

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-83122; File No. SR-NYSEArca-2018-25)

April 27, 2018

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Regarding the Natixis Loomis Sayles Short Duration Income ETF

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 16, 2018, 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 certain changes regarding investments of the Natixis Loomis Sayles Short Duration Income ETF, which is currently listed and traded on the Exchange under NYSE Arca Rule 8.600-E (“Managed Fund Shares”). The proposed change is available on the Exchange’s website at [www.nyse.com](http://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

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 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 shares (“Shares”) of the following under NYSE Arca Rule 8.600-E, which governs the listing and trading of Managed Fund Shares<sup>4</sup>: Natixis Loomis Sayles Short Duration Income ETF (“Fund”). The Shares are offered by Natixis ETF Trust (the “Trust”), which is registered with the Commission as an open-end management investment company.<sup>5</sup> Natixis Advisors, L.P. (the “Adviser”) is the investment adviser for the Fund. Loomis, Sayles & Company, L.P. is the Fund’s sub-adviser (“Sub-Adviser”). ALPS Distributors, Inc. (the “Distributor”) is the principal underwriter and distributor of the Fund’s Shares. The Adviser is the Fund’s administrator. State Street Bank and Trust Company (“State Street”) serves as the custodian, and transfer agent (“Transfer Agent” or “Custodian”) for the Fund.<sup>6</sup>

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<sup>4</sup> 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-1) (“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 Rule 5.2-E(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.

<sup>5</sup> Shares of the Fund commenced trading on the Exchange on December 28, 2017 pursuant to Commentary .01 to NYSE Arca Rule 8.600-E.

<sup>6</sup> The Trust is registered under the 1940 Act. On December 26, 2017, the Trust filed with the Commission its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”), and under the 1940 Act relating to the Fund (File Nos. 333-210156 and 811- 23146) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration

Commentary .06 to Rule 8.600-E 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. In addition, Commentary .06 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.<sup>7</sup> Commentary .06 to Rule 8.600-E is similar to Commentary .03(a)(i) and (iii) to NYSE Arca’s Rule 5.2-E(j)(3); however, Commentary .06 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. The Adviser and Sub-Adviser are not registered as a broker-dealer but each is affiliated with a broker-dealer and has implemented and will maintain a “fire wall” with

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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. 30654 (August 20, 2013) (File No. 812-13942-02) (“Exemptive Order”).

<sup>7</sup> 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 Adviser and Sub-Adviser and their related personnel are 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, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. 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.

respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Natixis Loomis Sayles Short Duration Income ETF

#### Principal Investments

According to the Registration Statement, the Fund's investment objective is current income consistent with preservation of capital. Under normal market conditions,<sup>8</sup> the Fund will invest at least 80% of its net assets in "Fixed-Income Securities" (as described below).

The Fixed Income Securities in which the Fund may invest are the following:

- U.S. Government Securities, including U.S. Treasury Bills, U.S. Treasury Notes and Bonds, U.S. Treasury Floating Rate Notes, Treasury Inflation-Protected Securities ("TIPS"), and obligations of U.S. agencies or instrumentalities (e.g., "Ginnie Maes", "Fannie Maes" and "Freddie Macs");
- agency and non-agency asset-backed securities ("ABS");
- U.S. dollar-denominated foreign securities, including emerging market securities;
- Adjustable-Rate Mortgage Securities ("ARMs");

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<sup>8</sup> The term "normal market conditions" is defined in NYSE Arca Rule 8.600-E(c)(5).

- junior and senior loans;
- bank loans, loan participations and assignments;
- agency and non-agency mortgage-backed securities;
- collateralized mortgage obligations (“CMOs”);
- zero coupon and pay-in-kind securities;
- corporate bonds;
- Non-US government securities, supranational entities obligations issued by foreign governments, or international agencies and instrumentalities;
- inflation-linked and inflation-indexed securities;
- money market instruments<sup>9</sup>;
- mortgage-related securities (such as Government National Mortgage Association or Federal National Mortgage Association certificates);
- mortgage dollar rolls;
- variable and floating rate securities;
- Rule 144A securities;
- taxable municipal securities;
- step-coupon securities; and
- stripped securities.

