

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

#### Extension:

Schedule 13E-4F, SEC File No. 270-340, OMB Control No. 3235-0375

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Schedule 13E-4F (17 CFR 240.13E-102) may be used by an issuer that is incorporated or organized under the laws of Canada to make a cash tender or exchange offer for the issuer's own securities if less than 40 percent of the class of such issuer's securities outstanding that are the subject of the tender offer is held by U.S. holders. The information collected must be filed with the Commission and is publicly available. We estimate that it takes approximately 2 hours per response to prepare Schedule 13E-4F and that the information is filed by approximately 3 respondents annually for a total annual reporting burden of 6 hours (2 hours per response × 3 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta Ahmed@omb.eop.gov](mailto:Shagufta.Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA-Mailbox@sec.gov](mailto:PRA-Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: July 13, 2016.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016-17001 Filed 7-18-16; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold an Open Meeting on Friday, July 22, 2016 at 10:30 a.m., in the Auditorium (L-002) at the Commission's headquarters building, to hear oral argument in an appeal from an initial decision of an administrative law judge by respondent Thomas C. Gonnella.

On November 13, 2014, the ALJ found that Respondent violated antifraud provisions, and aided and abetted and caused violations of recordkeeping provisions, of the securities laws while associated with Barclays, a dually registered broker-dealer and investment adviser. Specifically, the ALJ found that Respondent engaged in a fraudulent trading scheme in order to avoid aged-inventory charges that were implemented under Barclays's internal policy and yet retain the securities that were subject to the policy. The ALJ also found that Gonnella's failure to record the transactions properly caused Barclays's books and records to be incomplete and inaccurate and that Gonnella therefore aided and abetted and was a cause of recordkeeping violations.

For these violations, the ALJ suspended Respondent from the securities industry and from participation in penny stock offerings for twelve months, entered a cease-and-desist order, and assessed a civil money penalty of \$82,500.

The Division of Enforcement appealed the suspension, and Respondent cross-appealed the findings of violations and sanctions imposed. The issues likely to be considered at oral argument include, among other things, whether Respondent violated the securities laws and, if so, what sanction, if any, is appropriate in the public interest.

For further information, please contact Brent J. Fields from the Office of the Secretary at (202) 551-5400.

Dated: July 15, 2016.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016-17167 Filed 7-15-16; 4:15 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78311; File No. TP 16-9]

### Order Granting Limited Exemptions from Exchange Act Rule 10b-17 and Rules 101 and 102 of Regulation M to PowerShares DWA Momentum & Low Volatility Rotation Portfolio Pursuant to Exchange Act Rule 10b-17(b)(2) and Rules 101(d) and 102(e) of Regulation M

July 13, 2016.

By letter dated July 13, 2016 (the "Letter"), as supplemented by conversations with the staff of the Division of Trading and Markets, counsel for PowerShares Exchange-Traded Fund Trust II (the "Trust"), on behalf of the Trust, PowerShares DWA Momentum & Low Volatility Rotation Portfolio (the "Fund"), any national securities exchange on or through which shares issued by the Fund ("Shares") may subsequently trade, Invesco Distributors, Inc. (the "Distributor"), and persons or entities engaging in transactions in Shares (collectively, the "Requestors"), requested exemptions, or interpretive or no-action relief, from Rule 10b-17 of the Securities Exchange Act of 1934, as amended ("Exchange Act"), and Rules 101 and 102 of Regulation M, in connection with secondary market transactions in Shares and the creation or redemption of aggregations of Shares of at least 50,000 shares ("Creation Units").

The Trust is registered with the Securities and Exchange Commission ("Commission") under the Investment Company Act of 1940, as amended ("1940 Act"), as an open-end management investment company. The Fund seeks to track the performance of the underlying index, the Dorsey Wright® Multi-Factor Global Equity Index (the "Index"). The Fund intends to operate as an "ETF of ETFs" by seeking to track the performance of its underlying Index through, under normal circumstances,<sup>1</sup> investing at least 90% of its total assets<sup>2</sup> in up to eight ETFs

<sup>1</sup> The term "under normal circumstances" includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the securities markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure-type events, such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

<sup>2</sup> The remaining ten percent of the Fund's total assets may be invested in securities (including other underlying funds) not included in the underlying Index and in money market instruments or funds that invest exclusively in money market

that comprise the Index and one- to six-month Treasury Bills. Except for the fact that the Fund will operate as an ETF of ETFs, the Fund will operate in a manner identical to the ETFs that are included in the Index.

