

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66753; File No. SR-NYSEArca-2012-25]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of the WisdomTree Brazil Bond Fund Under NYSE Arca Equities Rule 8.600

April 6, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on March 23, 2012, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade shares (“Shares”) of the following fund of the WisdomTree Trust (“Trust”) under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares”): WisdomTree Brazil Bond Fund (“Fund”). The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and [www.nyse.com](http://www.nyse.com).

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to list and trade Shares of the WisdomTree Brazil

Bond Fund under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange.<sup>3</sup> The Fund will be an actively managed exchange-traded fund.<sup>4</sup> The Shares will be offered by the Trust, which was established as a Delaware statutory trust on December 15, 2005. The Trust is registered with the Commission as an investment company.<sup>5</sup>

###### Description of the Shares and the Fund

WisdomTree Asset Management, Inc. (“WisdomTree Asset Management”) is the investment adviser (“Adviser”) to the Fund.<sup>6</sup> WisdomTree Asset Management is not affiliated with any

<sup>3</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index, or combination thereof.

<sup>4</sup> The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.*, Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 58564 (September 17, 2008), 73 FR 55194 (September 24, 2008) (SR-NYSEArca-2008-86) (order approving Exchange listing and trading of WisdomTree Dreyfus Emerging Currency Fund); 62604 (July 30, 2010), 75 FR 47323 (August 5, 2010) (SR-NYSEArca-2010-49) (order approving listing and trading of WisdomTree Emerging Markets Local Debt Fund); 63919 (February 16, 2011), 76 FR 10073 (February 23, 2011) (SR-NYSEArca-2010-116) (order approving listing and trading of WisdomTree Asia Local Debt Fund); 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR-NYSEArca-2011-21) (order approving listing and trading of WisdomTree Global Real Return Fund); 65458 (September 30, 2011), 76 FR 62112 (October 6, 2011) (SR-NYSEArca-2011-54) (order approving listing and trading of WisdomTree Dreyfus Australia and New Zealand Debt Fund); 66342 (February 7, 2012), 77 FR 7623 (February 13, 2012) (SR-NYSEArca-2011-82) (order approving listing and trading of WisdomTree Emerging Markets Inflation Protection Bond Fund); and 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR-NYSEArca-2012-004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

<sup>5</sup> *See* registration statement on Form N-1A for the Trust under the Securities Act of 1933 (15 U.S.C. 77a) and under the 1940 Act, dated October 8, 2010 (File Nos. 333-132380 and 811-21864) (“Registration Statement”). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

<sup>6</sup> WisdomTree Investments, Inc. (“WisdomTree Investments”) is the parent company of WisdomTree Asset Management.

broker-dealer. Western Asset Management Company serves as sub-adviser for the Fund (“Sub-Adviser”).<sup>7</sup> The Bank of New York Mellon is the administrator, custodian, and transfer agent for the Trust. ALPS Distributors, Inc. serves as the distributor for the Trust.<sup>8</sup>

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.<sup>9</sup> In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information

<sup>7</sup> The Sub-Adviser will be responsible for day-to-day management of the Fund and, as such, typically will make all decisions with respect to portfolio holdings. The Adviser will have ongoing oversight responsibility.

<sup>8</sup> The Commission has issued an order granting certain exemptive relief (“Exemptive Order”) to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28171 (October 27, 2008) (File No. 812-13458). In compliance with Commentary .05 to NYSE Arca Equities Rule 8.600, which applies to Managed Fund Shares based on an international or global portfolio, the Trust’s application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (15 U.S.C. 77a).

<sup>9</sup> 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.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

#### WisdomTree Brazil Bond Fund

According to the Registration Statement, the Fund will seek to provide investors with a high level of total return consisting of both income and capital appreciation. The Fund will be designed to provide exposure to a broad range of Brazilian government and corporate bonds through investment in both local currency (*i.e.*, Brazilian real) and U.S. dollar-denominated Fixed Income Securities. For purposes of this proposed rule change, Fixed Income Securities will include bonds, notes, or other debt obligations, including loan participation notes ("LPNs"),<sup>10</sup> inflation-linked debt, and debt securities issued by "supranational issuers," such as the European Investment Bank, International Bank for Reconstruction and Development, and the International Finance Corporation, as well as development agencies supported by other national governments. The Fund may invest to a lesser extent in Money Market Securities and derivative instruments, as described below.