The Fund may hold any portion of its assets in cash (U.S. dollars, foreign currencies or multinational currency units) and/or cash equivalents.<sup>10</sup>

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<sup>9</sup> Money market instruments are short-term instruments referenced in Commentary .01 (c) to NYSE Arca Rule 8.600-E.

<sup>10</sup> For purposes of this filing, cash equivalents include the short-term instruments enumerated in Commentary .01(c) to NYSE Arca Rule 8.600-E.

## Other Investments

While the Fund, under normal market conditions, will invest at least 80% of its net assets in the securities and financial instruments described above, the Fund may invest its remaining assets in the securities and financial instruments referenced below.

The Fund may enter into short sales of securities.

The Fund may invest in exchange-traded funds ("ETFs")<sup>11</sup> and exchange-traded notes ("ETNs")<sup>12</sup>.

The Fund may invest in bilateral credit default swaps, bilateral interest rate swaps and bilateral standardized commodity and equity index total return swaps. The Fund may invest in the following swaps: interest rate, index, commodity, equity-linked, fixed income, credit default, credit-linked and currency exchange swaps. The Fund may invest in swaptions.

The Fund may invest in the following options: U.S. exchange-traded and over-the-counter ("OTC") options on domestic and foreign indices, options on futures contracts, and other options.

The Fund may invest in futures, including index futures.

The Fund may invest in publicly or privately issued interests in investment pools whose underlying assets are credit default, credit-linked, interest rate, currency exchange, equity-linked or other types of swap contracts and related underlying securities or securities loan agreements.

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<sup>11</sup> For purposes of this filing, the term "ETFs" includes Investment Company Units (as described in NYSE Arca Rule 5.2-E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100-E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600-E). All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETFs.

<sup>12</sup> ETNs are Index-Linked Securities as described in NYSE Arca Rule 5.2-E(j)(6).

The Fund may invest in non-exchange-traded open-end investment company securities up to the limits imposed by the 1940 Act.

With respect to any of the Fund's investments, the Fund may purchase securities on a forward commitment or when-issued or delayed delivery basis.

#### Use of Derivatives by the Fund

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. The Fund will typically use derivative instruments as a substitute for taking a position in the underlying asset where advantageous and/or as part of a strategy designed to reduce exposure to other risks, such as interest rate risk. The Fund may also use derivative instruments to enhance returns, manage portfolio duration, or manage the risk of securities price fluctuations. To limit the potential risk associated with such transactions, the Fund segregates or "earmarks" assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Trustees (the "Board") and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund has included appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged. Because the markets for certain securities, or the securities themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure.

## Creation and Redemption of Shares

According to the Registration Statement, the Fund issues and sells Shares of the Fund only in Creation Units of 100,000 Shares on a continuous basis through the Distributor at the NAV next determined after receipt of an order in proper form on any business day. The size of a Creation Unit is subject to change.

The consideration for purchase of Creation Units generally consists of “Deposit Securities” and the “Cash Component”, which generally correspond pro rata, to the extent practicable, to the Fund securities, or, as permitted by the Fund, the “Cash Deposit.” Together, the Deposit Securities and the Cash Component or, alternatively, the Cash Deposit, constitute the “Fund Deposit,” which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

The Transfer Agent and Custodian, through the National Securities Clearing Corporation (“NSCC”), makes available on each business day, prior to the opening of the Core Trading Session on NYSE Arca (currently 9:30 a.m., Eastern Time (“E.T.”)), the identity and the required number of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information at the end of the previous business day).

The Fund may also permit the substitution of an amount of cash (a “cash-in-lieu” amount) to replace any Deposit Security of the Fund that is a non-deliverable instrument. The amount of cash contributed will be equivalent to the price of the instrument listed as a Deposit Security. The Fund reserves the right to permit the substitution of a “cash in-lieu” amount to be added to replace any Deposit Security under specified circumstances.

