

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59651; File No. SR-NYSEArca-2009-22)

March 30, 2009

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to List and Trade Shares of the Grail American Beacon Large Cap Value ETF

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that, on March 13, 2009, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (“NYSE Arca Equities” or “Corporation”), 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 prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the following under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares”): the Grail American Beacon Large Cap Value ETF. The text of the proposed rule change is available on the Exchange’s Web site at www.nyx.com, at the Exchange’s principal office and at the Commission’s Public Reference Room.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Exchange proposes to list and trade the following Managed Fund Shares³ (“Shares”) under NYSE Arca Equities Rule 8.600: the Grail American Beacon Large Cap Value ETF (“Fund”).⁴ The Shares will be offered by Grail Advisors ETF Trust (the “Trust”), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.⁵ Grail Advisors, LLC (the “Manager”), a majority owned subsidiary of Grail Partners, LLC, acts as the Fund’s investment manager. The Fund is subadvised

³ A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a) (“1940 Act”) organized as an 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, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), 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.

⁴ The Commission previously approved listing and trading on the Exchange of the following actively managed funds under Rule 8.600. See Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR-NYSEArca-2008-25) (order approving Rule 8.600 and Exchange listing and trading of PowerShares Active AlphaQ Fund, PowerShares Active Alpha Multi-Cap Fund, PowerShares Active Mega-Cap Portfolio and PowerShares Active Low Duration Portfolio); Securities Exchange Act Release No. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust).

⁵ The Trust is registered under the 1940 Act. On January 14, 2009, the Trust filed with the Commission pre-effective amendment 1 to its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333-148082 and 811-22154) (“Registration Statement”). The description of the operation of the Trust herein is based on the Registration Statement.

by American Beacon Advisors, Inc. (“ABA”). The Bank of New York Mellon Corporation is the administrator, Fund accountant, transfer agent and custodian for the Fund. ALPS Distributors, Inc. (the “Distributor”) serves as the distributor for the Fund.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A-3⁶ under the Exchange Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the net asset value and the Disclosed Portfolio will be made available to all market participants at the same time.

Commentary .07 to Rule 8.600 provides that, if the investment adviser to the Investment Company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio.⁷ In addition, Commentary .07 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund’s portfolio.

⁶ 17 CFR 240.10A-3.

⁷ 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, the investment adviser is 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, “fire wall” procedures as well as procedures designed to prevent the misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act.

Commentary .07 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .07 in connection with the establishment of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable open-end fund’s portfolio, not an underlying benchmark index, as is the case with index-based funds. Grail Advisors, LLC is affiliated with a broker-dealer, Grail Securities, LLC, and has implemented a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio.⁸

ABA, the Fund’s primary sub-adviser, is not affiliated with a broker-dealer. Any additional Fund sub-advisers that are affiliated with a broker-dealer will be required to implement a

⁸ The Exchange represents that Grail Advisors, LLC, as the investment adviser of the Fund, and its related personnel, are subject to Investment Advisers Act Rule 204A-1. This Rule specifically requires the adoption of a code of ethics by an investment adviser to include, at a minimum: (i) standards of business conduct that reflect the firm’s/personnel fiduciary obligations; (ii) provisions requiring supervised persons to comply with applicable federal securities laws; (iii) provisions that require all access persons to report, and the firm to review, their personal securities transactions and holdings periodically as specifically set forth in Rule 204A-1; (iv) provisions requiring supervised persons to report any violations of the code of ethics promptly to the chief compliance officer (“CCO”) or, provided the CCO also receives reports of all violations, to other persons designated in the code of ethics; and (v) provisions requiring the investment adviser to provide each of the supervised persons with a copy of the code of ethics with an acknowledgement by said supervised persons. 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. Telephone conversation between Michael Cavalier, Chief Counsel, NYSE Euronext, and Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated March 26, 2009.

fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio.⁹

Description of the Fund

According to the Registration Statement, the Fund's investment objective is long-term capital appreciation and current income. Ordinarily, at least 80% of the Fund's net assets (plus the amount of any borrowings for investment purposes) are primarily invested in equity securities of large market capitalization U.S. companies. These companies generally have market capitalizations similar to the market capitalizations of the companies in the Russell 1000® Index at the time of investment. The Russell 1000 Index measures the performance of the 1,000 largest U.S. companies based on total market capitalization. The Fund's investments may include common stocks, preferred stocks, securities convertible into U.S. common stocks, U.S. dollar-denominated American Depositary Receipts, and U.S. dollar-denominated foreign stocks traded on U.S. exchanges. The Fund will not purchase or sell securities in markets outside the U.S.

According to the Registration Statement, the Fund's investment sub-advisers will select stocks that, in their opinion, have most or all of the following characteristics (relative to the Russell 1000® Index): above-average earnings growth potential; below-average price to earnings ratio; below-average price to book value ratio; and above-average dividend yields.

The Fund's investment sub-advisers will determine the earnings growth prospects of companies based upon a combination of internal and external research using fundamental analysis and considering changing economic trends. The decision to sell a stock is typically based on the

⁹ Telephone conversation between Michael Cavalier, Chief Counsel, NYSE Euronext, and Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated March 26, 2009.

belief that the company is no longer considered undervalued or shows deteriorating fundamentals, or that better investment opportunities exist in other stocks.

The Fund's assets are allocated among one or more investment sub-advisers by the Manager and/or ABA. With respect to any assets allocated to it, each investment sub-adviser has discretion to purchase and sell securities in accordance with the Fund's objectives, policies, restrictions, and more specific policies provided by the Manager and ABA.

