should be placed relative to the signature line.[15] In response to these comments, FINRA amended the language in proposed Supplementary Material .02 to delete the specific language that had been included as a safe harbor. Although the language in proposed Supplementary Material .02 was identical to the language in NYSE Rule Interpretation 402(b)/01, some FINRA members had not previously been subject to the requirements of NYSE Rule Interpretation 402(b)/01. FINRA recognized that for those members that had not previously been subject to proposed Supplementary Material .02 the costs to ''re-paper'' customer margin agreements could be burdensome. Thus, FINRA removed the safe harbor language in proposed Supplementary Material .02 and added language stating that the customer account agreement/margin agreement/loan consent must include ''clear and prominent disclosure that the firm may lend either to itself or others any securities held by the customer in its margin account.'' [16]

Proposed FINRA Rule 4330(b)(2)(A) would require a member to have reasonable grounds to believe that the customer's loan of securities is appropriate. One commenter supported the proposed amendments stating that it will provide additional protection to customers.[17] Another commenter supported the provision but suggested that FINRA adopt an institutional safe harbor similar to FINRA Rule 2111(b).[18] In response to these comments, FINRA added new proposed Supplementary Material .05, which states that ''a member may fulfill the obligation set forth in paragraph (b)(2)(A) above for an institutional account . . . by complying with the requirements of Rule 2111(b).'' FINRA further stated that firms with existing institutional customers under FINRA Rule 2111(b) should evaluate those customers to ensure they comply with the requirements of proposed FINRA Rule 4330. Thus, any institutional customer, regardless of whether the customer meets the requirements of FINRA Rule 2111(b), would need to also satisfy the requirements in FINRA Rule 4330.

Proposed FINRA Rule 4330(b)(2)(B) requires members to provide customers with certain disclosures relating to a customer's securities loan transactions. One commenter supported this disclosure requirement believing it will help customers ''assess the risks and financial impact associated with securities lending transactions.'' [19] One commenter suggested developing an industry standard risk disclosure form.[20] FINRA stated that it recognizes the benefits of a standard disclosure form and understood that creating such a form may take longer than FINRA's proposed effective date for the rule.[21] Thus, FINRA agreed to extend the compliance date for providing disclosures to customers to 180 days following the effective date of the proposed rule change. FINRA notes that while it will work with industry groups to develop such a template, a standard template would not guarantee compliance with FINRA rules. Further, FINRA stated that members should tailor their disclosures to fit their particular situation.

C. Proposed FINRA Rule 4340

The Commission received no comments on proposed FINRA Rule 4340.

IV. Discussion and Commission's Findings

After careful review of the proposed rule change, the comments received, and FINRA's Response Letter, the Commission finds that the proposed rule change, as modified by Partial Amendments No. 1 and No. 2, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities association.[22] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.[23]

More specifically, the Commission believes the proposed new rules provide important protections for customers who engage in securities lending transactions. The proposed new rules will provide consistency throughout the industry with respect to securities lending transactions. The proposed new rules protect customers by promoting transparency, establishing uniform books and records requirements, providing customers with additional disclosures, and providing redemptions that are free from conflicts of interests.

The Commission believes that FINRA has adequately responded to the concerns raised by commenters by adding further explanation in the Supplementary Material for proposed FINRA Rule 4330 and by extending the compliance date for FINRA Rule 4330(b)(2)(B). These changes were made in Partial Amendments No. 1 and No. 2, which the Commission believes adds clarity to the new rules.

For the reasons stated above, the Commission finds that the rule change is consistent with the Exchange Act and the rules and regulations thereunder.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[24] that the proposed rule change (SR–FINRA–2013–035), as modified by Partial Amendments No. 1 and No. 2, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

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[15] *Id.,* at 4–5.

[16] *FINRA Response Letter,* at 4.

[17] *Cornell Letter,* at 2.

[18] *SIFMA Letter,* at 5.

[19] *Cornell Letter,* at 2.

[20] *SIFMA Letter,* at 6.

[21] *FINRA Response Letter,* at 5–6.

[22] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78*o*–3(b)(6).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70954; File No. SR–NYSEArca–2013–127]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Under NYSE Arca Equities Rule 8.600 Shares of Nine Series of the IndexIQ Active ETF Trust

November 27, 2013

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 18, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Items I and II below, which Items have been prepared by the self-regulatory organization. On November 26, 2013, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

