

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–2014–36 and should be submitted on or before August 12, 2014.

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

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72631; File No. SR–NYSEArca–2014–76]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 and Amendment No. 2 Proposing To List and Trade Shares of the Cambria Global Momentum ETF Under NYSE Arca Equities Rule 8.600

July 16, 2014.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b4 thereunder,³ notice is hereby given that, on July 1, 2014, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) 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 prepared by the self-regulatory organization. On July 14, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ On July 15, the Exchange filed Amendment No. 2 to the proposed rule change.⁵ 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

1. The Exchange proposes to list and trade shares of the Cambria Global Momentum ETF under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares”). The text of the proposed rule 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.

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 self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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 list and trade shares (“Shares”) of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares⁶: Cambria Global Momentum ETF (“Fund”).⁷ The Shares will be offered by the Cambria ETF Trust (the “Trust”), a Delaware statutory

trust which is registered with the Commission as an open-end management investment company.⁸ Cambria Investment Management, L.P. (“Cambria” or the “Adviser”) will serve as the investment adviser of the Fund. SEI Investments Distribution Co. (the “Distributor”) will be the principal underwriter and distributor of the Fund’s Shares. SEI Investments Global Funds Services (“SEI”) will serve as the fund accountant and administrator of the Fund. Brown Brothers Harriman & Co. will serve as the Custodian and Transfer Agent of the Fund’s assets.⁹

Commentary .06 to Rule 8.600 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 a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund’s portfolio.¹⁰ Commentary .06 to Rule

⁶ 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.

⁷ The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600, including actively managed funds that operate as asset allocation funds or “funds of funds,” as described below. *See, e.g.*, Securities Exchange Act Release Nos. 71999 (April 23, 2014), 79 FR 24040 (April 29, 2014) (SR–NYSEArca–2014–19) (order approving Exchange listing and trading of four actively-managed asset allocation funds of iShares U.S. ETF Trust); Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing and trading of Dent Tactical ETF); 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR–NYSEArca–2010–57) (order approving listing and trading of AdvisorShares WCM/BNY Mellon Focused Growth ADR ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving listing and trading of Cambria Global Tactical ETF).

⁸ The Trust will be registered under the 1940 Act. On March 4, 2014, the Trust filed an amendment to the Trust’s registration statement on Form N–1A under the Securities Act of 1933 (the “1933 Act”) (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–180879 and 811–22704) (the “Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30340 (January 4, 2013) (“Exemptive Order”). Investments made by the Fund will comply with the conditions set forth in the Exemptive Order.

⁹ This Amendment No. 2 to SR–NYSEArca–2014–76 replaces SR–NYSEArca–2014–76 as originally filed and Amendment No. 1 thereto, and supersedes such filings in their entirety.

¹⁰ An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii)

Continued

¹⁶ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

⁴ Amendment No. 1 replaced and superseded the original filing in its entirety.

⁵ Amendment No. 2 replaces and supersedes Amendment No. 1 in its entirety.

8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable open-end fund’s portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not registered as a broker-dealer or affiliated with a broker-dealer. In the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Principal Investment Policies

According to the Registration Statement, the Fund will seek to preserve and grow capital from investments in the U.S. and foreign equity, fixed income, commodity and currency markets, independent of market direction. The Fund will be considered a “fund of funds” that seeks to achieve its investment objective by primarily investing in other 1940 Act-registered exchange-traded funds (“ETFs”) and other exchange traded products (“ETPs”) including, but not limited to, exchange-traded notes (“ETNs”),¹¹ exchange traded currency trusts, and closed-end funds¹² (together,

implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

¹¹ As described in the Registration Statement, ETFs are registered investment companies whose shares are exchange-traded and give investors a proportional interest in the pool of securities and other assets held by the ETF. ETPs are exchange-traded equity securities whose value derives from an underlying asset or portfolio of assets, which may correlate to a benchmark, such as a commodity, currency, interest rate or index. ETFs are one type of ETP. ETNs are unsecured and unsubordinated debt securities whose value derives, in part, from an underlying asset or benchmark and, in part, from the credit quality of the securities’ issuer.

¹² A closed-end fund is a pooled investment vehicle that is registered under the 1940 Act and whose shares are listed and traded on a U.S. national securities exchange.

