

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-83447; File No. SR-NYSEArca-2018-39)

June 14, 2018

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Changes in the Description of the Investments of the USCF Canadian Crude Oil Index Fund

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 May 31, 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 to reflect changes in the description of the investments of the USCF Canadian Crude Oil Index Fund (the “Fund”). Shares of the Fund have been approved by the Securities and Exchange Commission (the “Commission”) for listing and trading on the Exchange under NYSE Arca Rule 8.200-E, Commentary .02. The Fund’s shares have not commenced trading on the Exchange. The proposed rule 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.

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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.

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 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 a proposed rule change relating to listing and trading on the Exchange of shares (“Shares”) of the Fund under NYSE Arca Rule 8.200-E,<sup>4</sup> which governs the listing and trading of Trust Issued Receipts.<sup>5</sup> The Fund is a new series of the United States Commodity Index Funds Trust (the “Trust”).<sup>6</sup> The Fund’s Shares have not commenced trading on the Exchange.

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<sup>4</sup> See Securities Exchange Act Release No. 81655 (September 19, 2017), 82 FR 44678 (September 25, 2017) (Notice of Filing of Amendment No. 4, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 4, Relating to the Listing and Trading of Shares of the USCF Canadian Crude Oil Index Fund Under NYSE Arca Rule 8.200–E) (“Prior Order”). See also Amendment No. 4 to SR-NYSEArca-2016-177, available at <https://www.sec.gov/comments/sr-nysearca-2016-177/nysearca2016177-2228753-160788.pdf> (“Prior Amendment”). All terms referenced but not defined herein are defined in the Prior Order and Prior Amendment.

<sup>5</sup> Commentary .02 to NYSE Arca Rule 8.200-E applies to Trust Issued Receipts that invest in “Financial Instruments.” The term “Financial Instruments,” as defined in Commentary .02(b)(4) to NYSE Arca Rule 8.200-E, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

<sup>6</sup> The Trust is registered under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”). On June 16, 2016, the Trust filed with the Commission a registration statement on Form S-1 under the Securities Act relating to the Fund (File No. 333-212089) (“Registration Statement”). Pre-Effective Amendment No. 2 to the Registration

As stated in the Prior Amendment, according to the Registration Statement, the investment objective of the Fund is for the daily changes in percentage terms of per Share NAV to reflect the daily changes in percentage terms of the Canadian Crude Excess Return Index (the “CCIER” or “Index”), plus interest income from the Fund’s short-term fixed income holdings, less the Fund’s expenses.

The Prior Amendment stated as follows (included on pages 5-6 of the Prior Amendment):

“The Fund will seek to achieve its investment objective by first entering into cash-settled uncleared over-the-counter (“OTC”) total return swap and/or forward transactions based on, and intended to replicate the return of, the CCIER (“Benchmark OTC Derivatives Contracts”, as described further below), and, second, to the extent market conditions are more favorable for such futures as compared to Benchmark OTC Derivatives Contracts, investing in the Benchmark Component Futures Contracts that underlie the CCIER. It will support these investments and investments in any other OTC derivatives contracts by holding the amounts of its margin, collateral and other requirements relating to these obligations in short-term obligations of the United States of two years or less (“Treasuries”), cash and cash equivalents. [footnote 9]<sup>7</sup>

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Statement was filed on April 9, 2018. The changes described herein will not be implemented until an amendment to the Registration Statement relating to such changes is effective and this proposed rule change is effective and operative.

<sup>7</sup> The Prior Amendment stated the following in footnote 9: “For purposes of this filing, cash equivalents are short-term instruments with maturities of less than three months and shall include the following: (i) certificates of deposit issued against funds deposited in a bank or savings and loan association; (ii) bankers’ acceptances, which are short-term credit instruments used to finance commercial transactions; (iii) repurchase agreements and reverse repurchase agreements; (iv) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed

Third, if constrained by regulatory requirements or in view of market conditions or if one or more of the other Benchmark Component Futures Contracts is not available, the Fund may next invest in exchange traded futures contracts that are economically identical or substantially similar to the Benchmark Component Futures Contracts, e.g., futures contracts that are based on changes in the price of WTI oil traded on the CME.

