National will also provide FINRA with a current list of Dual Members and shall update the list no less frequently than once each quarter.\textsuperscript{15} The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective an Amended Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all NYSE National rules that are substantially similar to the rules of FINRA for Dual Members of NYSE National and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Amended Plan, provided that the Parties are only adding to, deleting from, or confirming changes to NYSE National rules in the Certification in conformance with the definition of Common Rules provided in the Amended Plan. However, should the Parties decide to add an NYSE National rule to the Certification that is not substantially similar to a FINRA rule; delete an NYSE National rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification an NYSE National rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Amended Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act.\textsuperscript{16}

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purposes of the amendment are to (1) reflect the name change of National Stock Exchange, Inc. to NYSE National, Inc., (2) update the SRO rules that are covered by the agreement, and (3) to the extent that it becomes a member of NYSE National, allocate regulatory responsibility to FINRA for NYSE National’s affiliated routing broker-dealer, Archipelago Securities. By declaring it effective today, the Amended Plan can become effective and be implemented without undue delay. The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.\textsuperscript{17} Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

\textbf{VI. Conclusion}

This order gives effect to the Amended Plan filed with the Commission in File No. 4–694. The Parties shall notify all members affected by the Amended Plan of their rights and obligations under the Amended Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Amended Plan in File No. 4–694, between the FINRA and NYSE National, filed pursuant to Rule 17d-2 under the Act, hereby is approved and declared effective.

It is further ordered that NYSE National is relieved of those responsibilities allocated to FINRA under the Amended Plan in File No. 4–694.

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

\textbf{Eduardo A. Aleman, Assistant Secretary.}

[FR Doc. 2018–24070 Filed 11–2–18; 8:45 am]

\textbf{BILLING CODE 8011–01–P}

\textbf{SECURITIES AND EXCHANGE COMMISSION}

\textbf{[Release No. 34–84505; File No. SR–NASDAQ–2018–080]}

\textbf{Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the BrandywineGLOBAL—Global Total Return ETF, a Series of Legg Mason ETF Investment Trust Under Nasdaq Rule 5735}

October 30, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),\textsuperscript{18} and Rule 19b–4 thereunder,\textsuperscript{19} notice is hereby given that on October 17, 2018, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade the shares of the BrandywineGLOBAL—Global Total Return ETF (the "Fund"), a series of Legg Mason ETF Investment Trust (the "Trust") under Nasdaq Rule 5735 ("Managed Fund Shares").\textsuperscript{20} The shares of the Fund are collectively referred to herein as the "Shares."

The text of the proposed rule change is available on the Exchange’s website at http://nasdaq.cchwallstreet.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

\textbf{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

\textsuperscript{15} See paragraph 3 of the Amended Plan.

\textsuperscript{16} The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Amended Plan for examining, and enforcing compliance by, Dual Members, also would constitute an amendment to the Amended Plan.

\textsuperscript{17} See supra note 11 (citing to Securities Exchange Act Release No. 77089).

\textsuperscript{18} 17 CFR 200.30–3(a)(34).


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 an 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 adviser to the Fund (the “Manager”). Brandywine Global Investment Management, LLC will serve as the sub-adviser to the Fund (the “Sub-Adviser”). Legg Mason Investor Services, LLC (the “Distributor”) will be the distributor of the Fund’s Shares. The Investment Adviser, the Sub-Adviser 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 custodian, accounting agent, custodian, and transfer agent to the Fund.

Paraphrase (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’s 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 regarding the investment company’s portfolio.

Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(ii); however, paragraph (g) in connection with the establishment and maintenance of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable investment company’s portfolio not an underlying benchmark index, as is the case with index-based funds. Neither the Manager nor the Sub-Adviser is a broker-dealer, but each is affiliated with the Distributor, a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.

In addition, personnel who make decisions on the Fund’s portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund’s portfolio. In the event (a) the Manager or the Sub-Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new investment adviser or any new sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement 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 regarding the investment company’s portfolio.

An investment adviser to an investment company is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Manager and the Sub-Adviser, as registered investment advisers, and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. Rule 204A–1 requires investment advisers (such as the Manager and the Sub-Adviser) to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by the Manager and the Sub-Adviser must be consistent with the Advisers Act and Rule 204A–1 thereunder. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser (such as the Manager and the Sub-Adviser) to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above; and (ii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above,
and maintain a fire wall with respect to its relevant personnel and/or broker-dealers or affiliates, as applicable, regarding access to information concerning the composition and/or changes to the Fund’s portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

BrandywineGLOBAL—Global Total Return ETF

Principal Investments

The investment objective of the Fund will be to seek to maximize total return, consisting of income and capital appreciation. Although the Fund may invest in securities and Debt (as defined below) of any maturity, the Fund will normally maintain an effective duration as set forth in the prospectus. Effective duration seeks to measure the expected sensitivity of market price to changes in interest rates, taking into account the anticipated effects of structural complexities (for example, some bonds can be prepaid by the issuer).

Under Normal Market Conditions, the Fund will seek to achieve its investment objective by investing at least 80% of its assets in a portfolio comprised of U.S. or foreign fixed income securities; U.S. or foreign Debt (as defined below); ETFs 14 that provide exposure to such U.S. or foreign fixed income securities, Debt or other Principal Investments (defined below); derivatives 15 that (i) provide exposure to such U.S. or foreign fixed income securities, Debt or other Principal Investments (defined below); 19 ETFs 14 that provide exposure to such U.S. or foreign fixed income securities; Debt or other Principal Investments (defined below); 19 derivatives 15 that (i) provide exposure to such U.S. or foreign fixed income securities; Debt or other Principal Investments (defined below); (ii) are used to risk manage the Fund’s holdings, and/or (iii) are used to enhance returns, such as through covered call strategies; U.S. or foreign equity securities of any type acquired in reorganizations of issuers of fixed income securities or Debt held by the Fund (“Work Out Securities”); 17 U.S. or foreign non-convertible preferred securities (other than trust preferred securities, which the Fund may invest in, but which are treated as fixed income securities 18) (“Non-Convertible Preferred Securities”); 19 warrants, comprised of: Warrants on not be treated as Principal Investments. For purposes of the 80% Principal Investments measure, the Fund will value Exchange-Traded Derivatives and OTC Derivatives in relation to the market-to-market value of such derivatives. This approach is consistent with the valuation methodology for asset coverage purposes in Rule 18F-4 under the 1940 Act as enacted by the Commission.

13 The effective duration of the Fund may fall outside of its expected range due to market movements. If this happens, the Sub-Adviser will take action to bring the Fund’s effective duration back within its expected range within a reasonable period of time.

14 The term “Normal Market Conditions” has the meaning set forth in Nasdaq Rule 5735(c)(5). The Fund may vary from ordinary parameters on a temporary basis, including for defensive purposes, during the initial invest-up period (i.e., the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (i.e., rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund’s assets as of the opening of business on the first day of such periods). In those situations, the Fund may depart from its principal investment strategies and may, for example, hold a higher than normal proportion of its assets in cash and cash equivalents. During such periods, the Fund may not be able to achieve its investment objective. The Fund may also adopt a defensive strategy and hold a significant portion of its assets in cash and cash equivalents when the Manager or the Sub-Adviser believes, Debt and other instruments in which the Fund normally invests have elevated risks due to political or economic factors, heightened market volatility or in other extraordinary circumstances that do not constitute “Normal Market Conditions”. The Fund’s investments in cash equivalents are described in greater detail in note 22 infra.

