

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66334; File No. SR-NYSEArca-2011-94)

February 6, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change to List and Trade Shares of the ProShares Managed Futures Strategy Fund, ProShares Commodity Managed Futures Strategy Fund, and ProShares Financial Managed Futures Strategy Fund under NYSE Arca Equities Rule 8.200

I. Introduction

On December 5, 2011, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) 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 shares of the ProShares Managed Futures Strategy Fund, ProShares Commodity Managed Futures Strategy Fund, and ProShares Financial Managed Futures Strategy Fund (each a “Fund,” and collectively, “Funds”) under NYSE Arca Equities Rule 8.200. The proposed rule change was published for comment in the Federal Register on December 23, 2011.³ The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade shares (“Shares”) of each of the Funds pursuant to NYSE Arca Equities Rule 8.200, Commentary .02, which permits the trading of Trust Issued Receipts either by listing or pursuant to unlisted trading privileges.⁴ Each Fund is a series of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 66002 (December 19, 2011), 76 FR 80433 (“Notice”).

⁴ Commentary .02 to NYSE Arca Equities Rule 8.200 applies to Trust Issued Receipts that invest in “Financial Instruments.” The term “Financial Instruments,” as defined in

ProShares Trust II (“Trust”), a Delaware statutory trust.⁵ ProShare Capital Management LLC is the Trust’s Sponsor (“Sponsor”), and Wilmington Trust Company is the Trust’s trustee. Brown Brothers Harriman & Co. serves as the administrator, custodian, and transfer agent of the Funds (“Administrator”). SEI Investments Distribution Co. serves as distributor of the Shares.

The Funds and Principal Investment Strategies

The Funds seek to provide investment results (before fees and expenses) that correspond to the performance of the S&P Dynamic Futures Index (“DFI” or “Index”) or to a sub-index of the Index (“Sub-Index”). The ProShares Managed Futures Strategy seeks to provide investment results (before fees and expenses) that correspond to the performance of the DFI. The ProShares Commodity Managed Futures Strategy seeks to provide investment results (before fees and expenses) that correspond to the performance of the S&P Dynamic Commodities Futures Index (“DCFI”), a Sub-Index of the DFI. The ProShares Financial Managed Futures Strategy seeks to provide investment results (before fees and expenses) that correspond to the performance of the S&P Dynamic Financial Futures Index (“DFFI”), another Sub-Index of the DFI.

The Index and each Sub-Index were developed by Standard & Poor’s and are long/short rules-based investable indexes designed to attempt to capture the economic benefit derived from both rising and declining trends in futures prices.⁶ The Index is composed of unleveraged positions in U.S. exchange-traded futures contracts on sixteen different tangible commodities

Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars and floors; and swap agreements.

⁵ See the Trust’s Registration Statement on Form S-1, dated November 29, 2011 (File No. 333-178212) relating to the Funds (“Registration Statement”).

⁶ Standard & Poor’s is not a broker-dealer, is not affiliated with a broker-dealer, and has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index and Sub-Indexes.

(“Commodities Futures Contracts”), as well as U.S. exchange-traded futures contracts on eight different financials, such as major currencies and U.S. Treasury securities (“Financials Futures Contracts,” and together with the Commodities Futures Contracts, collectively, “Index Components”).⁷ Commodities Futures Contracts and Financials Futures Contracts each comprise a Sub-Index of the Index: the DCFI and the DFFI, respectively (collectively, “Sub-Indexes”).

In order to achieve the investment objective of the Funds, the Sponsor will invest in: (1) exchange-traded futures contracts of the type comprising the Index or Sub-Indexes, as applicable (“Futures Contracts”); and/or (2) under limited circumstances (as further described herein), swap agreements whose value is derived from the level of the Index, a Sub-Index, one or more Futures Contracts, or, in the case of currency-based Financials Futures Contracts, the exchange rates underlying such Financials Futures Contracts. Each Fund may also invest in cash or cash equivalents, such as U.S. Treasury securities or other high credit quality, short-term fixed-income or similar securities (including shares of money market funds, bank deposits, bank money market accounts, certain variable rate-demand notes, and repurchase agreements collateralized by government securities) that may serve as collateral for the Futures Contracts or swap agreements. The Sponsor does not expect the Funds to invest directly in any commodity or currency.

