

any person who, if it were not directly or indirectly controlled by the BDC, would not be directly or indirectly under the control of a person who controls the BDC), or any person who is, within the meaning of section 2(a)(3)(C) of the Act, an affiliated person of such person. Sections 2(a)(3)(C) defines an “affiliated person” of another person as any person directly or indirectly controlling, controlled by, or under common control with, such other person.

2. Rule 17d-1 under the Act generally prohibits participation by a registered investment company and an affiliated person (as defined in section 2(a)(3) of the Act) or principal underwriter for that investment company, or an affiliated person of such affiliated person or principal underwriter, in any “joint enterprise or other joint arrangement or profit-sharing plan,” as defined in the rule, without prior approval by the Commission by order upon application. Although the Commission has not adopted any rules expressly under section 57(a)(4), section 57(i) provides that the rules (but not section 17(d) itself) under section 17(d) applicable to registered closed-end investment companies (e.g., rule 17d-1) are, in the interim, deemed to apply to transactions subject to section 57(a).

3. As the investment adviser and principal underwriter to the Company, the Advisor and the Dealer Manager, respectively, are subject to the prohibitions of section 57(a)(4) as a result of section 57(b)(2) of the Act. Moreover, the Sponsor may be deemed to control both the Advisor and the Dealer Manager and the Advisor may be deemed to control the Company within the meaning of section 2(a)(9) of the Act.¹ Accordingly, the Company, the Advisor, the Dealer Manager and the Sponsor may be deemed to be affiliated persons of each other under section 2(a)(3)(C) of the Act because they are under common control of the Sponsor, and thus the Advisor, the Dealer Manager and the Sponsor would be persons described in section 57(b)(2) subject to the prohibitions of section 57(a)(4). The Distribution Fee Reimbursement and the Dealer-Manager Agreement Amendment (the “Proposed Transactions”) might be deemed a “joint enterprise or other joint arrangement,” within the meaning of section 57(a)(4) of the Act and rule 17d-1 thereunder. Therefore, the Sponsor, the Advisor, the Dealer Manager, and the Company may be prohibited from engaging in the Proposed Transactions as a result of the prohibitions of section 57(a)(4) and rule 17d-1, without a grant of the Order of the Commission.

4. In passing upon applications under rule 17d-1, the Commission considers whether the company’s participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

5. Applicants believe that the representations and conditions set forth in the application will ensure that the Proposed Transactions are consistent with the protection of the Company’s Shareholders, including the Current Common Shareholders (as herein defined), and with the purposes intended by the policies and provisions of the Act. Applicants state that the Company’s participation in the Proposed Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants’ Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Company will ensure that total Underwriting Compensation payable in the Offering will not exceed 10% of the gross proceeds of the Offering, consistent with Conduct Rule 2310.

2. For the period of time in which the Distribution Fee is payable, the Dealer Manager will waive any annual Distribution Fee payment to which it is otherwise entitled in an amount sufficient to ensure that the total return experienced by the holders of the Company’s Common Shares immediately prior to the implementation of the Dealer Manager Agreement Amendment (the “Current Common Shareholders”) is not less than the total return the Current Common Shareholders would have experienced if the Proposed Transactions had not occurred and the Dealer Manager Agreement had not been amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Order of Suspension of Trading; In the Matter of Pineapple Express, Inc.

April 28, 2016.

It appears to the Securities and Exchange Commission that the public interest and the protection of investors require a suspension of trading in the securities of Pineapple Express, Inc. (CIK No. 1654672) because of recent, unusual and unexplained market activity in the company’s stock that raises concerns about the adequacy of publicly-available information regarding the company. Pineapple Express, Inc. is a Wyoming corporation with its principal place of business listed as Los Angeles, California, with stock quoted on OTC Link (previously “Pink Sheets”) operated by OTC Markets Group, Inc. under the ticker symbol PNPL.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT, on April 28, 2016, through 11:59 p.m. EDT, on May 11, 2016.

By the Commission.

Robert W. Errett,
Deputy Secretary.

[FR Doc. 2016-10295 Filed 4-28-16; 4:15 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77714; File No. SR-NASDAQ-2016-028]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of the Shares of the iSectors Post-MPT Growth ETF of ETFis Series Trust I

April 26, 2016.

I. Introduction

On February 23, 2016, The NASDAQ Stock Market LLC (“Exchange” or “Nasdaq”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”