

promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the Exchanges believe that the proposals related to the interaction between Post-Only Orders and Non-Displayed Orders would help to reduce the information leakage that can occur when a Post-Only Order re-prices to avoid locking or crossing the price of a Non-Displayed Order resting on the respective Exchange's book.³⁶ Specifically, under the proposals, if a Post-Only Order would not lock or cross a Protected Quotation but would lock or cross a Non-Displayed Order on the respective Exchange's Book, the Post-Only Order would be posted, ranked, and displayed at its limit price, rather than be re-priced. In addition, if the adjusted price of a Post-Only Order would lock or cross a non-displayed price on the respective Exchange's Book, the Post-Only Order would be posted in the same manner as a Price to Comply Order (*i.e.*, displayed at a price one minimum price increment lower than the current Best Offer (for a buy order) or higher than the current Best Bid (for a sell order); ranked with a non-displayed price equal to the current Best Offer (for a buy order) or the current Best Bid (for a sell order)).

The Commission notes that the Exchanges' proposals to discontinue pricing and executing Midpoint Peg Post-Only Orders (Nasdaq only) and Orders with Midpoint Pegging when the NBBO is crossed would reflect that the midpoint of a crossed market is not a clear and accurate indication of a valid price and would avoid mispriced executions. The Commission also notes that this proposed behavior is similar to the rules of other exchanges.³⁷

Based on the foregoing and the Exchanges' representations, the Commission believes that the proposed rule changes, as modified by Amendments No. 1, are consistent with the Act.

³⁶ The Commission notes that, in conjunction with these proposals, the Exchanges are adopting the Trade Now instruction, which is an Order Attribute that would allow a resting Order that becomes locked by an incoming Displayed Order to execute against the available size of the contra-side locking Order as a liquidity taker. See Securities Exchange Act Release Nos. 79281 (November 10, 2016) (SR-BX-2016-059) and 79282 (November 10, 2016) (SR-NASDAQ-2016-156).

³⁷ See, e.g., BatsBZX Rule 11.9(c)(9).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁸ that the proposed rule changes (SR-BX-2016-046 and SR-NASDAQ-2016-111), as modified by their respective Amendment No. 1, be, and they hereby are, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁹

Brent J. Fields,

Secretary.

[FR Doc. 2016-27600 Filed 11-16-16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79286; File No. SR-NYSE-2016-73]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting a Decommission Extension Fee for Receipt of the NYSE Order Imbalances Market Data Product

November 10, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 28, 2016, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to adopt a Decommission Extension Fee for receipt of the NYSE Order Imbalances market data product. The proposed change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

³⁸ 15 U.S.C. 78s(b)(2).

³⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

The Exchange proposes to adopt a Decommission Extension Fee for receipt of the NYSE Order Imbalances market data product,³ as set forth on the NYSE Proprietary Market Data Fee Schedule ("Fee Schedule"). Recipients of NYSE Order Imbalances would continue to be subject to the already existing subscription fees currently set forth in the Fee Schedule. The proposed Decommission Extension Fee would apply only to those subscribers who decide to continue to receive the NYSE Order Imbalances feed in its legacy format for up to two months after which the feed will be distributed exclusively in the new format explained below.

NYSE Order Imbalances is an NYSE-only market data feed of real-time order imbalances that accumulate prior to the opening of trading on the Exchange and prior to the close of trading on the Exchange. The Exchange distributes information about these imbalances in real-time at specified intervals prior to the opening and closing auction each day.⁴

As part of the Exchange's efforts to regularly upgrade systems to support more modern data distribution formats and protocols as technology evolves,

³ See Securities Exchange Act Release Nos. 59202 (January 6, 2009), 74 FR 1744 (January 13, 2009) (SR-NYSE-2008-132—Notice of Filing of Proposed Rule Change to Introduce a NYSE Order Imbalance Information Fee); and 59543 (March 9, 2009), 74 FR 11159 (March 16, 2009) (SR-NYSE-2008-132—Approval Order). See also Securities Exchange Act Release Nos. 72923 (Aug. 26, 2014), 79 FR 52079 (Sept. 2, 2014) (SR-NYSE-2014-43) (establishing fees for non-display use of NYSE Order Imbalances); and 76972 (January 26, 2016), 81 FR 5142 (February 1, 2016) (SR-NYSE-2016-08) (amending fees for NYSE Order Imbalances and NYSE Alerts).

