

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82105; File No. SR-NYSEArca-2017-69)

November 16, 2017

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2, and Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of ProShares QuadPro Funds under NYSE Arca Rule 8.200-E

I. Introduction

On July 31, 2017, 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 (“Shares”) of ProShares QuadPro U.S. Large Cap, ProShares QuadPro Short U.S. Large Cap, ProShares QuadPro U.S. Small Cap, and ProShares QuadPro Short U.S. Small Cap (collectively, “Funds”) under NYSE Arca Rule 8.200-E. The proposed rule change was published for comment in the Federal Register on August 18, 2017.³ On September 28, 2017, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On September 29, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 81388 (August 14, 2017), 82 FR 39477.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 81746, 82 FR 46315 (October 4, 2017). The Commission designated November 16, 2017, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

superseded the proposed rule change as originally filed. On November 14, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and superseded the proposed rule change as modified by Amendment No. 1.⁶ The Commission has received no comments on the proposed rule change. The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 2.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 2⁸

The Exchange proposes to list and trade the Shares under Commentary .02 to NYSE Arca Rule 8.200-E, which governs the listing and trading of Trust Issued Receipts on the Exchange. Each Fund is a commodity pool that is a series of the ProShares Trust II (“Trust”).⁹ The Funds’ sponsor and commodity pool operator is ProShare Capital Management LLC (“Sponsor”).

⁶ In Amendment No. 2, the Exchange: (1) changed the names of the Funds; (2) provided the trading hours of the Chicago Mercantile Exchange (“CME”); (3) amended the description of the Funds’ holdings of options and cash; (4) revised the description of the rolling of futures contracts; (5) amended and supplemented the description of the Funds’ Net Asset Value (“NAV”) and Indicative Optimized Portfolio Value; (6) amended and supplemented the description of the availability of information relating to the Funds; (7) decreased the creation unit size from 50,000 Shares to 25,000 Shares; and (8) made other clarifications, corrections, and technical changes. Amendment No. 2 to the proposed rule change is available at <https://www.sec.gov/comments/sr-nysearca-2017-69/nysearca201769-2688277-161489.pdf>.

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ For more information regarding the Funds and the Shares, see Amendment No. 2, supra note 6.

⁹ The Trust is registered under the Securities Act of 1933. On November 14, 2017, the Trust filed with the Commission Pre-Effective Amendment No. 1 to a registration statement on Form S-1 under the Securities Act of 1933 relating to the Funds (File No. 333-217767).

Brown Brothers Harriman & Co. is the administrator, the custodian, and the transfer agent of each Fund and the Shares. SEI Investments Distribution Co. is the distributor for the Shares.

ProShares QuadPro U.S. Large Cap and ProShares QuadPro Short U.S. Large Cap

ProShares QuadPro U.S. Large Cap and ProShares QuadPro Short U.S. Large Cap (collectively, “Large Cap Funds”) will seek results that correspond (before fees and expenses) to four times (4X) or four times the inverse (-4X), respectively, of the return of lead month E-Mini S&P 500 Stock Price Index Futures (“Large Cap Benchmark”) for a single day.¹⁰ More specifically, the Large Cap Benchmark is the last traded price of lead month (i.e., near-month or next-to-expire) E-Mini S&P 500 Stock Price Index Futures Contracts on the CME prior to the calculation of the Funds’ NAV, which is typically calculated as of 4:00 p.m. each day that NYSE Arca is open for trading.

Each Large Cap Fund will seek to engage in daily rebalancing to position its portfolio so that its leveraged or inverse exposure to the Large Cap Benchmark is consistent with the Fund’s daily investment objective. Daily rebalancing and the compounding of each day’s return over time means that the return of each Fund for a period longer than a single day will be the result of each day’s returns compounded over the period, which will very likely differ from four times or four times the inverse, as applicable, of the return of the Fund’s benchmark for the same period.

