The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Further Information

The NRC is seeking public comment on the proposed revision to SRP Section 17.5. This section has been developed to assist the NRC's staff review Quality Assurance (QA) program descriptions under part 50 of Title 10 of the *Code of Federal Regulation*s (10 CFR). The revisions to this SRP section reflect no changes in staff position, nor are new SRP acceptance criteria introduced. The changes simplify and reflect plain language throughout in accordance with the NRC's Plain Writing Action Plan. Additionally, the staff has aligned SRP Section 17.5 with Regulatory Guide (RG) 1.28, ''Quality Assurance Program Criteria (Design and Construction),'' Revision 4 and RG 1.33, ''Quality Assurance Program Requirements (Operation),'' Revision 2. The changes also reflect alignment with the latest edition of NQA–1–2008/2009a which the staff found acceptable for meeting the requirement of Appendix B to 10 CFR part 50.

Following the NRC staff's evaluation of public comments, the NRC intends to finalize SRP Section 17.5, Revision 1 in ADAMS and post it on the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/.* The SRP is guidance for the NRC staff. The SRP is not a substitute for the NRC's regulations, and compliance with the SRP is not required.

III. Backfitting and Issue Finality

Issuance of this draft SRP, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations:

1. *The draft SRP positions, if finalized, would not constitute backfitting, inasmuch as the SRP is internal guidance to the NRC staff.*

The SRP provides internal guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. *The NRC staff has no intention to impose the SRP positions on existing licensees either now or in the future.*

The NRC staff does not intend to impose or apply the positions described in the draft SRP to existing licenses and regulatory approvals. Hence, the issuance of a final SRP—even if considered guidance within the purview of the issue finality provisions in 10 CFR part 52—would not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. *Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions.

The NRC staff does not, at this time, intend to impose the positions represented in the draft SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the draft SRP in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 12th day of September, 2014.

For the Nuclear Regulatory Commission.

Joseph Colaccino,

Chief, New Reactor Rulemaking and Guidance Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73140; File No. SR–NASDAQ–2014–073]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the First Trust Emerging Markets Local Currency Bond ETF of First Trust Exchange-Traded Fund III

September 18, 2014.

I. Introduction

On July 18, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the First Trust Emerging Markets Local Currency Bond ETF (''Fund'') under Nasdaq Rule 5735. The Exchange filed Amendment No. 1 to the proposal on July 25, 2014.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on August 5, 2014.[4] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund pursuant to Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by First Trust Exchange-Traded Fund III (''Trust''), which was established as a Massachusetts business trust on January 9, 2008.[5] The Fund will

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

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 clarified that reverse repurchase agreements will not be used by the Fund to enhance leverage.

[4] *See* Securities Exchange Act Release No. 72716 (July 30, 2014), 79 FR 45535 (''Notice'').

[5] According to the Exchange, the Trust is registered with the Commission as an investment

be a series of the Trust. First Trust Advisors L.P. will be the investment adviser (''Adviser'') to the Fund. First Trust Global Portfolios Ltd will serve as investment sub-adviser (''Sub-Adviser'') to the Fund and provide day-to-day portfolio management.[6] First Trust Portfolios L.P. (''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. Brown Brothers Harriman & Co. will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

The Exchange has made the following representations and statements in describing the Fund and its principal investments, investments in derivatives and foreign currencies, and other investments and investment restrictions.[7]

Principal Investments

The investment objective of the Fund will be to seek maximum total return and current income. Under normal market conditions,[8] the Fund will invest at least 80% of its net assets (including investment borrowings) in bonds, notes, bills, certificates of deposit, time deposits, commercial paper, and loans issued by issuers in emerging market[9] countries (''Debt Instruments'') that are denominated in the local currency of the issuer. Debt Instruments will be issued or guaranteed (as applicable) by: (i) Foreign governments (which may be local foreign governments); (ii) instrumentalities, agencies, or other political subdivisions of foreign governments (which may be local foreign governments); (iii) central banks, sovereign entities, supranational issuers, or development agencies; or (iv) entities or enterprises organized, owned, backed, or sponsored by any of the entities set forth in the foregoing clauses (i)–(iii).[10] The Fund will invest in Debt Instruments issued by at least 13 non-affiliated issuers.