“Underlying Vehicles”)¹³ that offer diversified exposure, including inverse exposure, to global regions (including emerging markets), countries, styles (*i.e.*, market capitalization, value, growth, etc.) and sectors. Under normal market conditions,¹⁴ the Fund will invest at least 80% of its net assets in the securities of Underlying Vehicles.

According to the Registration Statement, the Fund will seek to preserve and grow capital by producing absolute returns with reduced volatility and manageable risk and drawdowns. The Fund will invest in Underlying Vehicles spanning all the major world asset classes including equities, bonds (including high yield bonds, which are commonly referred to as “junk bonds”), real estate, derivatives, commodities, and currencies. The Adviser will actively manage the Fund’s portfolio utilizing a quantitative strategy with risk management controls in an attempt to protect capital. Through Underlying Vehicles, the Fund may have exposure to companies in any industry and of any market capitalization. Under normal market conditions, the Fund expects to invest at least 40% of its net assets, including through investments in Underlying Vehicles, in securities of issuers located in at least three different countries (including the United States).

Through Underlying Vehicles, the Fund may invest in shares of real estate investment trusts (“REITs”), which are pooled investment vehicles that invest primarily in real estate or real estate-related loans and trade on a U.S. exchange.

¹³ For purposes of this filing, the term “Underlying Vehicles” includes Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Commodity Futures Trust Shares (as described in NYSE Arca Equities Rule 8.204); Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600); and closed-end funds. All Underlying Vehicles will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.*, 2X, -2X, 3X or -3X) ETFs.

¹⁴ The term “under normal market conditions” includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

Other Investments

While, under normal market conditions, the Fund will invest at least 80% of its net assets in Underlying Vehicles, as described above, the Fund may invest its remaining 20% of net assets in other securities and financial instruments, other than Underlying Vehicles, including futures contracts, cash and cash equivalents, as described below.

Exchange-Traded Equity Securities. The Fund may invest in exchange-traded common stocks. The Fund also may invest in foreign securities by purchasing “Depositary Receipts”, including American Depositary Receipts (“ADRs”), European Depositary Receipts (“EDRs”) and Global Depositary Receipts (“GDRs”) or other securities convertible into securities of issuers based in foreign countries. These securities may not necessarily be denominated in the same currency as the securities which they represent.¹⁵

With respect to its exchange-traded equity securities investments, the Fund will normally invest in equity securities that are listed and traded on a U.S. exchange or in markets that are members of the Intermarket Surveillance Group (“ISG”) or parties to a comprehensive surveillance sharing agreement with the Exchange. In any case, not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities will consist of equity securities whose principal market is not a member of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

Fixed Income Securities. The Fund may invest in debt and other fixed income securities, as described below. Debt and other fixed income securities include fixed and floating rate securities of any maturity. Fixed rate securities pay a specified rate of interest or dividends. Floating rate securities pay a rate that is adjusted periodically by reference to a specified index or market rate. Fixed and floating rate securities

¹⁵ Generally, ADRs, in registered form, are denominated in U.S. dollars and are designed for use in the U.S. securities markets. GDRs, in bearer form, are issued and designed for use outside the United States, and EDRs, in bearer form, may be denominated in other currencies and are designed for use in European securities markets. ADRs are receipts typically issued by a U.S. bank or trust company evidencing ownership of the underlying securities. EDRs are European receipts evidencing a similar arrangement. GDRs are receipts typically issued by non-United States banks and trust companies that evidence ownership of either foreign or domestic securities. ADRs may be sponsored or unsponsored, but unsponsored ADRs will not exceed 10% of the Fund’s net assets.

may be issued by federal, state, local, and foreign governments and related agencies, and by a wide range of private issuers. The Fund's investments in debt and other fixed income securities will be limited to those described below.

The Fund may invest in indexed bonds, which are a type of fixed income security whose principal value and/or interest rate is adjusted periodically according to a specified instrument, index, or other statistic (e.g., another security, inflation index, currency, or commodity).