When, in view of regulatory requirements and market conditions, the Fund has invested to the fullest extent possible in the Benchmark OTC Derivatives Contracts and exchange-traded futures contracts, the Fund may then invest in (i) cleared swap contracts based on the Benchmark Component Futures Contracts, (ii) uncleared OTC derivatives contracts (specifically, swaps, forwards and options) based on either the price of the Benchmark Component Futures Contracts or on the price of the crude oil underlying the Benchmark Component Futures Contracts, and (iii) exchange-traded options on the Benchmark Component Futures Contracts. The foregoing investments, together with the Benchmark Component Futures Contracts and other exchange-traded futures contracts that are economically identical or substantially similar to the Benchmark Component Futures Contracts are referred to collectively as ‘Other Crude Oil-Related Investments’.

Market conditions that USCF currently anticipates could cause the Fund to invest in Other Crude Oil-Related Investments include those allowing the Fund to obtain greater liquidity, to execute transactions with more favorable pricing, or if the

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rate of interest; (v) commercial paper, which are short-term unsecured promissory notes; and (vi) money market funds.”

Fund or USCF exceeds position limits or accountability levels established by an exchange.”

The Exchange proposes to replace the representations in the four preceding paragraphs regarding the Fund’s investments with the following:

The Fund will seek to achieve its investment objective first by investing in the nearby futures contracts that comprise the CCIER, i.e., (i) the ICE Crude Diff - TMX WCS 1B Index Future (ICE symbol: TDX) (the “WCS Future”); and (ii) the ICE WTI Crude Future (ICE symbol: T) (the “WTI Future”) (the WCS Futures and WTI Futures that comprise the CCIER are referred to herein as “Benchmark Component Futures Contracts”) and may also invest in exchange traded futures contracts that are economically identical or substantially similar to the Benchmark Component Futures Contracts, e.g., futures contracts that are based on changes in the price of WTI crude oil traded on the Chicago Mercantile Exchange (“CME”), (together with the Benchmark Component Futures Contracts, “eligible futures contracts”).<sup>8</sup> Thereafter, in view of regulatory requirements and market conditions and if the Fund has invested to the fullest extent possible in the eligible futures contracts described above, the Fund may then enter into any of the following: (i) cleared swap contracts based on eligible futures contracts, (ii) cash-settled, uncleared over-the-counter (“OTC”) derivatives contracts (specifically, swaps, forwards and options) based on the price of the Benchmark Component Futures Contracts, other eligible futures contracts, the return on the CCIER or on the price of the crude oil underlying the Benchmark Component Futures Contracts (“OTC derivatives contracts”), or (iii) exchange-

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<sup>8</sup> As noted in the Prior Amendment, not more than 10% of the net assets of the Fund in the aggregate invested in futures contracts, or options on futures shall consist of futures contracts, or options on futures whose principal market is not a member of the Intermarket Surveillance Group or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

traded options on the Benchmark Component Futures Contracts. The foregoing investments, other than eligible futures contracts, are referred to collectively as “Other Crude Oil-Related Investments”. Market conditions that USCF currently anticipates could cause the Fund to invest in Other Crude-Oil Related Investments include those allowing the Fund to obtain greater liquidity, to execute transactions with more favorable pricing, or if the Fund or USCF exceeds position limits or accountability levels established by an exchange. The Fund will support the margin, collateral and other requirements relating to its investments in eligible futures contracts and Other Crude Oil-Related Investments by holding the remaining amounts of its assets in short-term obligations of the United States with maturities of two years or less (“Treasuries”), cash and cash equivalents.<sup>9</sup>

#### Deletion of References to Benchmark OTC Derivatives Contracts

Because the Fund will not seek to achieve its investment objective by first entering into Benchmark OTC Derivatives Contracts, as stated in the Prior Amendment, and because the term “Benchmark OTC Derivatives Contracts” will not be used to describe the Fund’s investments, the Exchange proposes to delete or modify references to Benchmark OTC Derivatives Contracts or to the Fund’s significant use of OTC derivatives contracts in the Prior Amendment, as described below.

The Exchange proposes to delete the following phrase from the second sentence of the last partial paragraph on page 6 of the Prior Amendment: “Notwithstanding the Fund’s significant use of OTC derivatives contracts...”. Thus such sentence would read: “The Sponsor believes that market arbitrage opportunities will cause daily changes in the Fund’s Share price on

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<sup>9</sup> The definition of “cash equivalents” is unchanged from the definition in the Prior Amendment. See note 7, supra.

the NYSE Arca on a percentage basis to closely track the daily changes in the Fund's per Share NAV on a percentage basis.”