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

The Exchange proposes to list and trade the following series of IndexIQ Active ETF Trust under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): IQ Long/Short Alpha ETF, IQ Bear U.S. Large Cap ETF, IQ Bear U.S. Small Cap ETF, IQ Bear International ETF, IQ Bear Emerging Markets ETF, IQ Bull U.S. Large Cap ETF, IQ Bull U.S. Small Cap ETF, IQ Bull International ETF and IQ Bull Emerging Markets ETF. 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 IQ Long/Short Alpha ETF, IQ Bear U.S. Large Cap ETF, IQ Bear U.S. Small Cap ETF, IQ Bear International ETF, IQ Bear Emerging Markets ETF, IQ Bull U.S. Large Cap ETF, IQ Bull U.S. Small Cap ETF, IQ Bull International ETF and IQ Bull Emerging Markets ETF (each, a ''Fund'' and, collectively, the ''Funds'') under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares[5] on the Exchange.[6] IQ Long/Short Alpha ETF, IQ Bear U.S. Large Cap ETF, IQ Bear U.S. Small Cap ETF, IQ Bear International ETF, IQ Bear Emerging Markets ETF, IQ Bull U.S. Large Cap ETF, IQ Bull U.S. Small Cap ETF, IQ Bull International ETF and IQ Bull Emerging Markets ETF are each a series of the IndexIQ Active ETF Trust (the ''Trust'').[7]

Each Fund is an actively-managed exchange-traded fund and does not seek to replicate the performance of a specified index.

IndexIQ Advisors LLC (the ''Adviser'') is the investment adviser for the Funds.[8] The Bank of New York Mellon (''Administrator''), is the administrator, custodian, transfer agent and securities lending agent for the Funds. ALPS Distributors Inc. (''Distributor''), is the distributor for the Funds.

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. Commentary .06 to Rule 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 a broker-dealer and is not affiliated with a broker-dealer. In the event (a) the Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or subadviser is a registered broker-dealer or becomes affiliated with a broker-dealer it will implement a firewall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

IQ Long/Short Alpha ETF

According to the Registration Statement, the IQ Long/Short Alpha ETF will seek capital appreciation.

[4] Amendment No. 1 clarifies (i) how certain holdings will be valued for purposes of calculating a fund's net asset value, and (ii) where investors will be able to obtain pricing information for certain underlying holdings.

[5] 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), as amended (''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.

[6] The Commission has previously approved the listing and trading on the Exchange of other of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 60717 (September 24, 2009), 74 FR 50853 (October 1, 2009) (SR–NYSEArca–2009–74) (order approving listing of Four Grail Advisors RP Exchange-Traded Funds) and 67320 (June 29, 2012), 77 FR 39763 (July 5, 2012) (SR–NYSEArca–2012–44) (order approving listing of the iShares Strategic Beta U.S. Large Cap Fund and iShares Strategic Beta U.S. Small Cap Fund).

[7] The Trust is registered under the 1940 Act. On September 12, 2013, the Trust filed with the Commission an amendment to its registration statement on Form N–1A relating to the Funds (File Nos. 333–183489 and 811–22739) (the ''Registration Statement''). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trusts under the 1940 Act. *See* Investment Company Act Release No. 30198 (September 10, 2012) (File No. 812–13956) (the ''Exemptive Order'').

[8] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Adviser is registered as an investment adviser under 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, the Adviser and its related personnel are subject to the provisions of Rule 206(4)–7 under the Advisers Act, which 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) 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.

Under normal circumstances,[9] at least 80% of the Fund's assets will be exposed to equity securities of U.S. large capitalization companies,[10] by investing in exchange-traded funds (''ETFs''),[11] and/or swap agreements, options contracts and futures contracts with economic characteristics similar to those of the ETFs for which they are substituted (such swap agreements, options contracts and futures contracts, collectively, ''Financial Instruments'').[12]

According to the Registration Statement, the Fund will take long and short positions in U.S.-listed ETFs registered pursuant to the Investment Company Act of 1940 (the ''1940 Act'') holding primarily U.S. large capitalization equity securities. As opposed to taking long positions in which an investor seeks to profit from increases in the price of a stock, short selling (or ''selling short'') is a technique that will be used by the Fund to try and profit from the falling price of a stock. Short selling involves selling stock that has been borrowed from a third party with the intention of buying identical stock back at a later date to return to that third party.

The Fund's investment process will first break down all large capitalization U.S. companies by the sector in which they operate. Generally, these sectors will include Consumer Discretionary, Consumer Staples, Energy, Financial, Health Care, Industrial, Materials, Technology, Telecommunications and Utilities. The Adviser will then analyze each sector based on a set of common investment factors. These factors will include the following: Price momentum (the trend in stock prices for each sector); valuation (how expensive stocks in one sector are relative to stocks in other sectors); and relative earnings (earnings strength and related characteristics of stocks in one sector relative to stocks in other sectors). The portfolio manager of the Fund will then use the factors to determine which sectors will have a long or short position and, within the long and short groupings, the relative sector weights thereof.

According to the Registration Statement, to implement its strategy, the Fund will hold long and short positions in ETFs providing exposure to the sectors listed above.

According to the Registration Statement, having both long and short positions in an equity security portfolio is a common way to create returns that are independent of market moves. One advantage of a long and short portfolio is that the long and short positions may offset one another in a manner that results in a market neutral portfolio, which is a portfolio with little to no net exposure to the direction of the market. In addition to the offsetting positions, it is possible that the long and short equity securities will outperform their respective long and short benchmarks.