The Fund will be designed to provide broad exposure to Brazilian government and corporate bonds and will invest in

a range of instruments with varying credit risk and duration. The Fund intends to invest in bonds and debt instruments issued by the government of Brazil and its agencies and instrumentalities and bonds and other debt instruments issued by corporations organized in Brazil.<sup>11</sup> The Fund also may invest in bonds and debt instruments denominated in Brazilian real and issued by supranational issuers, as described above. The Fund intends to invest at least 70% of its net assets in Fixed Income Securities. The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid. Generally a corporate bond must have \$200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment.<sup>12</sup> Economic and

<sup>11</sup> The category of "Brazilian debt" includes both U.S. dollar-denominated debt and non-U.S. or "local" currency debt. The market for Brazilian local currency debt is larger and more actively traded than the market for Brazilian U.S. dollar-denominated debt. According to the Emerging Markets Traders Association, the global dollar amount of emerging market debt instruments traded in the first two quarters of 2011 was \$3.443 trillion, of which Brazil represented over \$358 billion. This pace seems largely similar to the annual amounts traded in 2010 whereby \$6.765 trillion globally and \$958 billion in Brazilian debt traded between market participants. This marked a 52% increase globally and a 28% increase in Brazilian debt over the total volumes of each traded in 2009 (\$4.445 trillion globally, \$747 billion in Brazilian debt). Global turnover in local currency debt instruments in 2009 was \$2.870 trillion, of which Brazilian debt represented \$548 billion. (Source: Emerging Markets Traders Association Survey: Full Year 2010 Emerging Markets Debt Trading, Emerging Markets Traders Association, March 22, 2011; Emerging Markets Traders Association 2009 Annual Debt Trading Volume Survey, March 8, 2010. Additional information relating to emerging market corporate bonds is available at: [www.emta.org](http://www.emta.org). See Form 19b-4 at 7, n.10. The Adviser represents that Brazilian sovereign debt is issued in large par size and tends to be very liquid. Real-denominated Brazilian debt issued by supranational entities is also actively traded. Intra-day, executable price quotations on such instruments are available from major broker-dealer firms. Intra-day price information is available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by authorized participants and other investors.

<sup>12</sup> The Adviser represents that the size and liquidity of the market for emerging market bonds, including Brazilian corporate bonds, generally has been increasing in recent years. Through the first three quarters of 2011, emerging market corporate bonds traded approximately \$652 billion. The aggregate dollar amount of emerging market corporate bonds traded in 2010 was \$841 billion. This constituted a 63% increase over the \$514 billion traded in 2009. As of January 31, 2012, the market for Brazilian corporate bonds represented 22.48% (\$95.83 billion) of the JPMorgan Corporate Emerging Market Bond Index Broad, the industry standard benchmark for emerging market corporate debt. Brazilian corporate debt represents the single largest country exposure of the index. Turnover in emerging market corporate debt accounted for 12% of the overall volume of emerging market debt of \$4.445 trillion in 2009, an increase over the 9% share in 2008. Trading in Brazilian corporate debt accounted for approximately 8% of the overall

other conditions in Brazil may, from time to time, lead to a decrease in the average par amount outstanding of bond issuances. Therefore, although the Fund does not intend to do so, the Fund may invest up to 20% of its net assets in corporate bonds with less than \$200 million par amount outstanding, including up to 5% of its assets in corporate bonds with less than \$100 million par amount outstanding, if (i) The Adviser or Sub-Adviser deems such security to be sufficiently liquid based on its analysis of the market for such security (based on, for example, broker-dealer quotations or its analysis of the trading history of the security or the trading history of other securities issued by the issuer), (ii) such investment is consistent with the Fund's goal of providing exposure to a broad range of Brazilian government and corporate bonds, and (iii) such investment is deemed by the Adviser or Sub-Adviser to be in the best interest of the Fund.

According to the Registration Statement, the Fund typically will maintain aggregate portfolio duration of between two and ten years. Aggregate portfolio duration is a measure of the portfolio's sensitivity to changes in the level of interest rates. The Fund's actual portfolio duration may be longer or shorter depending upon market conditions.

