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. Please include File Number SR–NASDAQ–2016–014 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–2016–014. 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 Nasdaq’s principal office. 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–2016–014 and should be submitted on or before March 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. 13

Robert W. Errett,
Deputy Secretary.

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BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rule 14.11(i), Managed Fund Shares, To List and Trade Shares of the SPDR DoubleLine Short Term Total Return Tactical ETF of the SSgA Active Trust

February 8, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),1 and Rule 19b–4 thereunder,2 notice is hereby given that on February 4, 2016, BATS Exchange, Inc. (the “Exchange” or “BATS”) 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is proposing a rule change to list and trade shares of the SPDRDoubleLine Short Term Total Return Tactical ETF (the “Fund”) of the SSgA Active Trust (the “Trust”) under BATS Rule 14.11(i)(“Managed Fund Shares”). The shares of the Fund are collectively referred to herein as the “Shares.”

The text of the proposed rule change is available at the Exchange’s Web site at www.batstrading.com, at the principal office of the Exchange, 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, the Exchange 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

5 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 its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act.

the policies and procedures adopted thereunder; (ii) procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the composition and/or changes to the Fund’s portfolio. The Sub-Adviser is not affiliated with a broker-dealer. In the event (a) the Adviser or 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 a fire wall with respect to its relevant personnel or 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. 

According to the Registration Statement, the Fund will seek to maximize current income with a dollar-weighted average effective duration between one and three years. To achieve its objective, the Fund will invest, under normal circumstances, in a diversified portfolio of fixed income securities of any credit quality subject to certain limitations as described below in a specified index. The Fund is an actively-managed fund that does not seek to replicate the performance of a specified index. The Sub-Adviser will monitor the duration of the securities held by the Fund to seek to mitigate exposure to interest rate risk. Under normal circumstances, the Sub-Adviser will seek to maintain an investment portfolio with a weighted average effective duration between 1 and 3 years. The duration of the portfolio may vary materially from its target, from time to time.

The Sub-Adviser will actively manage the Fund’s asset class exposure using a top-down approach based on analysis of sector fundamentals and rotate Fund assets among sectors in various markets to attempt to maximize return. Individual securities within asset classes will be selected using a bottom-up approach. Under normal circumstances, the Sub-Adviser will use a controlled risk approach in managing the Fund’s investments. The techniques of this approach attempt to control the principal risk components of the fixed income markets and include consideration of: Security selection within a given sector; relative performance of the various market sectors; the shape of the yield curve; and fluctuations in the overall level of interest rates. In certain situations or market conditions, the Fund may temporarily depart from its normal investment policies and strategies provided that the alternative is in the best interest of the Fund. For example, the Fund may hold a higher than normal proportion of its assets in cash in times of extreme market stress.

Principal Holdings

The Fund intends to achieve its investment objective by investing, under normal circumstances, in a diversified portfolio of Fixed Income Securities, as defined below, subject to certain limitations as described below. For purposes of this filing, Fixed Income Securities are defined as the following instruments: Securities issued or guaranteed by the U.S. government or its agencies, instrumentalities or sponsored corporations; inflation protected public obligations of the U.S. Treasury (“TIPS”); securities issued or guaranteed by state or local governments or their agencies or instrumentalities (commonly known as municipal bonds); asset backed securities (“ABS”) (which include the following: Agency and non-agency residential mortgage-backed securities (“RMBS”), agency and non-agency commercial mortgage-backed securities (“CMBS”), and any other agency and non-agency asset-backed securities (“NAABS”); collateralized debt obligations (“CDOs”); collateralized loan obligations (“CLOs”); collateralized bond obligations (“CBOs”); collateralized mortgage obligations (“CMOs”); and Real Estate Mortgage Investment Conduits (“REMICs”) and

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 and 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’s rules 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.

14.11(i)(7) further requires that personnel who make decisions on the investment company’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to BATs Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable open-end fund’s portfolio, not an underlying benchmark index as is the case with index-based funds. The Adviser and Sub-Adviser are not registered as a broker-dealer but the Adviser is affiliated with a broker-dealer and has implemented a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. The Sub-Adviser is not affiliated with a broker-dealer. In the event (a) the Adviser or 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 a fire wall with respect to its relevant personnel or 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.