Each Fund seeks to achieve its investment objective by investing, under normal market conditions, in exchange-traded Futures Contracts. In the event position accountability rules or position limits with respect to a Futures Contract is reached with respect to a Fund, the Sponsor

⁷ The Index Components are traded on the Chicago Mercantile Exchange, Inc. (“CME”), COMEX (a division of CME), Chicago Board of Trade (“CBOT,” a division of CME), NYMEX (a division of CME), and ICE Futures US (“ICE”) (collectively, “Futures Exchanges”).

may, in its commercially reasonable judgment, cause such Fund to obtain exposure through swaps whose value is derived from the level of the Index, a Sub-Index, one or more Futures Contracts, or, in the case of currency-based Financials Futures Contracts, the exchange rates underlying such Financials Futures Contracts, or invest in swaps if such instruments tend to exhibit trading prices or returns that correlate with the Index, the Sub-Indexes, or any Futures Contract and will further the investment objective of the Funds.⁸ The Funds may also invest in swaps if the market for a specific Futures Contract experiences emergencies (e.g., natural disaster, terrorist attack, or an act of God) or disruptions (e.g., a trading halt or a flash crash) that would prevent the Funds from obtaining the appropriate amount of investment exposure to the affected Futures Contracts directly.⁹

The Index and Sub-Indexes

The Index is composed of the Index Components, representing unleveraged long or short positions in U.S. exchange-traded futures contracts in the commodity and financial markets.¹⁰ The Index Components are formed into “sectors” of one or more contracts with similar characteristics. Index Components within each sector are chosen based on fundamental characteristics and liquidity. The Commodities Futures Contracts comprise the DCFI as

⁸ To the extent practicable, the Funds will invest in swaps cleared through the facilities of a centralized clearing house.

⁹ The Sponsor will attempt to mitigate the Funds’ credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of a counterparty and will take various steps to limit counterparty credit risk.

¹⁰ As set forth in the Index weighting scheme example below, the commodities portion of the Index consists of multiple commodity sectors (e.g., Energy, Industrial Metals) and each sector is assigned a percentage sector weight. Each sector, in turn, consists of one or more components, each with an assigned component weight. Similarly, the financial markets portion of the Index consists of multiple foreign currency and U.S. Treasury sectors (e.g., Australian Dollar and U.S. Treasury Notes), each with an assigned sector weight. Each such sector has one component, with an assigned component weight.

described below, and weightings of the Commodities Futures Contracts are based on generally known world production levels, as adjusted to limit the impact of the energy sector. The Financials Futures Contracts comprise the DFFI, as described below, and weightings of the Financials Futures Contracts are based on, but not directly proportional to, gross domestic product.

The positions the Index (and accordingly, each Sub-Index) takes in the Index Components are not long-only, but are set by sector, long, short or, in the case of Energy, flat based on the relation of the current aggregate price input of the Index Components in a particular sector with a seven-month weighted moving average of the aggregate price inputs of the same Index Components. For the Index and the DCFI, the sector weights will vary based on whether Energy is positioned long or flat. If Energy is flat, its weight is redistributed pro-rata among the other sectors. Since the DFFI has no commodity exposure, the weights of the sectors and the Index Components that comprise it are not impacted by the long or flat positioning of the Energy sector.

For the Index, if Energy is positioned “long,” the initial Index weights, together with information about the exchange and trading hours for each Futures Contract, are as follows:

<u>Index Weights with Energy “Long”</u>							
<u>Sub-Index</u>	<u>Weight</u>	<u>Sector</u>	<u>Weight</u>	<u>Component</u>	<u>Weight</u>	<u>Exchange</u>	<u>Trading Hours¹¹</u>
DCFI	50%	Energy	14.12%	Light Crude	10.20%	NYMEX (CME)	6:00 pm –5:15pm

¹¹ All times are Eastern time (“E.T.”), inclusive of electronic and open outcry trading sessions, as applicable.

							next day
				Heating Oil	1.54%	NYMEX (CME)	6:00 pm -5:15pm next day
				RBOB Gasoline	1.40%	NYMEX (CME)	6:00 pm -5:15pm next day
				Natural Gas	0.98%	NYMEX (CME)	6:00 pm -5:15pm next day
		Industrial Metals	5.02%	Copper	5.02%	COMEX (CME)	6:00 pm -5:15pm next day
		Precious Metals	3.79%	Gold	3.22%	COMEX (CME)	6:00 pm -5:15pm next day
				Silver	0.57%	COMEX (CME)	6:00 pm -5:15pm next day
		Livestock	5.27%	Lean Hogs	2.04%	CME	** ¹²

¹² Lean Hogs trade from 10:05 a.m. Monday to 2:55 p.m. Friday, with daily trading halts from 5:00 p.m. to 6:00 p.m.