The Exchange proposes to delete the following phrase from the sentence comprising footnote 10 of the Prior Amendment: “While the Fund will primarily be composed of, and therefore will be a measure of, the prices of the Benchmark OTC Derivatives Contracts based upon futures comprising the CCIER,”. The remainder of such sentence, beginning with “there is expected to be a reasonable degree of correlation”, would be unchanged.

The Prior Amendment stated as follows (included on page 7 of the Prior Amendment): “According to the Registration Statement, the Fund will primarily invest in Benchmark OTC Derivatives Contracts that are based on the CCIER which is comprised of the Benchmark Component Futures Contracts and, in the opinion of the Sponsor, are traded in sufficient volume to permit the ready taking and liquidation of positions. Such Benchmark OTC Derivatives Contracts, as well as all other Other Crude Oil-Related Investments that are OTC derivatives, will be “swaps” for purposes of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act that fall within the jurisdiction of the Commodity Futures Trading Commission.”<sup>10</sup>

The Exchange proposes to replace these statements with the following: “In the opinion of the Sponsor, the Other Crude-Oil Related Investments are traded in sufficient volume to permit the ready taking and liquidation of positions. Such other Other Crude Oil-Related Investments that are cleared swaps and OTC derivatives contracts, will be “swaps” for purposes of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act that fall within the jurisdiction of the Commodity Futures Trading Commission.”

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<sup>10</sup> The caption “Benchmark OTC Derivatives Contracts” would be replaced by “OTC Derivatives Contracts.”

The Prior Amendment stated as follows (included in the last paragraph on page 7 of the Prior Amendment): “The OTC derivatives contracts, including the Benchmark OTC Derivatives Contracts, will be entered between two parties, outside of public exchanges, in private contracts. Unlike the exchange-traded Benchmark Component Futures Contracts and the other exchange traded futures contracts, each party to an OTC derivatives contract bears credit risk with respect to the other party.”

The Exchange proposes to replace these statements with the following:

“The OTC derivatives contracts will be entered between two parties, outside of public exchanges, in private contracts. Unlike the eligible futures contracts, each party to an OTC derivatives contract bears credit risk with respect to the other party.”

The first sentence on page 8 of the Prior Amendment states as follows: “In accordance with the terms and conditions of the Fund’s ISDA Master Agreements, pursuant to which the Fund’s OTC derivatives contracts will be entered into, the Fund will be entitled to increase or decrease its notional exposure to the CCIER from time to time, to among other things, manage Share purchases and reinvestment of distributions, Fund Share redemptions and market repurchases of Shares, and meet other liquidity needs.”

The Exchange proposes to replace this sentence with the following:

“In accordance with the terms and conditions of the Fund’s ISDA Master Agreements, pursuant to which the Fund’s OTC derivatives contracts will be entered into, the Fund will be entitled to increase or decrease its notional exposure under the applicable OTC derivatives contracts to, among other things, manage Share purchases, Fund Share redemptions and market repurchases of Shares, and meet other liquidity needs.”

The Exchange proposes to delete the phrase “, including the Benchmark OTC Derivatives Contracts,” from the first full paragraph on page 8 of the Prior Amendment.

The first two sentences of the second full paragraph on page 8 of the Prior Amendment state as follows: “The daily marked-to-market value of a Benchmark OTC Derivatives Contract will be based upon the performance of a notional investment in the CCIER. In turn, the performance of the CCIER will be based upon the performance of the underlying Benchmark Component Futures Contracts.”

The Exchange proposes to replace these sentences with the following sentence: “The daily marked-to-market value of a cleared swap contract or an OTC derivatives contract will be based upon the performance of Benchmark Component Futures Contracts, other eligible futures contracts, the return of the CCIER, or on the price of the crude oil underlying Benchmark Component Futures Contracts.”

The third full paragraph on page 8 of the Prior Amendment states as follows: “The Fund may also enter into multiple Benchmark OTC Derivatives Contracts for the purpose of achieving its investment objective. If a Benchmark OTC Derivatives Contract is terminated, the Fund may either pursue the same or other alternative investment strategies with an acceptable counterparty, or make direct investments in the Benchmark Component Futures Contracts or other investments described above that provide a similar return to investing in the Benchmark Component Futures Contracts.”