In addition, cash balances arising from the use of short selling and derivatives typically will be held in money market instruments.[13]

IQ Bear U.S. Large Cap ETF

According to the Registration Statement, the IQ Bear U.S. Large Cap ETF will seek capital appreciation.

Under normal circumstances, at least 80% of the Fund's assets will be exposed to equity securities of U.S. large capitalization issuers, by taking short positions in ETFs and/or Financial Instruments. According to the Registration Statement, the Fund will take primarily short positions in U.S.-listed ETFs registered pursuant to the 1940 Act holding primarily U.S. large capitalization equity securities.

According to the Registration Statement, the Fund's investment process will first break down all large capitalization U.S. companies by the sector in which they operate. Generally, these sectors will include Consumer Discretionary, Consumer Staples, Energy, Financial, Health Care, Industrial, Materials, Technology, Telecommunications and Utilities. The Adviser will then analyze each sector based on a set of common investment factors. These factors will include the following: Price momentum (the trend in stock prices for each sector); valuation (how expensive stocks in one sector are relative to stocks in other sectors); and relative earnings (earnings strength and related characteristics of stocks in one sector relative to stocks in other sectors). The portfolio managers of the Fund will then use the factors to determine the magnitude of the short weighting for each sector in the portfolio.

According to the Registration Statement, to implement its strategy, the Fund will hold short positions in ETFs providing exposure to the sectors listed above.

According to the Registration Statement, by using a dynamic allocation process, the Fund will seek to outperform the inverse of the U.S. large capitalization equity market (''U.S. Large Cap Market'') performance in both rising and falling markets. In other words, when the U.S. Large Cap Market is down in a given period, the Fund will seek to be up more than the inverse of the U.S. Large Cap Market during the same period and, conversely, when the U.S. Large Cap Market is up in a given period, the Fund will seek to be down less than the inverse of the return of the U.S. Large Cap Market during the same period.

In addition, cash balances arising from the use of short selling and derivatives typically will be held in money market instruments.

IQ Bear U.S. Small Cap ETF

According to the Registration Statement, the IQ Bear U.S. Small Cap ETF will seek capital appreciation.

Under normal circumstances, at least 80% of the Fund's assets will be exposed to equity securities of U.S. small capitalization companies,[14] by taking short positions in ETFs and/or Financial Instruments. According to the Registration Statement, the Fund will take primarily short positions in U.S.-listed ETFs registered pursuant to the 1940 Act holding primarily U.S. small capitalization equity securities.

According to the Registration Statement, the Fund's investment process will first break down all small capitalization U.S. companies by the

[9] The term ''under normal circumstances'' includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the fixed income 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.

[10] According to the Registration Statement, the Adviser considers ''large capitalization companies'' to have market capitalizations of at least $5 billion.

[11] For purposes of this filing, ETFs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The ETFs all will be listed and traded in the U.S. on registered exchanges. The ETFs in which the Fund may invest will primarily be index-based exchange-traded funds that hold substantially all of their assets in securities representing a specific index. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, −2X, 3X or −3X) ETFs.

[12] The Adviser has represented that all options contracts and futures contracts will be listed on a U.S. national securities exchange or a non-U.S. securities exchange that is a member of the Intermarket Surveillance Group (''ISG'') or a party to a comprehensive surveillance sharing agreement with the Exchange.

[13] According to the Registration Statement, money market instruments are generally short-term cash instruments that have a remaining maturity of 397 days or less and exhibit high quality credit profiles. These include U.S. Treasury Bills and repurchase agreements.

[14] According to the Registration Statement, the Adviser will consider ''small capitalization companies'' to have market capitalizations of between $300 million and $2 billion.

sector in which they operate. Generally, these sectors will include Consumer Discretionary, Consumer Staples, Energy, Financial, Health Care, Industrial, Materials, Technology, Telecommunications and Utilities. The Adviser will then analyze each sector based on a set of common investment factors. These factors will include the following: Price momentum (the trend in stock prices for each sector); valuation (how expensive stocks in one sector are relative to stocks in other sectors); and relative earnings (earnings strength and related characteristics of stocks in one sector relative to stocks in other sectors). The portfolio manager of the Fund will then use the factors to determine the magnitude of the short weighting for each sector in the portfolio.

According to the Registration Statement, to implement its strategy, the Fund will hold short positions in ETFs providing exposure to the sectors listed above.

According to the Registration Statement, by using a dynamic allocation process, the Fund will seek to outperform the inverse of the performance of the U.S. small capitalization equity market (the ''U.S. Small Cap Market'') in both rising and falling markets. In other words, when the U.S. Small Cap Market is down in a given period, the Fund will seek to be up more than the inverse of the U.S. Small Cap Market during the same period and, conversely, when the U.S. Small Cap Market is up in a given period, the Fund will seek to be down less than the inverse of the return of the U.S. Small Cap Market during the same period.

In addition, cash balances arising from the use of short selling and derivatives typically will be held in money market instruments.

IQ Bear International ETF

According to the Registration Statement, the IQ Bear International ETF will seek capital appreciation.