### Procedures for Creating Creation Units

To be eligible to place orders with the Distributor and to create a Creation Unit of the Fund, an entity must be: (i) a “Participating Party” (i.e., a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC; or (ii) a participant of the Depository Trust Company (“DTC”) (“DTC Participant”) and must have executed an Authorized Participant agreement with the Distributor, and accepted by the Transfer Agent, with respect to creations and redemptions of Creation Units. A Participating Party or DTC Participant who has executed an “Authorized Participant Agreement” is referred to as an “Authorized Participant.”

To initiate a creation order for a Creation Unit, an Authorized Participant must submit an irrevocable order to purchase Shares in proper form to the Transfer Agent no later than 2:00 p.m., E.T. on any business day for creation of Creation Units to be effected based on the NAV of Shares of the Fund on the following business day.

#### Redemption of Creation Units

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form on a business day and only through a Participating Party or DTC Participant who has executed an Authorized Participant Agreement.

With respect to the Fund, State Street, through the NSCC, makes available immediately prior to the opening of the Core Trading Session on the NYSE Arca on each business day, the identity of the Fund’s securities and/or an amount of cash that will be applicable to redemption requests received in proper form on that day. The Fund’s securities received on redemption generally correspond pro rata, to the positions in the Fund’s portfolio. The Fund’s securities received on redemption (“Fund Securities”) will generally be identical to Deposit Securities that are applicable to creations of Creation Units.

Subject to the terms of the applicable Authorized Participant Agreement and any creation and redemption procedures adopted by the Fund and provided to all Authorized Participants, to initiate a redemption order for a Creation Unit, an Authorized Participant must submit an irrevocable order to redeem Shares in proper form to the Transfer Agent no later than 2:00 p.m., E.T. on any business day for redemption of Creation Units to be effected based on the NAV of shares of the Fund on that business day.

Unless cash only redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit generally consists of Fund Securities – as announced on the business day of the request for a redemption order received in proper form – plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less the redemption transaction fee and variable fees.<sup>13</sup> The Fund may substitute a “cash-in-lieu” amount to replace any Fund Security in certain limited circumstances. The amount of cash paid out in such cases will be equivalent to the value of the instrument listed as the Fund Security. In the event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the difference will be included in the Cash Component required to be delivered by an Authorized Participant.

#### Derivatives Valuation Methodology for Purposes of Determining Portfolio Indicative Value

On each business day, before commencement of trading in Fund Shares on NYSE Arca, the Fund discloses on its website the identities and quantities of the portfolio instruments and other assets held by the Fund that form the basis for the Fund’s calculation of NAV at the end of

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<sup>13</sup> The Adviser represents that, to the extent the Trust effects the redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

the business day. The NAV of the Shares of the Fund is determined once each day the New York Stock Exchange (the “NYSE”) is open, as of the close of its regular trading session (normally 4:00 p.m., E.T.) (“NYSE Close”).

In order to provide additional information regarding the intra-day value of Shares of the Fund, one or more major market data vendors disseminates every 15 seconds an updated Intraday Indicative Value (“IIV”) for the Fund as calculated by an information provider or market data vendor. A third party market data provider calculates the IIV for the Fund.

With respect to specific derivatives:

- Foreign currency derivatives may be valued intraday using market quotes, or another proxy as determined to be appropriate by the third party market data provider.
- Futures may be valued intraday using the relevant futures exchange data, or another proxy as determined to be appropriate by the third party market data provider.
- Swaps may be valued using intraday data from market vendors, or based on underlying asset price, or another proxy as determined to be appropriate by the third party market data provider.
- Exchange listed options may be valued intraday using the relevant exchange data, or another proxy as determined to be appropriate by the third party market data provider.
- OTC options and swaptions may be valued intraday through option valuation models (e.g., Black-Scholes) or using exchange-traded options as a proxy, or

another proxy as determined to be appropriate by the third party market data provider.