In implementing the Fund's investment strategy, the Sub-Adviser will seek to provide current income and enhance capital, while minimizing volatility. The Sub-Adviser will continually review fundamental economic and structural themes that impact long- and medium-term asset returns in emerging markets. The Sub-Adviser will also consider shorter-term market drivers such as valuations, liquidity conditions, and sentiment to determine the appropriate positioning of the Fund's investments. The Sub-Adviser will adjust the portfolio's country allocations, duration, and individual security positioning to reflect the most attractive opportunities on a continuous basis.

The Fund's exposure to any single country generally will be limited to 20% of the Fund's net assets (although this percentage may change from time to time in response to economic events). The percentage of Fund assets invested in a specific region, country, or issuer will change from time to time. The Fund intends, initially, to invest in Debt Instruments of issuers in the following countries: Brazil, Chile, Colombia, Hungary, Indonesia, Israel, Malaysia, Mexico, Nigeria, Peru, Philippines, Poland, Romania, Russia, South Africa, South Korea, Thailand, Turkey, and Uruguay. This list may change as market developments occur and may include additional issuers. The Fund will invest only in Debt Instruments that, at the time of purchase, are performing, and not in default or distressed; however, the Debt Instruments in which the Fund invests may become non-performing, distressed, or defaulted subsequent to purchase and the Fund may continue to hold such Debt Instruments. The Fund may invest in Debt Instruments of any credit quality,[11] including unrated securities, and with effective or final maturities of any length.

Liquidity will be a substantial factor in the Fund's security selection process.[12] Under normal market conditions, at least 80% of the Fund's net assets that are invested in Debt

company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission. *See* Post-Effective Amendment No. 10 to Registration Statement on Form N–1A for the Trust, dated July 8, 2014 (File Nos. 333–176976 and 811–22245). The Exchange states that the Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (''1940 Act''). *See* Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812–13795) (''Exemptive Relief''). In addition, the Exchange states that the Commission has issued no-action relief pertaining to the Fund's ability to invest in derivatives, notwithstanding certain representations in the application for the Exemptive Relief. *See* Commission No-Action Letter (December 6, 2012).

[6] The Exchange states that neither the Adviser nor the Sub-Adviser is a broker-dealer; however, both the Adviser and the Sub-Adviser are affiliated with the Distributor (as defined herein), which is a broker-dealer. The Exchange represents that the Adviser and the Sub-Adviser have each implemented a fire wall with respect to their broker-dealer affiliate regarding access to information concerning the composition of or changes to the portfolio. The Exchange further represents that personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. In addition, the Exchange represents that in the event (a) the Adviser or the Sub-Adviser becomes, or becomes newly affiliated with, a broker-dealer or registers as a broker-dealer; or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, the Adviser or Sub-Adviser or any new adviser or sub-adviser, as applicable, will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition of or changes to the portfolio, and the Adviser or Sub-Adviser or any new adviser or sub-adviser, as applicable, will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio.

[7] The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, creation and redemption procedures, calculation of net asset value (''NAV''), fees, portfolio holdings disclosure policies, distributions, and taxes, among other things, can be found in the Notice and Registration Statement, as applicable. *See supra* notes 4 and 5, respectively.

[8] The term ''under normal market conditions'' as used herein 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.

[9] According to the Adviser and the Sub-Adviser, while there is no universally accepted definition of what constitutes an ''emerging market,'' in general, emerging market countries are characterized by developing commercial and financial infrastructure with significant potential for economic growth and increased capital market participation by foreign investors. The Adviser and Sub-Adviser will look at a variety of commonly-used factors when determining whether a country is an ''emerging'' market. In general, the Adviser and Sub-Adviser will consider a country to be an emerging market if it is classified by the World Bank in the lower, lower middle, or upper middle income designation for one of the past three years. This definition could be expanded or exceptions could be made depending on the evolution of market and economic conditions.

[10] Debt Instruments include fixed rate, floating rate, and index-linked debt obligations. In addition, Debt Instruments include inflation-linked bonds. Inflation-linked bonds are fixed income securities that are structured to provide protection against inflation. The value of the inflation-linked bond's principal or the interest income paid on the bond is adjusted to track changes in an official inflation measure. The value of inflation-linked bonds is expected to change in response to changes in real interest rates. Real interest rates are tied to the relationship between nominal interest rates and the rate of inflation. If nominal interest rates increase at a faster rate than inflation, real interest rates may rise, leading to a decrease in the value of inflation-linked bonds.