SPDR DoubleLine Short Term Total Return Tactical ETF

According to the Registration Statement, the Fund will seek to maximize current income with a dollar-weighted average effective duration of the portfolio. Rule 14.11(i)(7) is similar to BATs Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable open-end fund’s portfolio, not an underlying benchmark index as is the case with index-based funds. The Adviser and Sub-Adviser are not registered as a broker-dealer but the Adviser is affiliated with a broker-dealer and has implemented a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. The Sub-Adviser is not affiliated with a broker-dealer. In the event (a) the Adviser or 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 a fire wall with respect to its relevant personnel or 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.

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SPDR DoubleLine Short Term Total Return Tactical ETF

According to the Registration Statement, the Fund will seek to maximize current income with a dollar-weighted average effective duration of the portfolio.
Re-REMICs (which are REMICs that have been resecuritized) \(^{11}\); stripped securities; \(^{12}\) zero coupon securities; foreign (including emerging markets) and domestic corporate bonds; sovereign debt; bank loans; \(^{13}\) preferred securities; and exchange traded products (“ETPs”) that invest in Fixed Income Securities. \(^{14}\) To the extent products ("ETPs") that invest in Fixed Income Securities may be either fixed rate securities, floating securities, \(^{15}\) or variable rate securities, \(^{16}\) the Fund intends to invest at least 25% of its net assets in mortgage-backed securities of any maturity or type guaranteed by, or secured by collateral that is guaranteed by, the United States Government, its agencies, or sponsored corporations. The Fund also may invest in privately issued mortgage-backed securities of any rating assigned by Moody's Investor Service, Inc. ("Moody's") or Standard & Poor's Rating Service ("S& P") or assigned by any other nationally recognized statistical rating organization ("NRSRO") or in unrated securities that are determined by the Sub-Adviser to be of comparable quality.

The Fund may invest up to 20% of its net assets in aggregate in non-agency ABS.

The Fund may invest in U.S. Government obligations. U.S. Government obligations are a type of bond. U.S. Government obligations include securities issued or guaranteed as to principal and interest by the U.S. Government, its agencies, instrumentalities, or sponsored corporations. The Fund may also invest in TIPS of the U.S. Treasury. TIPS are a type of security issued by a government that is designed to provide inflation protection to investors.

The Fund may invest in corporate bonds. \(^{17}\) The investment return of corporate bonds reflects interest on the bond and changes in the market value of the bond. The market value of a corporate bond may be affected by the credit rating of the corporation, the corporation's performance and perceptions of the corporation in the market place. Such corporate bonds may be investment grade or may be below investment grade. The Fund may invest up to 20% of its net assets in corporate high yield securities (commonly known as "junk bonds").

The Fund may invest in sovereign debt. Sovereign debt obligations are issued or guaranteed by foreign governments or their agencies. Sovereign debt may be in the form of conventional securities or other types of debt instruments such as loans or loan participations. Sovereign debt obligations may be either investment grade or below investment grade.

The Fund may invest in bank loans, which include floating rate loans. \(^{18}\) Bank loan interests may be acquired from U.S. or foreign commercial banks, insurance companies, finance companies or other financial institutions that have made loans or are members of a lending syndicate or from other holders of loan interests. Bank loans typically pay interest at rates which are re-determined periodically on the basis of a floating base lending rate (such as the London Inter-Bank Offered Rate) plus a premium. Bank loans are typically of below investment grade quality. Bank loans generally (but not always) hold the most senior position in the capital structure of a borrower and are often secured with collateral. The Fund may invest in both secured and unsecured loans.

The Fund may invest in CDOs, CLOs, CMOs, and CBOs. A CLO is a financing company (generally called a Special Purpose Vehicle or "SPV"), created to repackage the risk and return characteristics of a pool of assets. While the assets underlying CLOs are typically bank loans, the assets may also include: (i) Unsecured loans, (ii) other debt securities that are rated below investment grade, (iii) debt tranches of other CLOs, and (iv) equity securities incidental to investments in bank loans. When investing in CLOs, the Fund will not invest in equity tranches, which are the lowest tranche. However, the Fund may invest in lower debt tranches of CLOs, which typically experience a lower recovery, greater risk of loss, or deferral or non-payment of interest than more senior debt tranches of the CLO.