The Fund may invest in securities issued or guaranteed by the U.S. Government, its agencies, instrumentalities, and political subdivisions¹⁶; securities issued by foreign governments, their authorities, agencies, instrumentalities, and political subdivisions; securities issued by supra-national agencies¹⁷; corporate debt securities; master demand notes¹⁸; Yankee dollar and Eurodollar bank certificates of deposit; time deposits; bankers' acceptances; commercial

paper¹⁹ and inflation-indexed securities. The Fund may invest also in zero coupon securities, which may be issued by a wide variety of corporate and governmental issuers.

The Fund may invest in fixed income securities of any credit quality, from investment grade securities to high yield securities. Investment grade securities are securities rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations ("Rating Organizations") rating that security, such as Standard & Poor's Ratings Services ("Standard & Poor's") or Moody's Investors Service, Inc. ("Moody's"), or rated in one of the four highest rating categories by one Rating Organization if it is the only Rating Organization rating that security, or unrated, if deemed to be of comparable quality²⁰ by Cambria and traded publicly on the world market. The Fund, at the discretion of the Adviser, may retain a debt security that has been downgraded below the initial investment criteria.²¹

For securities that carry a rating assigned by a Rating Organization, Cambria will use the highest rating assigned by the Rating Organization to determine a security's credit rating. Commercial paper must be rated at least "A-1" or equivalent by a Rating Organization. Corporate debt obligations must be rated at least "B-" or equivalent by a Rating Organization. For securities that are not rated by a Rating Organization, Cambria's internal credit rating will apply and be subject to equivalent rating minimums.

Futures. The Fund may invest in futures contracts on indices, currencies and commodities. The Fund will trade only futures contracts that are listed and traded on a U.S. board of trade. According to the Registration Statement, the Fund's investments in futures, will be subject to the limits on leverage imposed by the 1940 Act. Section 18(f) of the 1940 Act and related Commission

guidance limit the amount of leverage that an investment company, such as the Fund, can obtain.

Cash and Cash Equivalents. The Fund may temporarily invest a portion of its assets in cash or cash equivalents pending other investments or to maintain liquid assets required in connection with some of the Fund's investments. Cash and cash equivalents include money market instruments, such as obligations issued or guaranteed by the U.S. Government, its agencies and/or instrumentalities (including government-sponsored enterprises), bankers' acceptances, bank certificates of deposit, repurchase agreements²² and investment companies that invest primarily in such instruments (i.e., money market funds). The Fund may hold funds in bank deposits in U.S. or foreign currency, including during the completion of investment programs.

Investments in Other Investment Companies. The Fund may invest in the securities of other investment companies to the extent permitted by law. The Fund may make significant investments in money market funds. In addition, the Trust intends to enter into agreements with unaffiliated ETFs that permit such unaffiliated ETFs to sell, and the Fund to purchase, the unaffiliated ETFs' shares in excess of the limits imposed by Sections 12(d)(1)(A) and (B) of the 1940 Act.

Temporary Defensive Position. To respond to adverse market, economic, political or other conditions, the Fund may invest 100% of its total assets, without limitation, in high-quality debt securities (i.e., BBB or higher) and money market instruments (as described above). The Fund may be invested in these instruments for extended periods, depending on Cambria's assessment of market conditions.

Investment Restrictions

The Fund may invest in the securities of other investment companies to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the Commission or interpretation thereof.²³

According to the Registration Statement, the Fund will seek to qualify for treatment as a Regulated Investment

¹⁶ U.S. Government securities include securities issued or guaranteed by the U.S. Government or its authorities, agencies, or instrumentalities. Foreign government securities include securities issued or guaranteed by foreign governments (including political subdivisions) or their authorities, agencies, or instrumentalities or by supra-national agencies. Different kinds of U.S. government securities and foreign government securities have different kinds of government support. For example, some U.S. government securities (e.g., U.S. Treasury bonds) are supported by the full faith and credit of the U.S. Other U.S. government securities are issued or guaranteed by federal agencies or government-chartered or -sponsored enterprises but are neither guaranteed nor insured by the U.S. government (e.g., debt securities issued by the Federal Home Loan Mortgage Corporation ("Freddie Mac"), Federal National Mortgage Association ("FNMA") or "Fannie Mae"), and Federal Home Loan Banks ("FHLBs"). Similarly, some foreign government securities are supported by the full faith and credit of a foreign national government or political subdivision and some are not.