15 As noted below, the Fund’s fixed income security and Debt investments will satisfy specific diversification requirements set forth in the Fund’s prospectus that are not included in Nasdaq Rule 5735, including, without limitation, that each issuer of securities or borrower in respect to Debt have economic exposure to at least three countries. See infra “Investment Restrictions.”

16 The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705(b)), Portfolio Depository Receipts (as described in Nasdaq Rule 5705(a)), and Managed Fund Shares (as described in Nasdaq Rule 5735). The Fund will not invest in ETFs that are not registered as investment companies under the 1940 Act. The ETFs held by the Fund will invest in fixed income securities, Debt, money-market instruments and other Principal Investments to which the Fund seeks exposure. ETFs are exchange-traded securities and markets that are members of the ISG or exchanges that are parties to a comprehensive surveillance sharing agreement with the Exchange. The Fund will not invest in leveraged ETFs, i.e., ETFs that have been approved to include ETFs in their 80% principal investment category. See, e.g., Securities Exchange Act Release No. 80846 (June 15, 2017), 82 FR 28126 (June 20, 2017) (SR–NASDAQ–2016–023) (approving fund seeking to meet its investment objective of having at least 80% of assets invested in a portfolio of ETFs, but not in part through investments in ETFs that invest substantially all of their assets in such debt instruments). Derivatives will include: (i) swaps and swaps-based options, options on futures, and swaptions that are traded on an exchange, trading facility, swap execution facility, swap execution facility or alternative trading system (“Exchange-Traded Derivatives”)(1) that is a member of the Intermarket Surveillance Group (“ISG”), which includes all U.S. national securities exchanges and most futures exchanges; (ii) “OTC Derivatives” that is not subject to a comprehensive surveillance sharing agreement with the Exchange, or (C) is that is not an ISG member and with which the Exchange does not have a comprehensive surveillance sharing agreement; and (ii) swaps and security-based swaps, options, options on futures, swaptions, forwards and similar instruments that are traded in the over-the-counter market and are standardized, cleared or cleared bilaterally (“OTC Derivatives”), as further described below. For the purposes of describing the scope of the Fund’s potential investments in derivatives, the terms “swaps” and “security-based swaps” shall have the meanings set forth in the Commodity Exchange Act (“CEA”), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–201, 124 Stat. 1376 (2010) (“Dodd-Frank”), and regulations thereunder, and references to swaps and forwards on foreign exchange or currencies shall include “foreign currency swaps”, as well as references to “swap execution facilities”, as defined in Sections 1a(24)–(25) of the CEA. The terms “exchange-traded” and “exchange-listed”, when used with respect to swaps and security-based swaps, shall include “swap execution facilities” and security-based swaps that are executed on swap execution facilities and security-based swap execution facilities and cleared through regulated, central clearinghouses. The types of derivatives in which the Fund may invest and the reference assets for such derivatives are described in greater detail below. Exchange-Traded Derivatives and OTC Derivatives that reference Principal Investments and other investments. Those Exchange-Traded Derivatives and OTC Derivatives that reference Principal Investments will be treated as Principal Investments and those that do not will to such U.S. or foreign fixed income securities, Debt and other Principal Investments, (ii) are used to risk manage the Fund’s holdings, and/or (iii) are used to enhance returns, such as through covered call strategies; U.S. or foreign equity securities of any type acquired in reorganizations of issuers of fixed income securities or Debt held by the Fund (“Work Out Securities”); 17 U.S. or foreign non-convertible preferred securities (other than trust preferred securities, which the Fund may invest in, but which are treated as fixed income securities 18) (“Non-Convertible Preferred Securities”); 19 warrants, comprised of: Warrants on not be treated as Principal Investments. For purposes of the 80% Principal Investments measure, the Fund will value Exchange-Traded Derivatives and OTC Derivatives in relation to the market-to-market value of such derivatives. This approach is consistent with the valuation methodology for asset coverage purposes in Rule 18F-4 under the 1940 Act as enacted by the Commission.

17 See also infra “The Fund’s Use of Derivatives.”

18 See also infra “Investment Restrictions.”

19 Non-convertible preferred stock, such that comprising the Non-Convertible Preferred Securities, providers hold with a fixed or variable distribution and a status upon bankruptcy of the issuer that is subordinate or unsecured, but preferred over common shareholders. Non-Convertible Preferred Securities may be listed on either an ISG member exchange (or an exchange 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. Non-Convertible Preferred Securities that are listed and traded on a non-ISG member exchange or on an exchange with which the Exchange does not have a comprehensive surveillance sharing agreement, together with all other exchange-listed securities and Exchange-Traded Derivatives held by the Fund that are listed on a non-ISG member exchange or exchange with which the Exchange does not have a comprehensive surveillance sharing agreement, are limited to 10% of the Fund’s total assets. See infra “Investment Restrictions.”

20 Warrants are equity securities that provide the holder with the right to purchase specified securities of the issuer of the warrants at a specified exercise price until the expiration date of the warrant. The Fund may hold warrants that provide the holder with the right to purchase fixed income securities or equity securities and expects that most of the warrants it holds will be attached to related fixed income securities. Warrants held by the Fund may be traded in the OTC market or may be listed on
The Manager or Sub-Adviser (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, or guaranteed by, the U.S. government, its agencies or government-sponsored entities (other than MBS described below); (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 sponsored entities, interests in entities organized and operated for the purpose of restructuring the investment instruments issued by such entities, Brady Bonds, and fixed income securities issued by supranational entities such as the World Bank; (iv) municipal securities, which include general obligation bonds, revenue bonds, housing authority bonds, private activity bonds, industrial development bonds, residual interest bonds, tender option bonds, tax and revenue anticipation notes, bond anticipation notes, tax-exempt commercial paper, municipal leases, participation certificates and custodial receipts; (v) zero coupon securities, which are securities that pay no interest during the life of the obligation but are issued at a price below their face value; (vi) pay-in-kind securities, which have a stated coupon, but the interest is generally paid in the form of obligations of the same type as the underlying pay-in-kind securities (e.g., bonds) rather than in cash; (vii) deferred interest securities, which are obligations that generally provide for a period of delay before the regular payment of interest begins and are issued at a significant discount from face value; (viii) U.S. or foreign structured notes and indexed securities, which must have demand, tender or put features, or interest rate reset features; (ix) U.S. or foreign inflation-indexed or inflation-protected securities, which are fixed income securities that are structured to provide protection against inflation and whose principal value or coupon is periodically adjusted according to the rate of inflation and which include, among others, treasury inflation protected securities; and (x) fixed income securities issued by securitization vehicles (“Securitized Products”). Securitized Products include: (A) U.S. or foreign mortgage-backed securities (“MBS”), which are securities that represent direct or indirect interests in, or obligations of, mortgage loans; (B) U.S. or foreign assets collateralized by mortgage loans secured by real property and which may be issued or guaranteed by government-sponsored entities such as the Federal Home Loan Mortgage Corporation (“Freddie Mac”) or the Government National Mortgage Association (“Ginnie Mae”); and (C) U.S. or foreign assets collateralized by mortgage loans secured by real property and which may be issued or guaranteed by government-sponsored entities such as the Federal Home Loan Mortgage Corporation or Fannie Mae but which are not issued or guaranteed by a U.S. government agency (collectively, “GSEs”).
The securities in which the Fund invests may pay fixed, variable or floating rates of interest or, in the case of instruments such as zero coupon bonds, do not pay current interest but are issued at a discount from their face values. Securitized Products in which the Fund will invest make periodic payments of interest and/or principal on underlying pools of mortgages, in the case of MBS, loans, leases and receivables other than real estate, in the case of ABS, and government and corporate bonds or non-real estate related loans, in the case of CDOs. The Fund may also invest in stripped collateralized by whole loans or pass-through securities issued by private issuers (i.e., issuers other than U.S. government agencies or GSEs) (referred to as “Private MBS”). Payments of principal and of interest on the mortgage-related instruments collateralizing the MBS, and any reinvestment, provide the funds to pay debt service on the CMOs. In a CMO, a series of bonds or certificates is issued in multiple classes. Each class is referred to as a “tranche” of securities, is issued at a specified fixed or floating coupon rate and has a stated maturity or final distribution date.

