 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;¹⁴ (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value 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.

¹³ A list of the current members and affiliate members of ISG can be found at www.isgportal.com.

¹⁴ NYSE Arca Equities Rule 9.2(a) provides that an ETP Holder, before recommending a transaction, must have reasonable grounds to believe that the recommendation is suitable for the customer based on any facts disclosed by the customer as to his other security holdings and as to his financial situation and needs. Further, the rule provides, with a limited exception, that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holder shall make reasonable efforts to obtain information concerning the customer’s financial status, tax status, investment objectives, and any other information that the ETP Holder believes would be useful to make a recommendation.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement and will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. ET each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act,¹⁵ which states 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 will facilitate the listing and trading of additional types of exchange-traded products 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 the proposal 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.

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

The Exchange states that it has neither solicited nor received comments on the proposed rule change.

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

¹⁵ 15 U.S.C. 78f(b)(5).

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve such 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. Please include File Number SR-NYSEArca-2008-25 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NYSEArca-2008-25. 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 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; the Commission does not edit personal identifying information from submissions. You should submit only information

that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2008-25 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.¹⁶

Florence E. Harmon
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).