The universe of Brazilian Fixed Income Securities currently includes securities that are rated "investment grade" as well as "non-investment grade" securities. The Fund is designed to provide a broad-based, representative exposure to Brazilian government and corporate bonds and therefore will invest in both investment grade and non-investment grade securities in a manner designed to provide this exposure. The Fund currently expects that it will have 65% or more of its assets invested in investment grade securities, and no more than 35% of its assets invested in non-investment grade securities. Because the Fund is designed to provide exposure to a broad range of Brazilian government and corporate bonds, and because the debt ratings of the Brazilian government and those corporate issuers will change from time to time, the exact percentage of the Fund's investments in investment grade and non-investment grade securities will change from time to time in response to economic events and

trading in Brazilian debt in 2009, an increase over the approximately 6% share in 2008. (Source: JPMorgan, January 31, 2012; Emerging Markets Traders Association Press Releases, March 8, 2010, August 22, 2011, December 15, 2011.) Additional information relating to emerging market corporate bonds is available at: [www.emta.org](http://www.emta.org).

<sup>10</sup> The Fund may invest in LPNs with a minimum outstanding principal amount of \$200 million that the Adviser or Sub-Adviser deems to be liquid. The Adviser represents that the Fund will invest a limited percentage of its assets in LPNs.

changes to the credit ratings of the Brazilian government and corporate issuers.<sup>13</sup> Within the non-investment grade category, some issuers and instruments are considered to be of lower credit quality and at higher risk of default. In order to limit its exposure to these more speculative credits, the Fund will not invest more than 15% of its assets in securities rated B or below by Moody's, or equivalently rated by S&P or Fitch. The Fund does not intend to invest in unrated securities. However, it may do so to a limited extent, such as where a rated security becomes unrated, if such security is determined by the Adviser and Sub-Adviser to be of comparable quality. In determining whether a security is of "comparable quality," the Adviser and Sub-Adviser will consider, for example, whether the issuer of the security has issued other rated securities.

The Fund will hold Fixed Income Securities of at least 13 non-affiliated issuers. The Fund will not concentrate 25% or more of the value of its total assets (taken at market value at the time of each investment) in any one industry, as that term is used in the 1940 Act (except that this restriction does not apply to obligations issued by the U.S. government or its agencies and instrumentalities or government-sponsored enterprises).<sup>14</sup>

The Fund intends to qualify each year as a regulated investment company ("RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended.<sup>15</sup> The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification, and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. The Subchapter M diversification tests generally require that (i) the Fund invest no more than 25% of its total assets in securities (other than securities of the U.S. government or other RICs) of any one issuer or two or more issuers that are controlled by the Fund and that are engaged in the same, similar, or related trades or businesses, and (ii) at least 50% of the Fund's total assets consist of cash and cash items, U.S. government securities, securities of other RICs, and

other securities, with investments in such other securities limited in respect of any one issuer to an amount not greater than 5% of the value of the Fund's total assets and 10% of the outstanding voting securities of such issuer.

In addition to satisfying the above referenced RIC diversification requirements, no portfolio security held by the Fund (other than U.S. government securities) will represent more than 30% of the weight of the portfolio, and the five highest weighted portfolio securities of the Fund (other than U.S. government securities) will not in the aggregate account for more than 65% of the weight of the portfolio. For these purposes, the Fund may treat repurchase agreements collateralized by U.S. government securities as U.S. government securities.

#### Money Market Securities

The Fund intends to invest in Money Market Securities (as described below) in a manner consistent with its investment objective in order to help manage cash flows in and out of the Fund, such as in connection with payment of dividends or expenses and to satisfy margin requirements, to provide collateral, or to otherwise back investments in derivative instruments. For these purposes, Money Market Securities include: short-term, high-quality obligations issued or guaranteed by the U.S. Treasury or the agencies or instrumentalities of the U.S. government; short-term, high-quality securities issued or guaranteed by non-U.S. governments, agencies, and instrumentalities; repurchase agreements backed by U.S. government securities; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions. All Money Market Securities acquired by the Fund will be rated investment grade. The Fund does not intend to invest in any unrated money market securities. However, it may do so, to a limited extent, such as where a rated Money Market Security becomes unrated, if such Money Market Security is determined by the Adviser or the Sub-Adviser to be of comparable quality.

#### Derivative Instruments

Consistent with the Exemptive Order, the Fund may use derivative instruments as part of its investment strategies. Examples of derivative instruments include listed futures contracts,<sup>16</sup> forward currency contracts,

non-deliverable forward currency contracts,<sup>17</sup> currency swaps (e.g., Brazilian real vs. U.S. dollar), interest rate swaps,<sup>18</sup> total return swaps,<sup>19</sup> currency options, options on futures contracts, and credit-linked notes.<sup>20</sup> The Fund's use of derivative instruments (other than credit-linked notes) will be collateralized or otherwise backed by investments in short term, high-quality U.S. money market securities and other liquid fixed income securities. The Fund expects that no more than 30% 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.