Securitized Products in connection with which the securities issued, which may be issued by either a U.S. or a foreign entity, are collateralized by any type of financial asset, (e.g., as a consumer credit or student loan, a lease, or a secured or unsecured receivable. ABS exclude (per the Finra definition, which is applicable for purposes of reporting and as used herein); (i) A Securitized Product that is backed by residential or commercial mortgage loans, mortgage-backed securities, or other financial assets derivative of mortgage-backed securities; (ii) a small business administration backed ABS traded “To Be Announced” or in a specified pool transaction as defined in FINRA Rule 6710(x) and (iii) CDOs (as defined in note 31 infra). Consistent with the rule “Investment Restrictions” of Nasdaq Rule 5735(b)(1)(c)(v), the Fund will limit investments in ABS and Private MBS (together, “ABS/Private MBS”) to 20% of the weight of the fixed income portion of the Fund’s portfolio.

For purposes of this proposed rule change, CDOs are excluded from the definition of ABS and, for purposes of this proposed rule change only, are comprised exclusively of collateralized loan obligations (“CLOs”) and collateralized bond obligations (“CBOs”). CLOs are securities issued by a trust or other special purpose entity that are collateralized by a pool of loans by U.S. banks and participations in loans by U.S. banks that are unsecured or secured by collateral other than real estate, and are issued by a trust or other special purpose entity that are backed by a diversified pool of fixed income securities issued by U.S. or foreign governmental entities or fixed income securities issued by U.S. or corporate issuers. CDOs are distinguishable from ABS because they are collateralized by bank loans or by corporate or government fixed income securities and not by consumer or other similar types made by non-bank lenders, including student loans. For purposes of this proposed rule change, CDOs will not be subject to the 20% limit set forth in Nasdaq Rule 5735(b)(1)(c)(v), the Exchange believes that the 10% limit on the Fund’s holdings in CDOs will help to ensure that the Fund maintains a diversified portfolio and will mitigate the risk of manipulation. See infra “Investment Restrictions.”

Securitized Products, which represent the right to receive either payments of principal or payments of interest on real estate receivables. Interests in CDOs and ABS will not be stripped so as to provide the right to receive only payments of principal or payments of interest.

Investments by the Fund in debt instruments that are not characterized as “securities” under applicable case law (“Debt”), are comprised primarily of the following: (i) U.S. or foreign loans made by banks and participations in such loans, loans made by commercial non-bank lenders and participations in such loans, loans made by governmental entities and participations in such loans and/or other extensions of credit, such as guarantees made by any of the foregoing lenders; and (ii) U.S. or foreign loans on real estate secured by mortgages and participations in such loans. 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

32 Although bank loans are included as “fixed income securities” for purposes of the “generic” listing requirements of Nasdaq Rule 5735(b)(i), the types of bank loans in which the Fund invests are not treated as “securities” under applicable case law and, as a result, the Fund intends to treat bank loans as Debt and not as fixed income securities. See, e.g., Banco Espanol de Credito et al v. Security Pacific National Bank, 973 F.2d 512(3rd Cir. 1992), cert. denied, 509 U.S. 903 (1993). Accordingly, the Fund will not seek to comply with the parameters on investments in fixed income securities under Nasdaq Rule 5735(b)(i) with respect to the Fund’s holdings in bank loans, but instead will comply with the alternative limitations applicable to Debt with respect to such holdings, as set forth herein. See infra “Investment Restrictions.”

33 As discussed infra in “Investment Restrictions,” at least 75% of the Fund’s investments fixed income securities (including convertible fixed income securities) and Debt (together constituting the fixed income weight of the portfolio) shall have a minimum principal amount outstanding of $100 million or more. In addition, consistent with the Fund’s Registration Statement, the following diversification requirements will apply: During Normal Market Conditions, the Fund: (i) Will not invest more than 25% of its total assets in securities or Debt in any one foreign country, other than the United States, Canada, the United Kingdom, Japan, Australia and member countries of the European Union, or other developed non-U.S. country denominated in any one currency, other than the U.S. dollar, the Canadian dollar, the British pound, the yen, the Australian dollar, or the euro; and (ii) will have “economic exposure” to at least three countries. “Economic exposure” means that an issuer of a security or a borrower in respect to Debt: (A) will have a class of securities whose principal securities market is in the country; (B) is organized under the laws of, or has a principal office in, the country; (iii) [sic] derives 50% or more of its total revenue or profit from goods produced, sales made or services provided in the country; or (D) maintains 50% or more of its assets in that country. In addition, no more than 30% of the Debt and fixed income securities held by the Fund, will be below investment grade (as defined infra in “Investment Restrictions”); and (iii) [sic] no more

financings for highly-leveraged borrowers.

With respect to fixed income securities, the Fund may invest in restricted instruments 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 to 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/or (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: (i) Over-the-counter deliverable and non-deliverable foreign exchange forward contracts; (ii) exchange-listed futures contracts on securities (including Treasury Securities and foreign government securities), Debt, commodities, securities, commodities-, or combined-asset-class-related indices, interest rates, financial rates and currencies; (iii) exchange-listed or over-the-counter options or swaptions (i.e., options to enter into a swap) on securities, Debt, commodities, securities-, commodities-, or combined-asset-class-related indices, interest rates, financial rates, currencies and futures contracts; (iv) exchange-listed or over-the-counter swaps (including total return swaps) on securities, Debt, commodities, securities-, commodities-, or combined-asset-class-related indices, interest rates, financial rates, currencies; and (v) 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

than 25% of the total assets of the Fund will be invested in Debt or fixed income or equity securities of issuers in any one industry.

34 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 exchanges, (iii) risks due to the credit-worthiness of an issuer, and (iv) the effective duration of the Fund’s portfolio.

35 See also infra “The Fund’s Use of Derivatives.”

36 The term “Treasury Securities” has the meaning set forth in Nasdaq Rule 5735(b)(1)(B).
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 contracts, buybacks 37 and dollar rolls 38 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. 39 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 assets in a portfolio of the Principal Investments. The Fund may invest its remaining assets exclusively in: (i) U.S. or foreign exchange-listed 40 or over-the-counter convertible fixed income and preferred securities; 41 and (ii) OTC Derivatives and Exchange-Traded Derivatives for which the underlying reference asset is not a Principal Investment. The Fund will limit its investments in convertible securities to 20% of the Fund’s assets under Normal Market Conditions.