Under normal circumstances, at least 80% of the Fund's assets will be exposed to equity securities of issuers domiciled in developed market countries,[15] by taking short positions in ETFs and/or Financial Instruments.

According to the Registration Statement, the Fund will take primarily short positions in U.S.-listed ETFs registered pursuant to the 1940 Act holding primarily developed market equity securities.

According to the Registration Statement, the Fund's investment process will first break down developed market companies by the country in which they are domiciled. The Adviser will then analyze each country based on a set of common investment factors. These factors will include the following: Price momentum (the trend in stock prices for each country); valuation (how expensive stocks in one country are relative to stocks in other countries); and relative earnings (earnings strength and related characteristics of stocks in one country relative to stocks in other countries). The portfolio manager of the Fund will then use the factors to determine the magnitude of the short weighting for each country in the portfolio.

According to the Registration Statement, to implement its strategy, the Fund will hold short positions in ETFs providing exposure to the countries listed above.

According to the Registration Statement, by using a dynamic allocation process, the Fund will seek to outperform the inverse of the developed market segment of the international equities market (the ''International Market'') performance in both rising and falling markets. In other words, when the International Market is down in a given period, the Fund will seek to be up more than the inverse of the International Market during the same period and, conversely, when the International Market is up in a given period, the Fund will seek to be down less than the inverse of the return of the International Market during the same period.

In addition, cash balances arising from the use of short selling and derivatives typically will be held in money market instruments.

IQ Bear Emerging Markets ETF

According to the Registration Statement, the IQ Bear Emerging Markets ETF will seek capital appreciation. Under normal circumstances, at least 80% of the Fund's assets will be exposed to equity securities of issuers domiciled in emerging market countries,[16] by taking short positions in ETFs and/or Financial Instruments.

According to the Registration Statement, the Fund will take primarily short positions in U.S.-listed ETFs registered pursuant to the 1940 Act holding primarily emerging market equity securities.

According to the Registration Statement, the Fund's investment process will first break down emerging market companies by the country in which they are domiciled. The Adviser will then analyze each country based on a set of common investment factors. These factors will include the following: price momentum (the trend in stock prices for each country); valuation (how expensive stocks in one country are relative to stocks in other countries); and relative earnings (earnings strength and related characteristics of stocks in one country relative to stocks in other countries). The portfolio manager of the Fund will then use the factors to determine the magnitude of the short weighting for each country in the portfolio.

According to the Registration Statement, to implement its strategy, the Fund will hold short positions in ETFs providing exposure to the countries listed above.

According to the Registration Statement, by using a dynamic allocation process, the Fund will seek to outperform the inverse of emerging market equities (the ''Emerging Market'') performance in both rising and falling markets. In other words, when the Emerging Market is down in a given period, the Fund will seek to be up more than the inverse of the Emerging Market during the same period and, conversely, when the Emerging Market is up in a given period, the Fund will seek to be down less than the inverse of the return of the Emerging Market during the same period.

In addition, cash balances arising from the use of short selling and derivatives typically will be held in money market instruments.

IQ Bull U.S. Large Cap ETF

According to the Registration Statement, the IQ Bull U.S. Large Cap ETF will seek capital appreciation. Under normal circumstances, at least 80% of the Fund's assets will be exposed to equity securities of U.S. large capitalization issuers,[17] by investing in ETFs and/or Financial Instruments.

[15] According to the Registration Statement, developed market countries will generally include Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland and the United Kingdom. To the extent that the Adviser believes that countries should be added or subtracted to the developed markets category, the Adviser may adjust the list of countries accordingly.

[16] According to the Registration Statement, emerging market countries will generally include Brazil, Chile, China, Colombia, the Czech Republic, Egypt, Hungary, India, Indonesia, Malaysia, Mexico, Morocco, Peru, the Philippines, Poland, Russia, South Africa, South Korea, Taiwan, Thailand and Turkey. To the extent that the Adviser believes that countries should be added or subtracted to the emerging markets category, it may adjust the list of countries accordingly.

[17] *See* note 10, *supra.*

According to the Registration Statement, the Fund will invest primarily in U.S.-listed ETFs registered pursuant to the 1940 Act holding primarily U.S. large capitalization equity securities.

According to the Registration Statement, the Fund's investment process will first break down all large capitalization U.S. companies by the sector in which they operate. Generally, these sectors will include Consumer Discretionary, Consumer Staples, Energy, Financial, Health Care, Industrial, Materials, Technology, Telecommunications and Utilities. The Adviser will then analyze each sector based on a set of common investment factors. These factors will include the following: price momentum (the trend in stock prices for each sector); valuation (how expensive stocks in one sector are relative to stocks in other sectors); and relative earnings (earnings strength and related characteristics of stocks in one sector relative to stocks in other sectors). The portfolio manager of the Fund will the use the factors to determine the magnitude of the long weighting for each sector in the portfolio.