#### Disclosed Portfolio

The Fund's disclosure of derivative positions in the applicable Disclosed Portfolio includes information that market participants can use to value these positions intraday. On a daily basis, the Fund discloses the information regarding the Disclosed Portfolio required under NYSE Arca Rule 8.600-E (c)(2) to the extent applicable.

#### Impact on Arbitrage Mechanism

The Adviser believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser believes that the price at which Shares of the Fund trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Shares of the Fund at their NAV, which should ensure that Shares of the Fund will not trade at a material discount or premium in relation to their NAV.

The Adviser does not believe there is any significant impact to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible for in-kind transfer, they will be substituted with a "cash in lieu" amount when the Fund processes purchases or redemptions of block-size "Creation Units" (as described above) in-kind.

#### Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the change described in the preceding paragraph would result in the portfolio for the Fund not meeting all of the

“generic” listing requirements of Commentary .01 to NYSE Arca Rule 8.600-E applicable to the listing of Managed Fund Shares. The Fund’s portfolio would meet all such requirements except for those set forth in Commentary .01(b)(5) and Commentary .01(a)(1).

The Fund will not comply with the requirement of Commentary .01(b)(5) to NYSE Arca Rule 8.600-E that non-agency, non-government-sponsored entity and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.<sup>14</sup> Instead, the Exchange proposes that up to 30% of the weight of the Fixed Income Securities portion of the Fund’s portfolio may consist of non-agency ABS and MBS. The Adviser represents that permitting limited investments in non-agency MBS and ABS, as described above, would be in the best interest of the Fund’s shareholders because such investments have the potential to reduce the overall risk profile of the Fund’s portfolio through diversification. In the Adviser’s view, such investments would reduce the Fund’s risk with respect to non-agency ABS and MBS investments by diversifying the Fund’s exposure among borrowers of such debt issues. The Adviser represents that the Fund will only purchase U.S. dollar denominated non-agency ABS and MBS that are settled through DTC. In addition, by allowing the Fund to allocate up to 30% of the weight of its Fixed Income Securities investments in such issues would afford the Fund greater flexibility to invest in the most liquid available Fixed Income Securities issues, in that such issues are expected to be as liquid, or more liquid, than other possible Fund investments.

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<sup>14</sup> Commentary .01(b)(5) to NYSE Arca Rule 8.600-E provides that the components of the fixed income portion of a portfolio shall meet the following criteria initially and on a continuing basis: non-agency, non-government-sponsored entity (“GSE”) and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.

As noted above, the Fund may invest in equity securities that are non-exchange-traded securities of other open-end investment company securities (e.g., mutual funds). The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600-E with respect to the Fund's investments in such securities.<sup>15</sup> Investments in such equity securities will not be principal investments of the

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<sup>15</sup> Commentary .01 (a) to Rule 8.600-E specifies the equity securities accommodated by the generic criteria in Commentary .01(a), namely, U.S. Component Stocks (as described in Rule 5.2-E(j)(3)); Non-U.S. Component Stocks (as described in Rule 5.2-E(j)(3)); Derivative Securities Products (i.e., Investment Company Units and securities described in Section 2 of Rule 8-E); and Index-Linked Securities that qualify for Exchange listing and trading under Rule 5.2-E(j)(6). Commentary .01(a)(1) to Rule 8.600-E (U.S. Component Stocks) provides that the component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

- (A) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum market value of at least \$75 million;
- (B) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months;
- (C) The most heavily weighted component stock (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 65% of the equity weight of the portfolio;
- (D) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares;

Fund.<sup>16</sup> Such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. The Fund will invest in non-exchange-traded open-end investment company securities only to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act and the rules thereunder.<sup>17</sup> Because such securities must satisfy applicable 1940 Act diversification requirements, and have a net asset value based on the value of securities and financial assets the investment company holds, the Exchange believes it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1).

The Exchange notes that Commentary .01(A) through (D) to Rule 8.600-E exclude application of those provisions to certain “Derivative Securities Products” that are exchange-traded investment company securities, including Investment Company Units (as described in NYSE Arca Rule 5.2-E(j)(3)), Portfolio Depositary Receipts (as described in NYSE Arca Rule

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(E) Except as provided herein, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934.