37 A buyback refers to a TBA transaction that incorporates a special feature for addressing a failure by the seller to deliver the mortgaged premises under the contract. A buyback feature typically provides that, in the event a TBA buyer fails to deliver the MBS that is the subject of the transaction to the TBA buyer on the scheduled settlement date, the TBA buyer will be entitled to close-out its payment obligations by either (i) selling the deliverable MBS back to the seller at a price equal to the price the buyer or (ii) accepting assignment from the seller of its right to receive the specified MBS from the third-party entity that failed to deliver the MBS to the TBA buyer.

38 A dollar roll transaction is a simultaneous sale and purchase of an Agency Pass-Through Mortgage-Backed Security (as defined in FINRA Rule 6710(t), which is the only reference security for such transaction) for different settlement dates, where the initial seller agrees to take delivery, upon settlement of the re-purchase transaction, of the same or substantially similar securities. See FINRA Rule 6710(z).

39 FINRA Rule 4210 is scheduled to begin requiring broker-dealers to impose margin requirements on investors in TBAs and certain other delayed delivery transactions beginning March 25, 2019.

40 No more than 10% of the Fund’s total assets will be invested in exchange-listed securities or Exchange-Traded Derivatives that are listed on an exchange that is not an ISG-member or an exchange with which the Exchange does not have a comprehensive surveillance sharing agreement. See infra 42.

41 The Fund’s investment in U.S. or foreign fixed income or preferred securities would include contingent convertible securities, which are also referred to as “CoCos.” CoCos are fixed income instruments that are convertible into equity if a pre-specified trigger event occurs. The type of event that causes a CoCo to be convertible occurs when capital of the issuer falls below a designated threshold. The Fund will limit investments in convertible securities to 20% of the Fund’s assets under Normal Market Conditions.

42 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. As is the case with respect to the Fund’s investments in OTC Derivatives and Exchange-Traded Derivatives for which the underlying asset is a Principal Investment, the Fund will invest in OTC Derivatives and Exchange-Traded Derivatives whose underlying reference asset is not a Principal Investment in order to minimize exposure to non-Principal Investments instruments; (ii) to risk manage the Fund’s holdings; and/or (iii) to enhance returns.

43 “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 $41.6 trillion (notional amount) of total interest rate contracts outstanding in the over-the-counter markets alone. As reflected by the statistics, the market is wide, deep and liquid. See https://www.bis.org/statistics/d6.pdf (accessed November 2017).

44 Security 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 swaps (the other 33% consisting of spot transactions). See Bank for International Settlements, Triennial [sic] Central Bank Survey, Foreign Exchange Turnover in April 2016, available at http://www.bis.org/publ/rpfx16fs.pdf (accessed November 2017). Trading in OTC interest rate derivatives averaged $2.7 trillion per day in April 2016, 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).

45 The Fund’s Use of Derivatives

The types of derivatives in which the Fund may invest and the reference assets for such derivatives are described in greater detail in “Principal Investments” and “Other Investments” 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 assets of the Fund in Exchange-Traded Derivatives and exchange-listed, securities 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 of such Exchange-Traded Derivatives.

The Fund will limit the weight of its investments in OTC Derivatives to 10% of the assets of the Fund, with the exception of Interest Rate Derivatives 43 and Currency Derivatives 44 (together, "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. The Exchange believes that this exception, which is generally consistent with the requirement in a previous filing for the listing of an ETF approved by the Commission, 45 is appropriate in light of the fact that Interest Rate and Currency Derivatives are among the most liquid investments traded. In addition, most Interest Rate Derivatives traded by the Fund are centrally cleared by regulated clearing firms, and Interest Rate and Currency Derivatives are typically used for risk management purposes. Therefore, the Exchange believes that the provisions of Section 6(b)(5) of the Exchange Act (15 U.S.C. 78f(b)(5)) are not violated by the exception to the Exchange’s position limit. The Exchange believes that these provisions are an appropriate means for protecting investors in TBAs and certain other derivatives who may be subject to a limit. The Exchange believes that the exception is appropriate in light of the fact that Interest Rate and Currency Derivatives are among the most liquid investments traded.
subject to trade reporting.\textsuperscript{47} and other robust regulation.\textsuperscript{48} 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.

For purposes of the 10% limit applicable generally to OTC Derivatives (other than Interest Rate and Currency Derivatives), the weight of such OTC Derivatives will be calculated based on the mark-to-market value of such OTC Derivatives.\textsuperscript{49} 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\textsuperscript{50} 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.\textsuperscript{51} 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.\textsuperscript{52} The mark-to-market value is also the measure 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.\textsuperscript{53} This value measures gain and loss to the Fund of the Fund’s derivatives positions 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 each 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 the Principal Investments, (ii) risk manage the Fund’s holdings.\textsuperscript{54}

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund’s investment objective 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-Adviser in accordance with procedures established by the Board and in accordance with the 1940 Act (or, if permitted by applicable regulation, enter into offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of 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 it would have if it had not been leveraged. Because the markets for securities or Debt, or the securities or Debt themselves, 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-Adviser believe that derivatives can be an economically attractive substitute for an underlying physical security or Debt that the Fund would otherwise due to the credit-worthiness of an issuer, and (iv) the effective duration of the Fund’s portfolio.\textsuperscript{55} The Fund will seek, where practicable, to trade with counterparties whose financial status is such that the risk of default is reduced. The Sub-Adviser will monitor the financial standing of counterparties on an ongoing basis. This monitoring may include reliance on information provided by credit agencies or of credit analysts employed by the Sub-Adviser. The analysis may include earnings updates, the counterparty’s reputation, past experience with the dealer, market trends for the counterparty’s debt and equity, credit default swap levels for the counterparty’s debt, the liquidity provided by the counterparty and its share of market participation.

\textsuperscript{47} 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 described 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 1(a)(47)(E) of the CEA and a related determination by the Department of the Treasury, physically-settled Currency Derivatives that meet the definition of “foreign exchange forwards” or “foreign exchange swaps” under Sections 1(a)(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). 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{48} 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 swap regulations, they are subject to the “business conduct standards” adopted 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).

\textsuperscript{49} The mark-to-market value reflects the Fund’s actual economic exposure to the Principal Investments, 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 the Principal Investments, (ii) risk manage the Fund’s holdings.\textsuperscript{54}

\textsuperscript{50} See Derivatives Rule Proposing Release at 157–158; see also infra note 107.

\textsuperscript{51} See Derivatives Rule Proposing Release at n.58, citing Comment Letter on SFC Concept Release (November 11, 2011) (File No. S7-33-11), Davis Polk & Wardwell LLP, available at http://www.sec.gov/comments/s7-33-11/s73311-49.pdf (“[f]und registration statements indicate that, in recent years, the Staff has not objected to the adoption by funds of policies that require segregation of the mark-to-market value, rather than the notional amount, . . . for asset segregation purposes.”).

\textsuperscript{52} See Derivatives Rule Proposing Release at 157–158.