According to the Registration Statement, to implement its strategy, the Fund will hold long positions in ETFs providing exposure to the sectors listed above. In addition, the Fund will employ leverage inherent to the derivative security to increase exposure to the ETFs in which it is invested up to 100% of the net assets of the Fund to gain additional exposure to the Fund's portfolio holdings, such that the Fund will have 200% exposure to its investments. The leverage ratio will be uniform across all of the underlying ETFs, such that the relative weights of each sector will stay the same, but the overall exposure of the Fund will be increased.

According to the Registration Statement, by using a dynamic allocation process combined with leverage, the Fund will seek to outperform by a factor of two the U.S. large capitalization equity market (''U.S. Large Cap Market'') performance in both rising and falling markets. In other words, when the U.S. Large Cap Market is up in a given period, the Fund will seek to be up by more than two times the return of the U.S. Large Cap Market during the period and, conversely, when the U.S. Large Cap Market is down in a given period, the Fund will seek to be down by less than two times the return of the U.S. Large Cap Market during the period.

In addition, cash balances arising from the use of short selling and derivatives typically will be held in money market instruments.

IQ Bull U.S. Small Cap ETF

According to the Registration Statement, the IQ Bull U.S. Small Cap ETF will seek capital appreciation. Under normal circumstances, at least 80% of the Fund's assets will be exposed to equity securities of U.S. small capitalization issuers,[18] by investing in ETFs and/or Financial Instruments.

According to the Registration Statement, the Fund will invest primarily in U.S.-listed ETFs registered pursuant to the 1940 Act holding primarily U.S. small capitalization equity securities.

According to the Registration Statement, the Fund's investment process will first break down all small capitalization U.S. companies by the sector in which they operate. Generally, these sectors will include Consumer Discretionary, Consumer Staples, Energy, Financial, Health Care, Industrial, Materials, Technology, Telecommunications and Utilities. The Adviser will then analyze each sector based on a set of common investment factors. These factors will include the following: price momentum (the trend in stock prices for each sector); valuation (how expensive stocks in one sector are relative to stocks in other sectors); and relative earnings (earnings strength and related characteristics of stocks in one sector relative to stocks in other sectors). The portfolio manager of the Fund will then use the factors to determine the magnitude of the long weighting for each sector in the portfolio.

According to the Registration Statement, to implement its strategy, the Fund will hold long positions in ETFs providing exposure to the sectors listed above. In addition, the Fund will employ leverage inherent to the derivative security to increase exposure to the ETFs in which it is invested up to 100% of the net assets of the Fund to gain additional exposure to the Fund's portfolio holdings, such that the Fund will have 200% exposure to its investments. The leverage ratio will be uniform across all of the underlying ETFs, such that the relative weights of each sector will stay the same, but the overall exposure of the Fund will be increased.

According to the Registration Statement, by using a dynamic allocation process combined with leverage, the Fund will seek to outperform by a factor of two the U.S. small capitalization equity market (''U.S. Small Cap Market'') performance in both rising and falling markets. In other words, when the U.S. Small Cap Market is up in a given period, the Fund will seek to be up by more than two times the return of the U.S. Small Cap Market during the period and, conversely, when the U.S. Small Cap Market is down in a given period, the Fund will seek to be down by less than two times the return of the U.S. Small Cap Market during the period.

In addition, cash balances arising from the use of short selling and derivatives typically will be held in money market instruments.

IQ Bull International ETF

According to the Registration Statement, the IQ Bull International ETF will seek capital appreciation.

Under normal circumstances, at least 80% of the Fund's assets will be exposed to equity securities of issuers domiciled in developed market countries,[19] by investing in ETFs and/or Financial Instruments.

According to the Registration Statement, the Fund will invest primarily in U.S.-listed ETFs registered pursuant to the 1940 Act holding primarily developed market equity securities.

According to the Registration Statement, the Fund's investment process will first break down developed market companies by the country in which they are domiciled. The Adviser will then analyze each country based on a set of common investment factors. These factors will include the following: price momentum (the trend in stock prices for each country); valuation (how expensive stocks in one country are relative to stocks in other countries); and relative earnings (earnings strength and related characteristics of stocks in one country relative to stocks in other countries). The portfolio manager for the Fund will then use the factors to determine the magnitude of the long weighting for each country in the portfolio.

According to the Registration Statement, to implement its strategy, the Fund will hold long positions in ETFs providing exposure to the countries listed above. In addition, the Fund will

[18] *See* note 14, *supra.*

[19] According to the Registration Statement, developed market countries will generally include Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland and the United Kingdom. To the extent that the Adviser believes that countries should be added or subtracted to the developed markets category, the Adviser may adjust the list of countries accordingly.

employ leverage inherent to the derivative security, primarily through the use of total return swaps that track ETFs, to increase exposure to the ETFs in which it is invested up to 100% of the net assets of the Fund to gain additional exposure of the Fund's portfolio holdings, such that the Fund will have 200% exposure to its investments. The leverage ratio will be uniform across all of the underlying ETFs, such that the relative weights of each sector will stay the same, but the overall exposure of the Fund will be increased.

