Commission, 100 F Street NE., Washington, DC 20549, (202) 551–5779.

Correction

In the **Federal Register** of December 31, 2013, in FR Doc. 2013–31227, on page 79718, in the 49th line of the third column, the date is corrected to read as noted above.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–02561 Filed 2–5–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71456; File No. SR–NYSEArca–2013–116]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to Listing and Trading of Shares of AdvisorShares International Gold ETF, AdvisorShares Gartman Gold/Yen ETF, AdvisorShares Gartman Gold/British Pound ETF, and AdvisorShares Gartman Gold/Euro ETF Under NYSE Arca Equities Rule 8.600

January 31, 2014.

I. Introduction

On November 29, 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'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the AdvisorShares International Gold ETF (''International Gold ETF''); AdvisorShares Gartman Gold/Yen ETF (''Gold/Yen ETF''); AdvisorShares Gartman Gold/British Pound ETF (''Gold/British Pound ETF''); and AdvisorShares Gartman Gold/Euro ETF (''Gold/Euro ETF,'' and, together with the International Gold ETF, Gold/Yen ETF, and Gold/British Pound ETF, collectively, ''Funds'') [3] of the AdvisorShares Trust (''Trust''). The proposed rule change was published for comment in the **Federal Register** on December 19, 2013.[4] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

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

[2] 17 CFR 240.19b–4.

[3] The Gold/Yen ETF, Gold/British Pound ETF, and Gold/Euro ETF are also referred to collectively herein as the ''Gartman Funds.''

[4] *See* Securities Exchange Act Release No. 71076 (Dec. 13, 2013), 78 FR 76867 (''Notice'').

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Funds 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,[5] a Delaware statutory trust that is registered with the Commission as an open-end management investment company. The investment adviser to the Funds will be AdvisorShares Investments, LLC (''Adviser''). Treesdale Partners, LLC (''Sub-Adviser'') will be the Funds' sub-adviser. Foreside Fund Services, LLC will be the principal underwriter and distributor of the Funds' Shares. The Bank of New York Mellon will serve as the administrator, custodian, transfer agent, and accounting agent for the Funds. The Exchange represents that neither the Adviser nor the Sub-Adviser is a broker-dealer or is affiliated with a broker-dealer.[6]

The Exchange has made the following representations and statements in describing the Funds and their respective investment strategies, including other permitted portfolio holdings and investment restrictions.[7]

International Gold ETF—Principal Investments

The International Gold ETF will be considered a fund of funds that, under normal circumstances,[8] will seek to achieve its investment objective by primarily taking long positions in other exchange-traded funds (''ETFs'') that offer diversified exposure to the international gold market.[9] The Sub-Adviser will seek, as appropriate, to maintain a balanced allocation of the International Gold ETF's assets in ETFs in which it invests, which ETFs may be both affiliated and unaffiliated. The affiliated ETFs are the Gartman Funds. In addition, the Fund may seek to invest in long positions in exchange-traded notes (''ETNs''),[10] closed-end funds,[11] and other exchange-traded products (''ETPs,'' and, together with ETFs, ETNs, and closed-end funds, collectively, ''Underlying ETPs'') [12] that offer diversified exposure to the international gold market. Under normal circumstances, the Fund will invest at least 80% of its total assets in those Underlying ETPs.

The Sub-Adviser's gold investment strategy will be an active investment strategy that expresses a long position in gold, but diversifies the currencies in which the purchase is financed. The International Gold ETF will seek to provide an accessible method by which

[5] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On March 29, 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 (''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. 29291 (May 28, 2010) (File No. 812–13677).

[6] *See* Commentary .06 to NYSE Arca Equities Rule 8.600. The Exchange represents that, in the event that (a) the Adviser or Sub-Adviser becomes a registered broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer, or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate, as the case may be, regarding access to information concerning the composition of, or changes to, a Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding a Fund's portfolio.

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

[8] The term ''under normal circumstances'' includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the equities 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] For purposes of this filing, ETFs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depository Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The ETFs in which a Fund will invest all will be listed and traded on national securities exchanges. The Funds will invest in the securities of ETFs registered under the 1940 Act consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation, or order of the Commission or interpretation thereof. The Funds will only make these investments in conformity with the requirements of Regulation M of the Internal Revenue Code of 1986, as amended (''Internal Revenue Code'').

[10] ETNs are securities listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(6). ETNs are senior, unsecured unsubordinated debt securities issued by an underwriting bank that are designed to provide returns that are linked to a particular benchmark less investor fees. ETNs have a maturity date and, generally, are backed only by the creditworthiness of the issuer.

[11] A closed-end fund is a pooled investment vehicle that is registered under the 1940 Act and whose shares are listed and traded on U.S. national securities exchanges.

[12] For purposes of this filing, Underlying ETPs include Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500).

an investor is able to express a view on the value of gold versus any one of a number of liquid currencies, including the U.S. dollar, the Japanese Yen, the European Euro, and the British Pound.