With respect to certain kinds of derivative transactions entered into by the Fund that involve obligations to make future payments to third parties, including, but not limited to, futures, forward contracts, swap contracts, the purchase of securities on a when-issued or delayed delivery basis, or reverse repurchase agreements, under applicable federal securities laws, rules, and interpretations thereof, the Fund must "set aside" liquid assets or engage in other measures to "cover" open positions with respect to such transactions.<sup>21</sup>

U.S. or in Brazil. Brazil's primary financial markets regulator, the Comissao de Valores Mobiliarios, is a signatory to the International Organization of Securities Commissions ("IOSCO") Multilateral Memorandum of Understanding ("MMOU"), which is a multi-party information sharing arrangement among major financial regulators. Both the Commission and the Commodity Futures Trading Commission are signatories to the IOSCO MMOU.

<sup>17</sup> A forward currency contract is an agreement to buy or sell a specific currency on a future date at a price set at the time of the contract.

<sup>18</sup> An interest rate swap involves the exchange of a floating interest rate payment for a fixed interest rate payment.

<sup>19</sup> A total return swap is an agreement between two parties in which one party agrees to make payments of the total return of a reference asset in return for payments equal to a rate of interest on another reference asset.

<sup>20</sup> The Fund may invest in credit-linked notes. A credit linked note is a type of structured note whose value is linked to an underlying reference asset. Credit linked notes typically provide periodic payments of interest as well as payment of principal upon maturity. The value of the periodic payments and the principal amount payable upon maturity are tied (positively or negatively) to a reference asset such as an index, government bond, interest rate, or currency exchange rate. The ongoing payments and principal upon maturity typically will increase or decrease depending on increases or decreases in the value of the reference asset. The Fund's investments in credit-linked notes will be limited to notes providing exposure to Brazilian Fixed Income Securities. The Fund's overall investment in credit-linked notes will not exceed 25% of the Fund's assets.

<sup>21</sup> See 15 U.S.C. 80a-18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 21258

<sup>13</sup> As of January 31, 2012, Brazilian government debt was rated investment grade by S&P, Moody's, and Fitch. See <http://brasilstocks.com/bonds>. See Form 19b-4 at 8, n.12.

<sup>14</sup> See Form N-1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. See, e.g., Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

<sup>15</sup> 26 U.S.C. 851.

<sup>16</sup> The listed futures contracts in which the Fund may invest will be listed on exchanges either in the

The Fund may engage in foreign currency transactions, and may invest directly in foreign currencies in the form of bank and financial institution deposits, certificates of deposit, and bankers acceptances denominated in a specified non-U.S. currency. The Fund may enter into forward currency contracts in order to “lock in” the exchange rate between the currency it will deliver and the currency it will receive for the duration of the contract.<sup>22</sup>

The Fund may enter into repurchase agreements with counterparties that are deemed to present acceptable credit risks, and may enter into reverse repurchase agreements, which involve the sale of securities held by the Fund subject to its agreement to repurchase the securities at an agreed upon date or upon demand and at a price reflecting a market rate of interest.

The Fund may invest in the securities of other investment companies (including money market funds and exchange-traded funds). The Fund may hold up to an aggregate amount of 15% of its net assets in (1) illiquid securities, (2) Rule 144A securities, and (3) loan interests (such as loan participations and assignments, but not including LPNs).<sup>23</sup> Illiquid securities include securities subject to contractual or other restrictions on resale and other

(April 27, 1979); Dreyfus Strategic Investing, Commission No-Action Letter (June 22, 1987); Merrill Lynch Asset Management, L.P., Commission No-Action Letter (July 2, 1996).

<sup>22</sup> The Fund will invest only in currencies, and instruments that provide exposure to such currencies, that have significant foreign exchange turnover and are included in the Bank for International Settlements, *Triennial Central Bank Survey*, Report on Global Foreign Exchange Market Activity in 2010 December 2010 (“BIS Survey”). The Fund may invest in currencies, and instruments that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey.

<sup>23</sup> The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14617 (March 18, 2008), footnote 34. See also Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding “Restricted Securities”); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund’s portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

instruments that lack readily available markets.

The Fund will not invest in non-U.S. equity securities.

