

Qualifying Participants will be uniformly paid a \$0.48 per contract rebate, provided the requirements are met for the time period from December 2, 2015 through December 31, 2015.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NASDAQ does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*Customer and Professional Penny Pilot Options Rebates To Add Liquidity*

Tier 8 of the Customer and Professional Penny Pilot Options Rebates To Add Liquidity

The Exchange's proposal to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity to remove the requirement to qualify for the QMM Program to earn the Tier 8 rebate does not impose an undue burden on intra-market competition because all Participants are eligible to qualify for the Tier 8 Customer or Professional Rebate to Add Liquidity, provided they meet the qualifications. Further, the Tier 8 rebate will be uniformly paid to those Participants that are eligible for the rebate. Moreover, the changes have the potential to make the applicable incentives available to a wider range of market participants with the removal of the QMM Program.

Furthermore, continuing to incentivize Participants to add not only options, but equities volume does not impose an undue burden on intra-market competition because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other, the Exchange believes that pricing incentives that encourage market participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center. Further, the pricing incentives require significant levels of liquidity provision, which benefits all market participants on NOM and the Nasdaq Market Center.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>21</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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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 should be approved or disapproved.

**IV. Solicitation of Comments**

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

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2015-149 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-NASDAQ-2015-149. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2015-149, and should be submitted on or before January 11, 2016.

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

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015-31922 Filed 12-18-15; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76644; File No. SR-NFA-2015-01]

**Self-Regulatory Organizations; National Futures Association; Notice of Filing and Immediate Effectiveness of Proposed Change to the Interpretive Notice to NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for SFPs**

December 15, 2015.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 ("Exchange Act"),<sup>1</sup> and Rule 19b-7 under the Exchange Act,<sup>2</sup> notice is hereby given that on December 3, 2015, National Futures Association ("NFA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared by NFA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. NFA also filed this proposed rule change on December 3, 2015 with the Commodity Futures Trading Commission ("CFTC").

NFA, on December 3, 2015, requested that the CFTC make a determination that review of the proposed rule change of NFA is not necessary.

The CFTC has not yet made such a determination.

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

<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

The amendments to the Interpretive Notice entitled "NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products" ("Notice") make permanent the provision permitting registrants to qualify to engage in securities futures activities by completing a training program.

The text of the Interpretive Notice is available on NFA's Web site at [www.nfa.futures.org](http://www.nfa.futures.org), the Commission's Web site at [www.sec.gov](http://www.sec.gov), the self-regulatory organization's office, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NFA 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 these statements may be examined at the places specified in Item IV below. NFA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

Section 15A(k) of the Exchange Act<sup>3</sup> makes NFA a national securities association for the limited purpose of regulating the activities of NFA Members ("Members") who are registered as brokers or dealers under Section 15(b)(11) of the Exchange Act.<sup>4</sup> NFA's Notice entitled: "NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products" applies to all Members who meet the criteria in the Interpretive Notice and could apply to Members registered under Section 15(b)(11) of the Exchange Act.

The Commodity Futures Modernization Act of 2000 amended the Securities Exchange Act of 1934 to require NFA to "have rules that ensure that members and natural persons associated with members meet such standards of training, experience and competence necessary to effect

transactions in security futures products and are tested for their knowledge of securities and securities futures products." In 2001, NFA and FINRA (then NASD) adopted temporary relief allowing registrants to qualify to engage in security futures activities by completing a training program rather than taking a proficiency exam, which NFA codified in the Notice. That relief has been extended four times and is currently set to expire on December 31, 2015.

NFA and FINRA proposed the four prior extensions, and the CFTC and SEC agreed to them, because of the relatively low trading volume in security futures products ("SFP") and the relatively few registrants engaging in security futures activities. These characteristics made the imposition of a qualifications exam an inefficient option, and the same reasons are equally compelling today.

In 2002 NFA, FINRA and the Institute for Financial Markets partnered together to develop a free web-based training program consisting of a series of modules intended to satisfy the training requirement ("SRO Training Modules"). From 2002 through May 2015, 15,216 individuals have completed the SRO Training Modules. Of this number, 10,108 individuals are registered with FINRA (including joint registrants) and 5,108 individuals are registered only with the CFTC. Most of these individuals took the SRO Training Modules in the first couple of years after SFPs began trading, and traffic has decreased since then. In 2014, only 180 registered individuals completed the SRO Training Modules (162 CFTC-only registrants). This compares with the approximately 4,000 people who took the Series 3 exam last year.

Additionally, SFP volume is low. In 2014, U.S. futures exchanges traded approximately 3.9 billion contracts, while SFP volume was just over 8 million—approximately 0.21% of the total. Given the limited interest in these products, NFA believes that implementing a testing requirement does not appear to be the most practical solution at this time.

Given the continued low number of registrants engaging in securities futures activities and the low SFP volume, NFA's Board of Directors at its August 20, 2015 meeting authorized NFA's Executive Committee to approve amendments to NFA's Interpretive Notice regarding proficiency requirements for SFPs to make permanent the provision permitting registrants to satisfy their proficiency requirement through training and eliminating the sunset provision. NFA's Executive Committee, as authorized by

the Board of Directors, approved the amendments on October 15, 2015. NFA's Board of Directors ratified the Executive Committee's action at its November 19, 2015 meeting. The amendments also emphasize that the training must be completed before any individual registrant engages in activities involving SFPs. NFA, in coordination with FINRA, will continue to monitor the security futures volume and the number of persons taking the SRO Training modules, as well as any disciplinary matters involving SFPs, in considering whether a proficiency test should be developed at a later date.

