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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73082; File No. SR-NYSEArca-2014-71]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change To List and Trade Shares of the Treesdale Rising Rates ETF Under NYSE Arca Equities Rule 8.600

September 11, 2014.

On July 14, 2014, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ a proposed rule change to list and trade shares ("Shares") of the Treesdale Rising Rates ETF ("Fund"). The proposed rule change was published for comment in the **Federal Register** on August 1, 2014.⁴ No comments have been received regarding the proposed rule change. This order approves the proposed rule change.

I. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares.⁵ The Shares will be offered by

AdvisorShares Trust ("Trust"), a statutory trust organized under the laws of the State of Delaware and registered with the Securities and Exchange Commission (the "Commission") as an open-end management investment company.⁶ The investment adviser to the Fund is AdvisorShares Investments, LLC (the "Adviser"). The sub-adviser to the Fund is Treesdale Partners, LLC ("Sub-Adviser"), which will provide day-to-day portfolio management of the Fund. Foreside Fund Services, LLC is the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon serves as the administrator, custodian, transfer agent and fund accounting agent for the Fund.

The Exchange represents that neither the Adviser nor the Sub-Adviser is a broker-dealer or is affiliated with a broker-dealer, and that in the event (a) the Adviser or Sub-Adviser becomes, or becomes newly affiliated with, a broker-dealer, or (b) any new adviser or sub-adviser is, or becomes affiliated with, a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate, as applicable, 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.⁷

The Exchange has made the following representations and statements regarding the Fund.⁸ The Fund will seek to generate current income while providing protection for investors against loss of principal in a rising

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 Trust is registered under the 1940 Act. On September 4, 2013, the Trust filed with the Commission an amendment to its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) and under the 1940 Act relating to the Fund (File Nos. 333-157876 and 811-22110) ("Registration Statement"). The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812-13677).

⁷ See Notice, *supra* note 4, 79 FR at 44879.

⁸ Additional information regarding the Trust, the Fund, and the Shares, investment strategies, investment restrictions, risks, net asset value ("NAV") calculation, creation and redemption procedures, fees, portfolio holdings, disclosure policies, distributions, and taxes, among other information, is included in the Notice and the Registration Statement, as applicable. See Notice and Registration Statement, *supra* notes 4 and 6, respectively.

interest rate environment. The Fund will seek to achieve its investment objectives by investing, under normal circumstances,⁹ at least 80% of its net assets in positions in agency interest-only collateralized mortgage obligations ("CMOs"),¹⁰ interest-only swaps ("IOS") that reference interest only cash flows from agency mortgage-backed securities ("MBS") pools with certain coupons and specified origination periods ("Agency MBS IOS"), interest rate swaps,¹¹ U.S. Treasury obligations, including U.S. Treasury zero-coupon bonds, and U.S. Treasury futures.¹² Under normal circumstances, the Sub-Adviser will seek to generate enhanced returns in an environment of rising interest rates by investing in agency interest-only CMOs and Agency MBS IOS to maintain a negative portfolio duration with a generally positive

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 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. In the absence of normal circumstances the Fund may invest 100% of its total assets, without limitation, in debt securities and money market instruments, either directly or through exchange traded funds ("ETFs"). Debt securities and money market instruments include shares of other mutual funds, commercial paper, U.S. government securities, repurchase agreements and bonds that are rated BBB or higher. The Fund may be invested in this manner for extended periods, depending on the Sub-Adviser's assessment of market conditions. While the Fund is in a defensive position, the opportunity to achieve its investment objectives will be limited. Furthermore, to the extent that the Fund invests in money market mutual funds the Fund would bear its pro rata portion of each such money market fund's advisory fees and operational expenses.

¹⁰ The agency interest-only CMOs that the Fund may invest in include agency stripped mortgage-backed securities ("SMBS"), which are derivative multi-class mortgage securities.

¹¹ The Fund's obligations under a swap agreement will be accrued daily (offset against any amounts owing to the Fund) and any accrued but unpaid net amounts owed to a swap counterparty will be covered by segregating assets determined to be liquid. The Fund will not enter into any swap agreement unless the Adviser believes that the other party to the transaction is creditworthy. The Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced. The Adviser's Execution Committee will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's analysts will evaluate each approved counterparty using various methods of analysis, including the counterparty's liquidity in the event of default, the broker-dealer's reputation, the Adviser's past experience with the broker-dealer, the Financial Industry Regulatory Authority's ("FINRA") BrokerCheck and disciplinary history and its share of market participation.