#### The Shares

The Fund will issue and redeem Shares on a continuous basis at net asset value (“NAV”)<sup>24</sup> only in large blocks of Shares (“Creation Units”) in transactions with authorized participants. Currently, a Creation Unit consists of 100,000 Shares. The Fund will issue and redeem Creation Units in exchange for a portfolio of Fixed Income Securities closely approximating the holdings of the Fund and/or an amount of cash in U.S. dollars. Once created, Shares of the Fund will trade on the secondary market in amounts less than a Creation Unit.

Creations and redemptions must be made by an authorized participant or through a firm that is either a member of the National Securities Clearing Corporation or a Depository Trust Company participant, and in each case, must have executed an agreement with the Distributor with respect to creations and redemptions of Creation Units. Creation and redemption orders must be entered by 4 p.m., Eastern time.

Additional information regarding the Shares and the Fund, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes is included in the Registration Statement.

#### Availability of Information

The Fund’s Web site ([www.wisdomtree.com](http://www.wisdomtree.com)), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day’s reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (“Bid/Ask Price”),<sup>25</sup> and a calculation of the premium and discount of the Bid/Ask

<sup>24</sup> The NAV of the Fund’s Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4 p.m., Eastern time (“NAV Calculation Time”). NAV per Share is calculated by dividing a Fund’s net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating a Fund’s NAV, see the Registration Statement.

<sup>25</sup> The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of such Fund’s NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session<sup>26</sup> on the Exchange, the Trust will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (“Disclosed Portfolio”) held by the Fund that will form the basis for the Fund’s calculation of NAV at the end of the business day.<sup>27</sup> The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting, and market value of Fixed Income Securities and other assets held by the Fund and the characteristics of such assets. The Web site and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 8.600 as the Portfolio Indicative Value (“PIV”) that reflects an estimated intra-day value of the Fund’s portfolio, will be disseminated. The PIV will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session on the Exchange.<sup>28</sup> In addition, during hours when the markets for Fixed Income Securities in the Fund’s portfolio are closed, the PIV will be updated at least every 15 seconds during the Core Trading Session to reflect currency exchange fluctuations.

The dissemination of the PIV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers’

<sup>26</sup> The Core Trading Session is 9:30 a.m. to 4 p.m., Eastern time.

<sup>27</sup> Under accounting procedures followed by the Fund, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T+1”). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

<sup>28</sup> Currently, it is the Exchange’s understanding that several major market data vendors display and/or make widely available PIVs published via the Consolidated Tape Association (“CTA”) or other data feeds.

computer screens and other electronic services. The previous day's closing price and trading volume information will be published daily in the financial section of newspapers. Quotation and last-sale information for the Shares will be available via the CTA high-speed line.

Intra-day and end-of-day prices are readily available through major market data providers and broker-dealers for the Fixed Income Securities, Money Market Securities, and derivative instruments held by the Fund.

#### Initial and Continued Listing

The Shares will be subject to Rule 8.600, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A-3 under the Exchange Act,<sup>29</sup> as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

#### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Shares of the Fund will be halted if the "circuit breaker" parameters in NYSE Arca Equities Rule 7.12 are reached. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

#### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m., Eastern time in accordance

with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

#### Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (which includes Managed Fund Shares) to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange may obtain information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.<sup>30</sup>

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

#### Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its

<sup>30</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org). The Exchange notes that not all of the components of the Disclosed Portfolio for the Fund may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. See note 16, *supra*.

ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

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

#### 2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>31</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. 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. In addition, Sub-Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of

<sup>31</sup> 15 U.S.C. 78f(b)(5).

<sup>29</sup> See 17 CFR 240.10A-3.

material nonpublic information regarding the Fund's portfolio. The Fund intends to invest at least 70% of its net assets in Fixed Income Securities. The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid. Generally a corporate bond must have \$200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. The Fund currently expects that it will have 65% or more of its assets invested in investment grade securities, and no more than 35% of its assets invested in non-investment grade securities. Money Market Securities acquired by the Fund will generally be rated investment grade, except, to a limited extent, such as where a rated Money Market Security becomes unrated, if such Money Market Security is determined by the Adviser or the Sub-Adviser to be of comparable quality. The Fund expects that no more than 30% of the value of the Fund's net assets will be invested in derivative instruments. The Fund may hold up to an aggregate amount of 15% of its net assets in (1) Illiquid securities, (2) Rule 144A securities, and (3) loan interests (such as loan participations and assignments, but not including LPNs). Such investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. The Fund will not invest in any non-U.S. equity securities.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the PIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and

last-sale information will be available via the CTA high-speed line. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last-sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last-sale information for the Shares.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