According to the Registration Statement, by using a dynamic allocation process combined with leverage, the Fund seeks to outperform by a factor of two the developed market segment of the international equities market (the ''International Market'') performance in both rising and falling markets. In other words, when the International Market is up in a given period, the Fund will seek to be up by more than two times the return of the International Market during the period and, conversely, when the International Market is down in a given period, the Fund will seek to be down by less than two times the return of the International Market during the period.

In addition, cash balances arising from the use of short selling and derivatives typically will be held in money market instruments.

IQ Bull Emerging Markets ETF

According to the Registration Statement, the IQ Bull Emerging Markets ETF will seek capital appreciation.

Under normal circumstances, at least 80% of the Fund's assets will be exposed to equity securities of issuers domiciled in emerging market countries,[20] by investing in ETFs and/or Financial Instruments.

According to the Registration Statement, the Fund will invest primarily in U.S.-listed ETFs registered pursuant to the 1940 Act holding primarily emerging market equity securities.

According to the Registration Statement, the Fund's investment process will first break down emerging market companies by the country in which they are domiciled. The Adviser will then analyze each country based on a set of common investment factors. These factors will include the following: price momentum (the trend in stock prices for each country); valuation (how expensive stocks in one country are relative to stocks in other countries); and relative earnings (earnings strength and related characteristics of stocks in one country relative to stocks in other countries). The portfolio manager of the Fund will then use the factors to determine the magnitude of the long weighting for each country in the portfolio.

According to the Registration Statement, to implement its strategy, the Fund will hold long positions in ETFs providing exposure to the countries listed above. In addition, the Fund will employ leverage inherent to the derivative security to increase exposure to the ETFs in which it is invested up to 100% of the net assets of the Fund to gain additional exposure to the Fund's portfolio holdings, such that the Fund will have 200% exposure to its investments. The leverage ratio will be uniform across all of the underlying ETFs, such that the relative weights of each sector will stay the same, but the overall exposure of the Fund will be increased.

According to the Registration Statement, by using a dynamic allocation process combined with leverage, the Fund seeks to outperform by a factor of two the emerging market equities (the ''Emerging Market'') performance in both rising and falling markets. In other words, when the Emerging Market is up in a given period, the Fund will seek to be up by more than two times the return of the Emerging Market during the period and, conversely, when the Emerging Market is down in a given period, the Fund will seek to be down by less than two times the return of the Emerging Market during the period.

In addition, cash balances arising from the use of short selling and derivatives typically will be held in money market instruments.

Other Investments of the Funds

According to the Registration Statements, while each Fund will be, under normal circumstances,[21] investing at least 80% of its net assets in securities as described above, each Fund may also invest in other investments, as described below.

According to the Registration Statements, each Fund may invest a portion of its assets in high-quality money market instruments on an ongoing basis. The instruments in which each Fund may invest include: (1) Short-term obligations issued by the U.S. government; (2) negotiable certificates of deposit (''CDs''), fixed time deposits and bankers' acceptances of U.S. and foreign banks and similar institutions; (3) commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc. or ''A–1+'' or ''A–1'' by Standard & Poor's Ratings Group, Inc., a division of The McGraw-Hill Companies, Inc., or, if unrated, of comparable quality as determined by the Adviser; (4) repurchase agreements (only from or to a commercial bank or a broker-dealer, and only if the purchase is scheduled to occur within seven (7) days or less); and (5) money market mutual funds. CDs are short-term negotiable obligations of commercial banks. Time deposits are non-negotiable deposits maintained in banking institutions for specified periods of time at stated interest rates. Bankers' acceptances are time drafts drawn on commercial banks by borrowers, usually in connection with international transactions.

According to the Registration Statement, in addition to implementing its strategy by taking long or short positions in the underlying ETFs, as the case may be, each Fund may, from time to time, invest directly in non-ETF equity securities, including U.S.-listed and non-U.S. listed equity securities; provided, however, that all equity securities in which the Funds may invest will be listed on a U.S. national securities exchange or a non-U.S. securities exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

In addition to ETFs, the Funds may invest in U.S.-listed exchange-traded notes[22] and other U.S.-listed exchange-traded products.[23]

Certain Funds may use American depositary receipts, European depositary receipts and Global depositary receipts when, in the discretion of the Adviser, the use of such securities is warranted for liquidity, pricing, timing or other reasons. No Fund will invest more than 10% of its net assets in unsponsored depositary receipts.

In certain situations or market conditions, a Fund may temporarily depart from its normal investment policies and strategies provided that the alternative is consistent with the Fund's

[20] *See* note 16, *supra.*

[21] *See* note 9, *supra.*

[22] Exchange-traded notes are securities such as those listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(6).

[23] For purposes of this filing, other U.S.-listed exchange-traded products include 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); and Trust Units (as described in NYSE Arca Equities Rule 8.500).

investment objective and is in the best interest of the Fund. For example, a Fund that typically takes short positions may hold little or no short positions for extended periods, or a Fund may hold a higher than normal proportion of its assets in cash in times of extreme market stress.