\textsuperscript{53} The Credit Support Annex to the ISDA Master Agreement bases the collateral amount owed by a party to a derivatives contract, which is defined as a party’s “exposure,” by reference to the replacement value of the party’s net positions. Replacement value, which has the same meaning as “mark-to-market” value, is the amount owed by a party at a point in time determined based on the net termination payment due under the outstanding transactions.

\textsuperscript{54} 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 exchanges rates, (iii) risks and/or (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.

\textsuperscript{55} 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 exchanges rates, (iii) risks and/or (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.
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 a derivative versus a physical bond (e.g., differences in yields) or economic exposure without incurring transfer or similar taxes.

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

Investment Restrictions

At least 75% of the Fund’s investments in Debt and fixed income securities shall have a minimum principal amount outstanding of $100 million or more. In addition, consistent with the Fund’s Registration Statement, the following diversification requirements will apply: During Normal Market Conditions, the Fund: (i) will not invest more than 25% of its total assets in securities or Debt in any one foreign country, other than the United States, Canada, the United Kingdom, Japan, Australia and member countries of the European Union, or denominated in any one currency, other than the U.S. dollar, the Canadian dollar, the British pound, the yen, the Australian dollar, or the euro; and (ii) will have “economic exposure” to at least three countries. “Economic exposure” means an issuer of a security or a borrower in respect to Debt: (A) Will have a class of securities whose principal securities market is in the country; (B) is organized under the laws of, or has a principal office in, the country; (iii) [sic] derives 50% or more of its total revenue or profit from goods produced, sales made or services provided in the country; or (D) maintains 50% of more of its assets in that country.

The Fund may invest up to 15% 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 15% 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 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 [sic]). Consistent with the Fund’s Registration Statement, the following diversification requirements will apply: During Normal Market Conditions, the Fund: (i) Will not invest more than 25% of its total assets in securities or Debt in any one foreign country, other than the United States, Canada, the United Kingdom, Japan, Australia and member countries of the European Union, or denominated in any one currency, other than the U.S. dollar, the Canadian dollar, the British pound, the yen, the Australian dollar, or the euro; and (ii) will have “economic exposure” to at least three countries. “Economic exposure” means that an issuer of a security or a borrower in respect to Debt: (A) Will have a class of securities whose principal securities market is in the country; (B) is organized under the laws of, or has a principal office in, the country; (iii) [sic] derives 50% or more of its total revenue or profit from goods produced, sales made or services provided in the country, or (D) maintains 50% of more of its assets in that country. 

See infra “Investment Restrictions.” [sic]

The Fund will not invest more than 20% of the fixed income portion of the Fund’s portfolio in ABS/Private MBS or more than 10% of the Fund’s total

57 For the avoidance of doubt, if a security or Debt is rated by multiple NRSROs and receives different ratings, the Fund will treat the security or Debt as being rated in the highest rating category received from any one NRSRO. If a security or Debt is not rated, the Fund may determine its rating by reference to other securities issued by the issuer or comparable NRSRO-rated securities.

58 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. For purposes of this proposed rule change, the “fixed income weight of the Fund’s portfolio” includes all fixed income securities (including convertible fixed income and preferred securities, even though such instruments are not Principal Investments) and Debt held by the Fund and excludes equity securities (including ETFs), derivatives and cash and cash equivalents.
assets in CDOs. The Fund will also not invest more than 20% of its total assets in Debt that is unsecured and subordinated.

The Fund may not concentrate its investments (i.e., invest more than 25% of the value of its total assets) in Debt of borrowers in any one industry or in fixed income or equity securities of issuers in any one industry as provided in the Registration Statement. 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-Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund’s net assets are held in illiquid assets 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 Fund’s Use of Derivatives,” 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 securities, Debt, and derivatives to achieve its investment objective.

Under Normal Market Conditions, the Fund will satisfy the following requirements, on a continuous basis measured at the time of purchase: (i) Component fixed income securities and Debt that in the aggregate account for at least 75% of the fixed income weight of the Fund’s portfolio shall have a minimum original principal amount outstanding of $100 million or more; (ii) no fixed income security held in the portfolio (excluding Treasury Securities and GSE-sponsored securities) will represent more than 30% of the fixed income weight of the Fund’s portfolio, and the five most heavily weighted portfolio securities (excluding Treasury Securities and GSE-sponsored securities) will not in the aggregate account for more than 65% of the fixed income weight of the Fund’s portfolio; and (iii) the Fund’s portfolio of fixed income securities (excluding exempted securities) will include a minimum of 13 non-affiliated issuers. Under Normal Market Conditions, the Fund will also satisfy the following requirements, on a continuous basis measured at the time of purchase: (x) At least 75% of the Fund’s investments in fixed income securities issued by emerging market issuers shall have a minimum original principal amount outstanding of $200 million or more; and (y) at least 75% of the Fund’s investments in Debt shall be in senior loans with an initial deal size of $100 million or greater.

Those exchange-listed securities and Exchange-Traded Derivatives held by the Fund that are listed and traded on a non-ISG member exchange or an exchange with which the Exchange does not have a comprehensive surveillance sharing agreement are limited to 10% of the Fund’s assets.

In addition, the Fund will impose the limits described in the following section, which describes differences between the “generic” listing requirements of Nasdaq Rule 5735(b)(1) and those applicable to the Fund.

Income weight of the portfolio each have a minimum principal amount outstanding of $100 million or more (see Nasdaq Rule 5735(b)(1)(B)(i)); (ii) for component fixed income securities (excluding Treasury Securities and GSE-sponsored securities) that no component represent more than 30% of the fixed income weight of the portfolio (see Nasdaq Rule 5735(b)(1)(B)(ii)); the most heavily weighted component fixed income securities in the portfolio (excluding Treasury Securities and GSE-sponsored securities) not in the aggregate account for more than 65% of the fixed income weight of the portfolio (see Rule 5735(b)(1)(B)(iii)); and (iv) that an underlying portfolio (excluding exempted securities) that includes fixed income securities include a minimum of 13 non-affiliated issuers (see Nasdaq Rule 5735(b)(1)(B)(iii)).

These requirements are consistent with the “generic” listing requirements under Nasdaq Rule 5735(b)(1)(B)(i)-(iii), which require: (i) For fixed income securities, that components in the aggregate account for at least 75% of the fixed income weight of the portfolio each have a minimum principal amount outstanding of $100 million or more; (ii) for component fixed income securities (excluding Treasury Securities and GSE-sponsored securities) that no component represent more than 30% of the fixed income weight of the portfolio; (iii) the Fund’s portfolio of fixed income securities (excluding exempted securities) will include a minimum of 13 non-affiliated issuers.

As discussed above, CDOs would be excluded from the 20% limit on ABS/Private MBS but would be subject to a separate limit of 10%, measured with respect to the total assets of the Fund. See supra note 31. The Exchange believes that the 10% limit on the Fund’s holdings in CDOs will help to ensure that the Fund’s diversified portfolio and will mitigate the risk of manipulation.

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, 1975), 40 FR 54241 (November 21, 1975). For these purposes and as described above, Debt is comprised of loans that do not constitute securities (consistent with applicable case law) whereas fixed income securities would include loans and other fixed income instruments that are characterized as securities under applicable case law. See supra note 32.

