the date of the filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange notes that the proposal will promote consistency between the Exchange and its affiliated exchanges, and is part of a larger technology integration that will ultimately reduce complexity for any users of the Exchange that are also participants on other Cboe Affiliated Exchanges. The Exchange further notes that allowing the Exchange to move forward with the proposed changes without an operative delay will ensure that the technology integration can continue with periodic but measured changes rather than implementing several changes at once. Furthermore, the Exchange states that the implementation of the risk controls will help to avoid potentially erroneous executions. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

• Use the Commission’s internet comment form (http://www.sec.gov/rules/sro.shtml); or

• Send an email to rule-comments@sec.gov. Please include File Number SR-CboeEDGX–2017–009 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR-CboeEDGX–2017–009. 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 website (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-CboeEDGX–2017–009 and should be submitted on or before January 30, 2018.

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

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018–00160 Filed 1–8–18; 8:45 am]

BILLING CODE 8011–01–P


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 list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Fund will be an exchange-traded fund (“ETF”) that is actively managed. The Shares will be offered by the Trust, which was established as a Maryland statutory trust on June 8, 2015. The Exchange notes that other actively-managed, broad market fixed-income ETFs have been previously approved by the SEC prior to the adoption of “generic” listing standards for actively-managed ETFs. The Trust is registered with the Commission as an investment company under the 1940 Act and has filed a registration statement on Form N–1A (“Registration Statement”) with the Commission with respect to the Fund. The Fund will be a series of the Trust. The Fund intends to qualify each year as a regulated investment company (“RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended.

Legg Mason Partners Fund Advisor, LLC will be the investment manager (“Manager”) to the Fund. Western Asset Management Company will serve as the sub-adviser to the Fund (the “Sub-Adviser”) and Western Asset Management Company Limited in London (“Western Asset London”), Western Asset Management Company Pte. Ltd. in Singapore (“Western Asset Singapore”) and Western Asset Management Company Ltd in Japan (“Western Asset Japan”) will each serve as the sub-sub-advisers to the Fund (collectively, the “Sub-Sub-Advisers”) and each, a “Sub-Sub-Adviser”).

Hereinafter, references to “Sub-Adviser” or “Sub-Advisers” include the Sub-Adviser and each applicable Sub-Sub-Adviser. Legg Mason Investor Services, LLC (the “Distributor”) will be the distributor of the Fund’s Shares. The Manager, each of the Sub-Advisers and the Distributor are wholly-owned subsidiaries of Legg Mason, Inc. (“Legg Mason”). An entity that is not affiliated with Legg Mason, and which is named in the Registration Statement, will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, paragraph (g) 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, non-public information concerning the composition and/or changes to such investment company portfolio.

2. Statutory Basis

This rule change is intended to satisfy the requirements of section 19(b)(3)(C) of the Exchange Act of 1934 (the “Exchange Act”), and Rule 19b-4 thereunder.

The Exchange notes that the Exchange notes established as a Maryland statutory trust will be offered by the Trust, which was an exchange-traded fund (“ETF”) under 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.

2.1940 Act

The Fund intends to qualify each year as a regulated investment company (“RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended.

Legg Mason Partners Fund Advisor, LLC will be the investment manager (“Manager”) to the Fund. Western Asset Management Company will serve as the sub-adviser to the Fund (the “Sub-Adviser”) and Western Asset Management Company Limited in London (“Western Asset London”), Western Asset Management Company Pte. Ltd. in Singapore (“Western Asset Singapore”) and Western Asset Management Company Ltd in Japan (“Western Asset Japan”) will each serve as the sub-sub-advisers to the Fund (collectively, the “Sub-Sub-Advisers”) and each, a “Sub-Sub-Adviser”).

Hereinafter, references to “Sub-Adviser” or “Sub-Advisers” include the Sub-Adviser and each applicable Sub-Sub-Adviser. Legg Mason Investor Services, LLC (the “Distributor”) will be the distributor of the Fund’s Shares. The Manager, each of the Sub-Advisers and the Distributor are wholly-owned subsidiaries of Legg Mason, Inc. (“Legg Mason”). An entity that is not affiliated with Legg Mason, and which is named in the Registration Statement, will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

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The average effective duration of the Fund may fall out of its expected range due to market movements. If this happens, the Sub-Advisers will take action to bring the Fund’s average effective duration back within its expected range within a reasonable period of time.
Securities are referred to as the “Principal Investment Equities”.

The Manager or Sub-Advisers (as applicable) may select from any of the following types of fixed income securities:

(i) U.S. or foreign corporate debt securities, including notes, bonds, debentures, trust preferred securities, and commercial paper issued by corporations, trusts, limited partnerships, limited liability companies and other types of non-governmental legal entities;

(ii) U.S. government securities, including obligations of the U.S. government, its agencies or government-sponsored entities;

(iii) sovereign debt securities, which include fixed income securities issued by governments, agencies or instrumentalities and their political subdivisions, securities issued by government-owned, controlled or financially supported by government-owned, controlled or government-related corporations, trusts, limited liability companies, which include fixed income securities issued by such entities, Brady Bonds, and fixed income securities issued by institutional entities such as the World Bank;

(iv) obligations of, or guaranteed by, the U.S. government, its agencies or government-sponsored entities; 22 and foreign currencies equivalents in Nasdaq Rule 5735(b)(1)(C) (which is a provision with which the Exchange has a comprehensive surveillance sharing agreement) or a non-ISG member exchange or be unlisted and trade in the over-the-counter market.

22 The Fund’s interests in Equity-Related Warrants are similar to the Fund’s interest in Work Out Securities that are collateralized with loans or other collateral.

The Fund may hold warrants that provide the right to purchase fixed income securities or equity securities, and such warrants may be traded in the OTC market or may be listed on an exchange, including an exchange that is not an ISG member. The Fund expects that most of the warrants it holds will be attached to related fixed income securities.

The Fund’s interests in Equity-Related Warrants and Work Out Securities (which are generally traded solely in the over-the-counter market) together do not exceed 30% of the Fund’s net assets.

23 The Manager and Sub-Advisers will manage the Fund to ensure that the weight of Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities (which are generally traded solely in the over-the-counter market) together do not exceed 30% of the Fund’s net assets.

24 Brady Bonds are debt securities issued under the framework of the Brady Plan as a means for debtor nations to restructure their outstanding external public debt.

25 A supranational entity is a bank, commission or company established or financially supported by the national governments of one or more countries to promote reconstruction or development.

26 ABS include collateralized debt obligations (“CDOs”), collateralized loan obligations (“CLOs”) and other similarly structured securities. A CBO is a trust or other special purpose entity that is typically backed by a diversified pool of rated and unrated ABS, which may be highly leveraged. A CLO is a trust or other special purpose entity that is typically collateralized by a pool of loans, which may include commercial, asset-backed and other similar obligations. CBOs and CLOs are subject to different regulations and risks than those that rank senior to the borrower’s traditional debt obligations.

Like CMOs, CDOs generally issue separate series or “tranches” of securities, which vary with respect to risk and yield.

The warrants that provide the right to purchase fixed income securities or equity securities, and such warrants may be traded in the OTC market or be unlisted and trade in the over-the-counter market.

The warrants that provide the right to purchase fixed income securities or equity securities, and such warrants may be traded in the OTC market or may be listed on an exchange, including an exchange that is not an ISG member. The Fund expects that most of the warrants it holds will be attached to related fixed income securities.

The Fund’s interests in Equity-Related Warrants and Work Out Securities (which are generally traded solely in the over-the-counter market) together do not exceed 30% of the Fund’s net assets.

Brady Bonds are debt securities issued under the framework of the Brady Plan as a means for debtor nations to restructure their outstanding external public debt.

A supranational entity is a bank, commission or company established or financially supported by the national governments of one or more countries to promote reconstruction or development.

ABS include collateralized debt obligations (“CDOs”), collateralized loan obligations (“CLOs”) and other similarly structured securities. A CBO is a trust or other special purpose entity that is typically backed by a diversified pool of rated and unrated ABS, which may be highly leveraged. A CLO is a trust or other special purpose entity that is typically collateralized by a pool of loans, which may include commercial, asset-backed and other similar obligations. CBOs and CLOs are subject to different regulations and risks than those that rank senior to the borrower’s traditional debt obligations.
current interest but are issued at a discount from their face values. MBS
and ABS in which the Fund will invest make periodic payments of interest and/or
principal on underlying pools of mortgages, government securities or, in
the case of ABS, loans, leases and receivables other than real estate. The
Fund may also invest in stripped ABS or MBS, which represent the right to
receive either payments of principal or payments of interest on real estate
receivables, in the case of MBS, or non-real estate receivables, in the case of
ABS.
Investments by the Fund in debt instruments ("Debt") that may be
deemed not to be "securities", as defined in the Act, are comprised
primarily of the following: (i) U.S. or foreign bank loans and participations in
bank loans; (ii) U.S. or foreign loans by non-bank lenders and participations in
such loans; (iii) U.S. or foreign loans on real estate secured by mortgages and
participations (without guarantees by a government-sponsored entity ("GSE");
and (iv) participations in U.S. or foreign loans and/or other extensions of credit,
such as guarantees, made by governmental entities or financial
institutions. Debt may be partially or fully secured by collateral supporting
the payment of interest and principal, or unsecured and/or subordinated to other
instruments. Debt may relate to financings for highly-leveraged
borrowers. The Fund may acquire an interest in Debt by purchasing
participations in and/or assignments of portions of loans from third parties or
by investing in pools of loans, such as collateralized debt obligations.

With respect to fixed income securities and Debt, the Fund may
invest in restricted instruments, such as Rule 144A and Regulation S securities, which are subject to resale restrictions
that limit purchasers to qualified institutional buyers, as defined in Rule
144A under the Securities Act of 1933, as amended (the "Securities Act") or
non-U.S. persons, within the meaning of Regulation S under the Securities Act.

The Fund will use derivatives to (i) provide exposure to U.S. or foreign
fixed income securities. Debt and other Principal Investments, (ii) risk manage
the Fund’s holdings, and (iii) enhance returns, such as through covered call
strategies. The Fund will not use
derivatives for the purpose of seeking leveraged returns or performance that is
the multiple or inverse multiple of a benchmark. Derivatives that the Fund
may enter into include: Over-the-counter deliverable and non-deliverable
foreign exchange forward contracts; exchange-listed futures contracts on
securities (including Treasury Securities and foreign government securities),
commodities, indices, interest rates, financial rates and currencies;
exchange-listed or over-the-counter options or swaptions (i.e., options to enter
into a swap) on securities, commodities, indices, interest rates, financial rates, currencies and futures
contracts; and exchange-listed or over-the-counter swaps (including total
return swaps) on securities, commodities, indices, interest rates, financial rates, currencies and credit
default swaps on single names, baskets and indices (both as protection
seller and as protection buyer). As a result of the Fund’s use of derivatives and to serve as collateral, the Fund may
also hold significant amounts of Treasury Securities, cash and cash
equivalents and, in the case of derivatives that are payable in a foreign
currency, the foreign currency in which the derivatives are payable.

The Fund may, without limitation, enter into repurchase arrangements and
borrowing and reverse repurchase arrangements, purchase and sale
deals, buybacks and dollar rolls and spot currency transactions. The
Fund may also, subject to required margin and without limitation, purchase
securities and other instruments under when-issued, delayed delivery, to be announced or forward commitment
transactions, where the securities or instruments will not be delivered or
paid for immediately. To the extent required under applicable federal
securities laws (including the 1940 Act), rules, and interpretations thereof, the
Fund will "set aside" liquid assets or engage in other measures to "cover" open
positions held in connection with
the foregoing types of transactions, as well as derivative transactions.

Other Investments
Under Normal Market Conditions, the Fund will seek its investment objective by investing at least 80% of its net
assets in a portfolio of the Principal Investments. The Fund may invest its remaining assets exclusively in: (i) U.S.
foreign exchange-listed or over-the-counter convertible fixed income
securities; and (ii) OTC Derivatives (as defined below) and Exchange-Traded Derivatives (as defined below) that do
not satisfy the Fund’s primary uses for derivatives, which are to (A) provide exposure to such U.S. or foreign fixed
income securities, Debt and other Principal Investments, (B) risk manage
the Fund’s holdings, and (C) enhance returns.

The Fund’s Use of Derivatives
The Fund proposes to invest in the types of derivatives described in
the “Principal Investments” and “Other Investments” sections above. Exchange-
Traded Derivatives will primarily be traded on exchanges that are ISG
members or exchanges with which the Exchange has a comprehensive
surveillance sharing agreement. The Fund may, however, invest up to 10% of
the net assets of the Fund in Exchange-Traded Derivatives whose
principal market is not a member of ISG or a market with which the Exchange
has a comprehensive surveillance sharing agreement. For purposes of this
10% limit, the weight of such Exchange-Traded Derivatives will be calculated
based on the mark-to-market value or exposure of such Exchange-Traded
Derivatives.

The Fund will limit the weight of its investments in OTC Derivatives to 10% of
the net assets of the Fund, with the exception of Interest Rate Derivatives
(see infra).

28 The risk management uses of derivatives will include managing (i) investment-related risks, (ii)
risks due to fluctuations in securities prices, interest rates, or currency exchange rates, (iii) risks
due to the credit-worthiness of an issuer, and (iv) the effective duration of the Fund’s portfolio.
29 See also “The Fund’s Use of Derivatives;” infra.
30 In a forward roll transaction (also referred to as a mortgage dollar roll), the Fund sells a MBS while
simultaneously agreeing to purchase a similar security from the same party (the counterparty) on
a specified future date at a price, or the future price for the future purchase, as well as by the interest earned on the
interest paid on the securities. The Fund is compensated by the difference between the current
sales price and the forward price for the future purchase, as well as by the interest earned on the
principal market is not a member of ISG
31 Investments in OTC Derivatives and Exchange-
Traded Derivatives will also be subject to the
limitations described in the “The Fund’s Use of Derivatives” section below.
32 “Interest Rate Derivatives” are comprised of interest rate swaps, swaptions (i.e., options on
interest rate swaps), rate options and other similar
derivatives, and may be Exchange-Traded
Derivatives or OTC Derivatives. As reflected in
statistics compiled by the Bank for International
Settlements, as of June 30, 2017 there were approximately $416 trillion (notional amount) of
total interest rate contracts outstanding in the over-the-counter markets alone. Interest Rate Derivatives
also trade on trading platforms that are not ISG
members. As reflected by the statistics, the market
is wide, deep and liquid. See https://www.bis.org
33 “Currency Derivatives” are comprised of
deliverable forwards, which are agreements
between the contracting parties to exchange a
specified amount of currency at a specified future
“Interest Rate and Currency Derivatives”) entered into with broker-dealers, banks and other financial intermediaries. Investments in Interest Rate and Currency Derivatives (whether the instruments are Exchange-Traded Derivatives or OTC Derivatives) will not be subject to a limit. For purposes of this 10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value or exposure of such OTC Derivatives. The mark-to-market methodology is consistent with the methodology proposed by the SEC in proposed Rule 18f–4 for the purposes of asset coverage requirements and in keeping with disclosures regarding compliance with Section 18 of the 1940 Act made by other registered investment companies and reviewed by the SEC staff for a number of years. In that regard, the SEC expressly noted in the Derivatives Rule Proposing Release that reliance on a mark-to-market valuation of a derivatives position for purposes of calculating the required coverage amount “would generally correspond to the amount of the fund’s liability with respect to the derivatives transaction” and, therefore, be consistent with the appropriate valuation of the derivatives transaction. The mark-to-market value is also the measure of “exposure” on which collateral posting is based under the Master Agreement published by the International Swaps and Derivatives Association, Inc. (‘‘ISDA’’), which is the predominant agreement used to trade derivatives. This value measures gain and loss to the Fund of the Fund’s derivatives position on a daily basis, as well as on a net basis across all transactions covered by a master netting agreement and, as a result, accurately reflects the actual economic exposure of the Fund to the counterparty on the derivative (as compared to notional amount, which may overstate or understate economic risk).

The Fund may choose not to make use of derivatives.

Generally, derivatives are financial contracts whose value depends upon, or is derived from, the value of an underlying asset, reference rate or index, and may relate to stocks, bonds, interest rates, currencies or currency exchange rates, commodities, and related indexes. As described above, the Fund will use derivatives to (i) provide exposure to U.S. or foreign fixed income securities, Debt and other Principal Investments, (ii) risk manage the Fund’s holdings, and (iii) enhance returns, such as through covered call strategies. The Fund will not use derivatives for the purpose of seeking leveraged returns or performance that is the multiple or inverse multiple of a benchmark. The Fund will enter into derivatives only with counterparties that the Fund reasonably believes are financially and operationally able to perform the contract or instrument, and the Fund will collect collateral from the counterparty in accordance with credit considerations and margining requirements under applicable law.

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund’s investment objectives and policies. To limit the potential risk (including leveraging risk) associated with such transactions, the Fund will segregate or earmark assets determined to be liquid by the Manager and/or the Sub-Advisers in accordance with procedures established by the Trust’s Board of Trustees (the “Board”) and in accordance with the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that transactions of the Fund including the Fund’s use of derivatives, may give rise to additional leverage, causing the Fund to be more volatile than if it had not been leveraged.

Because the markets for securities or Debt, or the securities themselves or Debt, may be unavailable, cost prohibitive or tax-inefficient as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure. The Manager and the Sub-Advisers believe that derivatives can be an economically attractive substitute for an underlying physical security or Debt that the Fund would otherwise purchase. For example, the Fund could purchase futures contracts on Treasury Securities instead of investing directly in Treasury Securities or could sell credit default protection on a corporate bond instead of buying a physical bond. Economic benefits include potentially lower transactions costs, attractive relative valuation of the derivative versus a physical bond (e.g., differences in yields) or economic exposure without incurring transfer or similar taxes. The Manager and the Sub-Advisers further believe that derivatives can be used as a more liquid means of adjusting portfolio duration, as well as targeting specific areas of yield curve exposure, with potentially lower transaction costs than the underlying securities or Debt (e.g., interest rate swaps may have lower transaction costs than the physical bonds). Similarly, money market futures can be used to gain exposure to short-term interest rates in order to express views on anticipated changes in central bank policy rates. In addition, derivatives can be used to protect client assets through selectively hedging downside (or “tail risks”) in the Fund.

The Fund also can use derivatives to increase or decrease credit exposure. Index credit default swaps can be used to gain exposure to a basket of credit risk by “selling protection” against default or other credit events, or to hedge broad market credit risk by...
“buying protection.” Single name credit default swaps can be used to allow the Fund to increase or decrease exposure to specific issuers, saving investor capital through lower trading costs. The Fund can use total return swap contracts to obtain the total return of a reference asset or index in exchange for paying financing costs. A total return swap may be more efficient than buying underlying securities or Debt, potentially lowering transaction costs.

The Fund expects to manage foreign currency exchange rate risk by entering into Currency Derivatives.

The Sub-Advisers may use option strategies to meet the Fund’s investment objectives. Option purchases and sales can also be used to hedge specific exposures in the portfolio and can provide access to return streams available to long-term investors such as the persistent difference between implied and realized volatility. Option strategies can generate income or improve execution prices (e.g., covered calls).

Investment Restrictions

The Fund may invest up to 30% of its assets in Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities. The Fund will not invest in equity securities other than Principal Investment Equities. Principal Investment Equities consist of (i) Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities, which are subject to the 30% limit noted above and (ii) shares of ETFs that provide exposure to fixed income securities, Debt or other Principal Investments, which are subject to no limits.

While the Fund will invest principally in fixed income securities and Debt that are, at the time of purchase, investment grade, the Fund may invest up to 30% of its net assets in below investment grade fixed income securities and Debt. For these purposes, “investment grade” is defined as investments with a rating at the time of purchase in one of the four highest rating categories of at least one nationally recognized statistical ratings organization (“NRSRO”) (e.g., BBB- or higher by S&P Global Ratings (“S&P”), and/or Fitch Ratings (“Fitch”), or Baa3 or higher by Moody’s Investors Service, Inc. (“Moody’s”).) Unrated fixed income securities or Debt may be considered investment grade if, at the time of purchase, and under Normal Market Conditions, the applicable Sub-Adviser determines that such securities are of comparable quality based on a fundamental credit analysis of the unrated security or Debt instrument and comparable NRSRO-rated securities.

The Fund may invest in fixed income or equity securities and Debt issued by both U.S. and non-U.S. issuers (including issuers in emerging markets), but the Fund will not invest more than 30% of its total assets directly in fixed income or equity securities or Debt of non-U.S. issuers or more than 25% of its total assets directly in non-U.S. dollar denominated fixed income or equity securities or Debt. For purposes of these 30% and 25% concentration limits only, derivatives, warrants and ETFs traded on U.S. exchanges that provide indirect exposure to fixed income or equity securities or Debt (as applicable) of non-U.S. issuers or to fixed income or equity securities or Debt (as applicable) denominated in currencies other than U.S. dollars will not be counted by the Fund in calculating its holdings in non-U.S. issuers or in non-U.S. dollar denominated securities or Debt.

The Fund may invest a substantial portion of its assets in ABS and MBS, but it will not invest more than 30% of the fixed income portion of the Fund’s portfolio in agency, non-GSE and privately-issued mortgage-related and other asset-backed securities (“Private ABS/MBS”).

The Fund may not concentrate its investments (i.e., invest more than 25% of the value of its total assets) in securities of issuers in any one industry. This restriction will be interpreted to permit investment without limit in the following: Obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities; securities of state, territory, possession or municipal governments and their authorities, agencies, instrumentality or political subdivisions; and repurchase agreements collateralized by any such obligations.

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 Rule 144A securities deemed illiquid by the Manager or the Sub-Advisers.

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 securities or other illiquid assets. Illiquid securities and other illiquid assets include those subject to contractual or other restrictions on resale and other instruments or assets that lack readily available markets as determined in accordance with Commission staff guidance.

As noted in the Use of Derivatives section above, the Fund’s investments in derivatives, will be consistent with the Fund’s investment objective and will not be used for the purpose of seeking leveraged returns or performance that is the multiple or inverse multiple of a benchmark (although derivatives have embedded leverage). Although the Fund will be permitted to borrow as permitted under the 1940 Act, it will not be operated as a “leveraged ETF,” (i.e., it will not be operated in a manner designed to seek a multiple or inverse multiple of the performance of an underlying reference index). The Fund may engage in frequent and active trading of portfolio

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44 The Exchange notes that the terms “fixed income weight of the portfolio” and “weight of the fixed income portion of the portfolio” are used synonymously in Nasdaq Rule 5735.

45 For purposes of this requirement, the weight of the Fund’s exposure to Private ABS/MBS referenced in derivatives held by the Fund shall be calculated based on the mark-to-market value or exposure of such derivatives.

46 See Form N-1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. See, e.g., Investment Company Act Release No. 9011 (October 30, 1973), 40 FR 54241 (November 21, 1975).
proposes that the Fund will comply with
the alternative limits described below.

(i) The Fund will not comply with the
requirements in Nasdaq Rule 5735(b)(1)
regarding the use of aggregate gross
notional value or exposure of
derivatives when calculating the weight
of such derivatives or the exposure that
such derivatives provide to underlying
reference assets, including the
requirements in Rules 5735(b)(1)(D)(i), 50
5735(b)(1)(D)(ii), 51 5735(b)(1)(E) 52 and
5735(b)(1)(F). 53 Instead, the Exchange
proposes that the Fund will satisfy any
applicable requirements under Nasdaq
Rule 5735(b)(1), and any alternative
requirements proposed by the Exchange,
the Fund will use the mark-to-market
value or exposure of its derivatives in
calculating the weight of such
derivatives or the exposure that such
derivatives provide to their reference
assets. 54

(ii) The Fund will not comply with
the requirement in Nasdaq Rule
5735(b)(1)(B)(v) that Private ABS/MBS
in the Fund’s portfolio account, in the
aggregate, for no more than 20% of the
weight of the fixed income portion of
the Fund’s portfolio. Instead, the
Exchange proposes that the Fund will
limit its holdings in Private ABS/MBS
to no more than 30% of the weight of
the fixed income portion of the Fund’s
portfolio, in order to enable the portfolio
to be more diversified and provide the
Fund with an opportunity to earn higher
returns. For purposes of this
requirement, the weight of the Fund’s
exposure to Private ABS/MBS
referred indirectly through
investments in derivatives held by the
Fund shall be calculated based on the
mark-to-market value or exposure of
such derivatives.

(iii) The Fund will not comply with
the requirement that at least 90% of the
fixed income weight of the Fund’s
portfolio meet one of the criteria in
Nasdaq Rule 5735(b)(1)(B)(iv). 55 Instead,
the Exchange proposes that the fixed
income portion of the portfolio other
than Private ABS/MBS will comply
with the 90% requirement in Nasdaq
Rule 5735(b)(1)(B)(iv), and Private ABS/
MBS will not comply with such
requirement. For purposes of this
requirement, the weight of the Fund’s
exposure to any fixed income securities
referenced indirectly in derivatives held by
the Fund shall be calculated based on the
mark-to-market value or exposure of
such derivatives.

(iv) The Fund will not comply with
the equity requirements in Nasdaq Rules
5735(b)(1)(A)(i) 56 and

with alternative requirements rather than Rules
5735(b)(1)(D)(i), 5735(b)(1)(D)(ii), and 5735(b)(1)(E).
57 Nasdaq Rule 5735(b)(1)(B)(iv) provides that
component securities that in the aggregate account
for at least 90% of the fixed income weight of the portfolio
must be either: (a) From issuers that are
required to file reports pursuant to Sections 13 and
15(d) of the Act; (b) from issuers that have a
worldwide market value of its outstanding common
equity held by non-affiliates of $700 million or
more; (c) from issuers that have outstanding
securities that are notes, bonds, debentures, or
evidence of indebtedness having a total remaining
principal amount of at least $1 billion; (d) from
securities as defined in Section 3(a)(12) of the Act;
or (e) from issuers that are a government of a foreign
country or a political subdivision of a foreign
country.

56 Nasdaq Rule 5735(b)(1)(A)(i) provides that the
component stocks of the equity portion of a portfolio that are U.S. Component Stocks (as such
term is defined in Nasdaq Rule 5735) shall meet the
following criteria initially and on a continuing
basis: (a) Component stocks (excluding Exchange
Traded Derivative Securities and Linked Securities,
as such terms are defined in Nasdaq Rules
5735(c)(6) and 5710, respectively) that in the
aggregate account for at least 90% of the
weight of the portfolio (excluding such Exchange
Continued
The Fund's investment in Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants. Instead, the Exchange proposes that (i) the Fund's investments in equity securities other than Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants shall comply with the equity requirements in Nasdaq Rule 5735(b)(1)(A) \(^57\) and (ii) the weight of Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants in the Fund's portfolio shall together not exceed 30% of the Fund's net assets.

(v) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(E) that no more than 20% of the assets in the Fund's portfolio may be invested in over-the-counter derivatives. Instead, the Exchange proposes that there shall be no limit on the Fund's investment in Interest Rate and Currency Derivatives, and the weight of all OTC Derivatives other than Interest Rate and Currency Derivatives shall not exceed 10% of the Fund's net assets. For purposes of this 10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value or exposure of such OTC Derivatives.

(vi) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(i) that at least 90% of the weight of the Fund's holdings in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options and swaps for which the Exchange may obtain information via the ISG from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. Instead, the Exchange proposes that no more than 10% of the net assets of the Fund will be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. For purposes of this 10% limit, the weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

(vii) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(ii) that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Fund's portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Fund's portfolio (including gross notional exposures). Instead, the Exchange proposes that the Fund will comply with the concentration requirements in Nasdaq Rule 5735(b)(1)(D)(ii) except with respect to the Fund's investment in futures and options (including options on futures) referencing Eurodollars and sovereign debt issued by the United States (i.e., Treasury Securities) and the "Group of Seven" countries \(^59\) where such futures and options contracts are listed on an exchange that is an ISG member or an exchange with which the Exchange has a comprehensive surveillance sharing agreement ("Eurodollar and G–7 Sovereign Futures and Options"). The Fund's investment in Eurodollar and G–7 Sovereign Futures and Options will not be subject to the concentration limits provided in Nasdaq Rule 5735(b)(1)(D)(ii). For purposes of this requirement, the weight of the applicable Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

The Exchange believes that, notwithstanding that the Fund would not meet a limited number of "generic" listing requirements of Nasdaq Rule 5735(b)(1) in order to be able to satisfy its investment objective, the Exchange will be able to appropriately monitor and surveil trading in the underlying investments, including those that do not meet the "generic" listing requirements. The Exchange also notes that the parameters around the Fund's portfolio holdings are generally consistent with the parameters approved by the Commission prior to adoption of "generic" listing requirements for actively-managed ETFs.\(^60\) In addition, the five heavily weighted component stocks (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) shall not exceed 65% of the equity weight of the portfolio. (d) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be at least one or more series of Exchange Traded Derivative Securities or Linked Securities, as such terms are defined in Nasdaq Rule 5735(c)(6) and 5710, respectively, that in the aggregate account for at least 65% of the equity weight of the portfolio. (e) Except as otherwise provided, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Act; and (f) American Depositary Receipts ("ADRs") in a portfolio may be exchange-traded or non-exchange-traded; however, no more than 15% of the weight of a portfolio shall consist of non-exchange-traded ADRs.\(^57\) Nasdaq Rule 5735(b)(1)(A)(ii) provides that the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) shall meet the following criteria initially and on a continuing basis: (a) Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) each shall have a minimum market value of at least $100 million; (b) Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) each shall have a minimum global monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; (c) The most heavily weighted component stock (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) shall not exceed 65% of the equity weight of the portfolio. (d) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be at least one or more series of Exchange Traded Derivative Securities or Linked Securities, as such terms are defined in Nasdaq Rule 5735(c)(6) and 5710, respectively, that in the aggregate account for at least 65% of the equity weight of the portfolio. (e) Except as otherwise provided, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Act; and (f) American Depositary Receipts ("ADRs") in a portfolio may be exchange-traded or non-exchange-traded; however, no more than 15% of the weight of a portfolio shall consist of non-exchange-traded ADRs.\(^57\) Nasdaq Rule 5735(b)(1)(A)(ii) provides that the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) shall meet the following criteria initially and on a continuing basis: (a) Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) each shall have a minimum market value of at least $100 million; (b) Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) each shall have a minimum global monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; (c) The most heavily weighted Non-U.S. Component Stock (as such term is defined in Nasdaq Rule 5735) shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) shall not exceed 60% of the equity weight of the portfolio; (d) Where the equity portion of the portfolio includes Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735), the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively, constitute, at least in part, components of non-exchange-traded ADRs.

57 Nasdaq Rule 5735(b)(1)(A)(ii) provides that the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) shall meet the following criteria initially and on a continuing basis: (a) Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) each shall have a minimum market value of at least $100 million; (b) Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) each shall have a minimum global monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; (c) The most heavily weighted Non-U.S. Component Stock (as such term is defined in Nasdaq Rule 5735) shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735) shall not exceed 60% of the equity weight of the portfolio; (d) Where the equity portion of the portfolio includes Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5735), the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively, constitute, at least in part, components of non-exchange-traded ADRs.

59 The "Group of Seven" or G–7 countries consist of the United States, Canada, France, Germany, Italy, Japan and the United Kingdom.

the Fund will be well diversified. For these reasons, the Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange. As further described in the “Statutory Basis” section below, deviations from the generic requirements are necessary for the Fund to achieve its investment objective and efficiently manage the risks associated with its investments, and any possible risks have been fully mitigated and addressed through the alternative limits proposed by the Exchange. In addition, many of the changes requested are generally consistent with previous filings approved by the Commission.61

Total Return Bond ETF; 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–150) (granting approval for the listing of Shares of the PIMCO Total Return Exchange Traded Fund (now known as the PIMCO Active Bond Exchange-Traded Fund)); and 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR–NYSEArca–2013–122) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund). The investments of the Guggenheim Total Return Bond ETF include a wide variety of U.S. and foreign fixed income instruments (including Private ABS/MBS), preferred securities, cash equivalents, other ETFs and listed and over-the-counter derivatives and are managed in a manner that appears to be generally consistent with that proposed for the Fund. Consistent with the requests made in this proposed rule change, the Commission’s approval of the listing of Shares of the Guggenheim Total Return Bond ETF did not include many of the conditions imposed by the generic listing standards under Nasdaq Rule 5735; the Commission’s approval did not impose limits regarding the total notional size of the ETF’s investment in over-the-counter derivatives, did not impose concentration limits on the ETF’s investment in listed derivatives and did not require compliance with the same criteria as the fixed income criteria in Nasdaq Rule 5735(b)(1)(B). The order approving investments in derivatives by the PIMCO Total Return Exchange Traded Fund described investments in both over-the-counter and listed derivatives, but did not impose limits regarding the total notional size of the ETF’s investments in over-the-counter derivatives. The Manager and the Sub-Advisers understand that market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Manager and the Sub-Advisers believe that the price at which Shares will trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV. The Manager and the Sub-Advisers do not believe that there will be any significant impact on the settlement or operational aspects of the Fund’s arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible for in-kind transfer, they will typically be substituted with a “cash in lieu” amount when the Fund processes purchases or redemptions of creation units in-kind.

Impact on Arbitrage Mechanism

The Manager and the Sub-Advisers believe there will be minimal, if any, impact on the arbitrage mechanism for the Fund as a result of its use of derivatives. The Manager and the Sub-Advisers understand that market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Manager and the Sub-Advisers believe that the price at which Shares will trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

Creation and Redemption of Shares

The Fund will issue Shares of the Fund at NAV only with authorized participants (“APs”) and only in aggregations of at least 50,000 Shares (each aggregation is called a “Creation Unit”) or multiples thereof, on a continuous basis through the Distributor, without a sales load, at the NAV next determined after receipt, on any Business Day, of an order in proper form. A “Business Day” is defined as any day that the Trust is open for business, including as required by Section 22(e) of the Act.

The consideration for purchase of Creation Units of the Fund consists of an “in-kind” deposit of a designated portfolio of securities and/or instruments that will conform pro rata to the holdings of the Fund (except in the circumstances described in the Fund’s Statement of Additional Information (the “SAI”)) (the “Deposit Securities”) and/or an amount of cash. If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Securities or Redemption Securities (defined below) exchanged for the Creation Unit, the party conveying the instruments with the lower value will pay to the other an amount in cash equal to that difference (the “Cash Component”). Together, the Deposit Securities and the Cash Component will constitute the “Fund Deposit,” which will represent the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Deposit Securities and the securities and/or instruments that will be delivered in an in-kind transfer in a redemption (“Redemption Securities”) will be identical. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in-kind, only under the circumstances described in the Fund’s SAI.

To be eligible to place orders with respect to creations and redemptions of Creation Units, an entity must have executed an agreement with the Distributor, subject to acceptance by the transfer agent, with respect to creations and redemptions of Creation Units. Each such entity (an AP) must be (i) a broker-dealer or other participant in the clearing process through the continuous net settlement system of the National Securities Clearing Corporation...
When the Fund permits Creation Units to be issued principally or partially in-kind, the Fund will cause to be published, through the NSCC, each Business Day, prior to the opening of trading on the Exchange (currently, 9:30 a.m. E.T.), the identity and the required number of each Deposit Security and the amount of the Cash Component (if any) to be included in the current Fund Deposit (based on information at the end of the previous Business Day).

All orders to create Creation Units must be received by the Distributor within a one-hour window after the closing time of the regular trading session on the Exchange ("Closing Time") (ordinarily between 4:00 p.m. E.T. and 5:00 p.m. E.T.) on the date such order is placed in order to receive the NAV on the next Business Day immediately following the date the order was placed.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form on a Business Day and only through an AP. The Fund will not redeem Shares in amounts less than a Creation Unit (except the Fund may redeem shares in amounts less than a Creation Unit in the event the Fund is being liquidated).

When the Fund permits Creation Units to be redeemed principally or partially in-kind, the Fund will cause to be published, through the NSCC, immediately prior to the opening of business on the Exchange (currently, 9:30 a.m. E.T.) on each Business Day, the identity of the Redemption Securities and/or an amount of cash that will be applicable to redemption requests received in proper form on that day. The Redemption Securities will be identical to the Deposit Securities.

In order to redeem Creation Units of the Fund, an AP must submit an order to redeem for one or more Creation Units. All such orders must be received by the Distributor within a one-hour window after the Closing Time (ordinarily between 4:00 p.m. E.T. and 5:00 p.m. E.T.) in order to receive the NAV on the next Business Day immediately following the date the order was placed.

Availability of Information

The Fund’s website (www.leggmason.com), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The website will include the Shares’ ticker, CUSIP and exchange information, along with additional quantitative information updated on a daily basis, including, for the Fund: (1) Daily trading volume, the prior Business Day’s reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the “Bid/Ask Price”), and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

On each Business Day, before commencement of trading in Shares on the Regular Market Session on the Exchange, the Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets (the “Disclosed Portfolio”) as defined in Nasdaq Rule 5735(c)(2) held by the Fund that will form the basis for the Fund’s calculation of NAV at the end of the Business Day. The Fund’s disclosure of derivative positions in the Disclosed Portfolio will include sufficient information for market participants to use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund’s website the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding), the identity of the security 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 percentage weighting of the holding in the Fund’s portfolio. The website information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the “Intraday Indicative Value,” that reflects an estimated intraday value of the Fund’s Disclosed Portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the Nasdaq Information LLC proprietary index data service, 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 and broadly displayed at least every 15 seconds during the Regular Market Session. The Intraday Indicative Value will be based on quotes and closing prices provided by a dealer who makes a market in those instruments. Premiums and discounts between the Intraday Indicative Value and the market price may occur. This should not be viewed as a “real time” update of the NAV per Share of the Fund, which is calculated only once a day.

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 will provide a close estimate of that value throughout the trading day.

Information regarding the previous day’s closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association ("CTA") plans for the Shares and for the following U.S. securities, to the extent that they are exchange-listed securities: Work Out Securities, Non-Convertible Preferred Securities, Equity-Related Warrants, convertible fixed income securities and ETFs. Price information for U.S. exchange-listed options will be available via the Options Price Reporting Authority and for other U.S. exchange-listed derivative instruments.

62 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.

63 See Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m., E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m., E.T.).

64 Under accounting procedures to be followed by the Fund, trades made on the prior Business Day (“T-1”) will be booked and reflected in NAV on the current Business Day (“T”). 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.

65 The website information will be publicly available at no charge.

66 Currently, the Nasdaq Global Index Data Service (“GIDS”) is the Nasdaq global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade Nasdaq indexes, listed ETFs, or third-party partner indexes and ETFs.
will be available from the applicable listing exchange and from major market data vendors. Price information for restricted securities, including Regulation S and Rule 144A instruments, will be available from major market data vendors. Money Market Funds are typically priced once each Business Day and their prices will be available through the applicable fund’s website or from major market data vendors.

For exchange-listed securities (including foreign exchange-listed securities), equities traded in the over-the-counter market (including Work Out Securities, Non-Convertible Preferred Securities and ETFs), Exchange-Traded Derivatives, Debt and fixed income securities (including convertible fixed income securities), warrants on fixed income securities and Equity-Related Warrants, intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). Price information will also be available from feeds from market data vendors, published or other public sources, or online information services for exchange-listed securities (including foreign exchange-listed securities), equities traded in the over-the-counter market (including Work Out Securities, Non-Convertible Preferred Securities and ETFs), Exchange-Traded Derivatives, Debt and fixed income securities, warrants on fixed income securities and Equity-Related Warrants, intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). Price information will also be available from feeds from market data vendors, published or other public sources, or online information services, as described above.

will be a source of price information for municipal bonds. Pricing for repurchase transactions and reverse repurchase agreements entered into by the Fund are not publicly reported. Prices are determined by negotiation at the time of entry with counterparty brokers, dealers and banks.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings’ disclosure policies, distributions and taxes will be included in the Registration Statement. Investors will also be able to obtain the SAI, the Fund’s annual and semi-annual reports (together, “Shareholder Reports”), and its Form N–CSR and Form N–SAR, filed twice a year, except the SAI, which is filed at least annually. The Fund’s SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission’s website at www.sec.gov.

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents, for initial and continued listing, the Fund must be in compliance with Rule 10A–3 68 under the Act. 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. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). 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 other assets constituting 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 Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq’s existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m., E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.69 The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund (including ETFs, exchange-listed equities, exchange-listed options, futures contracts and exchange-listed swaps) with other markets and other entities that are members of ISG and with which the Exchange has comprehensive surveillance sharing agreements,70 and FINRA and the

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


69 FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

70 For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the
Exchange both may obtain information regarding trading in the Shares, the exchange-listed securities, derivatives and other instruments held by the Fund from markets and other entities that are members of ISG, which include securities and futures exchanges and swap execution facilities, or with which the Exchange has in place a comprehensive surveillance sharing agreement.\(^1\) Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE and, with respect to municipal securities, EMMA.

All of the Fund’s net assets that are invested in equity securities other than Work Out Securities that are exchange-listed (which consist of Non-Convertible-Preferred Securities and Equity-Related Warrants that are exchange-listed, and ETFs) will be invested in securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. In addition, the Exchange also has a general policy prohibiting 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) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq 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-Market and Post-Market Sessions 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. 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 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.

Additionally, 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 website.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements of an exchange, it will commence delisting procedures under the Nasdaq 5800 Series.

2. Statutory Basis

Nasdq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act 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, and to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange represents that trading in the Shares will be subject to the existing trading surveillance mechanisms imposed by both the Exchange and FINRA, on behalf of the Exchange, which are designed to deter and detect violations of Exchange rules and applicable federal securities laws and are adequate to properly monitor trading in the Shares in all trading sessions. The Manager and the Sub-Advisers are affiliated with a broker-dealer and have implemented, and will maintain, a fire wall with respect to its broker-dealer affiliate regarding access to information concerning proposed changes to the composition and/or changes to the Fund’s portfolio prior to implementation. In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on an investment company’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the investment company’s portfolio.

The Fund’s investments, including derivatives, will be consistent with the Fund’s investment objectives, applicable legal requirements and will not be used for the purpose of seeking leveraged returns or performance that is the multiple or inverse multiple of a benchmark (although derivatives may have embedded leverage). Although the Fund will be permitted to borrow as permitted under the 1940 Act, it will not be operated as a “leveraged ETF,” i.e., it will not be operated in a manner designed to seek leveraged returns or a multiple or inverse multiple of the performance of an underlying reference index.\(^3\) The Fund may engage in frequent and active trading of portfolio investments to achieve its investment objective.

The Exchange believes that, notwithstanding that the Fund would not meet all of the “generic” listing requirements, the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act 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, and to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

\(\text{As noted above, the Fund will not invest in leveraged, inverse or inverse leveraged ETFs.}\)
requirements of Nasdaq Rule 5735(b)(1), the Fund will not be subject to manipulation, the investments of the Fund will be able to be monitored and surveilled by the Exchange and risks will be mitigated by alternative limits imposed by the Exchange. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein. Deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a cost-effective manner that maximizes investors’ returns and to manage the risks associated with its investments, and the Exchange proposes that the Fund will be required to comply with alternative requirements that are customized to address the objectives of Section 6(b)(5) of the Act, as described herein. Further, the strategy and investments of the Fund are substantially similar to those of other ETFs previously approved by the Commission, which have operated safely and without disrupting the market for several years.

The Fund will not comply with the requirements in Nasdaq Rule 5735(b)(1) regarding the use of aggregate gross notional value or exposure of derivatives when calculating the weight of such derivatives or the exposure that such derivatives provide to underlying reference assets, including the requirements in Rules 5735(b)(1)(D)(i), 5735(b)(1)(D)(ii), 5735(b)(1)(E) and 5735(b)(1)(F). Instead, the Exchange proposes that for the purposes of any applicable requirements under Nasdaq Rule 5735(b)(1), and any alternative requirements proposed by the Exchange, the Fund will use the mark-to-market value or exposure of its derivatives in calculating the weight of such derivatives or the exposure that such derivatives provide to their reference assets. The Exchange believes that this alternative requirement is appropriate because the mark-to-market value or exposure is a more accurate measurement of the actual exposure incurred by the Fund in connection with a derivatives position.75

The Fund will not meet the requirement in Nasdaq Rule 5735(b)(1)(B)(i) that Private ABS/MBS in the Fund’s portfolio account, in the aggregate, for no more than 20% of the weight of the fixed income portion of the Fund’s portfolio. However, the Fund will limit the holdings in Private ABS/MBS to 30% of the weight of the fixed income portion of the Fund’s portfolio.76 The Exchange believes that this limitation on the Fund’s investment in Private ABS/MBS, which is consistent with a similar limitation in a previous filing for the listing of an ETF approved by the Commission, is appropriate to provide the Fund with sufficient flexibility to invest in Private ABS/MBS, while still imposing a reasonable limit on such investments, consistent with the mandate in Section 6(b) of the Act to facilitate transactions in securities while protecting investors and the public interest. Private ABS/MBS held by the Fund are to be provided with investors with: (i) Diversification as compared to a portfolio more heavily weighted towards agency and GSE ABS and MBS (“Government ABS/MBS”), municipal securities and investment grade corporate debt; (ii) the potential for higher returns; and (iii) reasonable liquidity. Although the higher threshold will include a broader spectrum of credit quality among the issuers, this moderately increased risk can be appropriately addressed through disclosure and substantially mitigated through the careful credit monitoring performed by the Sub-Adviser. In addition, current economic conditions, which include robust growth and economic strength, are significant mitigants to the risk of credit deterioration. The Sub-Adviser seeks to maximize the Fund’s investments in Private ABS/MBS during economic periods, such as that currently experienced in the U.S., of robust growth. To the extent that the economy were to weaken, the Sub-Adviser would re-evaluate the level at which the Fund seeks to invest in Private ABS/MBS. Given the benefits provided, including, most importantly, the opportunity for a fixed income investor to diversify the portfolio across fixed income classes and earn marginally greater returns, together with the protections of credit monitoring and liquidity management provided by the Sub-Adviser, the Exchange believes that a 30% limit, rather than the 20% limit used by the generic listing standard, is appropriate.

Private ABS/MBS include a number of different types of securitized debt products, including credit card debt, student loans, auto debt and residential and commercial mortgage debt.

Investment in a variety of sectors, rather than simply residential mortgages comprising Government ABS/MBS, reduces concentration and diversifies sources of risk. Private ABS/MBS held by the Fund will be generally liquid instruments.77 The Sub-Adviser will be able to trade out of the instruments that do not satisfy Fund credit and other criteria. U.S. Private ABS/MBS are trade-reported through TRACE, and

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75 As previously noted, the mark-to-market approach is consistent with the valuation methodology for derivatives for asset coverage purposes advocated by the Commission in proposed


77 As previously noted, the mark-to-market approach is consistent with the valuation methodology for derivatives for asset coverage purposes advocated by the Commission in proposed

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The Sub-Adviser, using data from TRACE, compiled weekly trading data for Private ABS/MBS over a period of three years. A chart summarizing this data, which is available at https://www.leggmason.com/content/dam/legg-mason/documents/en/regulatory-documents/letters-and-notices/abs-mbs-trading-activity.pdf, shows that Private ABS/MBS experienced regular and reasonable liquidity over the prior three-year period. During that time period the weekly trading activity for non-agency, non-GSE residential MBS ranged from approximately $16 billion to $48 billion (including both investment grade and non-investment grade), the weekly trading activity for non-agency, non-GSE commercial MBS has ranged from approximately $21 billion to $57 billion (including both investment grade and non-investment grade), and the weekly trading activity for non-agency, non-GSE ABS (other than MBS) ranged from approximately $17 billion to $35 billion (including both investment grade and non-investment grade).

78 Although foreign Private ABS/MBS are not trade-reported through TRACE, foreign Private ABS/MBS, as of the date of this application, are expected to constitute a very small percentage of the Fund’s net assets. Based on the Fund’s strategy and current market conditions, the foreign Private ABS/MBS, as of the date of this application, are expected to constitute approximately 1% of the Fund’s net assets, but that percentage could change in the future.
the Sub-Adviser and the Fund will maintain liquidity policies and procedures pursuant to which the Sub-Adviser will monitor the liquidity of the Fund’s Private ABS/MBS investments and continuously manage any associated risks.\textsuperscript{86} The instruments are cleared through The Depository Trust Company.

The Fund carries out its own credit analysis of Private ABS/MBS issuers\textsuperscript{81} and conducts an extensive analysis of the features of the proposed investments. The features that the Fund looks to include in its Private ABS/MBS include good credit quality, liquidity, bankruptcy remoteness, lower prepayment risk, overcollateralization, excess spread, amortization, professional servicing for and reporting to investors, and diversity of payers within each underlying pool. The Sub-Adviser regularly monitors the credit quality of the issuers of Private ABS/MBS for compliance with the credit quality, liquidity and other investment requirements.

The Fund will not meet the requirement that at least 90% of the fixed income weight of the Fund’s portfolio meet one of the criteria in Nasdaq Rule 5735(b)(1)[B](iv)\textsuperscript{82} because some Private ABS/MBS cannot satisfy the criteria in Nasdaq Rule 5735(b)(1)[B](iv).\textsuperscript{83} The Exchange proposes, in the alternative, to require the Fund to ensure that the investments in the fixed income portion of the Fund’s portfolio other than Private ABS/MBS comply with the 90% requirement in Nasdaq Rule 5735(b)(1)[B](iv).\textsuperscript{84} The Exchange believes that this alternative limitation is appropriate because Nasdaq Rule 5735(b)(1)[B](iv) does not appear to be designed for structured finance vehicles such as Private ABS/MBS, and the overall weight of Private ABS/MBS held by the Fund will be limited to 30% of the fixed income portion of the Fund’s portfolio, as described above. As discussed above, although Private ABS/MBS will be excluded for the purposes of compliance with Nasdaq Rule 5735(b)(1)[B](iv), the Fund’s portfolio is consistent with the statutory standard as a result of the diversification provided by the investments, the benefits related to the opportunity for higher returns, and the Sub-Adviser’s selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards and relies on the higher investment levels in these instruments during periods of U.S. economic strength.

The Fund will not meet the equity requirements in Nasdaq Rule 5735(b)(1)[A] with respect to Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants, but will satisfy these requirements with respect to the ETFs in which the Fund will invest.\textsuperscript{85} In order to reflect this deviation, the Exchange proposes that (i) the Fund’s investments in equity securities other than Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants shall comply with the equity requirements in Nasdaq Rule 5735(b)(1)[A]\textsuperscript{86} and (ii) the weight of Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities in the Fund’s portfolio shall together not exceed 30% of the Fund’s net assets. The Exchange believes that these alternative limitations are appropriate in light of the fact that the Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities are providing debt-oriented exposures or are received in connection with the Fund’s previous investment in Debt or fixed income securities, and all of the other equity securities held by the Fund will comply with the requirements of Nasdaq Rule 5735(b)(1)[A].

The Fund will not meet the requirement in Nasdaq Rule 5735(b)(1)[E] that no more than 20% of the assets in the Fund’s portfolio may be invested in over-the-counter derivatives. The Fund proposes that no limit be placed on Interest Rate and Currency Derivatives, which are necessary and appropriate to allow the Manager and Sub-Advisers to risk manage the Fund, but that the weight of all other OTC Derivatives (e.g., credit default swaps) be limited to 10% of the net assets in the Fund’s portfolio. For purposes of this 10% limit on OTC Derivatives will be calculated based on the mark-to-market value or exposure of such OTC Derivatives. The Exchange believes that this alternative requirement, which is generally consistent with the requirement in a previous filing for the listing of an ETF approved by the Commission,\textsuperscript{87} is appropriate in light of the fact that Interest Rate and Currency Derivatives are among the most liquid investment instruments (including not only derivatives but also securities) in the market\textsuperscript{88} (and are even more liquid than most non-government or government-guaranteed securities).

Based on the data compiled by the Sub-Adviser in respect to its liquidity policy, these derivatives are among the most liquid investments traded. In addition,

\textsuperscript{86} As part of these policies and procedures, the Sub-Adviser rates the liquidity of the Fund’s investments (including Private ABS/MBS) using data on bid-ask spreads on the investments and haircut requirements for the investment when they are delivered in connection with repurchase agreements.

\textsuperscript{81} The Sub-Adviser has a fixed-income investment team that maintains and updates credit opinions on all Private ABS/MBS investments made by the team on an ongoing basis. This research allows the investment team to form a comprehensive view of the collateral pool associated with an investment. The team works with legal professionals as well to understand and track the legal documents associated with each distinct deal structure.

\textsuperscript{82} Nasdaq Rule 5735(b)(1)[B](iv) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the Fund’s portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidences of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 16 of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

\textsuperscript{83} Private ABS/MBS are generally issued by special purpose vehicles, so the criteria in Nasdaq Rule 5735(b)(1)[B] do not lend an issuer’s market capitalization and the remaining principal amount of an issuer’s securities are typically unavailable with respect to Private ABS/MBS, even though such Private ABS/MBS may own significant assets.

\textsuperscript{84} In accordance with Nasdaq Rule 5735(b)(1)[C](ii).

\textsuperscript{85} These other equities will consist of ETFs (including money market ETFs) that provide exposure to fixed income securities and Debt. The weight of such ETFs in the Fund’s portfolio shall not be limited.

\textsuperscript{86} For purposes of this requirement, the weight of the Fund’s exposure to foreign bank capitalization and the remaining principal amount of an issuer’s securities are typically unavailable with respect to Private ABS/MBS, even though such Private ABS/MBS may own significant assets.

\textsuperscript{87} See Securities Exchange Act Release No. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR–NYSEArca–2017–09) (approving up to 50% of the fund’s assets (calculated on the basis of aggregate gross notional value) to be invested in over-the-counter derivatives that are used to reduce currency, interest rate, or credit risk arising from the fund’s investments, including forwards, over-the-counter options, and over-the-counter swaps).

\textsuperscript{88} Trading in foreign exchange markets averaged $5.1 trillion per day in April 2016, and 67% of this trading activity was in derivatives contracts such as currency or foreign exchange forwards, options and swaps (with the other 33% consisting of spot transactions). See Bank for International Settlements, Triennial Central Bank Survey, Foreign Exchange Turnover in April 2016, available at http://www.bis.org/publ/rpfx16fx.pdf (accessed November 2017). Trading in OTC interest rate derivatives averaged $2.7 trillion per day in April 2016. See Bank for International Settlements, Triennial Central Bank Survey, OTC Interest Rate Derivatives Turnover in April 2016, available at http://www.bis.org/publ/rpfx16ir.pdf (accessed November 2017).
most Interest Rate Derivatives traded by the Fund are centrally cleared by
regulated clearing firms, and Interest Rate and Currency Derivatives are
subject to trade reporting.\textsuperscript{90} and other robust regulation.\textsuperscript{90} Given the size of the trading market and the regulatory
oversight of the markets, the Exchange believes that Interest Rate and Currency Derivatives are not readily subject to
manipulation. The Exchange also believes that allowing the Fund to risk
manage its portfolio through the use of Interest Rate and Currency Derivatives
without limit is necessary to allow the Fund to achieve its investment objective
and protect investors.

The Fund will not comply with the requirement in Nasdaq Rule
5735(b)(1)(D)(i) that at least 90% of the weight of the Fund’s holdings in
futures, exchange-traded options, and listed swaps shall, on both an initial and
continuing basis, consist of futures, options, and swaps for which the
Exchange may obtain information via the ISG from other members or affiliates of
the ISG. The Exchange believes that the ISG provides adequate
transparency so that the principal market is a market with which the
Exchange has a comprehensive surveillance sharing agreement. Instead, the
Exchange proposes that no more than 10% of the net assets of the Fund
will be invested in Exchange-Traded Derivatives whose principal market
is not a member of ISG or is a market with which the Exchange does not have a
comprehensive surveillance sharing agreement.\textsuperscript{91} The Exchange believes that this alternative limitation is appropriate because the overall limit on Exchange-
Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement will still be low relative to the overall size of the Fund.

The Fund will not meet the requirement in Nasdaq Rule
5735(b)(1)(D)(ii) that the aggregate gross notional value of listed derivatives
based on any five or fewer underlying reference assets shall not exceed 30% of
the weight of the Fund’s portfolio (including gross notional exposures), and
the aggregate gross notional value of listed derivatives based on any single
underlying reference asset shall not exceed 10% of the weight of the Fund’s
portfolio (including gross notional exposures). The Exchange believes that
this alternative limitation is appropriate to provide the Fund with sufficient flexibility and because of the highly liquid and transparent nature of

\textsuperscript{90} Transactions in Interest Rate and Currency Derivatives are required to be reported to a swap data repository, and transactions in Interest Rate Derivatives and certain Currency Derivatives (i.e., Currency Derivatives that are not excluded from the definition of a “swap”, as defined below) are also publicly reported pursuant to rules issued by the Commodity Futures Trading Commission (“CFTC”). See 17 CFR parts 43, 45 and 46. Pursuant to Section 19(a)(4) of the Act, a related determination by the Department of the Treasury, physically-settled Currency Derivatives that meet the definition of “foreign exchange forwards” or “foreign exchange forwards” under Sections 1a(24)–(25) of the CEA that are entered into between eligible contract participants (as defined in the CEA) (“Excluded Currency Derivatives”) are excluded from the definition of a “swap” under the CEA. See Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act, 77 FR 69694 (Nov. 20, 2012). However, as noted above, transactions in such Excluded Currency Derivatives are required to be reported to a swap data repository, but they are not subject to the public reporting requirements.

\textsuperscript{91} Interest Rate Derivatives and Currency Derivatives other than Excluded Currency Derivatives are comprehensively regulated as swaps under the CEA and regulations issued thereunder by the CFTC and other federal financial regulators. See, e.g., 17 CFR part 23 (capital and margin requirements for swap dealers, business conduct standards for swap dealers, and swap documentation requirements); 17 CFR part 50 (clearing requirements for swaps). While Excluded Currency Derivatives are not subject to all swap regulations, they are subject to the “business conduct” standards established by the CFTC pursuant to the CEA. See Section 1(a)(47)(E) of the CEA; Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act, 77 FR 69694 (Nov. 20, 2012).

For purposes of this 10% limit, the weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

\textsuperscript{92} For purposes of this Act, swaps are defined as “a contract of derivatives on, or based on, one or more financial instruments (including foreign exchange forwards or foreign exchange forwards), the price or value of which is determined at any time in whole or in part by reference to one or more actual or hypothetical economic events, and that may be cleared in a central clearing system or settled in the same way or on the same terms as futures contracts.” 7 U.S.C. 2a(10)(A).

91 For purposes of this requirement, the weight of the applicable derivatives will be calculated based on the mark-to-market value or exposure of such derivatives.

3,000,000 contracts and the open interest in options on German sovereign debt traded on Eurex was approximately 3,000,000 contracts. Eurex Exchange, Eurex Exchange Euro-BTP Futures, Italian Government Bond Futures, available at http://www.eurexchange.com/blob/115824/6a12881936d55d6b09be2054f0a0cbf9euros_euro_btp_futures_on_italian_government_bonds.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures on Italian sovereign debt including that the open interest peaks in 2017 for futures on long-term and short-term Italian sovereign debt traded on Eurex was approximately 450,000 and 270,000 contracts, respectively); Eurex Exchange, Euro-OAT Derivatives, French Government Bond Futures and Options, available at http://www.eurexchange.com/blob/115652/48198e5777f03b044c5b5a4ed80b80d0/data/factsheet_eures_euro_oat_futures_on_french_government_bonds.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures on French sovereign debt including, that, as of July 2017, the open interest in futures on long-term French sovereign debt traded on Eurex was approximately 600,000 contracts); Intercontinental Exchange, CME Group, 2016 CME Group Swap and Futures Overview, available at https://www.theice.com/publicdocs/futures/Gift_Futures_Overview.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures on British sovereign debt including that, as of the third quarter of 2014, the open interest in futures on long-term British sovereign debt traded on the Intercontinental Exchange was approximately 480,000 contracts); Osaka Exchange, Japanese Government Bond Futures & Options, available at http://www.ipx.co.jp/english/derivatives/products/jgb/jgb Futures/tbvpq090000003944-aff/577F1055B17D4562E450_BJ1055B17D4562E450_BTU_O_P_E.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures and options on Japanese sovereign debt, including that as of July 2016, the open interest in futures on 10-year Japanese sovereign debt traded on the Osaka Exchange was approximately 80,000 contracts). The Exchange also notes that the Commission has previously granted exemptions under the Act to facilitate the trading of futures on sovereign debt issued by each of the Group of Seven countries (among other countries) and that such exemptions were based in part on the Commission’s assessment of the sufficiency of the credit ratings and liquidity of such sovereign debt. See 17 CFR 240.3a12–8; Securities Exchange Act Release No. 41453 (May 26, 1999), 64 FR 29550 [June 2, 1999].
Eurodollar and G–7 Sovereign Futures and Options. Further, as described above, the G–7 Sovereign Futures and Options in which the Fund invests will be listed on an exchange that is an ISG member or an exchange with which the Exchange has a comprehensive surveillance sharing agreement.

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 every day that the Fund is traded, and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency.

Moreover, the Intraday Indicative Value, available on the Nasdaq Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange’s Regular Market Session. On each Business Day, before commencement of trading in the Shares in the Regular Market Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio of the Fund that will form the basis for the Fund’s calculation of NAV at the end of the Business Day. Information regarding market price and trading volume of the Shares will be conditionally available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the CTA plans for the Shares and for the following U.S. securities, to the extent they are exchange-listed: Work Out Securities, Non-Convertible Preferred Securities, Equity-Related Warrants, convertible fixed income securities and ETFs. Price information for U.S. exchange-listed options will be available via the Options Price Reporting Authority and for other U.S. exchange-listed derivative instruments will be available from the applicable listing exchange and from major market data vendors. Price information for restricted securities, including Regulation S and Rule 144A instruments, will be available from major market data vendors, broker-dealers and trading platforms. Money Market Funds are typically priced once each Business Day and their prices will be available through the applicable fund’s website or from major market data vendors.

For exchange-listed securities (including foreign exchange-listed securities), equities traded in the over-the-counter market (including Work Out Securities, Non-Convertible Preferred Securities and ETFs), Exchange-Traded Derivatives, OTC Derivatives, Debt and fixed income securities (including convertible fixed income securities), warrants on fixed income securities and Equity-Related Warrants, intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). Price information will also be available from feeds from market data vendors, published or other public sources, or online information services for exchange-listed securities (including foreign exchange-listed securities), equities traded in the over-the-counter market (including Work Out Securities, Non-Convertible Preferred Securities and ETFs), Exchange-Traded Derivatives, Debt and fixed income securities, warrants on fixed income securities and Equity-Related Warrants. Additionally, TRACE will be a source of price information for corporate bonds, privately-issued securities, MBS and ABS, to the extent transactions in such securities are reported to TRACE.94 Intraday and other price information related to U.S. government securities, Money Market Funds, and other cash equivalents that are traded over-the-counter also will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by APs and other investors. EMMA will be a source of price information for municipal bonds. Pricing for repurchase transactions and reverse repurchase agreements entered into by the Fund are not publicly reported. Prices are determined by negotiation at the time of entry with counterparty brokers, dealers and banks.

The Fund’s website will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, 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. Trading in the Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares undesirable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund’s holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed ETF that will enhance competition among market participants, to the benefit of investors and the marketplace.

For the above reasons, Nasdaq believes 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 purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed ETF that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

No written comments were either solicited or received.

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 Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change,
or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic Comments
- Use the Commission’s internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ–2017–128 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–2017–128. 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 website (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–128 and should be submitted on or before January 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.95

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018–00161 Filed 1–8–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32960; File No. 812–14821]

Guggenheim Credit Income Fund, et al.; Notice of Application


AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (“BDC”) and closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: Guggenheim Credit Income Fund (the “Fund”) (f/k/a Carey Credit Income Fund); Guggenheim Partners Investment Management, LLC (“Guggenheim”); Guggenheim Funds Distributors, LLC, Guggenheim Funds Investment Advisors, LLC, Security Investors, LLC (collectively, together with Guggenheim, the “Existing Guggenheim Advisers”); Guggenheim European Credit Fund, Guggenheim Private Debt Fund Note Issuer, LLC, Guggenheim Private Debt Fund, LLC, Guggenheim Private Debt Fund, Ltd., Guggenheim Private Debt Master Fund, LLC, Guggenheim Private Debt Fund Note Issuer 2.0, LLC, Guggenheim Private Debt Fund 2.0, LLC, Guggenheim Private Debt Fund 2.0, Ltd., Guggenheim Private Debt Master Fund 2.0, LLC, Guggenheim Private Debt MFLTB 2.0, LLC, NZC Guggenheim Fund LLC, NZC Guggenheim Fund Limited, NZC Guggenheim Master Fund Limited, NZC Guggenheim Funding LLC, NZC Guggenheim Funding 2 Limited, South Dock Funding Limited, Northstar I, L.P., NZC Guggenheim Funding 2 LLC, NZC Guggenheim Funding 2 LLC, Guggenheim U.S. Loan Fund, Guggenheim U.S. Loan Fund II, Guggenheim U.S. Loan Fund III, Guggenheim Opportunistic U.S. Loan and Bond Fund IV, GFI Fund, and GHY Fund (collectively, the “Existing Affiliated Investors”).

FILING DATES: The application was filed on September 22, 2017, and amended on November 22, 2017.

HEARING OR NOTIFICATION OF HEARING:
An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 29, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE, Washington, DC 20549–1090. Applicants: Guggenheim and the Fund: 330 Madison Avenue, New York, NY 10017; the Existing Guggenheim Advisers and the Existing Affiliated Investors: 100 Wilshire Boulevard, 5th Floor, Santa Monica, CA 90401.

FOR FURTHER INFORMATION CONTACT:
Hae-Sung Lee, Attorney-Adviser, at (202) 551–7345 or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (Chief Counsel’s Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s website by searching for the file number, or for an applicant using the Company name box, at http://www.sec.gov/search/search.htm or by calling (202) 551–8090.

Applicants’ Representations

1. The Fund is a Delaware statutory trust organized as a closed-end management investment company that has elected to be regulated as a BDC under the Act.1 The Fund serves as the

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