The Requestors represent, among other things, the following:

- Shares of the Fund will be issued by the Trust, an open-end management investment company that is registered with the Commission;

- The Trust will continuously redeem Creation Units at net asset value (“NAV”), and the secondary market price of the Shares should not vary substantially from the NAV of such Shares;

- Shares of the Fund will be listed and traded on the NASDAQ Stock Market LLC or another exchange in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Exchange Act (the “Exchange”);<sup>3</sup>

- All ETFs in which the Fund is invested will meet all conditions set forth in a relevant class relief letter, will have received individual relief from the Commission, or will be able to rely upon individual relief even though they are not named parties (for example, a no-action letter);

- At least 70% of the Fund is comprised of component securities that will meet the minimum public float and minimum average daily trading volume thresholds under the “actively-traded securities” definition found in Regulation M for excepted securities during each of the previous two months of trading prior to formation of the Fund;

- All of the components of the Index will have publicly available last sale trade information;

- The intra-day proxy value of the Fund per share and the value of the Index will be publicly disseminated by a major market data vendor throughout the trading day;

- On each business day before the opening of business on the Exchange, the Fund’s custodian, through the National Securities Clearing Corporation, will make available the list of the names and the numbers of

instruments, subject to applicable limitations under the 1940 Act. Regardless of the representation that the Fund generally will invest at least 90% of its total assets in securities that comprise the underlying Index, the Fund seeks to have a tracking error of less than five percent in any given month over a one-year period.

<sup>3</sup> Further, the Letter states that should the Shares also trade on a market pursuant to unlisted trading privileges, such trading will be conducted pursuant to self-regulatory organization rules that have become effective pursuant to Section 19(b) of the Exchange Act.

securities and other assets of the Fund’s portfolio that will be applicable that day to creation and redemption requests;

- The Exchange or other market information provider will disseminate (i) continuously every 15 seconds throughout the trading day, through the facilities of the consolidated tape, the market value of a Share, and (ii) every 15 seconds throughout the trading day, a calculation of the intra-day indicative value of a Share;

- The arbitrage mechanism will be facilitated by the transparency of the Fund’s portfolio and the availability of the intra-day indicative value, the liquidity of securities held by the Fund, and the ability to acquire such securities, as well as the arbitrageurs’ ability to create workable hedges;

- The Fund will invest solely in liquid securities;

- The Fund will invest in securities that will facilitate an effective and efficient arbitrage mechanism and the ability to create workable hedges;

- The Trust believes that arbitrageurs are expected to take advantage of price variations between the Fund’s market price and its NAV; and

- A close alignment between the market price of Shares and the Fund’s NAV is expected.

#### Regulation M

While redeemable securities issued by an open-end management investment company are excepted from the provisions of Rules 101 and 102 of Regulation M, the Requestors may not rely upon those exceptions for the Shares.<sup>4</sup> However, we find that it is appropriate in the public interest and is consistent with the protection of investors to grant a conditional exemption from Rules 101 and 102 to persons who may be deemed to be participating in a distribution of Shares of the Fund as described in more detail below.

#### Rule 101 of Regulation M

Generally, Rule 101 of Regulation M is an anti-manipulation rule that, subject to certain exceptions, prohibits any “distribution participant” and its “affiliated purchasers” from bidding for, purchasing, or attempting to induce any person to bid for or purchase any security that is the subject of a distribution until after the applicable restricted period, except as specifically permitted in the Rule. Rule 100 of Regulation M defines “distribution” to

<sup>4</sup> While ETFs operate under exemptions from the definitions of “open-end company” under Section 5(a)(1) of the 1940 Act and “redeemable security” under Section 2(a)(32) of the 1940 Act, the Fund and its securities do not meet those definitions.

mean any offering of securities that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods. The provisions of Rule 101 of Regulation M apply to underwriters, prospective underwriters, brokers, dealers, or other persons who have agreed to participate or are participating in a distribution of securities. The Shares are in a continuous distribution, and, as such, the restricted period in which distribution participants and their affiliated purchasers are prohibited from bidding for, purchasing, or attempting to induce others to bid for or purchase extends indefinitely.

Based on the representations and the facts presented in the Letter, particularly that the Trust is a registered open-end management investment company that will continuously redeem at the NAV Creation Unit size aggregations of the Shares of the Fund and that a close alignment between the market price of Shares and the Fund’s NAV is expected, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors to grant the Trust an exemption under paragraph (d) of Rule 101 of Regulation M with respect to the Fund, thus permitting persons participating in a distribution of Shares of the Fund to bid for or purchase such Shares during their participation in such distribution.<sup>5</sup>

#### Rule 102 of Regulation M

Rule 102 of Regulation M prohibits issuers, selling security holders, and any affiliated purchaser of such person from bidding for, purchasing, or attempting to induce any person to bid for or purchase a covered security during the applicable restricted period in connection with a distribution of securities effected by or on behalf of an issuer or selling security holder.