In addition, the Fund intends to invest in CLOs consisting primarily of individual bank loans of borrowers and not repackaged CLO obligations from other high risk pools. The underlying bank loans purchased by CLOs are generally performing at the time of purchase but may become non-performing, distressed or defaulted. CLOs with underlying assets of non-performing, distressed or defaulted loans are not contemplated to comprise a significant portion of the Fund’s investments in CLOs. A CBO is a trust which is backed by a diversified pool of below investment grade fixed income securities. CMOs are debt obligations collateralized by mortgage loans or mortgage pass-through securities.

The Fund may purchase exchange-traded or OTC preferred securities. Preferred securities pay fixed or adjustable rate dividends to investors and have preference over common stock in the payment of dividends and the liquidation of a company’s assets.

The Fund may invest in ETPs that invest in Fixed Income Securities, which include exchange-traded funds registered under the 1940 Act and exchange traded notes. \(^{19}\) The Adviser

The Fund may invest up to 20% of its net assets in one or more ETPs that are qualified publicly traded partnerships (“QPTPs”) and whose principal activities are the buying and selling of commodities or options, futures, or forwards with respect to commodities. Income from QPTPs is generally qualifying income. A QTPP is an entity...
may receive management or other fees from the ETPs (“Affiliated ETPs”) in which the Fund may invest, as well as a management fee for managing the Fund.

Other Portfolio Holdings

While the Adviser and Sub-Adviser, under normal circumstances, will invest at least 80% of the Fund’s net assets in the instruments described above, the Adviser and Sub-Adviser may invest up to 20% of the Fund’s net assets in other securities and financial instruments, as described below.

The Fund may invest in repurchase agreements with commercial banks, brokers or dealers to generate income from its excess cash balances and to invest securities lending cash collateral. A repurchase agreement is an agreement under which a fund acquires a financial instrument (e.g., a security issued by the U.S. Government or an agency thereof, a banker’s acceptance or a certificate of deposit) from a seller, subject to resale to the seller at an agreed-upon price and date (normally, the next business day). The Fund may also enter into reverse repurchase agreements, which involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing. The Fund’s exposure to reverse repurchase agreements will be covered by securities having a value equal to or greater than such commitments. Under the 1940 Act, reverse repurchase agreements are considered borrowings. The Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 10% of its net assets.

The Fund may invest in both exchange-traded and OTC U.S. common stocks. The Fund may also invest in exchange-traded common stocks of foreign corporations. The Fund’s investments in common stock of foreign corporations may also be in the form of American Depositary Receipts (“ADRs”), Global Depositary Receipts (“GDRs”) and European Depositary Receipts (“EDRs”) (collectively “Depositary Receipts”).

The Fund may invest in convertible securities traded on an exchange or OTC. Convertible securities are bonds, debentures, notes, or other securities that may be converted or exchanged (by the holder or by the issuer) into shares of the underlying common stock (or cash or securities of equivalent value) at a stated exchange ratio.

The Fund may lend its portfolio securities in an amount not to exceed 33 1/3% of the value of its total assets via a securities lending program through the Lending Agent, to brokers, dealers and other financial institutions desiring to borrow securities to complete transactions and for other purposes. A securities lending program allows the Fund to receive a portion of the income generated by lending its securities and investing the respective collateral. The Fund will receive collateral for each loaned security which is at least equal to 102% of the market value of that security, marked to market each trading day.

In addition to repurchase agreements, the Fund may invest in short-term instruments, including money market instruments, (including money market funds advised by the Adviser), cash and cash equivalents, on an ongoing basis to provide liquidity or for other reasons. Money market instruments are generally short-term investments that may include but are not limited to: (i) Shares of money market funds (including those advised by the Adviser); (ii) obligations issued or guaranteed by the U.S. government, its agencies or institutionalized government-sponsored enterprises; (iii) negotiable certificates of deposit (“CDs”), bankers’ acceptances, fixed time deposits and other obligations of U.S. and foreign banks (including ownership of underlying securities issued by a foreign corporation. For ADRs, the depository is typically a U.S. financial institution and the underlying securities are issued by a foreign issuer. For other Depositary Receipts, the depository may be a foreign or a U.S. entity, and the underlying securities may have a foreign or a U.S. issuer. Depositary Receipts will not necessarily be denominated in the same currency as their underlying securities. Generally, ADRs, in registered form, are designed for use in the U.S. securities market and, in bearer form, are designed for use in European securities markets. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world. The Fund may invest in sponsored or unsponsored ADRs; however, not more than 10% of the net assets of the Fund will be invested in unsponsored ADRs. Exchange-traded equity securities (e.g., exchange traded common stocks and exchange traded preferred securities, Depositary Receipts, and ETFS and certain other exchange-traded investment company securities) in which the Fund may invest will trade on markets that are members of the Intermarket Surveillance Group (“ISG”) or that have entered into a comprehensive surveillance agreement with the Exchange.
excess return swaps, and credit default swaps. The Fund will segregate cash and/or appropriate liquid assets if required to do so by Commission or Commodity Futures Trading Commission ("CFTC") regulation or interpretation.

