SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rules Relating to Categories of Registration and Respective Qualification Examinations Required for Members That Engage in Trading Activities on the Exchange

September 14, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”), 1 and Rule 19b–4 thereunder, 2 a proposed rule change to modify investments of the First Trust TCW Unconstrained Plus Bond ETF, the shares of which are currently listed and traded on the Exchange pursuant to NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the Federal Register on August 1, 2018. 3 The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act 4 provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 15, 2018. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, 5 designates October 30, 2018 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2018–43).

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

Eduardo A. Aleman, Assistant Secretary.

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

The Exchange is proposing to amend its rules relating to categories of registration and respective qualification examinations required for Members that engage in trading activities on the Exchange.

The text of the proposed rule change is available at the Exchange’s website at www.markets.cboe.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

5 Id
A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The SEC recently approved a proposed rule change to restructure the FINRA representative-level qualification examination program. The rule change, which will become effective on October 1, 2018, restructures the examination program into a more efficient format whereby all new representative-level applicants will be required to take a general knowledge examination (the Securities Industry Essentials Examination (“SIE”)) and a tailored, specialized knowledge examination (a revised representative-level qualification examination) for their particular registered role. Individuals are not required to be associated with an Exchange or any other self-regulatory organization (“SRO”) member to be eligible to take the SIE. However, passing the SIE alone will not qualify an individual for registration with the Exchange. To be eligible for registration, an individual must also be associated with a firm, pass an appropriate qualification examination for a representative or principal and satisfy the other requirements relating to the registration process.

The SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. In particular, the SIE will cover four major areas. The first, “Knowledge of Capital Markets,” focuses on topics such as types of markets and offerings, broker-dealers and depositories, and economic cycles. The second, “Understanding Products and Their Risks,” covers securities products at a high level as well as associated investment risks. The third, “Understanding Trading, Customer Accounts and Prohibited Activities,” focuses on accounts, orders, settlement and prohibited activities. The final area, “Overview of the Regulatory Framework,” encompasses topics such as SROs, registration requirements and specified conduct rules. It’s anticipated that the SIE would include 75 scored questions plus an additional 10 unscored pretest questions. The passing score would be determined through methodologies compliant with testing industry standards used to develop examinations and set passing standards.

The restructured program eliminates duplicative testing of general securities knowledge on the current representative-level qualification examinations by moving such content into the SIE. The SIE will test fundamental securities related knowledge, including knowledge of basic products, the structure and function of the securities industry, the regulatory agencies and their functions and regulated and prohibited practices, whereas the revised representative-level qualification examinations will test knowledge relevant to day-to-day activities, responsibilities and job functions of representatives. The SIE was developed in consultation with a committee of industry representatives and representatives of several other SROs. Each of the current representative-level examinations covers general securities knowledge, with the exception of the Research Analyst (Series 86 and 87) examinations.

The Exchange proposes to require that effective October 1, 2018, new applicants seeking to register in a representative capacity with the Exchange must pass the SIE examination before their registrations can become effective. The Exchange proposes to make the requirement operative on October 1, 2018 to coincide with the effective date of FINRA’s requirement.

The Exchange notes that individuals who are registered as of October 1, 2018 are eligible to maintain their registrations without being subject to any additional requirements. Individuals who had been registered within the past two years prior to October 1, 2018, would also be eligible to maintain those registrations without being subject to any additional requirements, provided they register within two years from the date of their last registration. However, with respect to an individual who is not registered on the effective date of the proposed rule change but was registered within the past two years prior to the effective date of the proposed rule change, the individual’s SIE status in the CRD system would be administratively terminated if such individual does not register with the Exchange within four years from the date of the individual’s last registration. The Exchange also notes that consistent with Interpretation and Policy .01(b) of Rule 2.5, the Exchange will consider waivers of the SIE alone or the SIE and the representative or principal-level examination(s) for Members who are seeking registration in a representative- or principal-level registration category. Lastly, the Exchange proposes to eliminate references in its rules to alternative foreign examination modules, along with specific references to the Series 17, 37 and 38 examinations. Particularly, the Exchange notes that FINRA recently announced it was eliminating the United Kingdom Securities Representative and the Canadian Securities Representative registration categories, along with the respective associated exams (i.e., Series 17, Series 37 and Series 38). FINRA also stated that it intended to provide individuals who are associated persons of firms and who hold foreign registrations an alternative, more flexible, process to obtain an Exchange representative-level registration.