⁴ See Rules 15 (Pre-Opening Indications and Opening Order Imbalance Information) and 123C (The Closing Procedures).

beginning October 31, 2016, NYSE Order Imbalances will be transmitted in a new format, Exchange Data Protocol (XDP). Beginning October 31, 2016, the Exchange will transmit NYSE Order Imbalances in both the legacy format and in XDP format without any additional fee being charged for providing this data feed in both formats. The dual dissemination will remain in place until February 28, 2017, the planned decommission date of the legacy format. Beginning March 1, 2017, recipients of NYSE Order Imbalances who wish to continue to receive NYSE Order Imbalances in the legacy format will be subject to the proposed Decommission Extension Fee of \$5,000 per month.⁵ During the extension period, recipients of NYSE Order Imbalances would continue to be subject to the subscription fees currently noted in the Fee Schedule. The extension period for receiving this data feed in the legacy format will expire on April 28, 2017, on which date distribution of NYSE Order Imbalances in the legacy format will be permanently discontinued.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and Sections 6(b)(4) and 6(b)(5) of the Act,⁷ in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that adopting an extension fee for subscribers of NYSE Order Imbalances who wish to receive this data feed in the legacy format for a period of time beyond the built-in overlap period is reasonable, equitable and not unfairly discriminatory because the proposed fee would apply equally to all data recipients that currently subscribe to NYSE Order Imbalances. The Exchange believes that it is reasonable to require data recipients to pay an additional fee for taking the data feed in the legacy format beyond the period of time specifically allotted by the Exchange for data feed customers to adapt to the new XDP format at no extra

cost. To that end, the extension fee is designed to encourage data recipients to migrate to the XDP format in order to continue to receive NYSE Order Imbalances in XDP as the legacy format would no longer be available after that date. The Exchange does not intend to support the legacy format at all after April 28, 2017.

The Exchange notes that NYSE Order Imbalances is entirely optional. The Exchange is not required to make NYSE Order Imbalances available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE Order Imbalances, nor is the Exchange required to offer any feed (NYSE Order Imbalances, or otherwise) in a particular format, and it is a benefit to the markets generally that NYSE update its distribution technology to make it more efficient (and at the same time eliminate less efficient forms of dissemination). Firms that do purchase NYSE Order Imbalances do so for the primary goals of using them to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE Order Imbalances or any other similar products are attractively priced or not.⁸

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (“Commission”) upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

In fact, the legislative history indicates that the Congress intended that the market system ‘evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed’ and that the SEC wield its regulatory power ‘in those situations where competition may not be sufficient,’ such as in the creation of a ‘consolidated transactional reporting system.’

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted* in 1975 U.S.C.C.A.N. 323). The court agreed with the Commission’s conclusion that “Congress intended that ‘competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.’”⁹

As explained below in the Exchange’s Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards. In addition, the existence of alternatives to the legacy format, such as converting to XDP as soon as possible, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can select such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for proprietary market data would be so complicated that it could not be done practically or offer any significant benefits.¹⁰ For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

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. An

¹⁰ The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties and the Commission to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress’s direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. See Appendix C to NYSE’s comments to the Commission’s 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission’s Web site at <http://www.sec.gov/rules/concept/s72899/buck1.htm>. Finally, the prices set herein are prices for continuing to support distribution formats the Exchange has elected to retire in favor of new and more efficient distribution formats, making cost-based analyses even less relevant.

⁵ The concept of a Decommission Extension Fee is not novel. The Exchange recently adopted a Decommission Extension Fee for receipt of the NYSE BBO and NYSE Trades market data products when the Exchange migrated those products to the XDP format. See Securities Exchange Act Release No. 77388 (March 17, 2016), 81 FR 15363 (March 22, 2016) (SR–NYSE–2016–21).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4), (5).

⁸ See, e.g., Proposing Release on Regulation of NMS Stock Alternative Trading Systems, Securities Exchange Act Release No. 76474 (Nov. 18, 2015) (File No. S7–23–15). See also, “Brokers Warned Not to Steer Clients’ Stock Trades Into Slow Lane,” Bloomberg Business, December 14, 2015 (Sigma X dark pool to use direct exchange feeds as the primary source of price data).

⁹ *NetCoalition*, 615 F.3d at 535.

exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data (and in this instance, the ability of any firm to switch to the new distribution format in a time frame that eliminates the need to pay these fees entirely).

The Existence of Actual Competition

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with one another for listings and order flow and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice ("DOJ") (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges "compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale."¹¹

Moreover, competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. Broker-dealers send their order flow and transaction reports to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. As a 2010 Commission Concept Release noted, the "current market structure can be described as dispersed and complex"

¹¹ Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at <http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html>; see also Complaint in *U.S. v. Deutsche Borse AG and NYSE Euronext*, Case No. 11-cv-2280 (D.C. Dist.) ¶ 24 ("NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.").

with "trading volume . . . dispersed among many highly automated trading centers that compete for order flow in the same stocks" and "trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs."¹² More recently, SEC Chair Mary Jo White has noted that competition for order flow in exchange-listed equities is "intense" and divided among many trading venues, including exchanges, more than 40 alternative trading systems, and more than 250 broker-dealers.¹³

If an exchange succeeds in competing for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its market data products may be less desirable to customers in light of the diminished content and data products offered by competing venues may become more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE

¹² Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7-02-10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598. Data available on ArcaVision show that from June 30, 2013 to June 30, 2014, no exchange traded more than 12% of the volume of listed stocks by either trade or dollar volume, further evidencing the continued dispersal of and fierce competition for trading activity. See <https://www.arcavision.com/Arcavision/arcalogin.jsp>.