[11] The universe of emerging markets local currency debt currently includes securities that are rated ''investment grade'' as well as ''non-investment grade'' securities. The Fund will invest in both investment-grade and non-investment-grade securities, as well as unrated securities. There is no limit on the amount of the Fund's assets that may be invested in non-investment grade and unrated securities.

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

Instruments will be invested in Debt Instruments that are issued by issuers with outstanding debt of at least $200 million (or the foreign currency equivalent thereof).

Investments in Derivative Instruments and Foreign Currencies

The Fund's investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. Under normal market conditions, no more than 20% of the value of the Fund's net assets will be invested in derivative instruments. Derivatives are financial contracts whose value depends upon, or is derived from, the value of an underlying asset, reference rate, or index, and may relate to, among other things, interest rates, currencies, or currency exchange rates. The Fund may, but is not required to, use derivative instruments for risk management purposes or as part of its investment strategies. The Fund may invest in exchange-listed futures contracts,[13] exchange-listed options,[14] exchange-listed options on futures contracts, forward currency contracts, non-deliverable forward currency contracts, and exchange-listed currency options.[15]

The Fund will use derivative instruments primarily to hedge interest rate and foreign currency risk and to actively manage interest rate and foreign currency exposure. The Fund may also use derivative instruments to enhance returns, as a substitute for, or to gain exposure to, a position in an underlying asset, to reduce transaction costs, to maintain full market exposure (*i.e.,* to adjust the characteristics of its investments to more closely approximate those of the markets in which it invests), to manage cash flows, or to preserve capital.[16] The Fund's investments in derivative instruments will not be used to seek to achieve a multiple or inverse multiple of an index.

The Fund will invest in foreign currencies and Debt Instruments denominated in foreign (non-U.S.) currencies, and will receive revenues in foreign currencies. In addition, the Fund may engage in foreign currency transactions on a spot (cash) basis and, as indicated above, enter into forward currency contracts.[17] A forward currency contract, which involves an obligation to purchase or sell a specific currency at a future date at a price set at the time of the contract, reduces the Fund's exposure to changes in the value of the currency it will deliver and increases its exposure to changes in the value of the currency it will receive for the duration of the contract. Certain foreign currency transactions (*i.e.,* non-deliverable forward currency contracts) may also be settled in cash rather than the actual delivery of the relevant currency. The effect on the value of the Fund is similar to selling securities denominated in one currency and purchasing securities denominated in another currency. A contract to sell foreign currency would limit any potential gain which might be realized if the value of the hedged currency increases. The Fund may enter into these contracts to hedge against foreign exchange risk, to increase exposure to a foreign currency, or to shift exposure to foreign currency fluctuations from one currency to another. Suitable hedging transactions may not be available in all circumstances and there can be no assurance that the Fund will engage in such transactions at any given time or from time to time.

The Fund will comply with the regulatory requirements of the Commission to maintain assets as ''cover,'' maintain segregated accounts, and/or make margin payments when it takes positions in derivative instruments involving obligations to third parties (*i.e.,* instruments other than purchase options). If the applicable guidelines prescribed under the 1940 Act so require, the Fund will earmark or set aside cash, U.S. government securities, high grade liquid debt securities, and/or other liquid assets permitted by the Commission in a segregated custodial account in the amount prescribed.

Other Investments and Investment Restrictions

Under normal market conditions, the Fund will invest substantially all of its assets to meet its investment objective and, as described above, the Fund may invest in derivative instruments and foreign currencies. In addition, the Fund may invest its remaining assets as described below.

