

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67401; File No. SR-NYSEArca-2012-68)

July 11, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the AdvisorShares Active Bear ETF

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on June 27, 2012, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to reflect a change to the means of achieving the investment objective applicable to the AdvisorShares Active Bear ETF (the “Fund”). The text of the proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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 15 U.S.C. 78a.

³ 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 Commission has approved listing and trading on the Exchange of shares (“Shares”) of the AdvisorShares Active Bear ETF, a series of AdvisorShares Trust (the “Trust”),⁴ under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Shares are offered by 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 The investment advisor to the Fund is AdvisorShares Investments, LLC (the “Adviser”). Ranger Alternative Management, L.P. is the sub-advisor (“Sub-Adviser”) to the Fund and the portfolio manager. Foreside Fund Services LLC is the distributor for the Fund. The Bank of New York Mellon Corporation is the administrator, custodian, transfer agent and fund accounting agent for the Fund.

⁴ See Securities Exchange Act Release No. 63737 (January 19, 2011), 76 FR 4968 (January 27, 2011) (SR-NYSEArca-2010-107) (“Prior Order”). See also Securities Exchange Act Release No. 63447 (December 7, 2010), 75 FR 77681 (December 13, 2010) (SR-NYSEArca-2010-107) (“Prior Notice,” and together with the Prior Order, the “Prior Release”).

⁵ The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”). On September 22, 2010, the Trust filed with the Commission an amendment to its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) (“1933 Act”), and under the 1940 Act relating to the Fund (File Nos. 333-157876 and 811-22110) (the “Registration Statement”). The description of the operation of the Trust and the Fund herein is based on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812-13677) (“Exemptive Order”).

In this proposed rule change, the Exchange proposes to reflect a change to the description of the measures the Sub-Adviser will utilize to implement the Fund’s investment objective.⁶ As reflected in the Prior Release, the Fund’s investment objective is to seek capital appreciation through short sales of domestically traded equity securities. The Sub-Adviser seeks to achieve the Fund’s investment objective by short selling a portfolio of liquid mid- and large-cap U.S. exchange-traded equity securities, exchange-traded funds (“ETFs”) registered pursuant to the 1940 Act, and exchange-traded products (“ETPs”), including exchange-traded notes (“ETNs”, and, collectively with ETFs and ETPs, “Underlying ETPs”)⁷. In contrast to ETFs, ETNs and ETPs are not registered pursuant to the 1940 Act.

The Exchange seeks to make a change to representations made by the Adviser reflected in the Prior Release, as described below. As stated in the Prior Notice, the Fund generally targets a composition of 20 to 50 equity short positions, with an average individual position size which generally range between 2-7% of the aggregate portfolio exposure. Going forward, the Fund generally will target a composition of 20 to 75 equity short positions, with no change in the aggregate portfolio exposure size.

The Adviser represents that the purpose of this change is to provide additional flexibility to the Sub-Adviser to meet the Fund’s investment objective by providing a limited increase in the number of equity short positions in the Fund’s portfolio. Such an increase will permit the Fund to include a broader range of market sectors in the mid- and large-cap equity securities and

⁶ The change described herein will be effective upon filing with the Commission of another amendment to the Trust’s Registration Statement. See note 5, supra. The Adviser represents that the Adviser and Sub-Adviser have managed and will continue to manage the Fund in the manner described in the Prior Release, and will not implement the change described herein until the instant proposed rule change is operative.

⁷ The Fund may sell short only equity securities traded in the U.S. on registered exchanges. The Fund does not purchase or borrow illiquid securities or securities registered pursuant to Rule 144A under the 1933 Act.

Underlying ETPs in which the Fund invests, and will further the Fund’s objective to seek capital appreciation.

The Adviser represents that there is no change to the Fund’s investment objective. The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

Except for the change noted above, all other facts presented and representations made in the Rule 19b-4⁸ filing underlying the Prior Release remain unchanged, including representations regarding implementation of “fire walls” by any additional Fund advisers and sub-advisers affiliated with a broker-dealer, and equity securities and Underlying ETPs in which the Fund invests.

All terms referenced but not defined herein are defined in the Prior Release.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)⁹ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Fund may sell short only liquid equity securities and Underlying ETPs traded in the U.S. on registered exchanges. The Fund does not purchase or borrow illiquid securities or securities

⁸ 17 CFR 240.19b-4.

⁹ 15 U.S.C. 78f(b)(5).

registered pursuant to Rule 144A under the 1933 Act. The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that there is no change to the Fund's investment objective. The Adviser represents that the purpose of this change is to provide additional flexibility to the Sub-Adviser to meet the Fund's investment objective by providing a limited increase in the number of equity short positions in the Fund's portfolio, which will permit the Fund to include a broader range of market sectors in the mid- and large-cap equity securities and Underlying ETPs in which the Fund invests, and will further the Fund's objective to seek capital appreciation.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the Fund may sell short only liquid equity securities and Underlying ETPs traded in the U.S. on registered exchanges. The Adviser represents that the purpose of this change is to provide additional flexibility to the Sub-Adviser to meet the Fund's investment objective. Except for the change noted above, all other representations made in the Rule 19b-4 filing underlying the Prior Release remain unchanged.

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

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

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

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹² the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission notes that, under the proposal, the Fund will target a composition of 20 to 75 equity short positions, versus the current target composition of 20 to 50 equity short positions. Thus, the Sub-Advisor to the Fund would have the flexibility to include a broader range of market sectors in the mid- and large-cap equity securities and Underlying ETPs in selecting the Fund's investments, while continuing to seek capital appreciation.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6). The Commission notes that the Exchange has satisfied the five-day pre-filing notice requirement.

¹² 17 CFR 240.19b-4(f)(6)(iii).

The Commission notes that, except for the changes stated herein, all other representations made in the Prior Release remain unchanged. In addition, the Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

For the foregoing reasons, the Commission believes that the proposed change does not raise novel or unique regulatory issues that should delay the implementation of the Fund's proposed changes. In addition, the Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay, as a waiver would allow the Sub-Advisor the flexibility to invest in ways it believes will result in greater returns for investors, with the continued goal of seeking capital appreciation, without undue delay.¹³ Accordingly, the Commission waives the 30-day operative delay requirement.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-

¹³ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

2012-68 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-2012-68. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet website 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-2012-68 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.¹⁴

Kevin M. O'Neill
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).