¹⁷ Supra-national agencies are agencies whose member nations make capital contributions to support the agencies' activities. Examples include the International Bank for Reconstruction and Development (the World Bank), the Asian Development Bank, the European Coal and Steel Community, and the Inter-American Development Bank.

¹⁸ The Fund may invest in master demand notes that are denominated in U.S. dollars. Master demand notes are demand notes that permit the investment of fluctuating amounts of money at varying rates of interest pursuant to arrangements with issuers who meet the quality criteria of the Fund. The interest rate on a master demand note may fluctuate based upon changes in specified interest rates, be reset periodically according to a prescribed formula or be a set rate. Although there is no secondary market in master demand notes, if such notes have a demand feature, the payee may demand payment of the principal amount of the note upon relatively short notice. Master demand notes are generally illiquid and therefore subject to a Fund's percentage limitations for investments in illiquid securities.

¹⁹ Commercial paper consists of short-term promissory notes issued by corporations. Commercial paper may be traded in the secondary market after its issuance.

²⁰ In determining whether a security is of "comparable quality", the Adviser will consider, for example, whether the issuer of the security has issued other rated securities; whether the obligations under the security are guaranteed by another entity and the rating of such guarantor (if any); whether and (if applicable) how the security is collateralized; other forms of credit enhancement (if any); the security's maturity date; liquidity features (if any); relevant cash flow(s); valuation features; other structural analysis; macroeconomic analysis and sector or industry analysis.

²¹ Securities rated lower than Baa by Moody's, or equivalently rated by S&P or Fitch, are sometimes referred to as "high yield securities" or "junk bonds."

²² A repurchase agreement is an agreement under which securities are acquired by a Fund from a securities dealer or bank subject to resale at an agreed upon price on a later date. The Fund may enter into repurchase agreements with banks and broker-dealers.

²³ 15 U.S.C. 80a-12(d)(1).

Company (“RIC”) under the Internal Revenue Code.²⁴

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 Adviser²⁵ and master demand notes, consistent with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund’s net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.²⁶

The Fund’s investments will be consistent with the Fund’s investment objective and will not be used to achieve leveraged returns (*i.e.*, 2Xs and 3Xs) of the Fund’s broad-based securities market index (as defined in Form N-1A).²⁷

Net Asset Value

The net asset value (“NAV”) of Shares will be calculated each business day by SEI as of the close of regular trading on the New York Stock Exchange

(“NYSE”), generally 4:00 p.m., Eastern time on each day that the NYSE is open. The Fund will calculate its NAV per Share by taking the value of its total assets, subtracting any liabilities, and dividing that amount by the total number of Shares outstanding, rounded to the nearest cent. Expenses and fees, including the management fees, will be accrued daily and taken into account for purposes of determining NAV.

When calculating the NAV of the Fund’s Shares, investments will generally be valued using market valuations. Market valuations are generally valuations (i) obtained from an exchange, a pricing service or a major market maker (or dealer) or (ii) based on a price quotation or other equivalent indication of a value supplied by an exchange, a pricing service or a major market maker (or dealer), in each case as approved by the Trust’s Board of Trustees pursuant to the Trust’s valuation policies and procedures. Thus, to the extent that the Fund uses a pricing vendor approved for the Trust by the Board, whether the pricing vendor bases valuations upon dealer quotes, a proprietary analysis of the relevant market, matrix pricing, sensitivity analysis, a combination of the above or any other means, the price provided by the pricing vendor may be considered a market valuation.

Exchange-traded equity securities, including Underlying Vehicles, common stocks and sponsored Depositary Receipts, as well as futures contracts, will be valued at the official closing price on their principal exchange or board of trade, or, lacking any current reported sale at the time of valuation, at the mean of the most recent bid and asked quotations on their principal exchange or board of trade. Un-sponsored Depositary Receipts, fixed income securities (including bonds; U.S. Government obligations; corporate debt securities; securities issued by foreign governments and supra-national agencies; master-demand notes; Yankee dollar and Eurodollar bank certificates of deposit; time deposits; bankers’ acceptances; commercial paper; inflation-indexed securities; zero coupon securities; and money market instruments) will be valued at the mean between the most recent bid and asked quotations.

Repurchase agreements will be valued at cost. Fixed-income instruments maturing in 60 days or less will be valued at amortized cost and those maturing in excess of 60 days will be valued at the midpoint of bid and asked quotations. Investments in non-exchange-traded investment companies

(including money market funds) will be valued at their NAV.