¹³ Mary Jo White, Enhancing Our Equity Market Structure, Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available on the Commission Web site), citing Tuttle, Laura, 2014, "OTC Trading: Description of Non-ATS OTC Trading in National Market System Stocks," at 7-8.

Order Imbalances in the legacy format unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE Order Imbalances can provide value in the legacy formats by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. The Exchange has provided customers with adequate notice that it intends to discontinue dissemination of the data feed in the legacy format. Therefore, the proposed Decommission Extension Fee would only be applicable to those customers who have a need or desire to continue to take the data feed in the legacy format beyond the period provided for migration to the XDP format. Customers who timely migrate to the XDP format to receive the data feed would not need to receive the data feed in the legacy format and therefore would not be subject to the Decommission Extension Fee at all. All of these factors operate as constraints on pricing proprietary data products.

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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and paragraph (f) of Rule 19b-4¹⁵ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f).

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-NYSE-2016-73 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSE-2016-73. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2016-73, and should be submitted on or before December 8, 2016.

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

Brent J. Fields,
Secretary.

[FR Doc. 2016-27596 Filed 11-16-16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79293; File No. SR-NYSEArca-2016-107]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 to, and Order Granting Accelerated Approval of, a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Relating To Listing and Trading of Shares of Cumberland Municipal Bond ETF under NYSE Arca Equities Rule 8.600

DATE: November 10, 2016.

I. Introduction

On July 26, 2016, NYSE Arca, Inc. filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares of the Cumberland Municipal Bond ETF ("Fund") under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the *Federal Register* on August 15, 2016.³ On September 15, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ On September 27, 2016, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁶ On November 8, 2016, the Exchange filed Amendment No. 2 to the proposed rule change.⁷

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 78523 (Aug. 9, 2016), 81 FR 54155 ("Notice").

⁴ In Amendment No. 1, which amended and replaced the proposed rule change in its entirety, the Exchange: (1) Described additional diversification requirements that would apply to the Fund's holdings in municipal bonds; (2) clarified the Fund's holdings in non-exchange-traded investment company securities; and (3) corrected certain references to the regular trading session of the Exchange. Amendment No. 1 to the proposed rule change is available at: <https://www.sec.gov/comments/sr-nysearca-2016-107/nysearca2016107-1.pdf>.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 78949, 81 FR 68078 (Oct. 3, 2016). The Commission designated November 13, 2016, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁷ In Amendment No. 2, which amended and replaced the proposed rule change, as modified by Amendment No. 1 thereto, in its entirety, the Exchange: (1) Described additional diversification criteria that would apply to the Fund's holdings in municipal bonds; and (2) clarified the Fund's

The Commission has not received any comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons and is approving the proposed rule change, as modified by Amendment No. 2 thereto, on an accelerated basis.

II. The Exchange's Description of the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts 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 shares ("Shares") of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares:⁸ Cumberland Municipal Bond ETF (the "Fund"),⁹ a

holdings in non-exchange-traded or other investment company securities. Amendment No. 2 to the proposed rule change is available at: <https://www.sec.gov/comments/sr-nysearca-2016-107/nysearca2016107.shtml>.

⁸ A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

⁹ The Securities and Exchange Commission ("Commission") has approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. See, e.g., Securities Exchange Act Release Nos. 69591 (May 16, 2013), 78 FR 30372 (May 22, 2013) (SR-NYSEArca-2013-33) (order approving Exchange listing and trading of International Bear ETF); 69061 (March 7, 2013), 78 FR 15990 (March 13, 2013) (SR-NYSEArca-2013-01) (order approving Exchange listing and trading of Newfleet Multi-Sector Income ETF). The Commission has approved for Exchange listing and trading shares of two actively managed funds of the PIMCO ETF Trust that principally hold municipal bonds. See Securities Exchange Act Release No. 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR-NYSEArca-2009-79) (order approving listing and trading of shares of the PIMCO Short-Term Municipal Bond Strategy Fund and PIMCO Intermediate Municipal Bond Strategy Fund). The Commission also has approved listing and trading on the Exchange of shares of the SPDR

Continued

¹⁶ 17 CFR 200.30-3(a)(12).