In the case of a credit default swap ("CDS"), the contract gives one party (the buyer) the right to recoup the economic value of a decline in the value of debt securities of the reference issuer if the credit event (a downgrade or default) occurs. This value is obtained by delivering a debt security of the reference issuer to the party in return for a previously agreed payment from the other party (frequently, the par value of the debt security).22

CDSs may require initial premium (discount) payments as well as periodic payments (receipts) related to the interest leg of the swap or to the default of a reference obligation. The Fund will segregate assets necessary to meet any accrued payment obligations when it is the buyer of CDSs. In cases where the Fund is a seller of a CDS, if the CDS is physically settled or cash settled, the Fund will be required to segregate the full notional amount of the CDS. Such segregation will not limit the Fund’s exposure to loss.

The Fund may also invest in Restricted Securities.23 Restricted Securities are securities that are not registered under the Securities Act, but which can be offered and sold to “qualified institutional buyers” under Rule 144A under the Securities Act.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Restricted Securities deemed illiquid by the Adviser or Sub-Adviser.24 Under the 1940 Act,25 the Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund’s net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund intends to qualify each year as a regulated investment company (a “RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended.26 The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification, and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

The Fund’s investments will be consistent with its investment objective and will not be used to seek to achieve leveraged or inverse leveraged returns (i.e. two times or three times the Fund’s benchmark).

Under normal circumstances, the combined total of corporate, sovereign, non-agency and all other debt rated below investment grade will not exceed 40% of the Fund’s net assets. The Sub-Adviser will strive to allocate below investment grade securities broadly by industry and issuer in an attempt to reduce the impact of negative events on an industry or issuer. Below investment grade securities are instruments that are rated BB+ or lower by S&P or Fitch Inc. or Ba1 or lower by Moody’s or equivalent ratings by another registered NRSRO or, if unrated by a NRSRO, of comparable quality in the opinion of the Sub-Adviser.

The Fund may invest up to 15% of its net assets in securities denominated in foreign currencies, and may invest beyond this limit in U.S. dollar-denominated securities of foreign issuers. The Fund may invest up to 20% of its net assets in securities and instruments that are economically tied to emerging market countries.27

Net Asset Value

According to the Registration Statement, the net asset value (“NAV”) of the Fund’s Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the Exchange, generally 4:00 p.m. Eastern Time (the “NAV Calculation Time”) on each day that the Exchange is open for trading, based on prices at the NAV Calculation Time. NAV per Share is calculated by dividing the Fund’s net assets by the number of Fund Shares outstanding. The Fund’s net assets are valued primarily on the basis of market quotations. Expenses and fees, including the management fees, will be accrued daily and taken into account for purposes of determining NAV.

Common stocks and other exchange-traded equity securities (including shares of preferred securities, convertible securities, REITs, and ETPs) generally will be valued at the last reported sale price or the official closing price on that exchange where the security is primarily traded on the day that the valuation is made. Foreign equities and exchange-listed Depositary Receipts will be valued at the last sale or official closing price on the relevant exchange on the valuation date. If, however, neither the last sale price nor the official closing price is available on the valuation date, each of these securities will be valued at either the last reported sale price or official closing price as of the close of regular trading of the principal market on which the security is listed.