Amendments to the Interpretive Notice regarding NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products were previously filed with the SEC in SR-NFA-2002-04, Exchange Act Release No. 34-46502 (Sep. 16, 2002), 67 FR 59587 (Sep. 23, 2002); SR-NFA-2003-03, Exchange Act Release No. 34-47825 (May 9, 2003), 68 FR 27128 (Mar. 19, 2002); SR-NFA-2003-04, Exchange Act Release No. 34-49054 (Jan. 12, 2004), 69 FR 2806, (Jan. 20, 2004); SR-NFA-2007-07, Exchange Act Release 34-57142 (Jan. 14, 2008), 73 FR 3502 (Jan. 18, 2008); SR-NFA-2009-02, Exchange Act Release 34-61284 (Jan. 4, 2010), 75 FR 1431 (Jan. 11, 2010) and SR-NFA-2014-01, Exchange Act Release No. 34-71976 (April 21, 2014), 79 FR 23028 (April 25, 2014).

#### 2. Statutory Basis

The rule change is authorized by, and consistent with, Section 15A(k)(2)(D) of the Exchange Act.<sup>5</sup> That Section requires NFA to "have rules that ensure that members and natural persons associated with members meet such standards of training, experience, and competence necessary to effect transactions in SFPs and are tested for their knowledge of securities and securities futures products." Although the proposal makes permanent the relief from having to take an exam to engage in securities futures activities, the proposal still requires individual registrants to complete training before entering into any activities.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have little or no impact on competition. The proposed Interpretive Notice does not impose new requirements on Members, but rather makes permanent the provision permitting registrants to qualify to engage in security futures

<sup>3</sup> 15 U.S.C. 78o-3(k).

<sup>4</sup> 15 U.S.C. 78o(b)(11).

<sup>5</sup> 15 U.S.C. 78o-3(k)(2)(D).

activities by completing a training program.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

NFA did not publish the rule change to the membership for comment. NFA did not receive comment letters concerning the rule change.

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

The proposed rule change is not effective because the CFTC has not yet determined that review of the proposed rule change is not necessary.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily temporarily suspend the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Exchange Act.

**IV. Solicitation of Comments**

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

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NFA-2015-01 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-NFA-2015-01. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 such filing also will be available for inspection and copying at the principal office of NFA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NFA-2015-01, and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76645; File No. SR-NYSEArca-2015-74]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change Regarding a Change to the Underlying Index of the Market Vectors Short High Yield Municipal Index ETF**

December 15, 2015.

**I. Introduction**

On August 26, 2015, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to reflect a change to the reference index relating to the Market Vectors Short High Yield Municipal Index ETF ("Fund"). The Commission published notice of the proposed rule change in the **Federal Register** on September 16, 2015.<sup>3</sup> On October 16, 2015, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute

proceedings to determine whether to disapprove the proposed rule change.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

**II. The Exchange's Description of the Proposal**

The Commission approved listing and trading on the Exchange of shares ("Shares") of the Fund under NYSE Arca Equities Rule 5.2(j)(3), which governs the listing and trading of Investment Company Units ("Units").<sup>5</sup> Currently, the Shares are listed and traded on the Exchange. The Exchange submitted this proposed rule change because the underlying index will be changed and the index as modified would continue not to meet the "generic" listing requirement of Commentary .02(a)(2) to NYSE Arca Equities Rule 5.2(j)(3) in that, as of June 30, 2015, only 30.10% of the weight of the Revised Index components had a minimum original principal amount outstanding of \$100 million or more.<sup>6</sup>

The investment objective of the Fund is to seek to replicate as closely as possible, before fees and expenses, the price and yield performance of the Barclays Municipal High Yield Short Duration Index ("Short High Yield Index" or "Index"). The Fund is a series of the Market Vectors ETF Trust. Van Eck Associates Corporation is the investment adviser and the

<sup>4</sup> See Securities Exchange Act Release No. 76174, 80 FR 64027 (October 22, 2015). The Commission determined that it was appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission designated December 15, 2015 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

<sup>5</sup> See Securities Exchange Act Release No. 71232 (January 3, 2014), 79 FR 1662 (January 9, 2014) (SR-NYSEArca-2013-118) (order approving listing and trading of shares of the Market Vectors Short High Yield Municipal Index ETF) ("Order"). See also Securities Exchange Act Release No. 70871 (November 14, 2013), 78 FR 69503 (November 19, 2013) (SR-NYSEArca-2013-118) (notice of proposed rule change relating to listing and trading of shares of the Market Vectors Short High Yield Municipal Index ETF and, together with the Order, the "Release"). The Exchange submitted that proposed rule change to permit listing and trading of the Shares because the index underlying the Fund did not meet all of the "generic" listing requirements of Commentary .02(a) to NYSE Arca Equities Rule 5.2(j)(3) that are applicable to the listing of Units based on fixed income securities indexes. More specifically, the Index met all of the criteria except for those set forth in Commentary .02(a)(2), which requires that components that in the aggregate account for at least 75% of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of \$100 million or more.

<sup>6</sup> The Exchange states that the other generic listing criteria are satisfied. See Notice, *supra* note 3, 80 FR at 55703.

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 75888 (September 10, 2015), 80 FR 55701 ("Notice").