Based on the representations and the facts presented in the Letter, particularly that the Trust is a registered open-end management investment company that will redeem at the NAV Creation Unit size aggregations of Shares of the Fund and that a close alignment between the market price of Shares and the Fund’s NAV is expected, the Commission finds that it is

<sup>5</sup> Additionally, we confirm the interpretation that a redemption of Creation Unit size aggregations of Shares of the Fund and the receipt of securities in exchange by a participant in a distribution of Shares of the Fund would not constitute an “attempt to induce any person to bid for or purchase, a covered security during the applicable restricted period” within the meaning of Rule 101 of Regulation M and therefore would not violate that rule.

appropriate in the public interest, and consistent with the protection of investors to grant the Trust an exemption under paragraph (e) of Rule 102 of Regulation M with respect to the Fund, thus permitting the Fund to redeem Shares of the Fund during the continuous offering of such Shares.

#### Rule 10b-17

Rule 10b-17, with certain exceptions, requires an issuer of a class of publicly traded securities to give notice of certain specified actions (for example, a dividend distribution) relating to such class of securities in accordance with Rule 10b-17(b). Based on the representations and the facts presented in the Letter, and subject to the conditions below, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors, to grant the Trust a conditional exemption from Rule 10b-17 because market participants will receive timely notification of the existence and timing of a pending distribution, and thus the concerns that the Commission raised in adopting Rule 10b-17 will not be implicated.<sup>6</sup>

#### Conclusion

IT IS HEREBY ORDERED, pursuant to Rule 101(d) of Regulation M, that the Trust, based on the representations and facts presented in the Letter, is exempt from the requirements of Rule 101 with respect to the Fund, thus permitting persons who may be deemed to be participating in a distribution of Shares of the Fund to bid for or purchase such Shares during their participation in such distribution.

IT IS FURTHER ORDERED, pursuant to Rule 102(e) of Regulation M, that the Trust, based on the representations and the facts presented in the Letter, is exempt from the requirements of Rule 102 with respect to the Fund, thus permitting the Fund to redeem Shares of the Fund during the continuous offering of such Shares.

IT IS FURTHER ORDERED, pursuant to Rule 10b-17(b)(2), that the Trust, based on the representations and the facts presented in the Letter and subject to the conditions below, is exempt from

<sup>6</sup> We also note that timely compliance with Rule 10b-17(b)(1)(v)(a) and (b) would be impractical in light of the Fund's nature because it is not possible for the Fund to accurately project ten days in advance what dividend, if any, would be paid on a particular record date. Further, the Commission finds, based upon the representations of the Requestors in the Letter, that the provision of the notices as described in the Letter would not constitute a manipulative or deceptive device or contrivance comprehended within the purpose of Rule 10b-17.

the requirements of Rule 10b-17 with respect to the transactions in the Shares of the Fund.

This exemptive relief is subject to the following conditions:

- The Trust will comply with Rule 10b-17, except for Rule 10b-17(b)(1)(v)(a) and (b); and
- The Trust will provide the information required by Rule 10b-17(b)(1)(v)(a) and (b) to the Exchange as soon as practicable before trading begins on the ex-dividend date, but in no event later than the time when the Exchange last accepts information relating to distributions on the day before the ex-dividend date.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. This exemption is based on the facts presented and the representations made in the Letter. Any different facts or representations may require a different response. Persons relying upon this exemptive relief shall discontinue transactions involving the Shares of the Fund, pending presentation of the facts for the Commission's consideration, in the event that any material change occurs with respect to any of the facts or representations made by the Requestors, and as is the case with all preceding letters, particularly with respect to the close alignment between the market price of Shares and the Fund's NAV. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a), 10(b), and Rule 10b-5 thereunder.

Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This Order should not be considered a view with respect to any other question that the proposed transactions may raise, including, but not limited to, the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, the proposed transactions.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016-16999 Filed 7-18-16; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>7</sup> 17 CFR 200.30-3(a)(6) and (9).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78312; File No. SR-BOX-2016-30]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce New Risk Protections on the Exchange and Provide Enhancements to Current Risk Protections

July 13, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 1, 2016, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The Exchange proposes to introduce new risk protections on the Exchange and provide enhancements to current risk protections. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at <http://boxexchange.com>.

#### 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

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