The Fund may invest up to 20% of its net assets in non-U.S. corporate bonds that are not included within the meaning of the term ''Debt Instruments'' (referred to as ''Corporate Bonds''). The Fund will invest only in Corporate Bonds that the Adviser and/or the Sub-Adviser deems to be sufficiently liquid.[18] Under normal market conditions, a Corporate Bond must have $200 million (or the foreign currency equivalent thereof) or more par amount outstanding and significant par value traded to be considered as an eligible investment. Economic and other conditions may, from time to time, lead to a decrease in the average par amount outstanding of non-U.S. corporate bond issuances. Therefore, although the Fund does not intend to do so, the Fund may invest up to 5% of its net assets in Corporate Bonds with less than $200 million (or the foreign currency equivalent thereof) par amount outstanding if (i) the Adviser and/or the Sub-Adviser deems such securities to be sufficiently liquid and (ii) such investment is deemed by the Adviser and/or the Sub-Adviser to be in the best interest of the Fund.

The Fund may invest up to 20% of its net assets in short-term debt securities (as described in the following paragraph) that are not included within the meaning of the term ''Debt Instruments,'' [19] money market funds, and other cash equivalents, or it may hold cash. For temporary defensive purposes, during the initial invest-up period, and during periods of high cash inflows or outflows, the Fund may depart from its principal investment

[13] The Fund will use futures contracts to hedge interest rate risk and to actively manage interest rate exposure.

[14] Option purchases and sales can be used to help manage exposures (*i.e.,* exposures to interest rates and/or currencies) more efficiently in the portfolio, while limiting downside.

[15] At least 90% of the Fund's net assets that are invested in exchange-traded derivative instruments will be invested in instruments that trade in markets that are members of the Intermarket Surveillance Group (''ISG'') or are parties to a comprehensive surveillance sharing agreement with the Exchange.

[16] The Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser and/or the Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's and/or the Sub-Adviser's analysis will evaluate each approved counterparty using various methods of analysis and may consider such factors as the counterparty's liquidity, its reputation, the Adviser's and/or Sub-Adviser's past experience with the counterparty, its known disciplinary history, and its share of market participation.

[17] At least 90% of the Fund's net assets that are invested in foreign currencies will be invested in currencies with a minimum average daily foreign exchange turnover of USD $1 billion as determined by the Bank for International Settlements (''BIS'') Triennial Central Bank Survey. As of the most recent BIS Triennial Central Bank Survey, at least 52 separate currencies had minimum average daily foreign exchange turnover of USD $1 billion. For a list of eligible BIS currencies, *see www.bis.org.*

[18] *See supra* note 12.

[19] Short-term debt securities are securities from issuers having a long-term debt rating of at least A by Standard & Poor's Ratings Services (''S&P Ratings''), Moody's Investors Service, Inc. (''Moody's''), or Fitch Ratings (''Fitch'') and having a maturity of one year or less. For the sake of clarity, the foregoing parameters do not apply to Debt Instruments.

strategies and invest part or all of its assets in these securities or it may hold cash. During such periods, the Fund may not be able to achieve its investment objective. The Fund may adopt a defensive strategy when the Adviser and/or Sub-Adviser believes that securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances. The use of temporary investments will not be a part of a principal investment strategy of the Fund.

Short-term debt securities are the following: (1) Fixed rate and floating rate U.S. government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; (2) short-term securities issued or guaranteed by non-U.S. governments or by their agencies or instrumentalities; [20] (3) certificates of deposit issued against funds deposited in a bank or savings and loan association; (4) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (5) repurchase agreements,[21] which involve purchases of debt securities; (6) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (7) commercial paper, which is short-term unsecured promissory notes; [22] and (8) other securities that are similar to the foregoing.

The Fund may invest up to 20% of its net assets in the securities of money market funds (as noted above) and other exchange-traded funds (''ETFs'') [23] that invest primarily in short-term debt securities or Debt Instruments. Except for these investments in other investment companies, the Fund will not invest directly in equity securities.[24] The ETFs in which the Fund will invest will be exchange-listed and trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser and/or the Sub-Adviser.[25] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry. This restriction does not apply to (a) obligations issued or guaranteed by the U.S. government, its agencies, or instrumentalities, or (b) securities of other investment companies.

The Fund may purchase securities on a when-issued or other delayed delivery basis and may enter into reverse repurchase agreements. Reverse repurchase agreements will not be used by the Fund to enhance leverage.