Unsponsored ADRs, which are traded in the OTC market, will be valued at the last reported sale price on the OTC Bulletin Board or OTC Link LLC on the valuation date. Equity securities traded OTC will be valued based on price

22 The Fund will enter into CDS agreements only with counterparties that meet certain standards of creditworthiness.
23 “Restricted Securities,” for purposes of this filing, are defined as Rule 144A securities and may include both mortgage-backed and non-mortgage 144A securities. To the extent that the Fund’s holdings of Restricted Securities include any of the assets subject to limitations described below, such holdings will be subject to those limitations, as applicable.
24 In reaching liquidity decisions, the Adviser and Sub-Adviser may consider factors including: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; the nature of the security and the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).
27 The Fund generally considers an issuer to be economically tied to an emerging market country if: (i) the issuer is organized under the laws of an emerging country; (ii) the issuer’s securities are traded principally in an emerging country; or (iii) during the issuer’s most recent fiscal year it derived at least 50% of its revenues, earnings before interest, taxes, depreciation, and amortization, or profits from goods produced or sold by, investments made in, or services performed in emerging countries, or it had at least 50% of its assets in emerging countries.
market valuations are not readily available or are deemed unreliable, the Trust’s procedures require the Oversight Committee ("Committee") to determine a security’s fair value, in accordance with the 1940 Act.\footnote{If a security’s market price is not readily available or is deemed unreliable, the security will be valued by another method that the Board believes will better reflect fair value in accordance with the Trust’s valuation policies and procedures and in accordance with the 1940 Act. The Board has delegated the process of valuing securities for which market quotations are not readily available or are deemed unreliable to the Committee. The Committee, subject to oversight by the Board, may use fair value pricing in a variety of circumstances, including but not limited to, situations when trading in a security has been suspended or halted. Accordingly, the Fund’s NAV may reflect certain securities’ fair values rather than their market prices.} In determining such value the Committee may consider, among other things, (i) price comparisons among multiple sources, (ii) a review of corporate actions and news events, and (iii) a review of relevant financial indicators (e.g., movement in interest rates and market indices). In these cases, the Fund’s NAV may reflect certain portfolio securities’ fair values rather than their market prices.

Creation and Redemption of Shares

The NAV of Shares of the Fund will be determined once each business day, normally 4:00 p.m. Eastern time. The Fund currently anticipates that a Creation Unit will consist of 50,000 Shares, though this number may change from time to time, including prior to the listing of the Fund. The exact number of Shares that will comprise a Creation Unit will be disclosed in the Registration Statement of the Fund. The Trust will issue and sell Shares of the Fund only in Creation Units on a continuous basis, without a sales load (but subject to transaction fees), at their NAV per Share next determined after receipt of an order, on any business day, in proper form. Creation and redemption will typically occur in cash; however, the Trust retains discretion to conduct such transactions on an in-kind basis or a combination of cash and in-kind, as further described below.

The consideration for purchase of a Creation Unit of the Fund generally will consist of either (i) the in-kind deposit of a designated portfolio of securities (the “Deposit Securities”) per each Creation Unit and the Cash Component (defined below), computed as described below, or (ii) the cash value of the Deposit Securities (“Deposit Cash”) and the “Cash Component,” computed as described below. When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities that would otherwise be provided by an in-kind purchaser. Together, the Deposit Securities or Deposit Cash, as applicable, and the Cash Component constitute the “Fund Deposit,” which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The “Cash Component” is an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities or Deposit Cash, as applicable. If the Cash Component is a positive number (i.e., the NAV per Creation Unit exceeds the market value of the Deposit Securities or Deposit Cash, as applicable), the Cash Component shall be such positive amount. If the Cash Component is a negative number (i.e., the NAV per Creation Unit is less than the market value of the Deposit Securities or Deposit Cash, as applicable), the Cash Component will be such negative amount and the creator will be entitled to receive cash in an amount equal to the Cash Component. The Cash Component serves the function of compensating for any differences between the NAV per Creation Unit and the market value of the Deposit Securities or Deposit Cash, as applicable.

The Custodian, through the National Securities Clearing Corporation (“NSCC”), will make available on each business day, prior to the opening of business on the Exchange, the list of the names and the required amount of each Deposit Security or the required amount of Deposit Cash, as applicable, to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund. Such Fund Deposit is subject to any applicable adjustments as described in the Registration Statement, in order to reflect purchases of Creation Units of the Fund until such time as the next-announced composition of the Deposit Securities or the required amount of Deposit Cash, as applicable, is made available.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Transfer Agent and only on a business day.