¹² The Fund will only use futures contracts that have U.S. Treasury securities and interest rate swaps as their underlying reference assets.

¹³ 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 See Securities Exchange Act Release No. 72679 (July 28, 2014), 79 FR 44878 ("Notice").

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) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by

current yield. Under normal circumstances, the Fund will utilize the U.S. Treasury obligations, U.S. Treasury futures and interest rate swaps, which are liquid interest rate products, to manage duration risks. Aside from Treasury futures, which will be exchange traded,¹³ all the Fund's principal investments will be U.S. dollar-denominated and traded over the counter ("OTC"). The overall duration of the Fund's portfolio will generally range from -5 to -15 years.¹⁴

Other Investments

Under normal circumstances, the Fund may invest the balance of its assets in the investments described below.

The Fund may invest in other mortgage-related securities in addition to the agency interest-only CMOs described above. More specifically, the Fund may hold: MBS; mortgage dollar rolls;¹⁵ CMO residuals;¹⁶ and equity or debt securities issued by agencies or instrumentalities of the U.S. government or by private originators of, or investors in, mortgage loans, including savings and loan associations homebuilders, mortgage banks, commercial banks, investment banks, partnerships, trusts, and special purpose entities of the foregoing.

In addition to the agency interest-only CMOs described above, the MBS that the Fund will invest in are other agency CMOs, non-agency CMOs (including non-agency SMBS) and Adjustable Rate Mortgage Backed Securities. The Fund also may invest in asset-backed securities ("ABSs"), which are bonds backed by pools of loans or other

receivables.¹⁷ The Fund will limit investments in ABS and MBS that are issued or guaranteed by non-government entities to 15% of the Fund's net assets.¹⁸

Other mortgage-related securities that the Fund may hold include privately issued mortgage-related securities, where issuers create pass-through pools of conventional residential mortgage loans.

The Fund may enter into other types of swap agreements (in addition to interest-only swaps and interest rate swaps, which are primary investments). These swap agreements will have MBS as reference assets, including CMOs.

The Fund may invest directly and indirectly in foreign currencies. The Fund may conduct foreign currency transactions on a spot (*i.e.*, cash) or forward basis (*i.e.*, by entering into forward contracts to purchase or sell foreign currencies).

The Fund may invest in equity securities. Specifically, the Exchange states that the Fund may invest in common stock, preferred stock, warrants, convertible securities, master limited partnerships, rights, and shares of exchange traded real estate investment trusts. The Fund may invest in: American Depositary Receipts ("ADRs"); Global Depositary Receipts ("GDRs"); European Depositary Receipts ("EDRs"); International Depositary Receipts ("IDRs"); "ordinary shares;" "New York shares" issued and traded in the U.S.;¹⁹ and exchange traded products ("ETPs"), including exchange-traded notes ("ETNs").²⁰ The Fund may invest in the securities of other investment companies, including mutual funds, ETFs, closed-end funds, and business development companies.

In addition to the U.S. Treasury debt securities described above, the Fund intends to invest in other fixed income securities. The fixed income securities the Fund may invest in are: Variable

and floating rate instruments; bank obligations, including certificates of deposit, bankers' acceptances, and fixed time deposits; commercial paper;²¹ U.S. government securities other than U.S. Treasuries; municipal securities; repurchase agreements; reverse repurchase agreements; corporate debt securities; convertible securities; and MBS (as mentioned above). The Fund may invest assets in obligations of foreign banks which meet certain conditions.

The Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans.²²

The Fund intends to invest in derivatives (other than the U.S. Treasury Futures, Agency MBS IOS and interest rate swaps discussed above). The derivatives in which the Fund may invest are: Other futures contracts;²³ forward contracts;²⁴ options, including options on futures;²⁵ other swaps; hybrid instruments;²⁶ and structured notes.

The Fund may purchase securities on a when-issued, delayed-delivery or forward commitment basis (*i.e.*, delivery and payment can take place between a month and 120 days after the date of the transaction).²⁷

All of the Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

²¹ The Fund will only invest in commercial paper rated A-1 or A-2 by S&P or Prime-1 or Prime-2 by Moody's. *See id.*

²² The Fund will effect repurchase transactions only with large, well-capitalized and well-established financial institutions whose condition will be continually monitored by the Sub-Adviser. *See id.*

²³ The Fund will only enter into futures contracts that are traded on a national futures exchange regulated by the Commodities Futures Trading Commission ("CFTC") and whose principal market is a member of ISG or is a market with which the Exchange has a comprehensive surveillance sharing agreement. The Fund will only use futures contracts that have U.S. Treasury securities and interest rate swaps as their underlying reference assets.