The Fund will seek to qualify for treatment as a Regulated Investment Company under Subchapter M of the Internal Revenue Code of 1986, as amended.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[26] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[27] 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 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. The Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735 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,[28] which sets forth Congress' 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. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. In addition, the Intraday Indicative Value,[29] as defined in Nasdaq Rule

[20] The relevant non-U.S. government, agency, or instrumentality must have a long-term debt rating of at least A by S&P Ratings, Moody's, or Fitch. For the sake of clarity, the foregoing ratings requirement does not apply to Debt Instruments.

[21] The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Sub-Adviser to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust (''Trust Board''). The Sub-Adviser will review and monitor the creditworthiness of such institutions. The Sub-Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

[22] Except for commercial paper that is included within the meaning of the term ''Debt Instruments,'' the Fund will only invest in commercial paper rated A–1 or higher by S&P Ratings, Prime-1 or higher by Moody's, or F1 or higher by Fitch.

[23] An ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. Many ETFs are designed to track the performance of a securities index, including industry, sector, country, and region indexes. ETFs included in the Fund will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by other ETFs and their sponsors from the Commission. In addition, the Fund may invest in the securities of certain other investment companies (including without limitation ETFs) in excess of the limits imposed under the 1940 Act pursuant to an exemptive order that the Trust has obtained from the Commission. *See* Investment Company Act Release No. 30377 (February 5, 2013) (File No. 812–13895). The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depository Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (*e.g.,* 2X or –3X) ETFs.

[24] It is possible, however, that an investment company in which the Fund invests will invest a portion of its assets in foreign and/or domestic equity securities.

[25] *See supra* note 12.

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

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[29] According to the Exchange, the Intraday Indicative Value reflects an estimated intraday value of the Fund's Disclosed Portfolio and will be based upon the current value for the components of a Disclosed Portfolio. The Exchange states that the Intraday Indicative Value will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close, that premiums and discounts between the Intraday Indicative Value and the market price may occur, and that the Intraday Indicative Value should not

Continued

5735(c)(3), for the Fund will be available on the NASDAQ OMX Information LLC proprietary index data service, and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.[30] On each business day, before commencement of trading in Shares in the Regular Market Session [31] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (''Disclosed Portfolio'' as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[32] The Fund's custodian, through the National Securities Clearing Corporation, will make available on each business day, prior to the opening of business of the Exchange, the list of the names and quantities of the instruments, as well as the estimated amount of cash (if any), constituting the creation basket for the Fund for that day. The NAV of the Fund will be determined as of the close of trading (normally 4:00 p.m., Eastern Time) on each day the New York Stock Exchange is open for business.[33]

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 ETFs will be available via the CTA high-speed line, and will be available from the national securities exchange on which they are listed. Pricing information for ETFs and exchange-traded derivative instruments will be available from the exchanges on which they trade and from major market data vendors. Pricing information for Debt Instruments, forward currency contracts, non-deliverable forward currency contracts, and other debt securities in which the Fund may invest will be available from major broker-dealer firms, major market data vendors and/or Pricing Services. Money market funds are typically priced once each business day and their prices will be available through the applicable fund's Web site or major market data vendors. The Fund's Web site, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund 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 Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pause provisions under Nasdaq Rules 4120(a)(11) and (12). Trading in the Shares may be halted because of market conditions or for reasons that, in the view of the

be viewed as a ''real time'' update of the NAV per Share of the Fund, which is calculated only once a day.

30 Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service. The Exchange represents that GIDS offers real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs and that GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs.

31 *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., Eastern Time; (2) Regular Market Session from 9:30 a.m. to 4:00 p.m. or 4:15 p.m., Eastern Time; and (3) Post-Market Session from 4:00 p.m. or 4:15 p.m. to 8:00 p.m., Eastern Time).

32 On a daily basis, the Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security 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. The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. This Web site information will be publicly available at no charge.