Any assets or liabilities denominated in currencies other than the U.S. dollar will be converted into U.S. dollars at the current exchange rate on the date of valuation as quoted by one or more third parties.

If a market quotation is not readily available or is deemed not to reflect an instrument’s market value, the Fund will determine its fair value pursuant to policies and procedures approved by the Board. The Fund may use fair valuation to price securities that trade on a foreign exchange, if any, when a significant event has occurred after the foreign exchange closes but before the time at which the Fund’s NAV is calculated. In such cases, the Fund may use various criteria, including an evaluation of U.S. market moves after the close of foreign markets, in determining whether a foreign security’s market price is reflective of market value and, if not, the fair value of the security. In general, in determining an instrument’s fair value, the Fund may consider, among other things, price comparisons among multiple sources, corporate actions and news events, other financial indicators. Fair value pricing involves subjective judgments. Accordingly, it is possible that the fair value determination for an instrument is materially different than the value that could be realized upon the its sale.

Creation and Redemption of Shares

According to the Registration Statement, the Fund will sell and redeem Shares in aggregations of 50,000 Shares (each, a “Creation Unit”) on a continuous basis through the Distributor, without a sales load, at the NAV next determined after receipt of an order in proper form on any business day. The size of a Creation Unit is subject to change.

The purchase or redemption of Creation Units from a Fund must be effected by or through an “Authorized Participant” (*i.e.*, either a broker-dealer or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation (“NSCC”) or a participant in the Depository Trust Company (“DTC”) with access to the DTC system, and who has executed an agreement (“Participant Agreement”) with the Distributor that governs transactions in the Fund’s Creation Units [sic].

The consideration for a Creation Unit of a Fund will be the “Fund Deposit”. The Fund Deposit will consist of the “In-Kind Creation Basket” and “Cash Component”, or an all cash payment (“Cash Value”), as determined by

²⁴ 26 U.S.C. 851.

²⁵ In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers willing 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 trades (*e.g.*, the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

²⁶ The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also*, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding “Restricted Securities”); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund’s portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

²⁷ The Fund’s broad-based securities market index will be identified in a future amendment to the Registration Statement following the Fund’s first full calendar year of performance.

Cambria to be in the best interest of the Fund. The Cash Component will typically include a “Balancing Amount” reflecting the difference, if any, between the NAV of a Creation Unit and the market value of the securities in the “In-Kind Creation Basket”.

If the NAV per Creation Unit exceeds the market value of the securities in the In-Kind Creation Basket, the purchaser will pay the Balancing Amount to the Fund. By contrast, if the NAV per Creation Unit is less than the market value of the securities in the In-Kind Creation Basket, the Fund will pay the Balancing Amount to the purchaser.

The Transfer Agent, in a portfolio composition file sent via the NSCC, generally will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern time), a list of the names and the required number of shares of each security in the In-Kind Creation Basket to be included in the current Fund Deposit for each [sic] Fund (based on information about the Fund’s portfolio at the end of the previous business day) (subject to amendment or correction). If applicable, the Transfer Agent, through the NSCC, also will make available on each business day, the estimated Cash Component or Cash Value, effective through and including the previous business day, per Creation Unit.

The announced Fund Deposit will be applicable, subject to any adjustments as described below, for purchases of Creation Units of the Fund until such time as the next-announced Fund Deposit is made available. From day to day, the composition of the In-Kind Creation Basket may change as, among other things, corporate actions and investment decisions by Cambria are implemented for the Fund’s portfolio. The Fund reserves the right to accept a nonconforming (*i.e.*, custom) Fund Deposit.

The Fund may, in its sole discretion, permit or require the substitution of an amount of cash “cash in lieu”) to be added to the Cash Component to replace any security in the In-Kind Creation Basket. The Fund may permit or require cash in lieu when, for example, the securities in the In-Kind Creation Basket may not be available in sufficient quantity for delivery or may not be eligible for transfer through the systems of DTC. Similarly, the Fund may permit or require cash in lieu when, for example, the Authorized Participant or its underlying investor is restricted under U.S. or local securities law or policies from transacting in one or more

securities in the In-Kind Creation Basket.²⁸

To compensate the Trust for costs incurred in connection with creation and redemption transactions, investors will be required to pay to the Trust a “Transaction Fee” as described in the Registration Statement.