<sup>16</sup> For purposes of this section of the filing, non-exchange-traded securities of other registered investment companies do not include money market funds, which are cash equivalents under Commentary .01(c) to Rule 8.600-E and for which there is no limitation in the percentage of the portfolio invested in such securities.

<sup>17</sup> The Commission has previously approved proposed rule changes under Section 19(b) of the Act for series of Managed Fund Shares that may invest in non-exchange traded investment company securities to the extent permitted by Section 12(d)(1) of the 1940 Act and the rules thereunder. See, e.g., Securities Exchange Act Release No. 78414 (July 26, 2016), 81 FR 50576 (August 1, 2016) (SR-NYSEArca-2016-79) (order approving listing and trading of shares of the Virtus Japan Alpha ETF under NYSE Arca Equities Rule 8.600).

8.100-E)) and Managed Fund Shares (as described in NYSE Arca Rule 8.600-E).<sup>18</sup> In its 2008 Approval Order approving amendments to Commentary .01(a) to Rule 5.2(j)(3) that exclude Derivative Securities Products from certain provisions of Commentary .01(a) (which exclusions are similar to those in Commentary .01(a)(1) to Rule 8.600-E), the Commission stated that “based on the trading characteristics of Derivative Securities Products, it may be difficult for component Derivative Securities Products to satisfy certain quantitative index criteria, such as the minimum market value and trading volume limitations.” The Exchange notes that it would be difficult or impossible to apply to non-exchange-traded investment company securities the generic quantitative criteria (e.g., market capitalization, trading volume, or portfolio criteria) in Commentary .01 (A) through (D) applicable to U.S. Component Stocks. For example, the requirement for U.S. Component Stocks in Commentary .01(a)(1)(B) that there be minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of

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<sup>18</sup> The Commission initially approved the Exchange’s proposed rule change to exclude “Derivative Securities Products” (i.e., Investment Company Units and securities described in Section 2 of Rule 8) and “Index-Linked Securities (as described in Rule 5.2-E (j)(6)) from Commentary .01(a)(A) (1) through (4) to Rule 5.2-E(j)(3) in Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR-NYSEArca-2008-29) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units)(“2008 Approval Order”). See also, Securities Exchange Act Release No. 57561 (March 26, 2008), 73 FR 17390 (April 1, 2008) (Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units). The Commission subsequently approved generic criteria applicable to listing and trading of Managed Fund Shares, including exclusions for Derivative Securities Products and Index-Linked Securities in Commentary .01(a)(1)(A) through (D), in Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 7 Thereto, Amending NYSE Arca Equities Rule 8.600 To Adopt Generic Listing Standards for Managed Fund Shares). See also, Amendment No. 7 to SR-NYSEArca-2015-110, available at <https://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-9.pdf>.

\$25,000,000, averaged over the last six months is tailored to exchange-traded securities (e.g., U.S. Component Stocks) and not to mutual fund shares, which do not trade in the secondary market. Moreover, application of such criteria would not serve the purpose served with respect to U.S. Component Stocks, namely, to establish minimum liquidity and diversification criteria for U.S. Component Stocks held by series of Managed Fund Shares.

The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies where such funds were permitted to invest in the shares of other registered investment companies that are not ETFs or money market funds.<sup>19</sup> Thus, the Exchange believes that it is appropriate to permit the Fund to invest in non-exchange-traded open-end management investment company securities, as described above.

The Exchange notes that, other than Commentary .01(a)(1)(A) through (E) and Commentary.01(b)(5) to Rule 8.600-E, the Fund's portfolio will meet all other requirements of Rule 8.600-E.