With respect to the Fund, the Custodian, through the NSCC, will make
Participants.

same or equitable manner for all Authorized

amount, such transactions will be effected in the

the Trust permits or requires a "cash in lieu"

securities value representing one or

corresponding cash value of the

Trust's discretion, an authorized

by the redeeming shareholder.

differential will be required to be made

that the Fund Securities have a value

the Registration Statement. In the event

additional variable charge as set forth in

Fund Securities (the "Cash Redemption

received in proper form on that day

creation/redemption order cut-off

The creation/redemption order cut-off

p.m. Eastern time. Creation/redemption

may be earlier on any

day that the Securities Industry and

order cut-off times may be earlier on any

p.m. Eastern time. Creation/redemption

time for the Fund is expected to be 4:00

The intra-day, closing and settlement

the most immediately

price information for the Fund that may

be downloaded. The Web site will

include additional quantitative

information updated on a daily basis,

for the Fund: (1) The prior

mid-point of the bid/ask spread at the time of

calculation of such NAV (the "Bid/Ask

price.").\(^{30}\) daily trading volume, 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. Daily

trading volume information for the

Shares will also be available in the

financial section of newspapers, through

subscription services such as

Bloomberg, Thomson Reuters, and

International Data Corporation, which

can be accessed by authorized

participants and other investors, as well as

through other electronic services,

including major public Web sites. On

each business day, before

commencement of trading in Shares

during Regular Trading Hours\(^{31}\) on the

Exchange, the Fund will disclose on its

Web site the identities and quantities of the portfolio of securities and other

assets (the "Disclosed Portfolio") held

by the Fund that will form the basis for the Fund's calculation of NAV at the

end of the business day.\(^{32}\) The Disclosed

Portfolio will include, as applicable:

- The ticker symbol; CUSIP number or

other identifier, if any;

- a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any;

- for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts, or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio.

The Web site and information will be

publicly available at no charge.

In addition, for the Fund, an

estimated value, defined in BATS Rule

14.11(i)(3)(C) as the "Intraday Indicative

Value," that reflects an estimated

intraday value of the Fund's portfolio,

will be disseminated. Moreover, the

Intraday Indicative Value will be based

upon the current value for the

components of the Disclosed Portfolio

and will be updated and widely

disseminated by one or more major

market data vendors at least every 15

seconds during the Exchange's Regular

Trading Hours.\(^{33}\) In addition, the

quotations of certain of the Fund's

holdings may not be updated during

U.S. trading hours if such holdings do

not trade in the United States or if

updated prices cannot be ascertained.

The dissemination of the Intraday

Indicative Value, together with the

Disclosed Portfolio, will allow investors
to determine the value of the underlying

portfolio of the Fund on a daily basis

and provide a close estimate of that

value throughout the trading day.

The intra-day, closing and settlement

prices of exchange-listed instruments

(including exchange traded Depositary

Receipts, preferred securities,

convertible securities, common stock,

futures, ETFs, and QTPs) will be

readily available from the exchanges

trading such instruments as well as

automated quotation systems, published

or other public sources, or online

information services such as Bloomberg

or Reuters. Intraday and closing price

information for exchange-traded

options and futures will be available from

the applicable exchange and from

major market data vendors. In addition,

price information for U.S. exchange-traded

options will be available from the

Options Price Reporting Authority.

Quotation information from brokers and

dealers or pricing services will be

available for Fixed Income Securities.

Price information regarding spot

currency transactions and OTC-traded

derivative instruments, including

options, swaps, and forward currency

transactions, as well as equity securities

traded in the OTC market, including

Restricted Securities, inverse floaters,

short-term instruments, OTC-traded

preferred securities, OTC-traded ADRs,

and OTC-traded convertible securities,
is available from major market data

vendors. Repurchase and reverse

repurchase agreements will generally be

available through nationally recognized
data service providers through

subscription arrangements.

\(^{30}\) The Bid/Ask Price of the Fund will be
determined using the midpoint 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.

\(^{31}\) Regular Trading Hours are 9:30 a.m. to 4:00

p.m. Eastern Time.

\(^{32}\) Under accounting procedures to be 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.