According to the Registration Statement, Fund Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Transfer Agent and only on a business day. The redemption proceeds for a Creation Unit will consist of the “In-Kind Redemption Basket” and a “Cash Redemption Amount”, or an all cash payment (“Cash Value”), in all instances equal to the value of a Creation Unit.

The Cash Redemption Amount will typically include a Balancing Amount, reflecting the difference, if any, between the NAV of a Creation Unit and the market value of the securities in the In-Kind Redemption Basket. If the NAV per Creation Unit exceeds the market value of the securities in the In-Kind Redemption Basket, the Fund will pay the Balancing Amount to the redeeming investor. By contrast, if the NAV per Creation Unit is less than the market value of the securities in the In-Kind Redemption Basket, the redeeming investor will pay the Balancing Amount to the Fund.

The composition of the In-Kind Creation Basket will normally be the same as the composition of the In-Kind Redemption Basket. Otherwise, the In-Kind Redemption Basket will be made available by the Adviser or Transfer Agent. The Fund reserves the right to accept a nonconforming (*i.e.*, custom) “Fund Redemption”.

In lieu of an In-Kind Redemption Basket and Cash Redemption Amount, Creation Units may be redeemed consisting solely of cash in an amount equal to the NAV of a Creation Unit, which amount is referred to as the Cash Value. If applicable, information about the Cash Value will be made available by the Adviser or Transfer Agent.

The right of redemption may be suspended or the date of payment postponed: (i) for any period during which the NYSE is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the NYSE is suspended or restricted; (iii) for any period during which an emergency

exists as a result of which disposal of the Shares or determination of a Fund’s NAV is not reasonably practicable; or (iv) in such other circumstances as permitted by the Commission.

The Fund may, in its sole discretion, permit or require the substitution of an amount of cash (“cash in lieu”) to be added to the Cash Redemption Amount to replace any security in the In-Kind Redemption Basket. A Fund may permit or require cash in lieu when, for example, the securities in the In-Kind Redemption Basket may not be available in sufficient quantity for delivery or may not be eligible for transfer through the systems of DTC. Similarly, the Fund may permit or require cash in lieu when, for example, the Authorized Participant or its underlying investor is restricted under U.S. or local securities law or policies from transacting in one or more securities in the In-Kind Redemption Basket.

If it is not possible to effect deliveries of the securities in the In-Kind Redemption Basket, the Trust may in its discretion exercise its option to redeem Shares in cash, and the redeeming beneficial owner will be required to receive its redemption proceeds in cash. In addition, an investor may request a redemption in cash that a Fund may, in its sole discretion, permit. In either case, the investor will receive a cash payment equal to the NAV of its Shares based on the NAV of Shares of the relevant Fund next determined after the redemption request is received in proper form (minus a Transaction Fee, including a variable charge, if applicable, as described in the Registration Statement).²⁹

The Fund may also, in its sole discretion, upon request of a shareholder, provide such redeemer a portfolio of securities that differs from the exact composition of the In-Kind Redemption Basket, or cash in lieu of some securities added to the Cash Component, but in no event will the total value of the securities delivered and the cash transmitted differ from the NAV. Redemptions of Fund Shares for the In-Kind Redemption Basket will be subject to compliance with applicable federal and state securities laws and the Fund (whether or not it otherwise permits cash redemptions) reserves the right to redeem Creation Units for cash to the extent that the Trust could not lawfully deliver specific securities in the In-Kind Redemption Basket upon redemptions or could not do so without

²⁸ The Adviser represents that, to the extent the Trust effects the creation of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

²⁹ The Adviser represents that, to the extent the Trust effects the redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

first registering the securities in the In-Kind Redemption Basket under such laws.

When cash redemptions of Creation Units are available or specified for the Fund, they will be effected in essentially the same manner as in-kind redemptions. In the case of a cash redemption, the investor will receive the cash equivalent of the In-Kind Redemption Basket minus any Transaction Fees.

Additional information regarding creation and redemption procedures is included in the Registration Statement.