33 NAV per Share will be calculated for the Fund by taking the market price of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, dividing such amount by the total number of Shares outstanding, and rounding to the nearest cent. The Fund's investments will be valued daily at market value or, in the absence of market value with respect to any investment, at fair value, in each case in accordance with valuation procedures, which may be revised from time to time, adopted by the Trust Board (''Valuation Procedures'') and in accordance with the 1940 Act. A market valuation generally means a valuation (i) obtained from an exchange, an independent pricing service (''Pricing Service''), or a major market maker or dealer, or (ii) based on a price quotation or other equivalent indication of value supplied by an exchange, a Pricing Service, or a major market maker or dealer. Certain securities, including Debt Instruments, in which the Fund will invest will not be listed on any securities exchange or board of trade. Such securities will typically be bought and sold by institutional investors in individually negotiated private transactions that function in many respects like an over-the-counter secondary market, although typically no formal market makers will exist. Certain securities, particularly debt securities, will have few or no trades, or trade infrequently, and information regarding a specific security may not be widely available or may be incomplete. Accordingly, determinations of the fair value of debt securities may be based on infrequent and dated information. Because there is less reliable, objective data available, elements of judgment may play a greater role in valuation of debt securities than for other types of securities. Typically, Debt Instruments and other debt securities in which the Fund may invest will be valued using information provided by a Pricing Service. To the extent debt securities have a remaining maturity of 60 days or less when purchased, they will be valued at cost adjusted for amortization of premiums and accretion of discounts. Overnight repurchase agreements will be valued at cost. Term repurchase agreements (*i.e.,* those whose maturity exceeds seven days) will be valued at the average of the bid quotations obtained daily from at least two recognized dealers. ETFs listed on any exchange other than the Exchange will be valued at the last sale price on the exchange on which they are principally traded on the business day as of which such value is being determined. ETFs listed on the Exchange will be valued at the official closing price on the business day as of which such value is being determined. If there has been no sale on such day, or no official closing price in the case of ETFs traded on the Exchange, the ETFs will be valued using fair value pricing. ETFs traded on more than one securities exchange will be valued at the last sale price or official closing price, as applicable, on the business day as of which such value is being determined at the close of the exchange representing the principal market for such ETFs. Shares of money market funds will be valued at their net asset values as reported by such funds to Pricing Services. Exchange-traded options and futures contracts will be valued at the closing price in the market where such contracts are principally traded. Forward currency contracts and non-deliverable forward currency contracts will be valued at the current day's interpolated foreign exchange rate, as calculated using the current day's spot rate, and the thirty, sixty, ninety, and one-hundred-eighty day forward rates provided by a Pricing Service or by certain independent dealers in such contracts. Certain securities may not be able to be priced by pre-established pricing methods. Such securities may be valued by the Trust Board or its delegate at fair value. The use of fair value pricing by the Fund will be governed by the Valuation Procedures and conducted in accordance with the provisions of the 1940 Act. Valuing the Fund's securities using fair value pricing will result in using prices for those securities that may differ from current market valuations or official closing prices on the applicable exchange. Because foreign securities exchanges may be open on different days than the days during which an investor may purchase or sell Shares, the value of the Fund's securities may change on days when investors are not able to purchase or sell Shares. Assets denominated in foreign currencies will be translated into U.S. dollars at the exchange rate of such currencies against the U.S. dollar as provided by a Pricing Service. The value of assets denominated in foreign currencies will be converted into U.S. dollars at the exchange rates in effect at the time of valuation.

Exchange, make trading in the Shares inadvisable,[34] and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which trading in Shares of the Fund may be halted. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio 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.[35] In addition, the Exchange states that, while neither the Adviser nor the Sub-Adviser is registered as a broker-dealer, each of the Adviser and the Sub-Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to that broker-dealer regarding access to information concerning the composition of, or changes to, the portfolio, and that personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio.[36] The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also 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.[37] The Exchange further represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Prior to the commencement of trading, the Exchange states that it will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares.

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 be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(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 trading surveillances, administered by both Nasdaq and FINRA, on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be 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.

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) the procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how and by whom information regarding the Intraday Indicative Value and Disclosed Portfolio is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members 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 must be in compliance with Rule 10A–3 under the Act.[38]

(6) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser and/or the Sub-Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets.

(7) Under normal market conditions, the Fund will invest at least 80% of its net assets (including investment borrowings) in Debt Instruments. The Fund will invest in Debt Instruments issued by at least 13 non-affiliated issuers. The Fund's exposure to any single country generally will be limited to 20% of the Fund's net assets (although this percentage may change from time to time in response to economic events). The Fund will invest

[34] These reasons may include: (1) the extent to which trading is not occurring in the securities or other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.