#### Availability of Information

The Fund's website ([www.im.natixis.com/us/active-short-duration-income-etf](http://www.im.natixis.com/us/active-short-duration-income-etf)) includes a form of the prospectus for the Fund that may be downloaded. The Fund's website includes 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 midpoint of the bid/ask

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<sup>19</sup> See, e.g., Exchange Act Release Nos. 79053 (October 5, 2016), 81 FR 70468 (October 12, 2016) (SR-BatsBZX-2016-35) (permitting the JPMorgan Global Bond Opportunities ETF to invest in "investment company securities that are not ETFs"); 74297 (February 18, 2015), 80 FR 9788 (February 24, 2015) (SR-BATS-2014-056) (permitting the U.S. Fixed Income Balanced Risk ETF to invest in "exchange traded and non-exchange traded investment companies (including investment companies advised by the Adviser or its affiliates) that invest in such Fixed Income Securities").

spread at the time of calculation of such NAV (the “Bid/ Ask Price”),<sup>20</sup> 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 discloses on its website the Disclosed Portfolio as defined in NYSE Arca Rule 8.600-E (c)(2) that forms the basis for the Fund’s calculation of NAV at the end of the business day.<sup>21</sup>

On a daily basis, the Fund discloses the information required under NYSE Arca Rule 8.600-E (c)(2) to the extent applicable. The website information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities, if applicable, required to be delivered in exchange for the Fund’s Shares, together with estimates and actual cash components, is publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket represents one Creation Unit of the Fund. Authorized Participants may refer to the basket composition file for information regarding Fixed Income Securities, and any other instrument that may comprise the Fund’s basket on a given day.

Investors can also obtain the Trust’s Statement of Additional Information (“SAI”), the Fund’s Shareholder Reports, and the Fund’s Forms N-CSR and Forms N-SAR, filed twice a

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<sup>20</sup> The Bid/Ask Price of the Fund’s Shares will be determined using the mid-point of 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.

<sup>21</sup> 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.

year. The Fund's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N-CSR, Form N-PX and Form N-SAR may be viewed on-screen or downloaded from the Commission's website at [www.sec.gov](http://www.sec.gov). Intra-day and closing price information regarding exchange-traded options (including options on futures) and futures will be available from the exchange on which such instruments are traded. Intra-day and closing price information regarding Fixed Income Securities also will be available from major market data vendors. Price information relating to unlisted preferred equity securities, Rule 144A securities, OTC options, swaps and swaptions will be available from major market data vendors. Intra-day price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. Price information regarding non-exchange-traded investment company securities will be available from the applicable investment company. Information regarding market price and trading volume of the Shares 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 for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares, ETFs and ETNs will be available via the Consolidated Tape Association ("CTA") high-speed line. Exchange-traded options quotation and last sale information for options cleared via the Options Clearing Corporation ("OCC") is available via the Options Price Reporting Authority. In addition, the IIV, as defined in NYSE Arca Rule 8.600-E (c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The dissemination of the IIV, together with the Disclosed Portfolio, may allow investors to determine an approximate

value of the underlying portfolio of the Fund on a daily basis and to provide an estimate of that value throughout the trading day.

#### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12-E 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 and/or the financial instruments comprising the Disclosed Portfolio 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 NYSE Arca Rule 8.600-E (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 4:00 a.m. to 8:00 p.m. E.T. in accordance with NYSE Arca Rule 7.34-E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6-E, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600-E. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A-3 under the Act, as provided by NYSE Arca Rule 5.3-E. The Exchange has obtained a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

#### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. 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 federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. 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 or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, ETFs, ETNs, certain exchange-traded options and certain futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in

the Shares, ETFs, ETNs, certain exchange-traded options and certain futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, ETFs, ETNs, certain exchange-traded options and certain futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (“CSSA”). The Exchange is able to access from FINRA, as needed, trade information for certain Fixed Income Securities held by the Fund reported to FINRA’s Trade Reporting and Compliance Engine (“TRACE”). FINRA also can access data obtained from the Municipal Securities Rulemaking Board (“MSRB”) relating to certain municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

#### Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading

Permit (“ETP”) Holders in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with trading the Shares of the Fund. Specifically, the Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NYSE Arca 9.2-E(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 Early and Late Trading Sessions when an updated IIV will not be calculated or publicly disseminated; (4) how information regarding the IIV and the Disclosed Portfolio 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 Act. The Bulletin will also disclose that the NAV for the Shares of the Fund is calculated after 4:00 p.m. E.T. each trading day.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) 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 be listed and traded on the Exchange

pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.600-E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Adviser is not registered as a broker-dealer but the Adviser is affiliated with a broker-dealer and has implemented and will maintain a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, ETFs, ETNs, certain exchange-traded options and certain futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, ETFs, ETNs, certain exchange-traded options and certain futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, ETFs, ETNs, certain exchange-traded options and certain futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE. FINRA also can access data obtained from the MSRB relating to certain municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

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 Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In

addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The website for the Fund includes a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12-E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca 8.600-E (d)(2)(D), which sets forth circumstances under which trading in the Shares of the Fund may be halted. In addition, as noted above, investors have ready access to information regarding the Fund's holdings, the IIV, the Disclosed Portfolio, and quotation and last sale information for the Shares. In the aggregate, at least 90% of the weight of the Fund's holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a CSSA.

As described above, deviations from the generic requirements of Commentary .01(a) are necessary for the Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors' returns. Further, the proposed alternative requirements are narrowly tailored to allow the Fund to achieve its investment objective in manner that is consistent with the principles of Section 6(b)(5) of the Act. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein.

The Adviser represents that permitting limited investments in non-agency MBS and ABS, as described above, would be in the best interest of the Fund's shareholders because such

investments have the potential to reduce the overall risk profile of the Fund's portfolio. In the Adviser's view, such investments would reduce the Fund's risk with respect to non-agency ABS and MBS investments by diversifying the Fund's exposure among borrowers of such debt issues. In addition, by allowing the Fund to allocate up to 30% of the weight of its Fixed Income Securities investments in such issues would afford the Fund greater flexibility to invest in the most liquid available Fixed Income Securities issues, in that such issues are expected to be as liquid, or more liquid, than other possible Fund investments.

The Exchange also believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600-E with respect to the Fund's investments in non-exchange-traded open-end investment company securities. Investments in such equity securities will not be principal investments of the Fund. Such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. The Fund will invest in non-exchange-traded open-end investment company securities only to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act and the rules thereunder. Because such securities must satisfy applicable 1940 Act diversification requirements, and have a net asset value based on the value of securities and financial assets the investment company holds, the Exchange believes it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1).

The Exchange notes that it would be difficult or impossible to apply to non-exchange-traded investment company securities the generic quantitative criteria (e.g., market capitalization,

trading volume, or portfolio criteria) in Commentary .01 (A) through (D) applicable to U.S. Component Stocks. For example, the requirement for U.S. Component Stocks in Commentary .01(a)(1)(B) that there be minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months is tailored to exchange-traded securities (e.g., U.S. Component Stocks) and not to mutual fund shares, which do not trade in the secondary market. Moreover, application of such criteria would not serve the purpose served with respect to U.S. Component Stocks, namely, to establish minimum liquidity and diversification criteria for U.S. Component Stocks held by series of Managed Fund Shares. Other than Commentary .01(a)(1)(A) through (E) and Commentary.01(b)(5) to Rule 8.600-E, the Fund's portfolio will meet all other requirements of Rule 8.600-E.

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 it will facilitate the listing and trading of an additional type of actively managed ETF that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a CSSA. In addition, as noted above, investors have ready access to information regarding the Fund's holdings, the IIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

**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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an issue of

Managed Fund Shares that, through permitted use of an increased level of non-agency ABS and MBS above that currently permitted by the generic listing requirements of Commentary .01 to NYSE Arca Rule 8.600-E, will enhance competition among market participants, to the benefit of investors and the marketplace.

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 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2018-25 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-2018-25. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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-2018-25 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

Robert W. Errett  
Deputy Secretary

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<sup>22</sup> 17 CFR 200.30-3(a)(12).