Availability of Information

The Fund's Web site (www.cambriafunds.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 Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund (1) daily trading volume, the prior business day's NAV and the market closing price or mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),³⁰ and a calculation of the premium and discount of the closing price or Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.³¹

On a daily basis, the Fund will disclose on its Web site 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, commodity, index or other asset or

instrument underlying the holding, if any; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via NSCC. The basket represents one Creation Unit of the Fund.

Investors can also obtain the Trust's Statement of Additional Information ("SAI"), the Fund's Shareholder Reports, and the Trust's Form N-CSR and Form N-SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission's Web site at www.sec.gov. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Quotation and last sale information for the Shares will be available via the Exchange proprietary quote and trade services and via the Consolidated Tape Association ("CTA") high-speed line.

Intra-day price quotations on the securities and other assets held by the Fund will be available from major broker-dealer firms. Intra-day price information on such assets will also be available through free and subscription services that can be accessed by Authorized Participants and other investors. For example, pricing information for exchange-traded securities (including exchange-traded equity securities (such as common stocks and Underlying Vehicles), futures contracts and sponsored Depository Receipts, will be readily available from the Web sites of the exchanges or boards of trade trading such securities or futures contracts, automated quotation systems, published or other public sources, and subscription services such as Bloomberg or Reuters. 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. Pricing information for unsponsored Depository Receipts, non-exchange-

traded investment company securities, fixed income securities (including bonds; U.S. Government obligations; corporate debt securities; securities issued by foreign governments and supra-national agencies; master-demand notes; Yankee dollar and Eurodollar bank certificates of deposit; time deposits; bankers' acceptances; commercial paper; inflation-indexed securities; and zero coupon securities), repurchase agreements, and money market instruments will be available through brokers and dealers and/or subscription services, such as Markit, Bloomberg and Thompson Reuters.

In addition, the Intraday Indicative Value ("IIV"),³² which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be widely disseminated at least every 15 seconds during the Exchange's Core Trading Session by one or more major market data vendors.³³ The dissemination of the IIV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund and provide a close estimate of that value throughout the trading day.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

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.³⁴ Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule

³² The IIV is an approximate per Share value of the Fund's portfolio holdings, which is disseminated every fifteen seconds throughout the trading day by one or more market data vendors. The IIV will be based on the current market value of the Fund's "Disclosed Portfolio" as defined in Rule 8.600(c)(2). The IIV does not necessarily reflect the precise composition of the current portfolio of securities held by the Fund at a particular point in time. The IIV should not be viewed as a "real-time" update of the NAV of the Fund because the approximate value may not be calculated in the same manner as the NAV. The quotations for certain investments may not be updated during U.S. trading hours if such holdings do not trade in the U.S., except such quotations may be updated to reflect currency fluctuations.

³³ Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from CTA or other data feeds.

³⁴ See NYSE Arca Equities Rule 7.12.

³⁰ The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

³¹ Under accounting procedures followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising 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 will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern Time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A-3 under the Act,³⁵ as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund 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.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal

securities laws.³⁶ 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 federal securities laws applicable to trading on the Exchange.

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

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, Underlying Vehicles, other exchange-traded equity securities, and futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and Underlying Vehicles, other exchange-traded equity securities, and futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, Underlying Vehicles, other exchange-traded equity securities, and futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.³⁷ FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds [sic] reported to FINRA's Trade Reporting and Compliance Engine ("TRACE").

Not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities will consist of equity securities whose principal market is not a member 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.

³⁶ FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

³⁷ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern Time each trading day.

2. Statutory Basis

[Insert Section 3(b) from Form 19b-4.] [sic] The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)³⁸ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in

³⁵ 17 CFR 240.10A-3.

³⁸ 15 U.S.C. 78f(b)(5).