According to the Registration Statement, in addition to the investment strategies described in the prospectus for the Fund, the Fund may invest up to 20% of its total assets in debt securities that are investment grade at the time of purchase, including obligations of the U.S. Government, its agencies and instrumentalities, corporate debt securities, mortgage-backed securities, asset-backed securities, master-demand notes, Yankee dollar and Eurodollar bank certificates of deposit, time deposits, bankers' acceptances, commercial paper and other notes, inflation-indexed securities, and other debt securities. Additionally, the Fund may use options and futures for various purposes, including for hedging and investment purposes. The Fund may also purchase or otherwise receive warrants or rights, or convertible and non-convertible preferred and preference stocks. Further the Fund may also invest in over-the-counter options. To the extent consistent with applicable law, the Fund may invest in futures contracts on, among other things, financial instruments (such as a U.S. government security or other fixed income security), individual equity securities ("single stock futures"), securities indices, interest rates, currencies, inflation indices, and commodities or commodities indices. The Fund's purchase and sale of index futures is limited to contracts and exchanges approved by the U.S. Commodity Futures Trading Commission. The Fund may also engage in transactions involving the use of interest rate futures; use options on futures contracts, interest rate caps, floors, and collars; and directly or indirectly use various different types of swaps,

such as swaps on securities and securities indices, interest rate swaps, currency swaps, credit default swaps, commodity swaps, inflation swaps, and other types of available swap agreements. Further, the Fund may enter into repurchase agreements with banks and broker-dealers. The Fund may temporarily invest a portion of its assets in cash or cash items pending other investments or to maintain liquid assets required in connection with some of the Fund's investments. The Fund may also invest in pooled real estate investment vehicles. Furthermore, the Fund may invest up to 15% of its net assets in illiquid securities. For this purpose, "illiquid securities" are securities that a Fund may not sell or dispose of within seven days in the ordinary course of business at approximately the amount at which the Fund has valued the securities. Finally, the Fund may invest in the securities of other investment companies to the extent permitted by law.¹⁰

Under adverse market conditions, the Fund may, for temporary defensive purposes, invest up to 100% of its assets in cash or cash equivalents, including investment grade short-term obligations. Investment grade obligations include securities issued or guaranteed by the U.S. Government, its agencies and instrumentalities, as well as securities rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations rating that security (such as Standard & Poor's Ratings Services or Moody's Investors Service, Inc.) or rated in one of the four highest rating categories by one rating organization if it is the only organization rating that security.

¹⁰ Telephone conversation between Michael Cavalier, Chief Counsel, NYSE Euronext, and Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated March 27, 2009. See also email from Michael Cavalier, Chief Counsel, NYSE Euronext, to Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated March 26, 2009 (confirming that all of the types of investments and financial instruments referenced in the foregoing paragraph would be included in the 20% portion of the Fund's net assets).

Creations and redemptions of Shares occur in large specified blocks of Shares referred to as “Creation Units”. The Creation Unit size for the Fund is 50,000 Shares.

Availability of Information

The Fund’s Web site (www.grailadvisors.com), which will be publicly available prior to the public offering of Shares, will include a form of the Prospectus for the Fund that may be downloaded. The Fund’s Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (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”),¹¹ 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 trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio as defined in proposed Rule 8.600(c)(2) that will form the basis for the Fund’s calculation of NAV at the end of the business day.¹² The Registration Statement provides that “the Fund’s portfolio holdings are publicly disseminated each day the Fund is open for business through their internet web site. In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for Fund shares, together with estimates and actual cash components, is publicly disseminated daily prior to the opening of the NYSE via

¹¹ The Bid/Ask Price of the Fund is determined using the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund’s NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

¹² Under accounting procedures followed by the Fund, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T + 1”). Accordingly, the Fund 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.

the National Securities Clearing Corporation (“NSCC”). The basket represents one Creation Unit of the Fund.” The Web site information will be publicly available at no charge.

The NAV of the Fund will normally be determined as of the close of the regular trading session on the New York Stock Exchange (ordinarily 4:00 p.m. Eastern time) on each business day.

Investors can also obtain the Trust’s Statement of Additional Information (“SAI”), the 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 at <http://www.sec.gov>. Information regarding market price and trading volume of the Shares is and will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. Information regarding 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 Consolidated Tape Association (“CTA”) high-speed line. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be disseminated by the Exchange at least every 15 seconds during the Core Trading Session through the facilities of CTA. The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of a Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Additional information regarding the Shares and the Fund, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions

and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

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 the Fund.¹³ Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been 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 the 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 Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the 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. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. Eastern Time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. The minimum trading increment for Shares on the Exchange will be \$0.01.

¹³ See NYSE Arca Equities Rule 7.12, Commentary .04.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (which 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 and applicable federal securities laws.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange may obtain information via the Intermarket Surveillance Group ("ISG") from other exchanges that are members of ISG.¹⁴ 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; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an

¹⁴ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG.

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.

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

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)¹⁵ 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 an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

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.

¹⁵ 15 U.S.C. 78f(b)(5).

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

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

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

Within 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 self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of notice in the Federal Register. The Commission is considering granting accelerated approval of the proposed rule change at the end of a 15-day comment period.

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-2009-22 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NYSEArca-2009-22. 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 will also be available for inspection and copying at NYSE Arca's principal office and on its Internet Web site at www.nyse.com. 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-2009-22 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).