				Live Cattle	3.23%	CME	** ¹³
		Grains	13.85%	Corn	5.75%	CBOT (CME)	7:00pm – 8:15am; 10:30am – 2:15pm
				Soybeans	3.37%	CBOT (CME)	7:00pm – 8:15am; 10:30am – 2:15pm
				Wheat	4.73%	CBOT (CME)	7:00pm – 8:15am; 10:30am – 2:15pm
		Softs	7.95%	Coffee	1.26%	ICE	3:30am – 2:00pm
				Cocoa	0.42%	ICE	4:00am – 2:00pm
				Sugar	3.58%	ICE	3:30am – 2:00pm
				Cotton	2.69%	ICE	9:00pm – 2:30pm

¹³ Live Cattle trade from 10:05 a.m. Monday to 2:55 p.m. Friday, with daily trading halts from 5:00 p.m. to 6:00 p.m.

							next day
DFFI	50%	Australian Dollar	1.67%	Australian Dollar		CME	6:00pm – 5:15pm next day
		British Pound	3.08%	British Pound		CME	6:00pm – 5:15pm next day
		Canadian Dollar	2.10%	Canadian Dollar		CME	6:00pm – 5:15pm Next day
		Euro	15.67%	Euro		CME	6:00pm – 5:15pm Next day
		Japanese Yen	7.31%	Japanese Yen		CME	6:00pm – 5:15pm Next day
		Swiss Franc	0.70%	Swiss Franc		CME	6:00pm – 5:15pm Next day
		U.S. Treasury Notes ¹⁴	9.74%	U.S. Treasury Notes		CBOT (CME)	6:30pm – 5:00pm Next day

¹⁴ “U.S. Treasury Notes” refer to 10 year U.S. Treasury Note futures.

		U.S. Treasury Bonds ¹⁵	9.74%	U.S. Treasury Bonds		CBOT (CME)	6:30pm – 5:00pm Next day
<u>Totals</u>	<u>100%</u>		<u>100%</u>		<u>100%</u>		

For the DCFI, if Energy is positioned “flat,” the initial Index weights will be as follows:

<u>Index Weights with Energy “Flat”</u>					
<u>Sub-Index</u>	<u>Weight</u>	<u>Sector</u>	<u>Weight</u>	<u>Component</u>	<u>Weight</u>
DCFI	41.78%	Energy	0.00%	Light Crude	0.00%
				Heating Oil	0.00%
				RBOB Gasoline	0.00%
				Natural Gas	0.00%
		Industrial Metals	5.84%	Copper	5.84%
		Precious Metals	4.41%	Gold	3.75%
				Silver	0.66%
		Livestock	6.13%	Lean Hogs	2.38%
				Live Cattle	3.76%
		Grains	16.13%	Corn	6.70%
				Soybeans	3.92%
				Wheat	5.51%
		Softs	9.26%	Coffee	1.47%
Cocoa	0.48%				

¹⁵ “U.S. Treasury Bonds” refer to those futures with underlying bonds of a remaining term to call or maturity of 15-25 years.

				Sugar	4.17%
				Cotton	3.13%
DFFI	58.22%	Australian Dollar	1.94%	Australian Dollar	1.94%
		British Pound	3.59%	British Pound	3.59%
		Canadian Dollar	2.44%	Canadian Dollar	2.44%
		Euro	18.24%	Euro	18.24%
		Japanese Yen	8.51%	Japanese Yen	8.51%
		Swiss Franc	0.81%	Swiss Franc	0.81%
		U.S. Treasury	11.34%	U.S. Treasury	11.34%
		Notes		Notes	
		U.S. Treasury	11.34%	U.S. Treasury	11.34%
		Bonds		Bonds	
<u>Totals</u>	<u>100%</u>		<u>100%</u>		<u>100%</u>

For the DCFI, if Energy is positioned “long,” the initial Sub-Index weightings would be as follows:

<u>DCFI Weights with Energy “Long”</u>			
<u>Sector</u>	<u>Weight</u>	<u>Component</u>	<u>Weight</u>
Energy	28.24%	Light Crude	20.40%
		Heating Oil	3.08%
		RBOB Gasoline	2.80%
		Natural Gas	1.96%
Industrial	10.04%	Copper	10.04%

Metals			
Precious Metals	7.58%	Gold	6.44%
		Silver	1.14%
Livestock	10.54%	Lean Hogs	4.08%
		Live Cattle	6.46%
Grains	27.70%	Corn	11.50%
		Soybeans	6.74%
		Wheat	9.46%
Softs	15.90%	Coffee	2.52%
		Cocoa	0.84%
		Sugar	7.16%
		Cotton	5.38%
<u>Total</u>	<u>100%</u>		<u>100%</u>

For the DCFI, if Energy is initially positioned “flat,” the weights would be as follows:

<u>DCFI Weights with Energy “Flat”</u>			
<u>Sector</u>	<u>Weight</u>	<u>Component</u>	<u>Weight</u>
Energy	0.00%	Light Crude	0.00%
		Heating Oil	0.00%
		RBOB Gasoline	0.00%
		Natural Gas	0.00%
Industrial Metals	13.98%	Copper	13.98%

Precious Metals	10.56%	Gold	8.99%
		Silver	1.58%
Livestock	14.69%	Lean Hogs	5.69%
		Live Cattle	8.99%
Grains	38.61%	Corn	16.04%
		Soybeans	9.39%
		Wheat	13.18%
Softs	22.16%	Coffee	3.53%
		Cocoa	1.16%
		Sugar	9.98%
		Cotton	7.50%
<u>Total</u>	<u>100%</u>		<u>100%</u>

Finally, for the DFFI, the initial weights would be as follows:

<u>DFFI Weights</u>			
<u>Sector</u>	<u>Weight</u>	<u>Component</u>	<u>Weight</u>
Australian Dollar	3.34%	Australian Dollar	3.34%
British Pound	6.16%	British Pound	6.16%
Canadian Dollar	4.20%	Canadian Dollar	4.20%
Euro	31.34%	Euro	31.34%
Japanese Yen	14.62%	Japanese Yen	14.62%
Swiss Franc	1.40%	Swiss Franc	1.40%
U.S. Treasury	19.48%	U.S. Treasury Notes	19.48%

Notes			
U.S. Treasury Bonds	19.48%	U.S. Treasury Bonds	19.48%
<u>Total</u>	<u>100%</u>		<u>100%</u>

Sectors will be rebalanced monthly to the applicable weights, and the weighting of each individual Index Component within a particular sector will be rebalanced annually.

Energy’s Short Exemption

If Energy receives a negative price signal (as determined by the weighted moving average, as discussed below), it is positioned flat (zero-weight) rather than short. This is due to the “risk of ruin” inherent in the Energy sector because of the concentration of supply in a relatively small number of production locales. If supply from these locales were to be disrupted (whether by war, terrorism, or other events), the price of the Energy sector within the Index and the DCFI is exposed to large scale price increases regardless of the current trend and position setting. This would expose the Index and the DCFI to significant, if not total, losses in such a circumstance. As such, the Energy sector is positioned flat in a negative price environment and the weight it would otherwise receive is redistributed pro rata among the other sectors of the Index and the DCFI, as applicable.

Determining the Long/Short Positioning of the Sectors

The rule for the Index and each Sub-Index regarding long or short positions is summarized as follows:

- Long positions are tracked when a sector’s current aggregate 1-month price change is greater than or equal to the exponential average of the past seven monthly price inputs; and

- Short positions (or flat, in the case of Energy) are tracked when a sector’s current 1-month price change is less than the exponential average of the past seven monthly price inputs.

Monthly positions are determined on the second to last DFI business day of the month (defined as the position determination date, or “PDD”) when the monthly percentage change of an Index Component’s price is compared to past monthly price changes, exponentially weighted to give greatest weight to the most recent return and least weight to the return seven months prior. The weighted sum of the percentage changes of all the Index Component prices equals the daily movement of the Index.

To create an exponential average for comparison, price inputs (percentage change from current and previous PDDs) are weighted per the schedule below. Due to this weighting methodology, current price movements are more important than those of the more distant past.