The Sub-Adviser, in determining the International Gold ETF's investment allocation, will follow a proprietary investment process to assess the relative value of gold versus each of the currencies represented in the Underlying ETPs. In general, if the Sub-Adviser determines that the price of gold versus a particular currency offers an expected return that exceeds that offered by gold versus other currencies, the Underlying ETP that offers that exposure, all things being equal, will receive a larger allocation of the International Gold ETF's assets for investment. While the Sub-Adviser will actively determine the allocation of the International Gold ETF's investments among Underlying ETPs, the value of these investments may change on any day due to market fluctuations and thus alter the allocation.

The Sub-Adviser will also consider the relative price volatility of gold versus each of the currencies represented within an Underlying ETP in making allocation decisions. In general, the higher the volatility of the price of gold versus a particular currency (defined as the standard deviation of historical daily returns), the lower the allocation of capital to that Underlying ETP.

In managing the International Gold ETF, the Sub-Adviser will consider the asset size of the International Gold ETF, as well as liquidity conditions in both the Gartman Funds and Underlying ETP markets, in an effort to ensure best execution and minimize potential market disruption.

Gold/Yen ETF—Principal Investments

The Gold/Yen ETF will seek to provide positive returns by utilizing the Japanese Yen to invest its assets in the gold market. In seeking to achieve the Gold/Yen ETF's investment objective, the Sub-Adviser will invest the Gold/Yen ETF's assets in instruments that provide exposure to the international gold market utilizing the Japanese Yen. This strategy will provide an investment vehicle for investors who believe that the value of the Gold/Yen ETF's investments in gold purchased in Japanese Yen will appreciate. Accordingly, in managing the Gold/Yen ETF, the Sub-Adviser will use the Japanese Yen, obtained synthetically through the sale of either exchange-traded currency futures or over-the-counter (''OTC'') foreign exchange forward contracts, as the currency in which purchases of gold are made. This ''Gold Financed in Yen'' investment strategy will enable the Sub-Adviser to provide an alternate gold investment vehicle that seeks to reduce U.S. dollar exposure.

The Gold/Yen ETF will seek to achieve its investment objective by investing directly (and not through the Gold/Yen ETF Subsidiary, as described below), under normal circumstances, at least 75% of its assets in cash and cash equivalents, plus ''currency-linked derivatives'' (consisting of exchange-traded Japanese Yen futures traded on the Chicago Mercantile Exchange (''CME''), Japanese Yen forward contracts, and currency (and not gold) swaps), with cash and cash equivalents comprising the majority of the Gold/Yen ETF's assets. Up to 25% of the Gold/Yen ETF's total assets will be invested in the Gold/Yen ETF Subsidiary, as described below. The distribution of the Gold/Yen ETF's investments in these currency-linked derivatives will be at the discretion of the Sub-Adviser. All of the Gold/Yen ETF's investments in these currency-linked derivatives will be backed by collateral of the Gold/Yen ETF's assets, as required, and will be diversified across multiple (generally more than 5) counterparties. In addition, these currency-linked derivatives will be subject to the limits on leverage imposed by the 1940 Act. Through its investment in a wholly-owned and controlled subsidiary organized outside the United States in the Cayman Islands (''Gold/Yen ETF Subsidiary''), the Gold/Yen ETF will obtain long exposure to the international gold market. Section 18(f) of the 1940 Act and related Commission guidance limit the amount of leverage an investment company, and, in this case, the Gold/Yen ETF Subsidiary, can obtain.

The Gold/Yen ETF may also invest in Underlying ETPs. The Sub-Adviser will rebalance its positions in the Gold/Yen ETF and in the Gold/Yen ETF Subsidiary periodically as the value of gold relative to the value of the Japanese Yen fluctuates in international markets.

The Gold/Yen ETF may invest directly and indirectly in foreign currencies. The Gold/Yen ETF may conduct foreign currency transactions on a spot (*i.e.,* cash) or forward basis (*i.e.,* by entering into forward contracts to purchase or sell foreign currencies). Currency transactions made on a spot basis are for cash at the spot rate prevailing in the currency exchange market for buying or selling currency. Forward contracts are customized transactions that require a specific amount of a currency to be delivered at a specific exchange rate on a specific date or range of dates in the future and can have substantial price volatility. Forward contracts are generally traded in an interbank market directly between currency traders (usually large commercial banks) and their customers.

The Gold/Yen ETF, and certain Underlying ETPs in which the Gold/Yen ETF invests, may enter into swap agreements, including, but not limited to, total return swaps and index swaps. The Gold/Yen ETF may utilize swap agreements in an attempt to gain exposure to the asset in a market without actually purchasing the asset or to hedge a position. Any swaps used will be cash collateralized as required.[13]

On a daily basis, the Sub-Adviser will evaluate the gold market to determine whether the exchange-traded markets or the OTC markets provide the Gold/Yen ETF with optimal investment opportunities. As part of its daily evaluation, the Sub-Adviser will utilize information from The Gartman Letter, a daily commentary on the global capital markets, including political, economic, and technical trends from both long-term and short-term perspectives.[14] The Sub-Adviser will carefully consider the liquidity of the investment, the cost of executing the purchase or sale, and the creditworthiness of the counterparty. Similarly, the Sub-Adviser will evaluate the market for the Japanese Yen to achieve the optimal duration at which

[13] Each of the Gartman Funds will utilize cleared swaps if available and to the extent practicable and not enter into any swap agreement unless the Adviser believes that the other party to the transaction is creditworthy. The Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Sub-Adviser's credit analysts will evaluate each approved counterparty using various methods of analysis, including company visits, earnings updates, the broker-dealer's reputation, past experience with the broker-dealer, market levels for the counterparty's debt and equity, the counterparty's liquidity, and its share of market participation.