[35] *See* Nasdaq Rule 5735(d)(2)(B)(ii).

[36] *See supra* note 6. The Exchange states that 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, the Sub-Adviser and their 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.

[37] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[38] *See* 17 CFR 240.10A–3.

only in Debt Instruments that, at the time of purchase, are performing.

(8) Under normal market conditions, at least 80% of the Fund's net assets that are invested in Debt Instruments will be invested in Debt Instruments that are issued by issuers with outstanding debt of at least $200 million (or the foreign currency equivalent thereof).

(9) Under normal market conditions, no more than 20% of the value of the Fund's net assets will be invested in derivative instruments. The Fund's investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. The Fund's investments in derivative instruments will not be used to seek to achieve a multiple or inverse multiple of an index.

(10) At least 90% of the Fund's net assets that are invested in exchange-traded derivative instruments will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(11) The Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced. The Adviser and/or the Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis.

(12) At least 90% of the Fund's net assets that are invested in foreign currencies will be invested in currencies with a minimum average daily foreign exchange turnover of USD $1 billion as determined by the BIS Triennial Central Bank Survey.

(13) The Fund will comply with the regulatory requirements of the Commission to maintain assets as "cover," maintain segregated accounts, and/or make margin payments when it takes positions in derivative instruments involving obligations to third parties (*i.e.,* instruments other than purchase options). If the applicable guidelines prescribed under the 1940 Act so require, the Fund will earmark or set aside cash, U.S. government securities, high grade liquid debt securities, and/or other liquid assets permitted by the Commission in a segregated custodial account in the amount prescribed.

(14) The Fund may invest up to 20% of its net assets in Corporate Bonds. Under normal market conditions, a Corporate Bond must have $200 million (or the foreign currency equivalent thereof) or more par amount outstanding and significant par value traded to be considered as an eligible investment. Although the Fund does not intend to do so, the Fund may invest up to 5% of its net assets in Corporate Bonds with less than $200 million (or the foreign currency equivalent thereof) par amount outstanding if (i) the Adviser and/or the Sub-Adviser deems such securities to be sufficiently liquid and (ii) such investment is deemed by the Adviser and/or the Sub-Adviser to be in the best interest of the Fund.

(15) The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Sub-Adviser to present minimal credit risks in accordance with criteria approved by the Trust Board. The Sub-Adviser will review and monitor the creditworthiness of such institutions. The Sub-Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

(16) The ETFs in which the Fund will invest will be exchange-listed and trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(17) Reverse repurchase agreements will not be used by the Fund to enhance leverage.

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

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1 thereto, is consistent with Section 6(b)(5) of the Act [39] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[40] that the proposed rule change (SR–NASDAQ–2014–073), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Kevin M. O'Neill,

Deputy Secretary.

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[39] 15 U.S.C. 78f(b)(5).

[40] 15 U.S.C. 78s(b)(2).

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73142; File No. SR–NASDAQ–2014–065]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change To Adopt New Rule 5713 and List Paired Class Shares Issued by AccuShares® Commodities Trust I

September 18, 2014.

On June 11, 2014, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to: (1) adopt listing standards for Paired Class Shares in new Rule 5713; and (2) list and trade Paired Class Shares ("Shares") issued by AccuShares® Commodities Trust I ("Trust") relating to the following funds pursuant to new Rule 5713: (a) AccuShares S&P GSCI® Spot Fund; (b) AccuShares S&P GSCI® Agriculture and Livestock Spot Fund; (c) AccuShares S&P GSCI® Industrial Metals Spot Fund; (d) AccuShares S&P GSCI® Crude Oil Spot Fund; (e) AccuShares S&P GSCI® Brent Oil Spot Fund; (f) AccuShares S&P GSCI® Natural Gas Spot Fund; and (g) AccuShares Spot CBOE® VIX® Fund (each individually, "Fund," and, collectively, "Funds"). The proposed rule change was published for comment in the **Federal Register** on June 23, 2014.[3] On August 6, 2014, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Commission received no comments on the proposal. This Order institutes proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72412 (June 17, 2014), 79 FR 35610 ("Notice").

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 72779, 79 FR 47162 (August 12, 2014). The Commission designated a longer period within which to take action on the proposed rule change and designated September 19, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).