Under normal market conditions,¹¹ each Large Cap Fund will attempt to gain leveraged or inverse leveraged exposure, as applicable, to the Large Cap Benchmark primarily through

¹⁰ A “single day” is measured from the time a Fund calculates its NAV to the time of the Fund’s next NAV calculation.

¹¹ The term “normal market conditions” includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (e.g., systems failure) causing dissemination of inaccurate market information; or force

investments in lead month E-Mini S&P 500 Stock Price Index Futures. Each Large Cap Fund may also take positions in standard futures contracts on the S&P 500 Index (together with lead month E-Mini S&P 500 Stock Price Index Futures, “Large Cap Futures Contracts”). In the event position, price, or accountability limits are reached with respect to Large Cap Futures Contracts, the Sponsor, in its commercially reasonable judgment, may cause each Large Cap Fund to obtain exposure to the Large Cap Benchmark through investment in swap transactions and forward contracts referencing the Large Cap Benchmark (“Large Cap Financial Instruments” and, together with Large Cap Futures Contracts, “S&P 500 Interests”). The Large Cap Funds may also invest in Large Cap Financial Instruments if the market for a specific Large Cap Futures Contract experiences an emergency (e.g., natural disaster, terrorist attack or an act of God) or a disruption (e.g., a trading halt or a flash crash) that prevents or makes it impractical for a Fund to obtain the appropriate amount of investment exposure using Large Cap Futures Contracts (i.e., conditions other than normal market conditions). The Large Cap Funds do not intend to invest more than 25% of their respective net assets in Large Cap Financial Instruments.

Additionally, because an adverse Large Cap Benchmark move of 25% or more in a single day could cause the NAV of a Large Cap Fund to decline to zero and investors in the Fund to lose the full value of their investment, each Large Cap Fund will invest a limited portion of its assets (typically less than 5% of its net assets at the time of purchase) in listed option contracts that are designed to prevent a Large Cap Fund’s NAV from going to zero and allow a Fund to recoup a small portion of the substantial losses that may result from significant adverse movements in the Large Cap Benchmark. Specifically, ProShares QuadPro U.S. Large Cap will

majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

hold CME-listed put options on Large Cap Futures Contracts, and ProShares QuadPro Short U.S. Large Cap will hold CME-listed call options on Large Cap Futures Contracts (collectively, “Large Cap Stop Options”).¹² If it is not practicable for a Large Cap Fund to invest in Large Cap Stop Options, the Funds may invest in over-the-counter (“OTC”) options on Large Cap Future Contracts.

Each Large Cap Fund will invest the remainder of its assets in high-quality, short-term debt instruments that have terms-to-maturity of less than 397 days, such as U.S. government securities and repurchase agreements (“Money Market Instruments”). Each Large Cap Fund also may hold cash in order to pay expenses and distributions, if any, and satisfy redemption requests.

ProShares QuadPro U.S. Small Cap and ProShares QuadPro Short U.S. Small Cap

ProShares QuadPro U.S. Small Cap and ProShares QuadPro Short U.S. Small Cap (collectively, “Small Cap Funds”) will seek results that correspond (before fees and expenses) to four times (4X) or four times the inverse (-4X), respectively, of the return of lead month E-Mini Russell 2000 Index Futures (“Small Cap Benchmark”) for a single day.¹³ The Small Cap Benchmark is the last traded price of lead month (i.e., near-month or next-to-expire) E-Mini Russell 2000 Index Futures Contracts on the CME prior to the calculation of the Funds’ NAV, which is typically calculated as of 4:00 p.m. each day NYSE Arca is open for trading.

¹² ProShares QuadPro U.S. Large Cap intends to hold Large Cap Stop Options with respect to all or substantially all of its S&P 500 Interests with strike prices at approximately 75% of the value of the applicable underlying S&P 500 Interests as of the end of the preceding business day. ProShares QuadPro Short U.S. Large Cap intends to hold Large Cap Stop Options with respect to all or substantially all of its S&P 500 Interests with strike prices at approximately 125% of the value of the Fund’s S&P Interests as of the end of the preceding business day.