the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Adviser is not registered as a broker-dealer or affiliated with a broker-dealer. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, Underlying Vehicles, other exchange-traded equity securities, and futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and Underlying Vehicles, other exchange-traded equity securities, and futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, Underlying Vehicles, other exchange-traded equity securities, and futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. All Underlying Vehicles in which the Fund invests will be listed and traded in the U.S. on a national securities exchange. With respect to its exchange-traded equity securities investments, the Fund will normally invest in equity securities that are listed and traded on a U.S. exchange or in markets that are members of the ISG or parties to a comprehensive surveillance sharing agreement with the Exchange. All futures contracts in which the Fund will invest will be traded on a U.S. board of trade. Not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities will consist of equity securities whose principal market is not a member of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds [sic] reported to FINRA's TRACE.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting

market transparency. The Fund's portfolio holdings will be disclosed on its Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Quotation and last sale information for the Shares will be available via the Exchange proprietary quote and trade services and via the CTA high-speed line. Intra-day price quotations on the securities and other assets held by the Fund will be available from major broker-dealer firms. Intra-day price information on such assets will also be available through free and subscription services that can be accessed by Authorized Participants and other investors. For example, pricing information for exchange-traded securities (including exchange-traded equity securities (such as common stocks and Underlying Vehicles), futures contracts and sponsored Depositary Receipts, will be readily available from the Web sites of the exchanges or boards of trade trading such securities or futures contracts, automated quotation systems, published or other public sources, and subscription services such as Bloomberg or Reuters. 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. Pricing information for unsponsored Depositary Receipts, non-exchange-traded investment company securities, fixed income securities (including bonds; U.S. Government obligations; corporate debt securities; securities issued by foreign governments and supra-national agencies; master-demand notes; Yankee dollar and Eurodollar bank certificates of deposit; time deposits; bankers' acceptances; commercial paper; inflation-indexed securities; and zero coupon securities), repurchase agreements, and money market instruments will be available through brokers and dealers and/or subscription services.

The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will principally hold equity securities and 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 solicited or received with respect to the proposed rule change.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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-NYSEArca-2014-76 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2014-76. 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 Section, 100 F Street NE., Washington, DC 20549 on official business days between 10:00 a.m. and

3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at www.nyse.com. 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-NYSEArca-2014-76 and should be submitted on or before August 12, 2014.

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

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014-17155 Filed 7-21-14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72619; File No. SR-Phlx-2014-48]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program Regarding Price Improvement XL

July 16, 2014.

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 July 15, 2014, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Exchange Rule 1080(n), Price Improvement XL ("PIXLSM") to extend, through July 18, 2015, a pilot program (the "pilot") concerning (i) the early conclusion of the PIXL Auction (as described below), and (ii) permitting orders of fewer than 50 contracts into

the PIXL Auction. The current pilot is scheduled to expire July 18, 2014.³

A notice of the proposed rule change for publication in the **Federal Register** is attached hereto as *Exhibit 1*.

Proposed new text is *italicized*.

Deleted text is [bracketed].

* * * * *

NASDAQ OMX PHLX LLC Rules

Options Rules

Rule 1080. Phlx XL and Phlx XL II

(a)-(m) No change.

(n) Price Improvement XL ("PIXL")

A member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity ("PIXL Order") against principal interest or against any other order (except as provided in sub-paragraph (n)(i)(F) below) it represents as agent (an "Initiating Order") provided it submits the PIXL Order for electronic execution into the PIXL Auction ("Auction") pursuant to this Rule. The contract size specified in Rule 1080(n) as applicable to PIXL Orders shall apply to Mini Options.

(i) Auction Eligibility Requirements. All options traded on the Exchange are eligible for PIXL. A member (the "Initiating Member") may initiate an Auction provided all of the following are met:

(A) No change.

(B) No change.

(C) If the PIXL Order is a Complex Order and of a conforming ratio, as defined in Commentary.08(a)(i) and (a)(ix) to Rule 1080, the Initiating Member must stop the entire PIXL order at a price that is better than the best net price (debit or credit) (i) available on the Complex Order book regardless of the Complex Order book size; and (ii) achievable from the best Phlx bids and offers for the individual options (an "improved net price"), provided in either case that such price is equal to or better than the PIXL Order's limit price. Complex Orders consisting of a ratio other than a conforming ratio will not be accepted. This sub-paragraph (C) shall apply to all Complex Orders submitted into PIXL. This sub-paragraph (C), where applied to Complex Orders where the smallest leg is less than 50 contracts in size, shall be effective for a pilot period scheduled to expire July 18, 2014[5].

(D)-(G) No change.

(ii) Auction Process. Only one Auction may be conducted at a time in

³⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The extension of the pilot relates to several subparagraphs of Rule 1080(n) in respect of PIXL and Complex Order PIXL, as discussed below.