The Exchange proposes to replace this paragraph with the following: “If an OTC derivatives contract is terminated, the Fund may either pursue the same or other alternative investments with another acceptable counterparty, or make direct investments in the eligible futures contracts or other investments described above.”

Because the Fund will seek to achieve its investment objective first by investing in the nearby futures contracts that comprise the CCIER rather than by first entering into Benchmark OTC Derivatives Contracts, as stated in the Prior Amendment, the Sponsor has determined that it is appropriate to establish a later cutoff time for placing purchase and redemption orders. The first full paragraph on page 10 of the Prior Amendment states as follows: “Purchase orders and redemption orders must be placed by 10:30 a.m. E.T. or the close of regular trading on the NYSE Arca, whichever is earlier.[footnote 13]” The Exchange proposes to replace the preceding sentence with the following: “Purchase orders and redemption orders must be placed by noon E.T. or the close of regular trading on the NYSE Arca, whichever is earlier. [footnote 13]”

The first sentence of footnote 13 of the Prior Amendment states as follows:

“USCF represents that an Authorized Participant’s arbitrage opportunities with respect to the price it must pay for a Creation Basket will not be materially impacted by the requirement that the purchase and redemption order must be received by 10:30 a.m. E.T. which is prior to the ICE Futures Europe closing time.” The Exchange proposes to replace this sentence with the following: “USCF represents that an Authorized Participant’s arbitrage opportunities with respect to the price it must pay for a Creation Basket will not be materially impacted by the requirement that the purchase and redemption order must be received by noon E.T., which is prior to the ICE Futures Europe closing time.”<sup>11</sup>

The Prior Amendment stated as follows (included on pages 8-9 of the Prior Amendment):

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<sup>11</sup> The Commission has previously approved the listing and trading on the Exchange of Trust Issued Receipts listed under NYSE Arca Rule 8.600-E [sic], Commentary .02 for which creation and redemption orders must be placed by noon, E.T. See, e.g., Securities Exchange Act Release No. 66466 (February 24, 2012), 77 FR 12631 (March 1, 2012) (SR-NYSEArca-2011-97) (Order Granting Approval of Proposed Rule Change Relating to Listing and Trading of Shares of the Teucrium Agriculture Fund under NYSE Arca Equities Rule 8.200).

“The Fund may also enter into certain transactions where an OTC derivatives contract component is exchanged for a corresponding futures contract (an “Exchange for Related Position” or “EFRP” transaction).”

The Exchange proposes to replace this sentence with the following:

“The Fund may also enter into certain transactions where a cleared swap or an OTC derivatives contract component is exchanged for a corresponding futures contract (an “Exchange for Related Position” or “EFRP” transaction).”

The Prior Amendment stated as follows (included on pages 10-11 of the Prior Amendment, under “Calculating Per Share NAV”):

“The Benchmark OTC Derivatives Contracts will be valued by the Administrator using the publicly available CCIER price. The CCIER is determined by the index calculation agent using, the last reported closing or settlement prices of the Benchmark Component Futures Contracts determined by ICE Futures Europe (determined as of 2:30 p.m. E.T. or the earlier close of such exchange that day) or,[footnote 14] in the case of a market disruption and no determination being made by ICE Futures Europe, the last traded price before 2:30 p.m. E.T. that day. For other futures contracts traded on exchanges the Administrator will use the closing or settlement price published by the applicable exchange or, in the case of a market disruption, the last traded price before settlement.”

The Exchange proposes to replace these sentences with the following:

“The Benchmark Component Futures Contracts will be valued by the Administrator using the publicly available last reported closing or settlement prices of the these futures contracts determined by ICE Futures Europe (determined as of 2:30 p.m. E.T. or the earlier close of such exchange that day) or,[footnote 14] in the case of a market disruption and no determination being

made by ICE Futures Europe, the last traded price before 2:30 p.m. E.T. that day. For other futures contracts traded on exchanges the Administrator will use the closing or settlement price published by the applicable exchange or, in the case of a market disruption, the last traded price before settlement. In general, the values of a cleared swap contract or an OTC derivatives contract will be based on the performance of the Benchmark Component Futures Contracts, other eligible futures contracts, the return on the CCIER, or on the price of the crude oil underlying the Benchmark Component Futures Contracts. The value of the CCIER will be the value determined by the index calculation agent using the reported closing or settlement prices of the Benchmark Component Futures Contracts.”