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

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

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2012-25 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2012-25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official

business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the Exchange's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2012-25 and should be submitted on or before May 2, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2012-8717 Filed 4-10-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66746; File No. SR-ISE-2012-28]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Route-Out Fee for Priority Customer Orders and Modify the Rebate for Primary Market Makers That Send Intermarket Sweep Orders

April 5, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 30, 2012, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The ISE is proposing to raise a fee related to the execution of Priority Customer orders subject to linkage handling. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the

principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of this proposed rule change is to raise a fee related to the execution of Priority Customer<sup>3</sup> orders subject to linkage handling ("Linkage Fee").

On August 31, 2009, the Exchange implemented the new Options Order Protection and Locked/Crossed Market Plan ("Distributive Linkage") and the use of Intermarket Sweep Orders ("ISOs"). Consistent with Distributive Linkage and pursuant to ISE rules, the Exchange's Primary Market Makers ("PMMs") have an obligation to address customer<sup>4</sup> orders when there is a better market displayed on another exchange. ISE's PMMs meet this obligation via the use of ISOs. In meeting their obligations, PMMs may incur fees when they send ISOs, especially when sending ISOs to exchanges that charge "taker" fees. To minimize the PMM's financial burden and help offset such fees, the ISE amended its schedule of fees on October 1, 2009 to adopt a rebate for the PMM of \$0.20 per contract on all ISO orders sent to an away exchange (regardless of the fee charged by the exchange where the ISO order sent away was executed).<sup>5</sup> With the costs associated with servicing Priority Customer orders that must be

<sup>3</sup> Pursuant to ISE Rule 100(37A), a Priority Customer is a person or entity that is not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account.

<sup>4</sup> Pursuant to ISE Rule 1900(f) of the Distributive Linkage rules, a customer is an individual or organization that is not a broker-dealer.

<sup>5</sup> See Securities and Exchange Act Release No. 60791 (October 5, 2009), 74 FR 52521 (October 13, 2009) (SR-ISE-2009-74).

executed at another exchange coupled with the cost of funding the existing fee credit, the Exchange recently adopted the Linkage Fee, at a rate of \$0.25 per contract, for executions that result from the PMM routing ISOs to another exchange in a limited number of symbols.<sup>6</sup> The Linkage Fee is only charged for Priority Customer orders that are routed to an away exchange in symbols that are subject to the Exchange's modified maker/taker pricing model. These symbols, which currently number 101, are identified on the Exchange's Schedule of Fees as Select Symbols. Priority Customer orders that are routed out to another exchange are charged the Linkage Fee at the current rate instead of the standard taker fee applicable to the Select Symbols.

The Linkage Fee allows the Exchange to equitably assess reasonable fees incurred for processing such orders, and permit the Exchange to recoup administrative and other costs. However, because the fees assessed by other exchanges vary considerably, the Exchange has determined that instead of providing PMMs with a rebate of \$0.20 per contract, it will now simply rebate to PMMs the actual transaction fee assessed by the exchange to which the order is routed, while requiring the PMM to make every effort, all things being equal, to route the order to the lowest cost away market. Furthermore, as a result of recent fee changes, notably the taker fee increases adopted by NASDAQ OMX PHLX, Inc.,<sup>7</sup> the overall cost to PMMs has risen significantly and will likely cause the overall rebate level to the PMMs incurred by the Exchange to rise also. To offset this increased rebate, the Exchange also proposes to increase the Linkage Fee from \$0.25 per contract to \$0.35 per contract.

The Exchange notes that it currently has a similar fee and credit for Customer (Professional) orders. Specifically, the Exchange currently charges PMMs a fee of \$0.45 per contract for executions of Customer (Professional) orders that are routed to one or more exchanges in connection with Distributive Linkage, and also provides PMMs with a credit equal to the fee charged by the destination exchange for such Customer (Professional) orders, but not more than

<sup>6</sup> See Securities and Exchange Act Release No. 66589 (March 14, 2012), 76 [sic] FR 16311 (March 20, 2012) (SR-ISE-2012-13).

<sup>7</sup> See Securities and Exchange Act Release No. 66367 (February 9, 2012), 77 FR 8934 (February 15, 2012) (SR-Phlx-2012-15).

<sup>32</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.