

description of the Trust, including those set forth above and in the Notice, as modified by Amendment No. 1.

For the foregoing reasons, the Commission believes the proposal to list and trade the Shares is consistent with the Exchange Act.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,<sup>40</sup> that the proposed rule change (SR-NYSEArca-2013-137), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>41</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71373; File No. SR-FINRA-2013-051]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Amend the Uniform Branch Office Registration Form (Form BR)

January 23, 2014.

On November 25, 2013, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the Uniform Branch Office Registration Form (Form BR). The proposed rule change was published for comment in the **Federal Register** on December 13, 2013.<sup>3</sup> The Commission received three comment letters on this proposal.<sup>4</sup>

<sup>40</sup> 15 U.S.C. 78s(b)(2).

<sup>41</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.

<sup>3</sup> See Securities Exchange Act Release No. 71027 (December 13, 2013), 78 FR 75954.

<sup>4</sup> See letters to Elizabeth M. Murphy, Secretary, Commission, from Jason Doss, President, Public Investors Arbitration Bar Association, January 2, 2014; David T. Ballaire, Esq., Executive Vice President and General Counsel, Financial Services Institute, January 3, 2104; and Clifford Kirsch and Eric A. Arnold, Sutherland, Asbill and Brennan LLP, on behalf of the Committee of Annuity Insurers, January 3, 2014 (collectively, the "Comment Letters").

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is January 27, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change, so that it has sufficient time to consider this proposed rule change and the Comment Letters that have been submitted in connection with this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> designates March 13, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-FINRA-2013-051).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71377; File No. SR-NYSEArca-2013-132]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 2 and 3 Thereto, To List and Trade Shares of Merk Hard Currency ETF Under NYSE Arca Equities Rule 8.600

January 23, 2014.

#### I. Introduction

On November 22, 2013, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

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

19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares ("Shares") of the Merk Hard Currency ETF ("Fund") of the Forum ETF Trust ("Trust"). The proposed rule change was published for comment in the **Federal Register** on December 11, 2013.<sup>3</sup> On December 19, 2013, the Exchange (1) submitted but subsequently withdrew Amendment No. 1 to the proposed rule change, and (2) submitted Amendment No. 2 to the proposed rule change. On January 10, 2014, the Exchange submitted Amendment No. 3 to the proposed rule change.<sup>4</sup> The Commission received no comments on the proposal. This order grants approval of the proposed rule change, as modified by Amendment Nos. 2 and 3 thereto.

#### II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Shares will be offered by the Trust,<sup>5</sup> a Delaware statutory trust that is registered with the Commission as an open-end management investment company. Forum Investment Advisors, LLC ("Investment Manager") is the investment manager of the Fund. Merk Investments, LLC ("Investment Adviser") is the investment adviser of the Fund.<sup>6</sup> Foreside Fund Services LLC

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

<sup>3</sup> See Securities Exchange Act Release No. 70994 (Dec. 5, 2013), 78 FR 75423 ("Notice").

<sup>4</sup> In Amendment No. 2, the Exchange provided further information regarding where pricing information for certain Fund assets can be found and corrected certain cross references. In Amendment No. 3, the Exchange clarified: (1) that the Fund will not invest in any non-U.S. equity securities and that the Fund will not invest in American Depositary Receipts, European Depositary Receipts, Global Depositary Receipts (collectively referred to as "depository receipts"), New York Registered Shares, or American Depositary Shares and removed all references thereto; and (2) where pricing information for spot currency transactions can be found. Because Amendment Nos. 2 and 3 do not materially affect the substance of the proposed rule change or raise novel or unique issues, Amendment Nos. 2 and 3 did not require notice and comment.

<sup>5</sup> The Trust is registered under the Investment Company Act of 1940 ("1940 Act"). On April 12, 2013, the Trust filed with the Commission an amendment to its registration statement on Form N-1A under the Securities Act of 1933 ("Securities Act") and under the 1940 Act relating to the Fund (File Nos. 333-180250 and 811-22679) ("Registration Statement"). In addition, the Exchange states that the Trust has obtained certain exemptive relief under the 1940 Act. See Investment Company Act Release No. 30549 (June 4, 2013) (File No. 812-13915-01) ("Exemptive Order").

<sup>6</sup> The Investment Adviser will be responsible for the day-to-day portfolio management of the Fund and, as such, will make all investment decisions for the Fund and is responsible for implementing the