The Exchange believes that there is sufficient overlap between the SIE and foreign qualification requirements to permit them to act as exemptions to the SIE. As such, the Exchange proposes to provide that individuals who are in good standing as representatives with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator would be exempt from the requirement to pass the SIE, and thus would be required only to pass a specialized knowledge examination to register with the Exchange as a representative. The proposed approach would provide individuals with a United Kingdom or Canadian qualification more flexibility to obtain an Exchange representative-level registration. The Exchange notes that FINRA has adopted a similar rule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b)(5) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

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principles of trade, to foster cooperation
and coordination with persons engaged
in regulating, clearing, settling, processing
information with respect to, and facilitat-
ing transactions in securities, to remove
impediments to and perfect the mechanism
of a free and open market and a national
market system, and, in general, to protect
investors and the public interest.
Additionally, the Exchange believes
the proposed rule change is consistent
with the Section 6(b)(5) requirement that
the rules of an exchange not be designed
to permit unfair discrimination between
customers, issuers, brokers, or dealers.
The Exchange believes that the
proposed rule change will improve the
efficiency of the Exchange’s examination
requirements, without compromising the qualification
standards, by eliminating duplicative
testing of general securities knowledge
on examinations. FINRA has indicated that
the SIE was developed in an effort to
adopt an examination that would
assess basic product knowledge; the
structure and function of the securities
industry markets, regulatory agencies
and their functions; and regulated and
prohibited practices. The Exchange also
notes that the introduction of the SIE
and expansion of the pool of individuals
who are eligible to take the SIE, has the
potential of enhancing the pool of
prospective securities industry professionals by introducing them to
securities laws, rules and regulations
and appropriate conduct before they
join the industry in a registered
capacity. Lastly, the Exchange notes
adapting the SIE requirement is
consistent with the requirement recently
adopted by FINRA.11

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, which harmonizes its rules
with recent rule changes adopted by
FINRA and which is being filed in
conjunction with similar filings by the
other national securities exchanges, will
reduce the regulatory burden placed on
market participants engaged in trading
activities across different markets. The
Exchange believes that the
harmonization of these registration
requirements across the various markets
will reduce burdens on competition by
removing impediments to participation
in the national market system and
promoting competition among
participants across the multiple national
securities exchanges.

C. Self-Regulatory Organization’s
Statement on Comments on the
Proposed Rule Change Received From
Members, Participants or Others
The Exchange has neither solicited
nor received written comments on the
proposed rule change.

III. Date of Effectiveness of the
Proposed Rule Change and Timing for
Commission Action
Because the foregoing proposed rule
c change does not: (i) Significantly affect
the protection of investors or the public
interest; (ii) impose any significant
burden on competition; and (iii) become
operative for 30 days from the date on
which it was filed, or such shorter time
as the Commission may designate, it has
decome effective pursuant to Section
19(b)(3)(A) of the Act12 and Rule 19b–
4(f)(6) thereunder.
A proposed rule change filed under
Rule 19b–4(f)(6) normally does not become operative for 30 days from the
date of filing. However, Rule 19b–
4(f)(6)(iii)13 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 on
October 1, 2018 to coincide with the
effective date of FINRA’s proposed rule
change on which the proposal is
Based. The waiver of the operative
delay would make the Exchange’s
qualification requirements consistent
with those of FINRA at the same time
that FINRA does. Therefore, the
Commission believes that the waiver of
the 30-day operative delay is consistent
with the protection of investors and the
public interest and hereby waives the
30-day operative delay and designates
the proposal operative on October 1, 2018.15
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 necessary or appropriate in the
public interest, for the protection of
investors, or otherwise in furtherance of
the purposes of the Act.

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

Electronic Comments
• Use the Commission’s internet
comment form (http://www.sec.gov/
rules/sro.shtml); or
• Send an email to rule-comments@
sec.gov. Please include File No. SR–
ChoeEDGA–2018–015 on the subject
line.