<u>Number of Months</u>	<u>Weight</u>
7	2.32%
6	3.71%
5	5.94%
4	9.51%
3	15.22%
2	24.34%
1	38.95%
<u>SUM</u>	100.00%

Because this valuation is done on a sector basis, all the Index Components within a particular sector will be set long, short (or flat, in the case of Energy) upon each monthly rebalancing.

Sector Rebalancing

While sector weights are fixed and rebalanced back to their base weight monthly, Index Components that are part of a multi-component sector (energy, livestock, grains, and precious metals) are only reset back to their base weight within their sector during the first five business days of February. For example (assuming Energy is long), the Japanese Yen (a single component sector) and Grains (a multi-component sector) will rebalance to 6.85% and 11.16% of the Index respectively on the roll date, as described below. However, the individual components within the grains sector will only rebalance to their base weight at the beginning of the year. During the year, they “float” within the 11.16% Index Grains weighting. During this monthly rebalancing, the Index will also “roll” certain of its positions from the current contract to a contract further from settlement.¹⁶

Additional details regarding the Trust, Funds, Shares, trading policies and investment strategies of the Funds, creations and redemption procedures, fees, investment risks, Index and Sub-Indexes, net asset value (“NAV”) calculation, the dissemination and availability of information about the underlying assets, trading halts, applicable trading rules, surveillance, and the Information Bulletin, among other things, can be found in the Notice and/or the Registration Statement, as applicable.¹⁷

III. Discussion and Commission’s Findings

¹⁶ The Index is composed of Index Components, which are futures contracts. In order to maintain consistent exposure to the Index Components, each Index Component contract must be sold prior to its expiration date and replaced by a contract maturing at a specified date in the future. This process is known as rolling. Index Component contracts are rolled periodically. The rolls are implemented pursuant to a roll schedule over a five-day period from the first through the fifth Index business days of the month. An Index business day is any day on which the majority of the Index Components are open for official trading and official settlement prices are provided, excluding holidays and weekends. The roll schedule is set forth in the Registration Statement.

¹⁷ See Notice and Registration Statement, supra notes 3 and 5, respectively.

After careful review, the Commission finds that the proposed rule change to list and trade the Shares of the Funds is consistent with the requirements of Section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁸ In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,¹⁹ 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 notes that the Funds and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.200 and Commentary .02 thereto to be listed and traded on the Exchange.

The Commission 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,²⁰ which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly 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 for the Shares will be available via the Consolidated Tape Association ("CTA") high-speed line. The daily closing Index level and the percentage change in the daily closing Index level for the Index and each Sub-Index will be publicly available from one or more major market data vendors. Data regarding the Index and each Sub-Index, updated every 15 seconds during the

¹⁸ 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).

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ 15 U.S.C. 78k-1(a)(1)(C)(iii).

NYSE Arca Core Trading Session, is also available from Standard & Poor's on a subscription basis.²¹ In addition, for each Fund, the Indicative Optimized Portfolio Value ("IOPV") will be widely disseminated on a per Share basis by one or more major market data vendors every 15 seconds during the NYSE Arca Core Trading Session.²² The IOPV will be updated during the NYSE Arca Core Trading Session when applicable Futures Exchanges are trading any Futures Contracts held by the Funds. However, the IOPV that will be disseminated between 2:00 p.m. E.T. and the close of the NYSE Arca Core Trading Session will be impacted by static values for certain Futures Contracts.²³ The NAV for the Funds linked to the DFI and DFFI will be calculated and disseminated daily by the Administrator at 3:00 p.m. E.T., and the NAV for the Fund linked to the DCFI will be calculated and disseminated daily at 2:30 p.m. E.T. The Trust will provide website disclosure of portfolio holdings daily and will include, as applicable, the names, notional value (in U.S. dollars) and number of Futures Contracts or units of swaps held by a Fund, if any, cash equivalents and the amount of cash held in the portfolio of each Fund. Moreover, the website for the Funds and/or the Exchange will contain the following information: (a) the current NAV per Share and the prior business day's NAV per Share; (b) calculation of the premium or discount of the closing market price against the NAV per Share; (c) the prospectus;

²¹ In addition, several independent data vendors package and disseminate Index and Sub-Index data in various value-added formats. Data regarding the Index Components is available from the websites of the Futures Exchanges. Data regarding the commodities, currencies and Treasury securities underlying the Index Components is publicly available from various financial information service providers.