Investment Restrictions

Each Fund will seek to qualify for treatment as a regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[24]

A Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A Securities.[25] The Funds will monitor their portfolio liquidity on an ongoing basis to determine whether, in the 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 a Fund's net assets are held in illiquid securities and other illiquid assets.

According to the Registration Statement, the strategy of overweighting and underweighting sectors to maximize opportunities for capital appreciation may result in a Fund investing greater than 25% of its total assets, directly or indirectly, through underlying ETFs, in the equity securities of companies operating in one or more sectors. Sectors are comprised of multiple individual industries. According to the Registration Statement, a Fund will not invest more than 25% of its total assets, directly or indirectly, through underlying ETFs, in an individual industry, as defined by the Standard Industrial Classification Codes utilized by the Division of Corporate Finance of the Commission.[26] This limitation does not apply to investments in securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities, or shares of investment companies.

According to the Registration Statement, a Fund may not purchase or sell commodities or commodity contracts unless acquired as a result of ownership of securities or other instruments issued by persons that purchase or sell commodities or commodities contracts, but this shall not prevent the Fund from purchasing, selling and entering into financial futures contracts (including futures contracts on indices of securities, interest rates and currencies), options on financial futures contracts (including futures contracts on indices of securities, interest rates and currencies), warrants, swaps, forward contracts, foreign currency spot and forward contracts or other derivative instruments that are not related to physical commodities.

Net Asset Value

According to the Registration Statement, the net asset value (''NAV'') of the Shares of a Fund will be equal to the Fund's total assets minus the Fund's total liabilities divided by the total number of shares outstanding. The NAV that is published will be rounded to the nearest cent; however, for purposes of determining the price of Creation Units, the NAV will be calculated to five decimal places.

Equities, ETFs and other exchange-traded products, depositary receipts, futures and options traded on any recognized national or foreign stock exchange are valued at the last reported sale price on the exchange where the security is primarily traded, or if no sale price is available, at the bid price. A swap on an index is valued at the publicly available index price. The index price, in turn is determined by the applicable index calculation agent, which generally values the securities underlying the index at the last reported sale price.

When market quotations are not readily available, are deemed unreliable or do not reflect material events occurring between the close of local markets and the time of valuation, investments will be valued using fair value pricing as determined in good faith by the Adviser under procedures established by and under the general supervision and responsibility of the Trust's Board of Trustees. According to the Registration Statement, the NAV will be calculated by the Administrator and determined each Business Day as of the close of regular trading on the Exchange (ordinarily 4:00 p.m., Eastern time (''E.T.''). The Shares of the Funds will not be priced on days on which the Exchange is closed for trading.

Indicative Intra-Day Value

According to the Registration Statement, an independent third party calculator will calculate the Indicative Intra-Day Value (''IIV'') for each Fund during hours of trading on the Exchange by dividing the ''Estimated Fund Value'' as of the time of the calculation by the total number of outstanding Shares of that Fund. ''Estimated Fund Value'' is the sum of the estimated amount of cash held in a Fund's portfolio, the estimated amount of accrued interest owed to the Fund and the estimated value of the securities held in the Fund's portfolio, minus the estimated amount of the Fund's liabilities. The IIV will be calculated based on the same portfolio holdings disclosed on the Trust's Web site. All assets held by a Fund will be included in the IIV calculation.

According to the Registration Statement, the Funds will provide the independent third party calculator with information to calculate the IIV, but the Funds will not be involved in the actual calculation of the IIV and are not responsible for the calculation or dissemination of the IIV. The Funds make no warranty as to the accuracy of the IIV. The IIV should not be viewed as a ''real-time'' update of NAV because the IIV may not be calculated in the same manner as NAV, which is computed once per day.

Creations and Redemptions of Shares

According to the Registration Statement, each Fund will issue and redeem Shares on a continuous basis, at their NAV next determined after receipt, on any business day, for a creation order or redemption request received in proper form. Each Fund will issue and redeem Shares only in blocks of 50,000 Shares or whole multiples thereof (''Creation Units'').

According to the Registration Statement, Creation Units (a) for the IQ Long/Short Alpha ETF and the ''Bull'' Funds (together, ''Standard Creation Funds'') will be sold in exchange for an in-kind basket of a designated portfolio of securities and a cash component and (b) for the ''Bear'' Funds (''Cash Creation Funds'') will be sold in exchange for only cash. All orders to create Creation

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[24] 26 U.S.C. 151.

[25] 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. 8901 (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 ETF. *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 Securities Act of 1933).

[26] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

Units must be received by the Distributor no later than 3:00 p.m. E.T. for the Cash Creation Funds or ordinarily 4:00 p.m. E.T. (3:00 p.m. E.T. in the case of custom orders) for the Standard Creation Funds, in each case on the date such order is placed, in order for the creation of Creation Units to be effected based on the NAV of Shares of a Fund as next determined on such date after receipt of the order in proper form.