See Rule 22e-4(b)(1)(iv): “No fund or In-Kind ETF may acquire illiquid investment if, immediately after the acquisition, the fund or In-Kind ETF would have invested more than 15% of its net assets in illiquid investments that are assets,” emphasis added.

In reaching liquidity decisions, the Manager or Sub-Adviser (as applicable) may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which the security trades (e.g., the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

Long-standing Commission guidelines have required investment companies to hold no more
Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the Fund will not meet all of the “generic” listing requirements under Nasdaq Rule 5735(b)(1). The Fund will meet all such requirements except the requirements described below, and the Exchange 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) with respect to derivative assets. The Exchange proposes that, except as otherwise provided herein, 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 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 is a more accurate measurement of the actual exposure incurred by the Fund’s investment in OTC derivatives or the exposure that such derivatives provide to their reference assets.

(ii) The Fund will not comply with the requirement that securities comprising 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)(v) in respect to its investments in ABS/Private MBS. Instead, ABS/Private MBS will be limited to 20% of the weight of the fixed income portion of the Fund’s portfolio. Other than ABS/Private MBS, which do not meet the criteria in Nasdaq Rule 5735(b)(1)(B)(v) but will be subject to the 20% limit on aggregate holdings in ABS/Private MBS, all fixed income securities held by the Fund (which, for purposes of this proposed rule change, include convertible fixed income and preferred securities (including CoCos)) will satisfy this 90% requirement. As a result, other than ABS/Private MBS, which will not satisfy the 90% requirement, and CDOs, which will be excluded from the requirements of Nasdaq Rule 5735(b)(1)(B)(v) and, instead, be limited to 10% of the total assets of the Fund, all fixed income securities held by the Fund will comply with all of the requirements of Nasdaq Rule 5735(b)(1)(B)(i)–(v).

The Exchange believes that this exception is appropriate for the reasons stated below in this proposed rule change.

(iii) The Exchange has classified bank loans as Debt for purposes of this proposed rule change and not as “fixed income securities” as they are classified in Nasdaq Rule 5735(b)(1)(B). As a result, the Fund’s investments in bank loans will comply with the limitations or restrictions applicable to the Fund’s investments in Debt as set forth herein with respect to such holdings and not with the restrictions for fixed income securities set forth in Nasdaq Rule 5735(b)(1)(B)(i)–(v). The Exchange believes that this exception is appropriate for the reasons stated below in this proposed rule change.

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

66 The Exchange notes that, while the Fund treats commercial paper having maturities of 360 days or less as cash equivalents for the purposes of its 80% Principal Investments measure, the Fund will comply with the applicable requirements of Nasdaq Rule 5735(b)(1) with respect to all commercial paper held by the Fund. Further, in accordance with Nasdaq Rule 5735(b)(1)(B), to the extent that the Fund holds securities that are convertible into fixed income securities, the fixed income securities into which any such securities are converted shall meet the criteria of Nasdaq Rule 5735(b)(1)(B) after converting.

67 Nasdaq Rule 5735(b)(1)(D)(i) provides that, at least 90% of the weight of a portfolio’s holdings invested 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; for the purposes of calculating this limitation, a portfolio’s investment in such listed derivatives will be calculated as the aggregate gross notional value of the listed derivatives.

68 Nasdaq Rule 5735(b)(1)(D)(ii) provides 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 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 portfolio (including gross notional exposures).

69 Nasdaq Rule 5735(b)(1)(E) provides that, on both an initial and continuing basis, no more than 20% of the assets in the portfolio may be invested in over-the-counter derivatives, including forwards, options, and swaps on commodities, currencies and financial instruments (e.g., stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing. For purposes of calculating this limitation, the Fund’s investment in OTC Derivatives will be calculated as the aggregate gross notional value of its outstanding OTC Derivatives.

70 Nasdaq Rule 5735(b)(1)(F) provides that, to the extent that listed or over-the-counter derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Nasdaq Rules 5735(b)(1)(A) and 5735(b)(1)(B), respectively.

71 Further, as described further below, the Exchange is proposing that the Fund will comply with alternative requirements rather than Rules 5735(b)(1)(D)(i), 5735(b)(1)(D)(ii), and 5735(b)(1)(E).

72 See infra “Statutory Basis.”

73 For a listing of such restrictions, see supra “Investment Restrictions.”

74 See infra “Statutory Basis.”

75 Nasdaq Rule 5735(b)(1)(A)(i) provides that, the components stocks of the equity portion of a portfolio that are U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) 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) shall not exceed 30% of the equity weight of the portfolio (excluding such 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 equity weight of the portfolio; (b) 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 70% of the equity weight of the portfolio (excluding such Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) shall each have a minimum market value of at least $75 million; (c) each of the 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 each have a minimum 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 each have a minimum 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 each have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months;
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, accounts for 100% of the equity weight of the portfolio of a series of Managed Fund Shares: (e) except as otherwise provided, equity securities in the portfolio shall be U.S. Component Stocks that are 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 and/or securities for purposes of this proposed rule change.

(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 other “Group of Seven” countries84 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 may maintain significant positions in Eurodollar and G–7 Sovereign Futures and Options, and such investments will not be subject to the concentration limits provided in Nasdaq Rule 5735(b)(1)(D)(ii). For purposes of this rule change, the weight of the applicable Exchange-Traded Derivatives will be calculated based on the mark-to-market value of such Exchange-Traded Derivatives. The Exchange believes that this exception is appropriate for the reasons stated below in this proposed rule change.85

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

81 Other equities consist of ETFs (including money market ETFs) that provide exposure to fixed income securities, Debt and other Principal Investments. The weight of such ETFs in the Fund’s portfolio shall not be limited. As noted above, Fixed-Income Related Warrants are treated as fixed income securities for purposes of this proposed rule change and will be subject to and comply with the generic listing requirements for fixed-income securities, rather than the generic listing requirements for equity securities. See supra note 23.

82 See infra notes 114–117 and accompanying text.
actively-managed ETFs.86 In addition, 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 “Statutory Basis,” 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.87

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86 See, e.g., Securities Exchange Act Release Nos. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (approving up to 50% of the Fund’s total assets in, including reorganizations); 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (approving investments in non-agency commercial mortgage-backed securities acquired in conjunction with the Fund’s event-driven strategy, including securities acquired by the fund as a result of certain corporate events including reorganizations); 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (approving investments in non-agency commercial mortgage-backed securities); 77766 (July 24, 2014), 79 FR 44224 (July 30, 2014) (approving the use of derivatives by the ETF); and 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (approving the use of derivatives by the ETF). The Manager and the Sub-Adviser 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.

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required to transfer to the Fund, Creation Units and cash equal to the transaction fee. To the extent that the Fund elects to utilize an “in-kind” redemption, it will deliver to the redeeming AP, in exchange for a Creation Unit, securities and/or instruments that will conform pro rata to the holdings of the Fund (“Redemption Securities”) plus the Cash Component.

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 (“NSCC”) or (ii) a Depository Trust Company participant.

When the Fund permits Creation Units to be issued principally or partially in-kind, the Fund will cause to be published, through the NSCC, on each Business Day, at or before 9:00 a.m. E.T., the identity and the required principal amount or 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 from 9:00 a.m. E.T. to 10:00 a.m. E.T. on a given Business Day in order to receive the NAV determined on the Business Day on which 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 unless 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, at or before 9:00 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 orders must be received by the Distributor within a one-hour window from 9:00 a.m. E.T. to 10:00 a.m. E.T. on a given Business Day in order to receive the NAV determined on the Business Day on which the order was placed.