²⁴ Specifically, in addition to the forward currency exchange contracts discussed above, the Fund may invest in mortgage dollar rolls, which constitute forward contracts.

²⁵ Not more than 10% of the net assets of the Fund in the aggregate shall consist of options whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. *See id.* The Fund may trade put and call options on securities, securities indices and currencies.

²⁶ The Fund will only invest in commodity-linked hybrid instruments that qualify, under applicable rules of the CFTC, for an exemption from the provisions of the CEA. *See id.* at 44883.

²⁷ The Fund will not purchase securities on a when-issued, delayed-delivery or forward commitment basis if, as a result, more than 15% of the Fund's net assets would be so invested. *See id.*

¹³ The futures in which the Fund may invest will trade on markets that are members of the Intermarket Surveillance Group ("ISG") or that have entered into a comprehensive surveillance agreement with the Exchange.

¹⁴ Duration is a measure used to determine the sensitivity of a security's price to changes in interest rates. The longer a security's duration, the more sensitive it will be to changes in interest rates. A portfolio with negative duration generally incurs a loss when interest rates and yields fall.

¹⁵ Dollar rolls are a type of repurchase transaction in the mortgage pass-through securities market in which the buy side trade counterparty of a "to be announced" ("TBA") trade agrees to sell off the same TBA trade in the current month and to buy back the same trade in a future month at a lower price, constituting a forward contract.

¹⁶ CMO residuals are mortgage securities issued by agencies or instrumentalities of the U.S. government or by private originators of, or investors in, mortgage loans. The cash flow generated by the mortgage assets underlying a series of CMOs is applied first to make required payments of principal and interest on the CMOs and second to pay the related administrative expenses and any management fee of the issuer. The residual in a CMO structure generally represents the interest in any excess cash flow remaining after making the foregoing payments.

¹⁷ ABSs are created from many types of assets, including auto loans, credit card receivables, home equity loans, and student loans. Collateralized bond obligations ("CBOs"), collateralized loan obligations ("CLOs"), and other collateralized debt obligations ("CDOs") are types of ABS. Normally, CBOs, CLOs and other CDOs are privately offered and sold, and thus, are not registered under the securities laws.

¹⁸ *See Notice, supra* note 4, 79 FR at 44881.

¹⁹ With the exception of ADRs traded OTC, which will comprise no more than 10% of the Fund's net assets, all equity securities, including, without limitation, exchange-traded ADRs, GDRs, EDRs, IDRs, New York shares and ordinary shares, that the Fund may invest in will trade on markets that are members of the ISG or that have entered into a comprehensive surveillance agreement with the Exchange. *See id.* at 44882, n.23.

²⁰ It is expected that the ETN issuer's credit rating will be investment grade at the time of investment. *See id.* at 44882.

II. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act²⁸ and the rules and regulations thereunder applicable to a national securities exchange.²⁹ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,³⁰ which requires, among other things, that the Exchange's rules be 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 a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 for the Shares to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,³¹ which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. According to the Exchange, quotation and last sale information for the Shares and the underlying U.S. exchange-traded equity securities will be available via the Consolidated Tape Association ("CTA") high-speed line, and from the national securities exchange on which they are listed.³² Quotation and last-sale information for such U.S. exchange-listed securities will be available from the exchange on which they are listed.³³ Quotation and last-sale information for exchange-listed options will be available via the Options Price Reporting Authority.³⁴ Price information regarding the futures contracts, exchange-traded options, options on futures, equity securities (including ETPs such as exchange-listed ADRs, GDRs, EDRs, IDRs, ordinary shares and New York shares as well as ETNs, and ETFs), and exchange-traded

REITs, held by the Fund will be available from the U.S. and non-U.S. exchanges trading such assets.³⁵ Additionally, quotation information from brokers and dealers or pricing services will be available for ADRs traded OTC; investment company securities other than ETFs; non-exchange-traded derivatives, including forward contracts, IOS and other swaps, options traded OTC, options on futures, hybrid instruments and structured notes; fixed income securities, including CMOs (including agency interest-only CMOs), CMO residuals, mortgage dollar rolls, U.S. Treasury securities, other obligations issued or guaranteed by U.S. government agencies and instrumentalities, bonds, bank obligations, ABS, MBS, shares of other mutual funds, commercial paper, repurchase agreements, reverse repurchase agreements, corporate debt securities, municipal securities, convertible securities, certificates of deposit and bankers' acceptances.³⁶ Pricing information regarding each asset class in which the Fund will invest generally is available through nationally recognized data service providers through subscription agreements.³⁷