¹³ See supra note 10.

Each Small Cap Fund will seek to engage in daily rebalancing to position its portfolio so that its leveraged or inverse exposure to the Small Cap Benchmark is consistent with the Fund's daily investment objective. Daily rebalancing and the compounding of each day's return over time means that the return of each Fund for a period longer than a single day will be the result of each day's returns compounded over the period, which will very likely differ from four times or four times the inverse, as applicable, of the return of the Fund's benchmark for the same period.

Under normal market conditions,¹⁴ each Small Cap Fund will attempt to gain leveraged or inverse exposure, as applicable, to the Small Cap Benchmark primarily through investments in lead month E-Mini Russell 2000 Index Futures ("Small Cap Futures Contracts"). In the event position, price, or accountability limits are reached with respect to Small Cap Futures Contracts, the Sponsor, in its commercially reasonable judgment, may cause each Small Cap Fund to obtain exposure to the Small Cap Benchmark through investment in swap transactions and forward contracts referencing the Small Cap Benchmark ("Small Cap Financial Instruments" and, together with Small Cap Futures Contracts, "Russell 2000 Interests"). The Small Cap Funds may also invest in Small Cap Financial Instruments if the market for a specific Small Cap Futures Contract experiences an emergency (e.g., natural disaster, terrorist attack or an act of God) or disruption (e.g., a trading halt or a flash crash) that prevents or makes it impractical for a Fund to obtain the appropriate amount of investment exposure using Small Cap Futures Contracts (i.e., conditions other than normal market conditions). The Small Cap Funds do not intend to invest more than 25% of their respective net assets in Small Cap Financial Instruments.

Additionally, because an adverse Small Cap Benchmark move of 25% or more in a single day could cause the NAV of a Small Cap Fund to decline to zero and investors in the Fund to

¹⁴ See supra note 11.

lose the full value of their investment, each Small Cap Fund will invest a limited portion of its assets (typically less than 5% of its net assets at the time of purchase) in listed option contracts that are designed to prevent a Small Cap Fund's NAV from going to zero and allow a Fund to recoup a small portion of the substantial losses that may result from significant adverse movements in the Small Cap Benchmark. Specifically, ProShares QuadPro U.S. Small Cap will hold CME-listed put options on Small Cap Futures Contracts and ProShares QuadPro Short U.S. Small Cap will hold CME-listed call options on Small Cap Futures Contracts (collectively, "Small Cap Stop Options").¹⁵ If it is not practicable for a Small Cap Fund to invest in Small Cap Stop Options, the Funds may invest in OTC options on Small Cap Future Contracts.

Each Small Cap Fund will invest the remainder of its assets in Money Market Instruments. Each Small Cap Fund also may hold cash in order to pay expenses and distributions, if any, and satisfy redemption requests.

III. Proceedings to Determine Whether to Approve or Disapprove SR-NYSEArca-2017-69, as Modified by Amendment No. 2, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act¹⁶ to determine whether the proposed rule change, as modified by Amendment No. 2, should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues

¹⁵ ProShares QuadPro U.S. Small Cap intends to hold Small Cap Stop Options with respect to all or substantially all of its Russell 2000 Interests with strike prices at approximately 75% of the value of the applicable underlying Russell 2000 Interests as of the end of the preceding business day. ProShares QuadPro Short U.S. Small Cap intends to hold Small Cap Stop Options with respect to all or substantially all of its Russell 2000 Interests with strike prices at approximately 125% of the value of the Fund's Russell 2000 Interests as of the end of the preceding business day.

¹⁶ 15 U.S.C. 78s(b)(2)(B).

involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change, as modified by Amendment No. 2.