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

All submissions should refer to File No.
SR-ChoeEDGA–2018–015. 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 such
filing will also 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 No.
SR-ChoeEDGA–2018–015 and should

10 Id.
(July 7, 2017), 82 FR 32419 (July 13, 2017) (Order
14 See supra note 5.
15 For purposes only of waiving the 30-day
operative delay, the Commission has also
considered the proposed rule’s impact on
efficiency, competition, and capital formation. See
be submitted on or before October 11, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. 16

Eduardo A. Aleman, Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33228; File No. 812–14875]

Exact Sciences Corporation

September 14, 2018.

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

ACTION: Notice.

Notice of application for an order under Section 3(b)(2) of the Investment Company Act of 1940 (“Act”).

Applicant: Exact Sciences Corporation.

Summary of Application: Applicant seeks an order under Section 3(b)(2) of the Act declaring it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant is in the business of producing and developing screening and diagnostic tests for the early detection and prevention of certain cancers.

Filing Dates: The application was filed on January 30, 2018 and amended on June 1, 2018, July 6, 2018 and August 24, 2018.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 10, 2018 and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, 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.

ADRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicant, 441 Charmandy Drive, Madison, Wisconsin 53719.


FOR FURTHER INFORMATION CONTACT: Rochelle Kauffman Plessot, Senior Counsel, at (202) 551–6840, or Nadya B. Roytblat, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel’s Office).

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 applicant using the Company name box, at http://www.sec.gov/search/search.htm or by calling (202) 551–8090.

Applicant’s Representations

1. Formed in 1995, Applicant is a Delaware corporation that is in the business of developing, clinical testing, marketing and commercializing cancer and pre-cancer screening and diagnostic tests. Applicant currently manufactures a non-invasive, patient-friendly screening test called Cologuard and provides it to patients on a prescription-only basis through its clinical laboratory. Applicant is also currently working on the development of additional tests for other types of cancers.

2. Applicant states that companies in the healthcare sector such as itself generally need significant liquid capital to finance their operations and meet high production, commercialization and regulatory costs. Such companies often spend a significant proportion of their revenues on research and development (“R&D”) in order to bring a product to market and to bring products through the Food and Drug Administration’s (“FDA”) approval process.

3. Applicant states that it currently depends on raised capital to finance operations and continued growth but ultimately seeks to generate cash from its operations to support its business. Applicant states that it has successfully raised capital to finance its operations and commercialization of Cologuard in large part through various public offerings of its debt and equity securities. Applicant seeks to preserve its capital and maintain liquidity, pending the use of such capital to support its business operations, by investing in short-term investment grade and liquid fixed income and money market instruments that earn competitive market returns and provide a low level of credit risk (“Capital Preservation Investments”). Applicant also, to a limited extent, makes strategic investments in companies that are complementary to its core business.

Applicant’s board of directors oversees Applicant’s investment practices and defines the parameters for investment activities. Applicant does not invest in securities for short-term speculative purposes.

Applicant’s Legal Analysis

1. Applicant seeks an order under Section 3(b)(2) of the Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities and therefore is not an investment company as defined in the Act.

2. Section 3(a)(1)(C) of the Act defines the term “investment company” to include an issuer that is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities. Section 3(a)(1)(C) of the Act further defines an investment company as an issuer that is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value in excess of 40% of the value of the issuer’s total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Section 3(a)(2) of the Act defines “investment securities” to include all securities except Government securities, securities issued by employees’ securities companies, and securities issued by majority-owned subsidiaries of the owner which (a) are not investment companies and (b) are not relying on the exclusions from the definition of investment company in Section 3(c)(1) or Section 3(c)(7) of the Act. While Applicant states that it does not hold itself out as being engaged primarily in the business of investing, reinvesting or trading in securities, Applicant states that it consistently holds investment securities that exceed 40% of its total assets on an unconsolidated basis (exclusive of Government securities and cash items). Applicant states that it therefore falls within the definition of investment company under Section 3(a)(1)(C) of the Act.

3. Rule 3a–8 under the Act provides an exclusion from the definition of investment company if, among other factors, a company’s R&D expenses are a substantial percentage of its total expenses for the last four fiscal quarters combined. While Applicant believes that it complies with the conditions of Rule 3a–8, Applicant is concerned that its R&D expenses, while substantial in absolute terms, may not be substantial as a ratio of overall expenses, particularly given the expense increase in connection with the commercialization of Cologuard. Applicant’s R&D expenses as a ratio of