In addition, 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 Core Trading Session by one or more major market data vendors.³⁸ 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 would form the basis for the Fund's calculation of NAV at the end of the business day.³⁹ The NAV of the Fund will be determined once daily Monday through Friday, generally as of the regularly scheduled close of

business of the New York Stock Exchange (normally 4:00 p.m. Eastern Time) on each day the New York Stock Exchange is open for trading. Information regarding market price and trading volume of the Shares would 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 would be published daily in the financial section of newspapers. The Web site for the Fund will include a form of the prospectus and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share of the Fund will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.⁴⁰ In addition, trading in the Shares would be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which trading in the Shares may be halted. The Exchange may halt trading in the Shares if trading is not occurring in the securities or financial instruments constituting the Disclosed Portfolio of the Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.⁴¹ Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio of the Fund must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.⁴² In addition, the Exchange may obtain

³⁵ See *id.*

³⁶ See *id.*

³⁷ See *id.*

³⁸ The Exchange states that several major market data vendors display or make widely available Portfolio Indicative Values taken from the CTA or other data feeds. See *id.* at 44886, n.34.

³⁹ On a daily basis, the Adviser, on behalf of the Fund, will disclose on the Fund's Web site the following information regarding each portfolio holding of the Fund, 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, such as the type of swap); the identity of the security, commodity, index, or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. See *id.* at 44888.

⁴⁰ See NYSE Arca Equities Rule 8.600(d)(1)(B).

⁴¹ See NYSE Arca Equities Rule 8.600(d)(2)(C) (providing additional considerations for the suspension of trading in or removal from listing of Managed Fund Shares on the Exchange). With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading in Shares 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 in the Shares inadvisable.

⁴² See NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

²⁸ 15 U.S.C. 78f.

²⁹ In approving this proposed 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).

³⁰ 15 U.S.C. 78f(b)(5).

³¹ 15 U.S.C. 78k-1(a)(1)(C)(iii).

³² See Notice, *supra* note 4, 79 FR at 44886.

³³ See *id.*

³⁴ See *id.*

information regarding trading in the Shares, exchange-listed equity securities, futures contracts and exchange-listed options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Commission also notes that FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine.⁴³ The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.⁴⁴ The Exchange represents that neither the Adviser or the Sub-Adviser is a broker-dealer and are not affiliated with a broker-dealer, and that in the event (a) the Adviser or Sub-Adviser becomes, or becomes newly affiliated with, a broker-dealer, or (b) any new adviser or sub-adviser is, or becomes affiliated with, a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate, as applicable, 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.⁴⁵

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

In support of this proposal, the Exchange has made the following representations:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) Trading in the Shares will be subject to the existing surveillance procedures administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and 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.

(4) 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. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) 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; (c) 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; (d) how information regarding the Portfolio Indicative Value is disseminated; (e) 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 (f) trading information.

(5) For initial and continued listing, the Fund will be in compliance with Rule 10A-3 under the Exchange Act,⁴⁶ as provided by NYSE Arca Equities Rule 5.3.

(6) The Fund may hold up to an aggregate amount of 15% of its net assets (calculated at the time of investment) in assets deemed illiquid by the Adviser, consistent with Commission guidance.

(7) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

(8) Not more than 10% of the net assets of the Fund in the aggregate shall consist of options whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

(9) The Fund will limit investments in ABS and MBS that are issued or guaranteed by non-government entities to 15% of the Fund's net assets.

(10) ADRs traded OTC will comprise no more than 10% of the Fund's net assets.

(11) All equity securities except for ADRs traded OTC will trade on markets that are members of the ISG or that have entered into a comprehensive surveillance agreement with the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act⁴⁷ and the rules and regulations thereunder applicable to a national securities exchange.

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴⁸ that the proposed rule change (SR-NYSEArca-2014-71) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁹

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73075; File No. SR-ICEEU-2014-12]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Granting Approval of Proposed Rule Change to Liquidity Policies Relating to EMIR

September 11, 2014.

I. Introduction

On July 25, 2014, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-ICEEU-2014-12 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder.² The proposed rule change was

⁴⁷ 15 U.S.C. 78f(b)(5).

⁴⁸ 15 U.S.C. 78s(b)(2).

⁴⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁴³ See Notice, *supra* note 4, 79 FR at 44887.

⁴⁴ See *id.*

⁴⁵ See text accompanying note 7, *supra*. An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 ("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) 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.

⁴⁶ 17 CFR 240.10A-3.