Pursuant to Section 19(b)(2)(B) of the Act,¹⁷ the Commission is providing notice of the grounds for disapproval under consideration. As discussed above, the Exchange proposes to list and trade Shares of: (1) the Large Cap Funds, which will seek results that correspond (before fees and expenses) to four times and four times the inverse of the return of the Large Cap Benchmark for a single day, where the Large Cap Benchmark is the last traded price of lead month E-Mini S&P 500 Stock Price Index Futures Contracts on the CME prior to the calculation of the Funds' NAV; and (2) the Small Cap Funds, which will seek results that correspond (before fees and expenses) to four times and four times the inverse of the return of the Small Cap Benchmark for a single day, where the Small Cap Benchmark is the last traded price of lead month E-Mini Russell 2000 Index Futures Contracts on the CME prior to the calculation of the Funds' NAV. The Commission is instituting proceedings to allow for additional analysis of the proposal's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade," and "to protect investors and the public interest."¹⁸

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written

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Id.

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15 U.S.C. 78f(b)(5).

views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.¹⁹

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by [insert date 21 days from publication in the Federal Register]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [insert date 35 days from publication in the Federal Register]. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Amendment No. 2, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment, including, where relevant, any specific data, statistics, or studies, on the following:

1. Would the proposed Funds impact daily volatility on the underlying indexes, or the underlying names comprising those indexes? Would any such impact be more or less than other leveraged or inverse leveraged exchange-traded products ("leveraged ETPs") (such as 2X and 3X)? Would the addition of the proposed Funds change the current leveraged (inverse, 2X, and 3X) ETP market? If so, how?

¹⁹ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding – either oral or notice and opportunity for written comments – is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

2. How much additional end-of-day volume in the underlying assets would the proposed Funds potentially add? How much volume do existing leveraged ETPs typically add to end-of-day trading in the underlying assets?
3. What is the expected daily volume of trades for the proposed Funds? How much daily creation and redemption activity is expected in the proposed Funds? How much current daily creation and redemption activity is there for leveraged ETPs?
4. Would the volume and activity increase during periods of downward market movement or high volatility, and exacerbate the downward movement or volatility? What type of hedging exposure is expected with these products, and during significant down market moves, how might related selling behavior be affected by such exposure?
5. What types of investors would purchase Shares of the proposed Funds? Would they be different from investors in existing leveraged ETPs? If so, please explain why.
6. Currently, are leveraged ETPs always accessed through a registered broker/dealer? If so, are transactions generally solicited or unsolicited? If not, how does an investor acquire a leveraged ETP? What is the proportion of volume from retail versus institutional trading?
7. Do institutional investors buy and sell leveraged ETPs? If so, what is the purpose of institutional investments in leveraged ETPs? For example, are they used for hedging or are they ever held in mutual funds? Would institutional investors use the proposed Funds for a different purpose than with the existing leveraged ETPs? If so, please explain why. Do firms hold the securities on their books (for example, as trading securities or available-for-sale securities)? If so, how are they held? If

the investors are not institutional investors, are there any restrictions placed on access to these investments, including accreditation or options eligibility?

8. What exposures do retail investors seek when holding these ETPs? Would retail investors hold Shares of the proposed Funds to seek different types of exposures than with existing leveraged ETPs? If so, please explain why.
9. What is the typical holding period of leveraged ETPs by retail investors? Are they holding the products in tax-advantaged accounts, such as Individual Retirement Accounts (IRAs), meant for long-term investment horizons?
10. Do investors have access to information sufficient to fully understand the operation and risks of leveraged ETPs?
11. Would the potential loss of investment be limited to the amount invested? For example, do investors frequently buy leveraged ETPs on margin?
12. How does use of long positions versus short positions in leveraged ETPs differ across different types of investors?
13. Which types of broker/dealers are active with leveraged ETP investments? Do they tend to also hold these investments in their own portfolio?

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-2017-69 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2017-69. 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 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-NYSEArca-2017-69 and should be submitted on or before [insert date 21 days from publication in the Federal Register]. Rebuttal comments should be submitted by [insert date 35 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Eduardo A. Aleman
Assistant Secretary

²⁰ 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(57).