²² According to the Exchange, several major market data vendors display and/or make widely available IOPVs published on CTA or other data feeds. For each Fund, the IOPV will be calculated by using the prior day's closing NAV of such Fund as a base and updating throughout the trading day changes in the value of each Fund's holdings.

²³ The value of the IOPV will be based on the underlying Futures Contracts. Once a particular Futures Contract closes for trading, a static value for that Futures Contract will be used to calculate the IOPV.

and (d) other applicable quantitative information. The Exchange also will disseminate on a daily basis via the CTA information with respect to the recent NAV and Shares outstanding and make available on its website daily trading volume of the Shares, closing prices of the Shares, and the NAV per Share. The intra-day, closing, and settlement prices of the Futures Contracts will also be readily available, as applicable, from the respective Futures Exchanges.²⁴

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. If the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. Further, the Exchange represents that it may halt trading during the day in which an interruption to the dissemination of the IOPV, the level of the Index (or Sub-Index), or the value of the underlying Futures Contracts occurs. If the interruption to the dissemination of the IOPV, the level of the Index (or Sub-Index), or the value of the underlying Futures Contracts persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. The Exchange also may halt trading in the Shares if unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.²⁵ Public website disclosure of the portfolio composition of the Funds will occur at the same time as the

²⁴ See supra note 7.

²⁵ 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 Funds. Trading in the Shares of the Funds will be subject to halts caused by extraordinary market volatility pursuant to the Exchange's circuit breaker rules in NYSE Arca Equities Rule 7.12. 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.

disclosure by the Sponsor of the portfolio composition to Authorized Participants, so that all market participants are provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public website as well as in electronic files provided to Authorized Participants. Accordingly, the Exchange represents that each investor will have access to the current portfolio composition of the Funds through the Funds' website and/or at the Exchange's website. In addition, the Commission notes that Standard & Poor's is not a broker-dealer, is not affiliated with a broker-dealer, and has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index and Sub-Indexes. Lastly, the Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees, and trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on ETP Holders²⁶ acting as registered Market Makers²⁷ in Trust Issued Receipts to facilitate surveillance.

The Exchange has represented that the Shares are deemed 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 made representations, including:

- (1) The Funds will be subject to the criteria in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto for initial and continued listing of the Shares.
- (2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.
- (3) The Exchange's surveillance procedures applicable to derivative products, including Trust Issued Receipts, are adequate to properly monitor Exchange

²⁶ See NYSE Arca Equities Rule 1.1(n) (defining ETP Holder).

²⁷ See NYSE Arca Equities Rule 1.1(u) (defining Market Maker).

trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

- (4) The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the Futures Exchanges, all of which are members of the Intermarket Surveillance Group (“ISG”). For components traded on exchanges, not more than 10% of the weight of a Fund’s portfolio in the aggregate shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.
- (5) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated, as well as during the Core Trading Session when the IOPV may be based in part on static underlying values; (b) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (c) 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; (d) how information regarding the IOPV is disseminated; (e) 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 (f) trading information.

- (6) The anticipated minimum number of Shares for each Fund to be outstanding at the start of trading will be 100,000 Shares.
- (7) For the initial and continued listing of the Shares, the Funds must be in compliance with NYSE Arca Equities Rule 5.3 and Rule 10A-3 under the Act.²⁸
- (8) The Exchange will obtain a representation (prior to listing the Shares of each Fund) from the Trust that the NAV per Share will be calculated daily and made available to all market participants at the same time.

This approval order is based on the Exchange's representations.²⁹

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act³⁰ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,³¹ that the

²⁸ 17 CFR 240.10A-3.

²⁹ The Commission notes that it does not regulate the market for futures in which the Fund plans to take positions, which is the responsibility of the Commodity Futures Trading Commission ("CFTC"). The CFTC has the authority to set limits on the positions that any person may take in futures. These limits may be directly set by the CFTC or by the markets on which the futures are traded. The Commission has no role in establishing position limits on futures, even though such limits could impact an exchange-traded product that is under the jurisdiction of the Commission.

³⁰ 15 U.S.C. 78f(b)(5).

³¹ 15 U.S.C. 78s(b)(2).

proposed rule change (SR-NYSEArca-2011-94) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Kevin M. O'Neill
Deputy Secretary

³² 17 CFR 200.30-3(a)(12).