

represents that the Sub-Adviser is affiliated with multiple broker-dealers and has implemented a “fire wall” with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund’s portfolio.²⁷ 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.²⁸ The Exchange states that it prohibits the distribution of material, non-public information by its employees.

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 representations, including:

(1) The Shares will be subject to Nasdaq 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 of the Shares will be subject to the Financial Industry Regulatory Authority’s (“FINRA”) surveillance procedures for derivative products, including Managed Fund Shares.²⁹ The Exchange’s surveillance

²⁷ See Nasdaq Rule 5735(g), *supra* note 8 and accompanying text. The Commission notes 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 and 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.

²⁸ See Nasdaq Rule 5735(d)(2)(B)(ii).

²⁹ The Exchange states that FINRA surveils trading on Nasdaq pursuant to a regulatory services

procedures are adequate to properly monitor the trading of the Shares on Nasdaq during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

(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 2310, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value 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/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.³⁰

(6) The Fund may hold up to an aggregate amount of 15% of its net assets in (a) illiquid securities, (b) Rule 144A securities, and (c) loan interests (such as loan participations and assignments, but not including LPNs).

(7) The Fund will not invest in any non-U.S. registered equity securities.

(8) The Fund expects that no more than 20% of the value of the Fund’s net assets will be invested in derivative instruments. Such investments will be consistent with the Fund’s investment objective and will not be used to enhance leverage.

(9) 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.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act³¹ and the rules and regulations thereunder applicable to a national securities exchange.

agreement. Nasdaq is responsible for FINRA’s performance under this regulatory services agreement.

³⁰ See 17 CFR 240.10A–3.

³¹ 15 U.S.C. 78f(b)(5).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³² that the proposed rule change (SR–NASDAQ–2012–004) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

Kevin M. O’Neill,

Deputy Secretary.

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STATE DEPARTMENT

[Public Notice: 7604]

Foreign Affairs Policy Board Meeting Notice; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2), the Department of State announces a meeting of the Foreign Affairs Policy Board to take place on March 19, 2012, at the Department of State, Washington, DC.

The Foreign Affairs Policy Board reviews and assesses: (1) Global threats and opportunities; (2) trends that implicate core national security interests; (3) tools and capacities of the civilian foreign affairs agencies; and (4) priorities and strategic frameworks for U.S. foreign policy. Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 10(d), and 5 U.S.C. 552b(c)(1), it has been determined that this meeting will be closed to the public as the Board will be reviewing and discussing matters properly classified in accordance with Executive Order 13526.

For more information, contact Samantha Raddatz at (202) 647–2372. This announcement might appear in the **Federal Register** less than 15 days prior to the advisory committee meeting. The Department of State finds: (1) That there is an exceptional circumstance to hold this meeting with less than a 15-day notice, in that a senior government official must address this committee meeting, and (2) further postponing this meeting to accommodate this official’s schedule would result in an unacceptable delay in the work of this advisory committee.

Dated: February 29, 2012.

Dan Kurtz-Phelan,

Designated Federal Officer.

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³² 15 U.S.C. 78s(b)(2).

³³ 17 CFR 200.30–3(a)(12).