\(^{33}\) Currently, it is the Exchange’s understanding

that several major market data vendors display and/
or make widely available Intraday Indicative Values
published via the Consolidated Tape Association
("CTA") or other data feeds.
Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. 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 will be available on the facilities of the CTA. Information regarding U.S. exchange-listed equities will also be available on the facilities of the CTA.

Initial and Continued Listing

The Shares will be subject to BATS Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.34 A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. 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.

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. The Exchange will halt trading in the Shares under the conditions specified in BATS Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted.

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. BATS will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BATS Rule 14.11(i)(2)(C), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01. Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange’s surveillance procedures for derivative products, including Managed Fund Shares. The Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange traded investment companies, equity securities, futures, and options via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.35 In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA’s Trade Reporting and Compliance Engine (“TRACE”). FINRA also can access data obtained from the Municipal Securities Rulemaking Board (“MSRB”) relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. The Exchange prohibits the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening36 and After Hours Trading Sessions37 when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members 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 Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund’s Web site. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Fund’s Registration Statement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act38 in general and Section 6(b)(5) of the Act39 in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

36 The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.
37 The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.
The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in BATS Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser to the investment company shall erect 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. The Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer and has implemented a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. In the event (a) the Adviser or 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 a fire wall with respect to its relevant personnel or 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. The Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange traded investment companies, equity securities, futures, and options via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.\(^{40}\) In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA’s TRACE. FINRA also can access data obtained from the MSRB relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

According to the Registration Statement, the Fund intends to achieve its investment objective by investing, under normal circumstances, at least 80% of its net assets in a diversified portfolio of Fixed Income Securities of any credit quality. The Fund’s investments will be consistent with the Fund’s investment objective and will not be used to achieve leveraged or inverse leveraged returns, as stated above. While the Fund is permitted to invest without restriction in corporate bonds, the Sub-Adviser expects that, under normal circumstances, the Fund will generally seek to invest in corporate bond issuances that have at least $100,000,000 par amount outstanding in developed countries and at least $200,000,000 par amount outstanding in emerging market countries.

In addition to the holdings in Fixed Income Securities described above as part of the Fund’s principal investment strategy, the Fund may also, to a limited extent (under normal circumstances, less than 20% of the Fund’s net assets) and as further described above, engage in transactions in the following:

- Repurchase agreements, reverse repurchase agreements, U.S. common stocks, exchange-traded foreign common stocks, Depositary Receipts, convertible securities, securities lending, short-term instruments, foreign currency transactions, inverse floaters, the securities of other investment companies, REITs, Restricted Securities, and certain options, futures, and swaps.

The Fund may not invest to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment, including Restricted Securities deemed illiquid by the Adviser or Sub-Adviser \(^{41}\) under the 1940 Act.\(^{42}\) The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund’s net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

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 is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund’s calculation of NAV at the end of the business day. Pricing information will be available on the Fund’s Web site including: (1) The prior business day’s reported NAV, the Bid/Ask Price of the Fund, 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. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other


\(^{40}\) For a list of the current members and affiliate members of ISG, see www.isgportal.com. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

\(^{41}\) In reaching liquidity decisions, the Adviser and Sub-Adviser may consider factors including: The frequency of trades and quotes for the security, the number of dealers wishing to purchase or sell the security, the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

\(^{42}\) The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.
electronic services, and quotation and last sale information for the Shares will be available on the facilities of the CTA. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in BATS Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares advisable. Finally, trading in the Shares will be subject to BATS Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA’s TRACE. FINRA also can access data obtained from the MSRB relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. As noted above, investors will also have ready access to information regarding the Fund’s holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The intra-day, closing, and settlement prices of exchange-listed instruments (including exchange traded Depositary Receipts, preferred securities, convertible securities, common stock, futures, ETNs, and QPTPs) will be readily available from the exchanges trading such instruments as well as automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Intraday and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options will be available from the Options Price Reporting Authority.

Quotation information from brokers and dealers or pricing services will be available for Fixed Income Securities. Price information regarding spot currency transactions and OTC-traded derivative instruments, including options, swaps, and forward currency transactions, as well as equity securities traded in the OTC market, including Restricted Securities, inverse floaters, short-term instruments, OTC-traded preferred securities, OTC-traded ADRs, and OTC-traded convertible securities, is available from major market data vendors. Repurchase and reverse repurchase agreements will generally be available through nationally recognized data service providers through subscription arrangements.

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 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 comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund’s holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

(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 actively-managed exchange-traded product 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

The Exchange has neither solicited nor received written comments on 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 within such longer period 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 proposal 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);
- Send an email to rule-comments@ sec.gov. Please include File No. SR– BATS–2016–04 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 No. SR–BATS–2016–04. 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 will also be available for inspection and copying by the principal office 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 No. SR–BATS–2016–04 and should be submitted on or before March 4, 2016.
SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Adopting a Principles-Based Approach To Prohibit the Misuse of Material Nonpublic Information by Designated Primary Market-Makers (“DPMs”) and Lead Market-Makers (“LMMs”)

February 8, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”), and Rule 19b–4 thereunder, notice is hereby given that on February 1, 2016, Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act and Rule 19b–4(f)(6) thereunder. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The text of the proposed rule change is available on the Exchange’s Web site (http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx), at the Exchange’s Office of the Secretary, 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, the Exchange 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 Exchange 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

The Exchange proposes to adopt a principles-based approach to prohibit the misuse of material, nonpublic information by DPMs and LMMs by deleting Rule 8.91, sub-paragraph (b)(5) of Rule 8.15 and paragraph(b)(vii) of Rule 8.15A. In so doing, the Exchange would harmonize its rules related to the preventing the misuse of material, nonpublic information for every Trading Permit Holder (“TPH”). The Exchange believes that Rule 8.91, Rule 8.15(b)(5) and Rule 8.15A(b)(vii) are no longer necessary because all TPH, including DPMs and LMMs are subject to the Exchange’s general principles-based requirements governing the protection against misuse of material, nonpublic information, pursuant to Rule 4.18 (Prevention of the Misuse of Material, Nonpublic Information), which obviates the need for separately prescribed requirements for a subset of market participants on the Exchange.

Background

The Exchange has three classes of registered Market-Makers. Pursuant to Rule 8.1, a Market-Maker is an individual TPH or TPH organization that is registered with the Exchange for the purpose of making transactions as a dealer-specialist on the Exchange. All Market-Makers are subject to the requirements of Rule 8.7, which set forth the obligations of Market-Makers, including quoting activity.

Rule 8.85 outlines the obligations of DPM’s, which, in addition to the Market-Maker obligations of Rule 8.7, must fulfill a number of increased obligations including providing continuous electronic quotes, assuring that each of the displayed market quotations is honored, and complying heightened with bid/ask differential requirements.5

Rule 8.15 states that the Exchange may appoint, in an option class for which a DPM has not been appointed, one or more Market-Makers in good standing as LMMs and Supplemental Market-Makers (“SMMs”) to participate in opening rotation procedures for Hybrid 3.0 classes and/or to determine a formula for generating updated market quotations during the trading day. LMM’s in Hybrid 3.0 classes are obligated to quote a firm two-sided market of sufficient size to accommodate a relatively active opening within the bid/ask differential requirements determined by the Exchange.

Pursuant to Rules 8.15B and 8.87, the exchange may establish participation entitlements for LMM’s and DPMs appointed pursuant to the aforementioned Rules. DPM’s and LMM’s must meet specific obligations prior to being awarded a participation entitlements [sic].

Whether operating on the CBOE Trading Floor or from a remote location, all Market-Makers, including DPMs and LMMs, have access to the same information in the Consolidated Book that is available to all other market participants. Moreover, none of the Exchange’s Market-Makers have agency obligations to the Exchange’s Order Book. As such, the primary distinctions between Market-Makers and DPMs and LMMs are the increased quoting requirements and allocation entitlements.

Despite the fact that Market-Makers, DPMs and LMMs have access to the same trading information as all other market participants on the Exchange, the Exchange has distinct rules governing how DPMs and LMMs may operate. Rule 8.91(a) specifies that a DPM shall maintain information barriers that are reasonably designed to prevent the misuse of material, nonpublic information with any affiliates that may conduct a brokerage business in option classes allocated to the DPM or act as a Market-Maker will be required to maintain continuous electronic quotes . . . in 60% of the non-adjusted option series of the Market-Maker’s appointed classes that have a time to expiration of less than nine months.”).