According to the Registration Statement, beneficial owners must accumulate enough Shares in the secondary market to constitute a Creation Unit in order to have such Shares redeemed by the Trust. The redemption proceeds for a Creation Unit will consist of consideration in an amount equal to the NAV of the Shares being redeemed, as next determined after receipt of a request in proper form less a redemption transaction fee. Creation Units will be redeemed principally in-kind for securities included in the relevant Fund but also including cash based on the then-current value of the securities sold short by the relevant Fund (as applicable). With respect to the Funds, the Administrator, through the National Securities Clearing Corporation (''NSCC''), will make available immediately prior to the opening of business on the Exchange (currently 9:30 a.m., E.T.) on each business day, the designated portfolio of securities (the ''Fund Securities'') or cash component, as applicable, per Creation Unit that will be applicable to redemption requests received in proper form on that day. An order to redeem Creation Units must be received by the Administrator not later than 3:00 p.m., E.T.

Availability of Information

The Funds' Web site (*www.indexiq.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Funds that may be downloaded. The Funds' Web site will include additional quantitative information updated on a daily basis, including, for the Funds, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[27] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

On each business day, before commencement of trading in Shares in the Core Trading Session (9:30 a.m. E.T. to 4:00 p.m. E.T.) on the Exchange, the Funds will disclose on their Web site the Disclosed Portfolio that will form the basis for the Funds' calculation of NAV at the end of the business day.[28] The Web site information will be publicly available at no charge.

On a daily basis, the Funds will disclose on *www.indexiq.com* for each portfolio security and other financial instrument of the Funds the following information: ticker symbol, name of security and financial instrument, number of shares (if applicable) and dollar value of each security and financial instrument held in the portfolio, and percentage weighting of each security and financial instrument in the portfolio.

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

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), Shareholder Reports and Form N–CSR. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR 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. 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. Quotation and last sale information for the Shares and the ETF shares underlying the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. Quotation and last sale information for options contracts will be available via the Options Price Reporting Authority. Information regarding the equity securities and other portfolio securities held by each Fund will be available from the national securities exchange trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters or any future service provider. Given that any swap used by a Fund will be priced based on underlying securities that are publicly traded, the pricing information for such underlying securities also will be available from the national securities exchange trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters or any future service provider. In addition, the Portfolio Indicative Value of the Funds, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[29] The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Funds on a daily basis and to 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 (including money manager and other advisory or management fees), portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Funds that are referred to, but not defined in, this proposed rule change are defined in the Registration Statements.

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 Funds.[30] Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 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

[27] The Bid/Ask Price of the Funds 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 Funds' NAV. The records relating to Bid/Ask Prices will be retained by the Funds and their service providers.

[28] Under accounting procedures followed by the Funds, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Funds 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.

[29] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

[30] *See* NYSE Arca Equities Rule 7.12, Commentary .04.

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 a 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 Funds 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 a.m. to 8 p.m. E.T. 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 be subject to NYSE Arca Equities Rule 8.600, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, each Trust will be in compliance with Rule 10A–3 [31] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) 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.[32] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to detect and help deter violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares 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 from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[33]

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') 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 ETP 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 is disseminated; (5) the requirement that ETP 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 Funds are 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. E.T. each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [34] 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 the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange 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. All of the equity securities in which the Funds may invest will be listed on a U.S. national securities exchange or a non-U.S. securities exchange that is a member of ISG or a party to a comprehensive surveillance sharing agreement with the Exchange. Each Fund's investments will, under normal circumstances, be consistent with its investment objective. Each Fund will not hold more than 15% of its net assets in illiquid securities, including Rule 144A securities. The Adviser is not a broker-dealer and is not affiliated with a broker-dealer. In the event (a) the Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or subadviser is a registered broker-dealer or becomes affiliated with a broker-dealer it will implement a firewall with respect to its relevant

[31] 17 CFR 240.10A–3.

[32] 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.

[33] 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.

[34] 15 U.S.C. 78f(b)(5).

personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

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 Adviser is not affiliated with broker-dealers. The Exchange will obtain a representation from the issuer of the Shares that the NAVs per Share will be calculated daily and that the NAVs 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 Funds and the Shares, thereby promoting market transparency. The Funds' portfolio holdings will be disclosed on their 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 Portfolio Indicative Value will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. 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, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Funds will include a form of the prospectus for the Funds and additional data relating to the Funds' NAVs and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Funds 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 Funds may be halted. In addition, as noted above, investors will have ready access to information regarding the Funds' holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded products 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 Funds' holdings, the Portfolio Indicative Value, 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 additional types of actively-managed exchange-traded products 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 up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove 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 No. SR–NYSEArca–2013–127 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 No. SR–NYSEArca–2013–127. 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 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 No. SR–NYSEArca–2013–127 and should be submitted on or before December 26, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–28971 Filed 12–3–13; 8:45 am]

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[35] 17 CFR 200.30–3(a)(12).