Availability of Information

The Fund’s website (www.leggmasnon.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) The prior Business Day’s NAV per share and the market closing price or mid-point of the bid/ask spread at the time of calculation of such NAV per share (the “Bid/Ask Price”), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV per share; and (2) a table showing the number of days of such premium or discount for the most recently completed calendar year, and the most recently completed calendar quarters since that year (or the life of Fund, if shorter).

On each Business Day, before commencement of trading in Shares in 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 vendor 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 Business 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 Business Day on brokers’ computer screens and other electronic services. Quotation and last sale information for the Shares will be available via Nasdaq

88 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.

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91 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.)

92 Under accounting procedures to be followed by the Fund, trades made on the prior Business Day (“T-1”) will be recorded 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.
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, warrants, convertible fixed income and preferred 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-Traded Derivatives will be available from the applicable listing exchange and from major market data vendors. Price information for TRACE-Eligible Securities sold in transactions under Rule 144A under the Securities Act will generally be available through FINRA’s Trade Reporting and Compliance Engine ("TRACE") and information regarding transactions in non-TRACE-Eligible Securities or transactions not otherwise subject to TRACE reporting is generally available from major market data vendors and broker-dealers. For most of the U.S. dollar denominated corporate bonds, GSE-sponsored securities, Securitized Products and other U.S. dollar denominated fixed income securities in which the Fund invests, price information will generally be available from TRACE and EMMA (as defined below). For those instruments for which FINRA does not disseminate price information from TRACE, such as CDOs and fixed income securities denominated in foreign currencies, pricing information will generally be available from major market data vendors and broker-dealers. 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 other exchange-listed securities (to be comprised primarily of ETFs, warrants and structured notes which may include exchange-listed securities of both U.S. and non-U.S. issuers), equities traded in the over-the-counter market (including Work Out Securities, and Non-Convertible Preferred Securities), Exchange-Traded Derivatives (including U.S. or foreign), OTC Derivatives, Debt and fixed income securities (including convertible fixed income and convertible preferred securities), and the small number of Securitized Products that are not reported to TRACE, intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). Price information for such securities and instruments will also be available from feeds from major market data vendors, published or other public sources, or online information services. As noted above, TRACE will be a source of price information for most of the U.S. dollar denominated corporate bonds, GSE-sponsored securities, Securitized Products and other U.S. dollar denominated fixed income securities in which the Fund invests. Intraday and other price information related to foreign government securities, Money Market Funds, and other cash equivalents that are traded over-the-counter and other Non-TRACE Eligible Securities as well as prices for Treasury Securities, CDOs, commercial mortgage-backed securities, or CMOs purchased through transactions that do not qualify for periodic dissemination by FINRA will be available through major market data vendors, such as Bloomberg, Markit, IDC and Thomson Reuters, which can be accessed by APIs and other investors. Electronic Municipal Market Access ("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.

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 that, for initial and continued listing, the Fund must be in compliance with Rule 10A–3 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. 

93 For the definition of “TRACE-Eligible Security,” see FINRA Rule 6710(a).
94 For those instruments for which FINRA does not disseminate price information from TRACE, such as CDOs and fixed income securities denominated in foreign currencies, pricing information will generally be available from major market data vendors and broker-dealers.
95 Non-TRACE Eligible Securities, which are Securitized Products, in which the Fund may invest will primarily consist of fixed income securities issued by foreign entities and denominated in foreign currencies. For such securities that are not TRACE-eligible, pricing information will generally be available from major market data vendors and broker-dealers.
96 See supra note 94.
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.

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 Exchange also has in place a comprehensive surveillance sharing agreement with which the Exchange does not have a comprehensive surveillance sharing agreement. Up to 10% of the Fund’s assets may be held in exchange-listed securities and Exchange-Traded Derivatives that are listed and traded on markets that are not members of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

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 repurchases 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 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 refer to FINRA's TRACE and, with respect to securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. Up to 10% of the Fund’s assets may be held in exchange-listed securities and Exchange-Traded Derivatives that are listed and traded on markets that are not members of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

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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 surveillances, administered by both the Exchange and FINRA, on behalf of the Exchange, which are designed to detect 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.

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’s 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 regarding the investment company’s portfolio.

Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i): however, paragraph (g) in connection with the establishment and maintenance of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable investment company’s portfolio, not an underlying benchmark index, as is the case with index-based funds. Neither the Manager nor any of the Sub-Advisers is a broker-dealer, but each is affiliated with the Distributor, a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.

In addition, personnel who make decisions on the Fund’s portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund’s portfolio. In the event (a) the Manager or any of the Sub-Advisers registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new investment adviser or any new sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the Fund’s portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Fund’s investments, including derivatives, will be consistent with the Fund’s investment objectives, applicable legal requirements,

102 As noted above, the Fund will limit its investments in illiquid securities or other illiquid assets to an aggregate amount of 15% of its net assets (calculated at the time of investment), as required by the Commission.

103 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 Rule 18f–4 under the 1940 Act. See Derivatives Rule Proposing Release. In a white paper published by staff of the Division of Economic and Risk Analysis of the SEC ("DERA") in connection with the proposal of Rule 18f–4 under the 1940 Act, the staff of DERA noted that a derivative’s notional amount does not accurately reflect the risk of the derivative. See Daniel Delu, Paul Hanouna, Christof Stahel, Yue Tang and William Yost, Use of Derivatives by Registered Investment Companies (December 2015) at 10 ("On the other hand, there are drawbacks to using notional amounts. First, because of differences in expected volatilities of the underlying assets, notional amounts of derivatives across different underlying asset generally do not represent the same unit of risk. For example, the level of risk associated with an S&P500 index futures is not equivalent to the level of risk of a $100 million notional of interest rate swaps, currency forwards or commodity futures.")
Private MBS. Instead, ABS/Private MBS will be limited to 20% of the weight of the fixed income portion of the Fund’s portfolio. The Exchange proposes, in the alternative, to require the Fund to ensure that all of the investments in the fixed income portion of the Fund’s portfolio, other than ABS/Private MBS, comply with the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv). 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 ABS/Private MBS, and the overall weight of ABS/Private MBS held by the Fund will be limited to 20% of the fixed income portion of the Fund’s portfolio, as described above. As discussed above, although ABS/Private 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 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.

As discussed above, the Exchange has determined to make an exception solely in respect of the Fund such that CDOs will not be deemed to be included in the definition of ABS for purposes of the limitation in Nasdaq Rule 5735(b)(1)(B)(v) and, as a result, will not be subject to the restriction on aggregate holdings of ABS/Private MBS contained in such Rule, which limits such holdings to no more than 20% of the weight of the fixed income portion of the Fund’s portfolio. However, the Fund’s holdings in CDOs will be limited such that they do not account, in the aggregate, for more than 10% of the total assets of the Fund. The Exchange believes that the 10% limit on the Fund’s holdings in CDOs will help to ensure that the Fund maintains a diversified portfolio and will mitigate the risk of manipulation.