Footnote 14 of the Prior Amendment stated as follows:

“The value of the CCIER for purposes of determining the Fund’s end of day NAV and the purchase or redemption price for the shares by Authorized Participants will be determined as of 2:30 p.m. E.T. which is the designated time for determining the daily settlement price of the Benchmark Component Futures Contracts. The Benchmark Component Futures Contracts on ICE Futures Europe continue to trade past 2:30 p.m. E.T. and through the end of the NYSE Arca Core Trading Session at 4:00 p.m. E.T.”

The Exchange proposes to delete the first sentence of footnote 14 of the Prior Amendment so that such footnote reads as follows:

“The Benchmark Component Futures Contracts on ICE Futures Europe continue to trade past 2:30 p.m. E.T. and through the end of the NYSE Arca Core Trading Session at 4:00 p.m. E.T.”

The last sentence of the first full paragraph on page 16 of the Prior Amendment stated as follows:

“The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of Benchmark Component Futures Contracts and the Benchmark OTC Derivatives Contracts.”

The Exchange proposes to replace this sentence with the following:

“The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of Benchmark Component Futures Contracts, cleared swaps and certain OTC derivatives contracts.”

The Exchange proposes to add reference to cleared swap contracts in the description of portfolio holdings to be made available on the Fund’s website, as described in the first full paragraph on page 12 of the Prior Amendment and the third paragraph on page 17 of the Prior Amendment. Therefore, the Exchange proposes to state that website disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the composite value of the total portfolio, (ii) the quantity and type (including maturity, effective date, ticker symbol or other identifier, if any) and other descriptive information, and value of each holding, including, in the case of cleared swap contracts or an OTC derivatives contract, the type of cleared swap contract or OTC derivatives contract, its notional value and the underlying instrument, index or asset on which the cleared swap contract or OTC derivatives contract is based, and, in the case of cleared swaps, the clearinghouse for such swaps, and, in the case of options, its strike price, (iii) the type (including maturity, effective date, ticker symbol or other identifier, if any) and value of each Treasury security and cash equivalent, and (iv) the amount of cash held in the Fund’s portfolio.

Except for the changes noted above, all other representations made in the Prior Amendment remain unchanged.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>12</sup> 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 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. The Trust's "Sponsor", United States Commodity Funds LLC, represents that it has determined that, in satisfying the Fund's investment objective, it is preferable for the Fund first to invest in the futures contracts that comprise the CCIER or other eligible futures contracts, as described above, instead of first entering into cash-settled, uncleared OTC total return swap and/or forward transactions based on, and intended to replicate the return of, the CCIER. The Sponsor also represents that, in general, the futures markets are more liquid than OTC derivatives and more directly reflect the values of the futures contracts underlying the CCIER.

The proposed deletions or changes to references to the term "Benchmark OTC Derivatives Contracts" as used in the Prior Amendment are appropriate in that, going forward, such term will not be used to describe the Fund's investments.

The Fund will comply with all initial and continued listing requirements under NYSE Arca Rule 8.200-E and Commentary .02 thereto. Except for the changes noted above, all other representations made in the Prior Amendment remain unchanged.

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<sup>12</sup> 15 U.S.C. 78f(b)(5).

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 believes the proposed rule change relating to the Fund's investments will provide the Fund with the greater ability to utilize listed futures contracts and facilitate the Fund's ability to satisfy its investment objective, and will enhance market competition with respect to trading in the Fund's Shares.

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 change 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>15</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>16</sup> permits the Commission to designate a shorter time if such action is consistent with the

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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 Exchange has satisfied this requirement.

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that the Shares have not commenced trading on the Exchange, and waiver of the operative delay would accommodate trading in the Shares on the Exchange before the 30-day delayed operative date. Moreover, according to the Exchange, the proposal would provide the Fund with greater ability to utilize listed futures contracts and facilitate the Fund's ability to satisfy its investment objective.<sup>17</sup> The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>18</sup>

At any time within 60 days of the filing of the 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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<sup>17</sup> The Commission has previously approved the listing and trading of other Trust Issued Receipts under NYSE Arca Rule 8.200-E, Commentary .02 that primarily invest in oil futures contracts. See, e.g., Securities Exchange Act Release No. 80427 (April 11, 2017), 82 FR 18058 (April 14, 2017) (SR-NYSEArca-2016-173).

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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-2018-39 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-2018-39. 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-2018-39 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>19</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).