[14] The Adviser has contracted with Gartman Capital Management, L.C. to provide the investment objectives of the Gartman Funds, to provide data to the Adviser and to permit the use of the Gartman name. Gartman Capital Management, L.C. is an affiliate of The Gartman Letter. The Gartman Letter is written by Dennis Gartman. For the services and license provided to the Gartman Funds, the Adviser will pay Gartman Capital Management, L.C. a fee from its legitimate profits and resources. Gartman Capital Management, L.C. and The Gartman Letter, L.C. will have no involvement in the day-to-day management of the Gartman Funds. Gartman Capital Management, L.C. is neither a broker-dealer nor affiliated with a broker-dealer. In the event Gartman Capital Management, L.C. becomes a broker-dealer, or becomes newly affiliated with a broker-dealer, it will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition or changes to the applicable portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable portfolio.

to finance gold purchases for the Gold/Yen ETF. The Sub-Adviser will not participate in transactions in Japanese Yen where the maximum duration exceeds ninety days.

In managing the Gold/Yen ETF, the Sub-Adviser will consider the asset size of the Gold/Yen ETF, as well as liquidity conditions in both the gold and currency markets, in an effort to ensure best execution and minimize potential market disruption.

As discussed above, the Sub-Adviser will seek to gain additional exposure to gold through its investment in the Gold/Yen ETF Subsidiary. The Gold/Yen ETF's investment in the Gold/Yen ETF Subsidiary may not exceed 25% of the Gold/Yen ETF's total assets at each quarter end of the Gold/Yen ETF's fiscal year. The purpose of the Gold/Yen ETF's investment in the Gold/Yen ETF Subsidiary will be to provide the Gold/Yen ETF with additional exposure to commodity returns within the limits of the federal tax requirements applicable to investment companies, such as the Gold/Yen ETF. The Gold/Yen ETF Subsidiary's investments in ''commodity-linked derivative instruments'' (*i.e.,* futures, forwards, and swaps based on the price of gold) will be subject to limits on leverage imposed by the 1940 Act. Section 18(f) of the 1940 Act and related Commission guidance limit the amount of leverage an investment company, and in this case the Gold/Yen ETF Subsidiary, can obtain. Except as noted, references to the investment strategies and risks of the Gold/Yen ETF include the investment strategies and risks of the Gold/Yen ETF Subsidiary. The Gold/Yen ETF Subsidiary's shares will only be offered to the Gold/Yen ETF, and the Gold/Yen ETF will not sell any shares of the Gold/Yen ETF Subsidiary to any other investors.

Gold/British Pound ETF—Principal Investments

The Gold/British Pound ETF will seek to provide positive returns by utilizing the British Pound (GBP) to invest its assets in the gold market. In seeking to achieve the Gold/British Pound ETF's investment objective, the Sub-Adviser will invest the Gold/British Pound ETF's assets in instruments that provide exposure to the international gold market utilizing the British Pound. This strategy will provide an investment vehicle for investors who believe that the value of the Gold/British Pound ETF's investments in gold purchased in British Pounds will appreciate. Accordingly, in managing the Gold/British Pound ETF, the Sub-Adviser will use the British Pound, obtained synthetically through the sale of either exchange-traded currency futures or OTC foreign exchange forward contracts, as the currency in which purchases of gold are made. This ''Gold Financed in British Pounds'' investment strategy will enable the Sub-Adviser to provide an alternate gold investment vehicle that seeks to reduce U.S. dollar exposure.

The Gold/British Pound ETF will seek to achieve its investment objective by investing directly (and not through the Gold/British Pound Subsidiary, as described below), under normal circumstances, at least 75% of its assets in cash and cash equivalents, plus currency-linked derivatives (consisting of exchange-traded British Pound futures principally traded on the CME, British Pound forward contracts, and currency (and not gold) swaps), with cash and cash equivalents comprising the majority of the Gold/British Pound ETF's assets. Up to 25% of the Gold/British Pound ETF's total assets will be invested in the Gold/British Pound ETF Subsidiary, as described below. The distribution of the Gold/British Pound ETF's investments in these currency-linked derivatives will be at the discretion of the Funds' Sub-Adviser. All of the Gold/British Pound ETF's investments in these currency-linked derivatives will be backed by collateral of the Gold/British Pound ETF's assets, as required, and will be diversified across multiple (generally more than 5) counterparties. In addition, these currency-linked derivatives will be subject to the limits on leverage imposed by the 1940 Act. