

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87514; File No. SR-NYSEArca-2019-78)

November 13, 2019

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Listing and Trading of Shares of the Innovator PTAM Core Bond ETF under NYSE Arca Rule 8.600-E

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on October 30, 2019, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) a proposed rule change, and on November 8, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

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

The Exchange proposes to list and trade shares of the following under NYSE Arca Rule 8.600-E (“Managed Fund Shares”): Innovator PTAM Core Bond ETF. This Amendment No. 1 to SR-NYSEArca-2019-78 replaces SR-NYSEArca-2019-78 as originally filed and supersedes such filing in its entirety. The proposed change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 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 Exchange proposes to list and trade shares of the following under NYSE Arca Rule 8.600-E which governs the listing and trading of Managed Fund Shares on the Exchange⁴: Innovator PTAM Core Bond ETF (the “Fund”).

The Shares will be offered by Innovator ETFs Trust (the “Trust”), which is registered with the Commission as an open-end management investment company.⁵ The Fund is a series of the Trust.

⁴ 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.

⁵ The Trust is registered under the 1940 Act. On July 5, 2019, the Trust filed with the Commission its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333-146827 and 811-22135) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order upon which the Trust may rely, granting certain

Innovator Capital Management, LLC will be the investment adviser (“Innovator” or “Adviser”) to the Fund. PT Asset Management, LLC (“PTAM” or the “Sub-Adviser”), will serve as the Fund’s investment sub-adviser. Foreside Fund Services, LLC will be the distributor (“Distributor”) for the Fund’s Shares. US Bancorp Fund Services LLC will act as the administrator and transfer agent for the Fund. U.S. Bank, N.A. will serve as the custodian (“Custodian”) for the Fund.

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 and maintain 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.⁶ 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

exemptive relief under the 1940 Act. See Investment Company Act Release No. 32854 (October 6, 2017) (File No. 812-14781).

⁶ 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.

regarding the open-end fund's portfolio. The Adviser and Sub-Adviser are not registered as broker-dealers. The Adviser is not affiliated with a broker-dealer. The Sub-Adviser is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser or the 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 relevant personnel and any 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.

Innovator PTAM Core Bond ETF

Principal Investments

According to the Registration Statement, the investment objective of the Fund is to seek to maximize total return through income and capital appreciation. Under normal market conditions,⁷ the Fund intends to invest at least 80% of its net assets in a portfolio of "Fixed Income Securities" (described below).⁸

⁷ The term "normal market conditions" is defined in NYSE Arca Rule 8.600-E(c)(5). On a temporary basis, including for defensive purposes, during the initial invest-up period (*i.e.*, the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (*i.e.*, rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods), the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, the Fund may not be able to achieve its investment objective. The Fund may adopt a defensive strategy when the Adviser and/or the Sub-Adviser believes securities in which the Fund normally

In managing the Fund’s portfolio, PTAM intends to use a value-oriented strategy looking for higher-yielding and undervalued fixed income securities that offer above-average total return. Pursuant to this investment strategy, the Fund may invest in the following Fixed Income Securities, as discussed below:

- U.S. Government obligations⁹ and sovereign debt obligations of non-U.S. governments;
- U.S. Government Agency Securities (including agency asset-backed securities (“ABS”) and agency mortgage-backed securities (“MBS”));¹⁰
- Non-agency ABS;¹¹
- Non-agency MBS;¹²

invests have elevated risks due to market, political or economic factors and in other extraordinary circumstances.

⁸ The Fund may enter into short sales of any securities in which the Fund may invest.

⁹ Examples of U.S. Government obligations include direct obligations of the U.S. Treasury, including Treasury bills, notes and bonds, all of which are backed as to principal and interest payments by the full faith and credit of the United States, and separately traded principal and interest component parts of such obligations that are transferable through the Federal book-entry system known as Separate Trading of Registered Interest and Principal of Securities (“STRIPS”) and Coupons Under Book Entry Safekeeping (“CUBES”).

¹⁰ Examples of U.S. Government Agency Securities include securities issued or guaranteed by agencies and instrumentalities of the U.S. government. These include all types of securities issued by the Government National Mortgage Association (“Ginnie Mae”), the Federal National Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac”), including funding notes, subordinated benchmark notes, collateralized mortgage obligations (“CMOs”) and Real Estate Mortgage Investment Conduits (“REMICs”).

¹¹ For purposes of this filing, non-agency ABS are collateralized bond obligations (“CBOs”), collateralized loan obligations (“CLOs”), and other collateralized debt obligations (“CDOs”).

¹² For purposes of this filing, non-agency MBS are collateralized mortgage obligations (“CMOs”); commercial mortgage-backed securities (“CMBS”); residential mortgage-backed securities (“RMBS”); and principal-only (PO) and interest-only (IO) stripped

- Stripped MBS;¹³
- Treasury Inflation Protected Securities (“TIPS”);
- corporate bonds;
- bank loans, including first lien senior secured floating rate bank loans (“Senior Loans”), secured and unsecured loans, second lien or more junior loans, and bridge loans;
- fixed income convertible securities;
- municipal bonds and municipal securities issued by tender option bond trusts (collectively, “Municipal Securities”); and
- custodial receipts trusts.

The Fund may invest up to 75% of its net assets in Municipal Securities.

The Fund may hold cash and cash equivalents.¹⁴ In addition, the Fund may hold the following short-term instruments with maturities of three months or more: certificates of deposit; bankers’ acceptances; repurchase agreements and reverse repurchase agreements; bank time deposits; and commercial paper.

The Fund may utilize exchange-listed and over-the-counter (“OTC”) traded derivatives instruments for duration/yield curve management and/or hedging purposes, for risk management purposes or as part of its investment strategies. The Fund will use derivative instruments

MBS. Non-agency ABS and non-agency MBS are referred to herein as “Private ABS/MBS.” The Fund may invest in agency RMBS and CMBS by investing in to-be-announced transactions.

¹³ Stripped MBS are derivative multi-class mortgage securities which are usually structured with two classes of shares that receive different proportions of the interest and principal from a pool of mortgage assets. These include IO and PO securities issued outside a REMIC or CMO structure.

¹⁴ For purposes of this filing, cash equivalents are the short-term instruments with maturities of less than 3 months enumerated in Commentary .01(c) to Rule 8.600-E.

primarily to hedge interest rate risk, actively manage interest rate exposure, hedge foreign currency risk and actively manage foreign currency exposure. The Fund may also use derivative instruments to enhance returns, as a substitute for, or to gain exposure to, a position in an underlying asset, to reduce transaction costs, to maintain full market exposure, to manage cash flows or to preserve capital. Derivatives may also be used to hedge risks associated with the Fund's other portfolio investments. The Fund will not use derivative instruments to gain exposure to Private ABS/MBS, and derivative instruments linked to such securities will be used for hedging purposes only. Derivatives that the Fund may enter into are the following: futures on interest rates, currencies, Fixed Income Securities and fixed income indices; exchange-traded and OTC options on interest rates, currencies, Fixed Income Securities and fixed income indices; swap agreements on interest rates, currencies, Fixed Income Securities and fixed income indices; credit default swaps ("CDX"); and currency forward contracts.

Non-Principal Investments

While the Fund, under normal market conditions, will invest at least 80% of its net assets in the Principal Investments described above, the Fund may invest its remaining assets in the following "Non-Principal Investments."

The Fund may invest in exchange-traded common stock, exchange-traded preferred stock, and exchange-traded real estate investment trusts ("REITs").

The Fund may invest in the securities of other investment companies registered under the 1940 Act, including money market funds, exchange-traded funds ("ETFs"), open-end funds (other than money market funds and other ETFs), and U.S. exchange-traded closed-end funds.¹⁵

¹⁵ For purposes of this filing, the term "ETFs" are 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-

The Fund may hold exchange-traded notes (“ETNs”).¹⁶

The Fund may hold exchange-traded or OTC “Work Out Securities.”¹⁷

The Fund may hold exchange-traded or OTC equity securities issued upon conversion of fixed income convertible securities.

Investment Restrictions

The Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis. The Fund’s holdings in derivative instruments for hedging purposes would be excluded from the determination of compliance with this 5% limitation. The total gross notional value of the Fund’s holdings in derivative instruments used to gain exposure to a specific reference asset is limited to 5% of the Fund’s total assets (determined at the time of purchase).

The Fund may invest up to 50% of its total assets in the aggregate in Private ABS/MBS, provided that the Fund (1) may not invest more than 30% of its total assets in non-agency RMBS; (2) may not invest more than 25% of its total assets in non-agency CMBS; and (3) may not invest more than 25% of its total assets in non-agency ABS.

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.

¹⁶ ETNs are Index-Linked Securities (as described in NYSE Arca Rule 5.2-E(j)(6)). While the Fund may invest in inverse ETNs, the Fund will not invest in leveraged or inverse leveraged ETNs (e.g., 2X or -3X).

¹⁷ For purposes of this filing, Work Out Securities are U.S. or foreign equity securities of any type acquired in connection with restructurings related to issuers of Fixed Income Securities held by the Fund. Work Out Securities are generally traded OTC, but may be traded on a U.S. or foreign exchange.

The Fund may invest up to 75% of its net assets in Municipal Securities that have a minimum original principal outstanding of less than \$100 million. Under normal market conditions, the Fund's investments in Municipal Securities will satisfy the following criteria:

- i. No single Municipal Securities issuer will account for more than 10% of the weight of the Fund's portfolio;¹⁸
- ii. No individual Municipal Security will account for more than 5% of the weight of the Fund's portfolio;¹⁹
- iii. The Fund will limit its investments in Municipal Securities of any one state or U.S. territory to 20% of the Fund's total assets.²⁰

The Exchange proposes that up to 25% of the Fund's assets may be invested in OTC derivatives that are used to reduce currency, interest rate or credit risk arising from the Fund's

¹⁸ The Exchange notes that the Commission has approved the listing and trading of another issue of Managed Fund Shares that principally holds municipal securities for which no single issuer would account for more than 10% of the weight of the fund's portfolio. See Securities Exchange Act Release No. 79293 (November 10, 2016), 81 FR 81189 (November 17, 2016) (SR-NYSEArca-2016-107) (order approving listing and trading of shares of Cumberland Municipal Bond ETF under Rule 8.600).

¹⁹ The Exchange notes that the Commission has approved the listing and trading of another issue of Managed Fund Shares that principally holds municipal securities for which no single bond would exceed 5% of the fund's portfolio. See Securities Exchange Act Release No. 80885 (June 8, 2017), 82 FR 27302 (June 14, 2017) (order approving listing and trading of shares of the IQ Municipal Insured ETF, IQ Municipal Short Duration ETF, and IQ Municipal Intermediate ETF under NYSE Arca Equities Rule 8.600).

²⁰ The Exchange notes that the Commission has approved the listing and trading of other issues of Managed Fund Shares that principally hold municipal securities for which the applicable fund's assets in municipal securities of any one state would be limited to 30% of such fund's assets. See Securities Exchange Act Release Nos. 80885 (June 8, 2017), 82 FR 27302 (June 14, 2017) (order approving listing and trading of shares of the IQ Municipal Insured ETF, IQ Municipal Short Duration ETF, and IQ Municipal Intermediate ETF under NYSE Arca Equities Rule 8.600); 79293 (November 10, 2016), 81 FR 81189 (November 17, 2016) (SR-NYSEArca-2016-107) (order approving listing and trading of shares of Cumberland Municipal Bond ETF under Rule 8.600); 78913 (September 23, 2016) (SR-Nasdaq-2016-002) (order approving listing and trading of the First Trust Municipal High Income ETF of First Trust Exchange-Traded Fund III).

investments (that is, “hedge”). The Fund’s investments in OTC derivatives other than OTC derivatives used to hedge the Fund’s portfolio against currency, interest rate or credit risk will be limited to 20% of the assets in the Fund’s portfolio. For purposes of these percentage limitations on OTC derivatives, the weight of such OTC derivatives will be calculated as the aggregate gross notional value of such OTC derivatives.

The Fund’s holdings of bank loans will not exceed 15% of the Fund’s total assets, and the Fund’s holdings of bank loans other than Senior Loans will not exceed 5% of the Fund’s total assets.

The Fund’s holdings in fixed income convertible securities and in equity securities issued upon conversion of such convertible securities will not exceed 10% of the Fund’s total assets.

The Fund’s holdings in Work Out Securities will not exceed 5% of the Fund’s total assets.

The Fund will not invest in securities or other financial instruments that have not been described in this proposed rule change.

Other Restrictions

The Fund’s investments, including derivatives, will be consistent with the Fund’s investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, the Fund’s investments will not be used to seek performance that is the multiple or inverse multiple (e.g., 2X or -3X) of the Fund’s primary broad-based securities benchmark index (as defined in Form N-1A).²¹

²¹ The Fund’s broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund’s first full calendar year of performance.

Use of Derivatives by the Fund

The Fund may invest in the types of derivatives described in the “Principal Investments” section above for the purposes described in that section. Investments in derivative instruments will be made in accordance with the Fund’s investment objective and policies.

To limit the potential risk associated with such transactions, the Fund will enter into offsetting transactions or segregate or “ earmark ” assets determined to be liquid by the Adviser in accordance with procedures established by the Trust’s Board of Trustees. 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 assets, or the assets 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.

Impact on Arbitrage Mechanism

The Adviser and the Sub-Adviser believe there will be minimal, if any, impact to the arbitrage mechanism as a result of the Fund’s use of derivatives and Private ABS/MBS. The Adviser and the Sub-Adviser understand that market makers and participants should be able to value derivatives and Private ABS/MBS as long as the positions are disclosed with relevant information. The Adviser and the Sub-Adviser believe 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 net asset value (“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 and Sub-Adviser do not believe there will be any significant impacts to the

settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives and Private ABS/MBS.

Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at NAV²² only in large blocks of Shares ("Creation Units") in transactions with "Authorized Participants" (described below). A Creation Unit will consist of 50,000 Shares. The size of a Creation Unit is subject to change.

To be eligible to place orders with the Distributor 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 National Securities Clearing Corporation ("NSCC"); or (ii) a Depository Trust Company ("DTC") Participant, and, in each case, must have executed an agreement with the Fund, the Distributor and the Administrator with respect to creations and redemptions of Creation Units. A Participating Party and DTC Participant are collectively referred to as an Authorized Participant.

All orders to create Creation Units must be placed for one or more Creation Unit size aggregations. All orders to create Creation Units must be received by the Distributor no later than 4:00 p.m., E.T. on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form.

Shares may be redeemed only in Creation Unit aggregations at their NAV next determined after receipt of a redemption request in proper form by the Fund through the

²² The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange ("NYSE"), generally 4:00 p.m., Eastern Time ("E.T."). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding.

Custodian and only on a business day. Orders to redeem Creation Units must be received by 4:00 p.m., E.T.

The Custodian, through the NSCC, will make available prior to the opening of business on the Exchange (currently 9:30 a.m., E.T.) on each business day, the amount of cash that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. The redemption proceeds for a Creation Unit Aggregation generally will consist of cash in an amount equal to the NAV of Fund Shares next determined after a redemption request is received, less a redemption transaction fee.

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the portfolio for the Fund will not meet 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 will meet all such requirements except for those set forth in Commentary .01(a)(1) and (a)(2) (with respect to the Fund’s investments in equity securities), (b)(1) (with respect to the Fund’s investments in Fixed Income Securities, including Municipal Securities), (b)(4) (with respect to the Fund’s investments in Private ABS/MBS), (b)(5) (with respect to the Fund’s investments in Private ABS/MBS), and (e) (with respect to the Fund’s investments in OTC derivatives), as described below.

The Fund will not comply with all of the requirements set forth in Commentary .01(a)(1)²³ and (a)(2)²⁴ to NYSE Arca Rule 8.600-E with respect to the Fund’s investments in

²³ Commentary .01(a)(1) to NYSE Arca Rule 8.600-E 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;

(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; and

(F) American Depositary Receipts (“ADRs”) in a portfolio may be exchange-traded or non-exchange-traded. However, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.

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Commentary .01(a)(2) to NYSE Arca Rule 8.600-E provides that the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(A) Non-U.S. Component Stocks each shall have a minimum market value of at least \$100 million;

(B) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months;

(C) The most heavily weighted Non-U.S. Component stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio;

equity securities.²⁵ Instead, the Exchange proposes that (i) the Fund's investments in equity securities will meet the requirements of Commentary .01(a) with the exception of Commentary .01(a)(1)(C) and .01(a)(1)(D) (with respect to U.S. Component Stocks) and Commentary .01(a)(2)(C) and .01(a)(2)(D) (with respect to Non-U.S. Component Stocks). Any Fund investment in exchange-traded common stocks, preferred stocks, REITS, ETFs, ETNs, exchange-traded equity securities issued upon conversion of fixed income convertible securities, exchange-traded Work Out Securities and U.S. exchange-traded closed-end funds would provide for enhanced diversification of the Fund's portfolio and, in any case, would be Non-Principal Investments and would not exceed 20% of the Fund's net assets in the aggregate. With respect to any Fund holdings of exchange-traded equity securities issued upon conversion of fixed income convertible securities and exchange-traded Work Out Securities, such securities will not exceed 10% and 5%, respectively, of the Fund's total assets. The Adviser and Sub-Adviser represent that the Fund generally will not actively invest in equity securities issued upon conversion of fixed income convertible securities or Work Out Securities, but may, at times, receive a distribution of such securities in connection with the Fund's holdings in other securities.

(D) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 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; and

(E) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

²⁵ For purposes of these exceptions, investments in equity securities that are OTC Work Out Securities, OTC equity securities issued upon conversion of fixed income convertible securities, or non-exchange-traded securities of other open-end investment companies (e.g., mutual funds) are excluded and are discussed further below.

Therefore, the Fund's holdings in equity securities issued upon conversion of fixed income convertible securities and Work Out Securities generally would not be acquired as the result of the Fund's voluntary investment decisions. The Adviser and Sub-Adviser represent that, under these circumstances, application of the weighting requirements of Commentary .01(a)(1)(C) and Commentary .01(a)(2)(C) and the minimum number of components requirements of Commentary .01(a)(1)(D) and Commentary .01(a)(2)(D) would impose an unnecessary burden on the Fund's ability to hold such equity securities.

The Fund will not comply with the requirement in Commentary .01(b)(1) to Rule 8.600-E that components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each shall have a minimum original principal amount outstanding of \$100 million or more. Instead, the Exchange proposes that components that in the aggregate account for at least 50% of the fixed income weight of the portfolio shall have a minimum original principal amount outstanding of \$50 million or more. As noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis.

With respect to the Fund's investments in Municipal Securities, the Fund may invest up to 75% of its net assets in Municipal Securities that have a minimum original principal outstanding of less than \$100 million. No single Municipal Securities issuer will account for more than 10% of the weight of the Fund's portfolio; no individual bond will account for more than 5% of the weight of the Fund's portfolio; and the Fund will limit its investments in Municipal Securities of any one state or U.S. territory to 20% of the Fund's total assets. The Exchange believes these limitations to the Funds [sic] investments in Fixed Income Securities, including Municipal Securities, would provide significant additional diversification to the Fund's

investments in Fixed Income Securities, and reduce concerns that the Fund's investments in such securities would be readily susceptible to market manipulation.

The Fund will not comply with the requirements in Commentary .01(b)(4) to Rule 8.600-E that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio meet one of the criteria specified in Commentary .01(b)(4), because certain Private ABS/MBS cannot satisfy the criteria in Commentary .01(b)(4).²⁶ Instead, the Exchange proposes that the Fund's investments in Fixed Income Securities other than Private ABS/MBS will be required to comply with the requirements of Commentary .01(b)(4). As noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis.

The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies without imposing requirements that a certain percentage of such funds' securities meet one of the criteria set forth in Commentary .01(b)(4).²⁷

²⁶ Commentary .01(b)(4) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

²⁷ See, e.g., Exchange Act Release Nos. 67894 (September 20, 2012) 77 FR 59227 (September 26, 2012) (SR-BATS-2012-033) (order approving the listing and trading of shares of the iShares Short Maturity Bond Fund); 70342 (September 6, 2013), 78 FR 56256 (September 12, 2013) (SR-NYSEArca-2013-71) (order approving the listing and trading of shares of the SPDR SSGA Ultra Short Term Bond ETF, SPDR SSGA

The Fund will not comply with the requirement in Commentary .01(b)(5) to Rule 8.600-E that Private ABS/MBS in the Fund’s portfolio account, in the aggregate, for no more than 20% of the weight of the Fund’s portfolio.²⁸ Instead, the Exchange proposes that, in order to enable the portfolio to be more diversified and provide the Fund with an opportunity to earn higher returns, the Fund may invest up to 50% of its total assets in the aggregate in Private ABS/MBS, provided that the Fund (1) may not invest more than 30% of its total assets in non-agency RMBS; (2) may not invest more than 25% of its total assets in non-agency CMBS; and (3) may not invest more than 25% of its total assets in non-agency ABS.

In addition, as noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis.²⁹ The Exchange believes these limitations would provide additional diversification to the Fund’s Private ABS/MBS investments and reduce concerns that the Fund’s investment in such securities would be readily susceptible to market manipulation.

The Adviser and Sub-Adviser represent that the RMBS sector can be an important component of the Fund’s investment strategy because of the potential for attractive risk-adjusted returns relative to other fixed income sectors and the potential to add significantly to the

Conservative Ultra Short Term Bond ETF and SPDR SSgA Aggressive Ultra Short Term Bond ETF).

²⁸ Commentary .01(b)(5) to Rule 8.600-E provides that 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 portfolio.

²⁹ As noted above, the Fund’s holdings in derivative instruments for hedging purposes would be excluded from the determination of compliance with this 5% limitation. The total gross notional value of the Fund’s holdings in derivative instruments used to gain exposure to a specific asset is limited to 5% of the Fund’s total assets (determined at the time of purchase).

diversification in the Fund's portfolio. Similarly, the Private ABS/MBS sectors also have the potential for attractive risk-adjusted returns and added portfolio diversification.

The Fund's portfolio will not comply with the requirements set forth in Commentary .01(e) to NYSE Arca Rule 8.600-E.³⁰ Specifically, the Fund's investments in OTC derivatives may exceed 20% of Fund assets, calculated as the aggregate gross notional value of such OTC derivatives. The Exchange proposes that up to 25% of the Fund's assets (calculated as the aggregate gross notional value) may be invested in OTC derivatives that are used to reduce currency, interest rate or credit risk arising from the Fund's investments (that is, "hedge"). The Fund's investments in OTC derivatives other than OTC derivatives used to hedge the Fund's portfolio against currency, interest rate or credit risk will be limited to 20% of the assets in the Fund's portfolio, calculated as the aggregate gross notional value of such OTC derivatives.

The Adviser and Sub-Adviser believe that it is important to provide the Fund with additional flexibility to manage risk associated with its investments. Depending on market conditions, it may be critical that the Fund be able to utilize available OTC derivatives for this purpose to attempt to reduce impact of currency, interest rate or credit fluctuations on Fund assets. Therefore, the Exchange believes it is appropriate to apply a limit of up to 25% of the Fund's assets to the Fund's investments in OTC derivatives (calculated as the aggregate gross

³⁰ Commentary .01(e) to NYSE Arca Rule 8.600-E provides that the portfolio may hold OTC derivatives, including forwards, options and swaps on commodities, currencies and financial instruments (e.g., stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing; however, on both an initial and continuing basis, no more than 20% of the assets in the portfolio may be invested in OTC derivatives. For purposes of calculating this limitation, a portfolio's investment in OTC derivatives will be calculated as the aggregate gross notional value of the OTC derivatives.

notional value of such OTC derivatives), including forwards, options and swaps, that are used for hedging purposes, as described above.³¹

As noted above, the Fund may hold equity securities that are Work Out Securities, which generally are traded OTC (but that may be traded on a U.S. or foreign exchange), exchange-traded or OTC equity securities issued upon conversion of fixed income convertible securities, and 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 non-exchange-traded securities of open-end investment company securities,³² and notwithstanding that the Fund's holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) and Commentary .01(a)(2) (A) through (E) to Rule 8.600-E. Investments in non-exchange-traded securities of open-end investment company securities

³¹ The Commission has previously approved an exception from requirements set forth in Commentary .01(e) relating to investments in OTC derivatives similar to those proposed with respect to the Fund in Securities Exchange Act Release No. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR-NYSEArca-2017-09) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, Regarding Investments of the Janus Short Duration Income ETF Listed Under NYSE Arca Equities Rule 8.600).

³² 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).

will not be principal investments of the Fund.³³ 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. With respect to any Fund holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities, such securities will not exceed 10% and 5%, respectively, of the Fund's total assets. The Adviser and Sub-Adviser represent that the Fund generally will not actively invest in OTC equity securities issued upon conversion of fixed income convertible securities or OTC Work Out Securities, but may, at times, receive a distribution of such securities in connection with the Fund's holdings in other securities. Therefore, the Fund's holdings in equity securities issued upon conversion of fixed income convertible securities and Work Out Securities generally would not be acquired as the result of the Fund's voluntary investment decisions.

With respect to investments in non-exchange-traded investment company securities, because such securities 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).³⁴

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-

³³ 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.

³⁴ 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. 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).

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 8.100-E) and Managed Fund Shares (as described in NYSE Arca Rule 8.600-E).³⁵ 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

³⁵ 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>.

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.

The Exchange notes that the Commission has previously approved listing and trading of an issue of Managed Fund Shares that may invest in equity securities that are non-exchange-traded securities of other open-end investment company securities 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 such fund's investments in such securities.³⁶ 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.

Deviations from the generic requirements 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.

³⁶ See, e.g., Securities Exchange Act Release No. 83319 (May 24, 2018) (SR-NYSEArca-2018-15) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Continue Listing and Trading Shares of the PGIM Ultra Short Bond ETF Under NYSE Arca Rule 8.600-E).

The Exchange notes that, other than Commentary .01(a)(1), (a)(2), (b)(1), (b)(4), (b)(5), and (e) to Rule 8.600-E, as described above, the Fund’s portfolio will meet all other requirements of Rule 8.600-E.

Availability of Information

The Fund’s website (www.innovatoretfs.com) will include the prospectus for the Fund that may be downloaded. The Fund’s website will include 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 spread at the time of calculation of such NAV (the “Bid/Ask Price”),³⁷ 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 will disclose 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.³⁸

On a daily basis, the Fund will disclose 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.

³⁷ 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.

³⁸ 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.

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, will be 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 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.

Intra-day and closing price information regarding exchange-traded options will be available from the exchange on which such instruments are traded. Intra-day and closing price information regarding Fixed Income Securities will be available from major market data vendors. Price information relating to OTC options, forwards and swaps 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. Intraday and other price information for the Fixed Income Securities in which the Fund will invest will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other market participants. Additionally, the Trade Reporting and Compliance Engine ("TRACE") of the Financial Industry Regulatory Authority ("FINRA") will be a source of price information for corporate bonds to the

extent transactions in such securities are reported to TRACE.³⁹ Trade price and other information relating to municipal bonds is available through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access ("EMMA") system. Non-exchange-traded open-end investment company securities are typically priced once each business day and their prices will be available through the applicable fund's website or from major market data vendors. Price information regarding U.S. government securities, bank loans, Private ABS/MBS, cash equivalents and short-term instruments with maturities of three months or more generally may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. Information relating to Private ABS/MBS is widely available from major market data vendors such as Bloomberg.

Information regarding market price and trading volume of the Shares, ETFs, ETNs, common stocks, preferred stocks, REITs, equity securities issued upon conversion of fixed income convertible securities, Work-Out Securities and closed-end funds 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, ETNs, closed-end funds, REITs, U.S. exchange-traded common stocks, U.S. exchange-traded preferred stocks, U.S.

³⁹ Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year. For Fixed Income Securities that are not reported to TRACE, (i) intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable) and (ii) price information will be available from feeds from market data vendors, published or other public sources, or online information services, as described above.

exchange-traded equity securities issued upon conversion of fixed income convertible securities, and U.S. exchange-traded Work-Out Securities 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”) are available via the Options Price Reporting Authority (“OPRA”). In addition, the Portfolio Indicative Value (“PIV”), 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.

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.⁴⁰ 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. Trading in the Fund’s Shares also will be subject to Rule 8.600-E(d)(2)(D) (“Trading Halts”).

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 a.m. to 8 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

⁴⁰ See NYSE Arca Rule 7.12-E.

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.

With the exception of the requirements of Commentary .01(a)(1), (a)(2), (b)(1), (b)(4), (b)(5), and (e) to Rule 8.600-E as described above in “Application of Generic Listing Requirements,” the Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600-E. Consistent with NYSE Arca Rule 8.600-E(d)(2)(B)(ii), the Adviser and Sub-Adviser will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the Fund’s portfolio.

The Exchange represents that, for initial and continued listing, the Fund will be in compliance with Rule 10A-3⁴¹ under the Act, as provided by NYSE Arca Rule 5.3-E. 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. The Fund’s investments will be consistent with its investment goal and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, or by regulatory staff 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

⁴¹ 17 CFR 240.10A-3.

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.⁴²

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, certain exchange-traded options and certain exchange-traded futures, ETFs, ETNs, closed-end funds, certain common stocks, certain preferred stocks, certain REITs, certain equity securities issued upon conversion of fixed income convertible securities, and certain Work-Out Securities with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in such securities and financial instruments from such markets and other entities.⁴³ In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. In addition, FINRA, on behalf of the Exchange, is able to access, 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 Municipal Securities Rulemaking Board relating to municipal

⁴² FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

⁴³ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (“CSSA”).

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 listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Fund on the Exchange.

The issuer must notify 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

The Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2-E(a), which imposes a duty of due diligence on its Equity Trading Permit 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 PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV and the Disclosed Portfolio is disseminated; (5) the requirement that Equity

Trading Permit 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 will be 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)⁴⁴ 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 are 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 applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, certain exchange-traded options and certain exchange-traded futures, ETFs, ETNs, closed-end funds, certain common stocks, certain preferred stocks, certain REITs, certain equity securities issued upon conversion of fixed income convertible

⁴⁴ 15 U.S.C. 78f(b)(5).

securities and certain Work-Out Securities 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 such securities and financial instruments from such markets and other entities. The Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to TRACE. FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

The Adviser and Sub-Adviser are not registered as broker-dealers. The Adviser is not affiliated with a broker-dealer. The Sub-Adviser is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.

The Exchange notes that, other than Commentary .01(a)(1), (a)(2), (b)(1), (b)(4), (b)(5), and (e) to Rule 8.600-E, as described above, the Fund's portfolio will meet all other requirements of Rule 8.600-E.

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 will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Quotation and last sale information for the

Shares, ETFs, ETNs, closed-end funds, certain REITs, certain common stocks, certain preferred stocks, certain equity securities issued upon conversion of fixed income convertible securities, and certain Work-Out Securities will be available via the CTA high-speed line. Exchange-traded options quotation and last sale information for options cleared via the OCC are available via OPRA. The Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. 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. 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. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, NAV, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 exchange-traded product that generally will principally hold fixed income securities and 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.

Deviations from the generic requirements, as described above, 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 a 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.

As noted above, the Fund will not comply with the requirements set forth in Commentary .01(a)(1) and (a)(2) to NYSE Arca Rule 8.600-E with respect to the Fund's investments in equity securities. Instead, the Exchange proposes that (i) the Fund's investments in equity securities will meet the requirements of Commentary .01(a) with the exception of Commentary .01(a)(1)(C) and .01(a)(1)(D) (with respect to U.S. Component Stocks) and Commentary .01(a)(2)(C) and .01(a)(2)(D) (with respect to Non-U.S. Component Stocks).⁴⁵ The Exchange believes it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such equity securities do not comply with the requirements set forth in Commentary .01(a)(1) and (a)(2) to NYSE Arca Rule 8.600-E in that any Fund investment in exchange-traded common stocks, preferred stocks, REITs, ETFs, ETNs, U.S. exchange-traded closed-end funds, exchange-traded equity securities issued upon conversion of fixed income convertible securities, and exchange-traded Work Out Securities would provide for enhanced diversification of the Fund's portfolio. Such securities would be Non-Principal Investments, not exceeding 20% of the Fund's net assets in the aggregate.

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(b)(1) to Rule 8.600-E in that the Fund's investments in Municipal Securities will be well-diversified.

⁴⁵ See notes 23 and 24, *supra*.

The Exchange believes that, notwithstanding that the Fund's portfolio may not satisfy Commentary .01(b)(1) to Rule 8.600-E, the Fund's portfolio will not be susceptible to manipulation. As noted above, the Fund will not comply with the requirements set forth in Commentary .01(b)(1) to NYSE Arca Rule 8.600-E with respect to the Fund's investments in Fixed Income Securities, including Municipal Securities. The Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis. In addition, at least 50% of the weight of the Fund's portfolio would continue to be subject to a substantial minimum (i.e., \$50 million) original principal amount outstanding. These conditions would provide the Fund with greater ability to select from a broad range of Fixed Income Securities, as described above, that would support the Fund's investment goal.

With respect to the Fund's investments in Municipal Securities, such securities will be diversified in that no single Municipal Securities issuer will account for more than 10% of the weight of the Fund's portfolio; no individual Municipal Security will account for more than 5% of the weight of the Fund's portfolio; and the Fund will limit its investments in Municipal Securities of any one state or U.S. territory to 20% of the Fund's total assets.

The Exchange believes it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such Private ABS/MBS do not comply with the requirements set forth in Commentary .01(b)(4) to NYSE Arca Rule 8.600-E because certain Private ABS/MBS cannot satisfy the criteria in Commentary .01(b)(4).⁴⁶ Instead, the Exchange proposes that the Fund's investments in Fixed Income Securities other than Private ABS/MBS will be required to comply with the requirements of

⁴⁶ See note 26, supra.

Commentary .01(b)(4). As noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis. The Exchange believes this limitation would provide additional diversification to the Fund's investments in Private ABS/MBS, and reduce concerns that the Fund's investment in such securities would be readily susceptible to market manipulation.

The Exchange believes it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such Private ABS/MBS do not comply with the requirements set forth in Commentary .01(b)(5) to NYSE Arca Rule 8.600-E. Instead, the Exchange proposes that, in order to enable the portfolio to be more diversified and provide the Fund with an opportunity to earn higher returns, the Fund may invest up to 50% of its total assets in the aggregate in Private ABS/MBS, provided that the Fund (1) may not invest more than 30% of its total assets in non-agency RMBS; (2) may not invest more than 25% of its total assets in non-agency CMBS; and (3) may not invest more than 25% of its total assets in non-agency ABS. In addition, the Fund's investment in Private ABS/MBS is expected to provide the Fund with benefits associated with increased diversification, as Private ABS/MBS investments tend to be less correlated to interest rates than many other fixed income securities.

In addition, as noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis.⁴⁷ The Exchange believes these

⁴⁷ As noted above, the Fund's holdings in derivative instruments for hedging purposes would be excluded from the determination of compliance with this 5% limitation. The total gross notional value of the Fund's holdings in derivative instruments used to gain

limitations would provide additional diversification to the Fund's Private ABS/MBS investments and reduce concerns that the Fund's investment in such securities would be readily susceptible to market manipulation.

As noted above, the Fund's portfolio will not comply with the requirements set forth in Commentary .01(e) to NYSE Arca Rule 8.600-E. The Exchange proposes that up to 25% of the Fund's assets (calculated as the aggregate gross notional value) may be invested in OTC derivatives that are used to reduce currency, interest rate or credit risk arising from the Fund's investments (that is, "hedge"), and that the Fund's investments in OTC derivatives other than OTC derivatives used to hedge the Fund's portfolio against currency, interest rate or credit risk will be limited to 20% of the assets in the Fund's portfolio, calculated as the aggregate gross notional value of such OTC derivatives. As noted above, the Fund will not use derivative instruments to gain exposure to Private ABS/MBS, and derivative instruments linked to such securities will be used for hedging purposes only.

The Exchange believes it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in OTC derivatives do not comply with the requirements set forth in Commentary .01(e) to NYSE Arca Rule 8.600-E in that, depending on market conditions, it may be critical that the Fund be able to utilize available OTC derivatives to attempt to reduce impact of currency, interest rate or credit fluctuations on Fund assets. Therefore, the Exchange believes it is appropriate to apply a limit of up to 25% of the Fund's assets to the Fund's investments in OTC derivatives (calculated as the aggregate gross notional value of such OTC derivatives), including forwards, options and swaps, that are used for hedging purposes, as described above.

exposure to a specific asset is limited to 5% of the Fund's total assets (determined at the time of purchase).

The Adviser and Sub-Adviser represent that OTC derivatives can be tailored to hedge the specific risk arising from the Fund's investments and frequently may be a more efficient hedging vehicle than listed derivatives. For example, the Fund could obtain an OTC foreign currency derivative in a notional amount that exactly matches the notional amount of the Fund's investments. If the Fund were limited to investing up to 20% of assets in OTC derivatives, the Fund might have to "over hedge" or "under hedge" if round lot sizes in listed derivatives were not available. In addition, for example, an OTC CDX option can be structured to provide protection tailored to the Fund's credit exposure and can be a more efficient way to hedge credit risk with respect to specific exposures than listed derivatives. Similarly, OTC interest rate derivatives can be more effective hedges of interest rate exposure because they can be customized to match the basis risk arising from the term of the investments held by the Fund.

Because the Fund, in furtherance of its investment objective, may invest a substantial percentage of its investments in foreign currency denominated Fixed Income Securities, the 20% limit in Commentary .01(e) to Rule 8.600-E could result in the Fund being unable to fully pursue its investment objective while attempting to sufficiently mitigate investment risks. The inability of the Fund to adequately hedge its holdings would effectively limit the Fund's ability to invest in certain instruments, or could expose the Fund to additional investment risk. For example, if the Fund's assets (on a gross notional value basis) were \$100 million and no listed derivative were suitable to hedge the Fund's risk, under the generic standards the Fund would be limited to holding up to \$20 million gross notional value in OTC derivatives ($\$100 \text{ million} * 20\%$). Accordingly, the maximum amount the Fund would be able to invest in foreign currency denominated Fixed Income Securities while remaining adequately hedged would be \$20 million. The Fund then would hold \$60 million in assets that could not be hedged, other than with listed

derivatives, which, as noted above, might not be sufficiently tailored to the specific instruments to be hedged.

In addition, by applying the 20% limitation in Commentary .01(e) to Rule 8.600-E, the Fund would be less able to protect its holdings from more than one risk simultaneously. For example, if the Fund's assets (on a gross notional basis) were \$100 million and the Fund held \$20 million in foreign currency denominated Fixed Income Instruments with two types of risks (e.g., currency and credit risk) which could not be hedged using listed derivatives, the Fund would be faced with the choice of either holding \$20 million aggregate gross notional value in OTC derivatives to mitigate one of the risks while passing the other risk to its shareholders, or, for example, holding \$10 million aggregate gross notional value in OTC derivatives on each of the risks while passing the remaining portion of each risk to the Fund's shareholders.

The Adviser and Sub-Adviser believe that it is in the best interest of the Fund's shareholders for the Fund to be allowed to reduce the currency, interest rate or credit risk arising from the Fund's investments using the most efficient financial instrument. While certain risks can be hedged via listed derivatives, OTC derivatives (such as forwards, options and swaps) can be customized to hedge against precise risks. Accordingly, the Adviser and Sub-Adviser believe that OTC derivatives may frequently be a more efficient hedging vehicle than listed derivatives. Therefore, the Exchange believes that increasing the percentage limit in Commentary .01(e), as described above, to the Fund's investments in OTC derivatives, including forwards, options and swaps, that are used specifically for hedging purposes would help protect investors and the public interest.

As noted above, the Fund's portfolio will 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 securities of open-end investment company securities, and, with respect to the Fund's holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities, would not meet the requirements of Commentary .01(a)(1)(A) through (E) and Commentary .01(a)(2) (A) through (E) to Rule 8.600-E. 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 non-exchange-traded securities of open-end investment company securities, and notwithstanding that the Fund's holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) and Commentary .01(a)(2) (A) through (E) to Rule 8.600-E. Investments in non-exchange-traded securities of open-end investment company securities will not be principal investments of the Fund.⁴⁸ 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.

With respect to any Fund holdings of exchange-traded or OTC equity securities issued upon conversion of fixed income convertible securities and Work Out Securities, such securities will not exceed 10% and 5%, respectively, of the Fund's total assets. The Adviser and Sub-Adviser represent that the Fund generally will not actively invest in equity securities issued upon conversion of fixed income convertible securities or Work Out Securities, but may, at times, receive a distribution of such securities in connection with the Fund's holdings in other

⁴⁸ See note 33, supra.

securities. Therefore, the Fund's holdings in equity securities issued upon conversion of fixed income convertible securities and Work Out Securities generally would not be acquired as the result of the Fund's voluntary investment decisions.

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 shares of an additional type of actively-managed exchange-traded product that will enhance competition

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 additional type of actively-managed exchange-traded product that generally will principally hold fixed income securities and that 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 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, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2019-78 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-2019-78. 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, D.C. 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-2019-78 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.⁴⁹

Jill M. Peterson
Assistant Secretary

⁴⁹ 17 CFR 200.30-3(a)(12).