The Exchange has classified bank loans as Debt for purposes of this proposed rule change and not as “fixed income securities” as they are classified in Nasdaq Rule 5735(b)(1)(B). As a result, the Fund’s investments in bank loans will comply with the limitations or restrictions applicable to the Fund’s investments in Debt as set forth herein with respect to such holdings and not with the restrictions for fixed income securities set forth in Nasdaq Rule 5735(b)(1)(B)(i)–(v). The Exchange believes that this approach is appropriate given that the “generic” listing requirements in Nasdaq Rule 5735(b)(1)(B) generally appear to be tailored to fixed income instruments that are “securities”, as defined in the Act, rather than loans and other debt instruments that are not characterized as “securities” under applicable case law. 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 warrants. Instead, the Exchange proposes that (i) the Fund’s investment in convertible fixed income and preferred securities shall be limited to 20% of the Fund’s portfolio; 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 15% of the Fund’s 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. 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 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 of such OTC Derivatives. The Exchange believes that this exception for Interest Rate and Currency Derivatives, which is generally consistent with the requirement in a previous filing for the listing of an ETF approved by the Commission, 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 (and the instruments 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 investment instruments traded. In addition, 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, and other

110 For purposes of this requirement, the weight of the Fund’s exposure to any fixed income securities referenced in derivatives shall be calculated based on a mark-to-market value of such derivatives. CDOs, in which the Fund invests, would comply with the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv) but would be limited in amount to 10% of the Fund’s total assets. The Exchange believes that the 10% limit on the Fund’s holdings in CDOs will help to ensure that the Fund maintains a diversified portfolio and will mitigate the risk of manipulation.
robust regulation.\textsuperscript{117} 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, 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 assets of the Fund will be invested in Exchange-Traded Derivatives and exchange-listed securities whose principal market is not a member of ISG or is not 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 market-to-market value of such Exchange-Traded Derivatives.

The Exchange believes that this alternative limitation is appropriate because the overall limit on Exchange-Traded Derivatives and exchange-listed securities 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.

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{118}

\textsuperscript{117} Interest Rate 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” adopted 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).

The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)[D][i] 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 Eurodollar and G–7 Sovereign Futures and Options. The Fund may maintain significant positions in Eurodollar and G–7 Sovereign Futures and Options, and such investments will not be subject to the concentration limits provided in Nasdaq Rule 5735(b)(1)[D][ii]. For purposes of this [sic] requirements, the weight of the applicable Exchange-Traded Derivatives will be calculated based on the mark-to-market value of such Exchange-Traded Derivatives. The Manager has indicated that obtaining exposure to these investments through futures contracts is often the most cost efficient method to achieve such exposure. The Exchange notes that Eurodollar and G–7 Sovereign Futures and Options are highly liquid investments\textsuperscript{118} and are not subject to the same concentration risks as Exchange-Traded Derivatives referencing other assets because of such liquidity. Further, the Exchange notes that the significantly diminished risk of Treasury Securities is reflected in their exclusion from the concentration requirements applicable to fixed income securities in Nasdaq Rule 5735(b)(1)[B][ii]. 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 Eurodollar and G–7 Sovereign Futures and Options. 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 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 approximately 3,000,000 contracts); Eurex Exchange, Eurex Exchange Euro-BTP Futures, Italian Government Bond Futures, available at http://www.eurexchange.com/blob/115624/6a1281939615d5dhalb60agd000s/examples/pdf/data/factsheet_eurex_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/115652/48198ec5777f0b64cd4c5a5a39ed0de/data/factsheet_eurex_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, Eurex Euro OAT Futures Overview, available at https://www.theise.com/publicdoc/docs/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 400,000 contracts); Osaka Exchange, Japanese Government Bond Futures & Options, available at http://www.ipx.co.jp/english/derivatives/products/jgb/jgb/futures/edtf1/futures/edtf1_futures_jgb_op_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 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).
Money Market Funds are typically fixed income securities sold in trading platforms, as well as for most vendors. Price information for restricted exchange and from major market data available from the applicable listing exchange-listed options will be ETFs. Price information for U.S. convertible preferred securities and Shares and for the following U.S. Privileges and the CTA plans for the accordance with the Unlisted Trading available via Nasdaq proprietary quote sale information for the Shares will be published electronically. Quotation and last brokers' computer screens and other basis throughout the Business Day on continually available on a real-time trading volume of the Shares will be published in the financial section of newspapers. Information regarding market 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 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, warrants, convertible fixed income and convertible preferred 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-Traded Derivatives will be available from the applicable listing exchange and from major market data vendors. Price information for restricted securities will be available from major market data vendors, broker-dealers and trading platforms, as well as for most fixed income securities sold in transactions under Rule 44A under the Securities Act, from TRACE and EMMA.

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 other exchange-listed securities (to be comprised primarily of ETFs, warrants and structured notes and which may include exchange-listed securities of both U.S. and non-U.S. issuers), equities traded in the over-the-counter market (including Work Out Securities and Non-Convertible Preferred Securities), Exchange-Traded Derivatives (including U.S. or foreign), OTC Derivatives, Debt and fixed income securities (including convertible fixed income and convertible preferred securities), and the small number of Securitized Products that are not reported to TRACE, intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). TRACE will be a source of price information for most of the U.S. dollar denominated corporate bonds, GSE-sponsored securities, Securitized Products and other U.S. dollar denominated fixed income securities in which the Fund invests. Intraday and other price information related to foreign government securities, Money Market Funds, and other cash equivalents that are traded over-the-counter and other Non-TRACE Eligible Securities as well as prices for Treasury Securities, CDOs, commercial mortgage-backed securities, or CMOs purchased through transactions that do not qualify for periodic dissemination by FINRA will be available through major market data vendors, such as Bloomberg, Markit, IDC 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 advisable, 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, the Exchange 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. Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:
(A) By order approve or disapprove 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–2018–080 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–2018–080. 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–2018–080, and should be submitted on or before November 26, 2018.

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

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018–24068 Filed 11–2–18; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Establish How the BZX Official Closing Price Would Be Determined for BZX-Listed Securities

October 30, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”), and Rule 19b–4 thereunder, notice is hereby given that on October 18, 2018, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been set forth in sections A, B, and C below, of the self-regulatory organization’s Statement of the Terms of Substance of the Proposed Rule Change.

The Exchange proposes to amend BZX Rule 11.23, Auctions, to amend BZX Rule 19b–4(e), to establish how the BZX Official Closing Price would be determined for BZX-listed securities.

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

1. Purpose

The Exchange proposes to amend BZX Rule 11.23, Auctions, to amend BZX Rule 19b–4(e), to establish how the BZX Official Closing Price would be determined for BZX-listed securities.

2. Statutory Basis

As defined in Rule 11.23(a)(3), the term “BZX Official Closing Price” shall mean the price disseminated to the consolidated tape as the market center closing trade.

3. Amendments

With respect to equities traded on the Exchange, the term “new derivative securities product” means a security that meets the definition of “new derivative securities product” in Rule 19b–4(e) under the Securities Exchange Act of 1934. See BZX Rule 14.11(i). For purposes of Rule 19b–4(e), a “new derivative securities product” means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument.

IV. Solicitation of Comments

Interested persons are invited to submit comments, 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–CboeBZX–2018–079 in 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–2018–080. 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–2018–080, and should be submitted on or before November 26, 2018.

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

Eduardo A. Aleman,
Assistant Secretary.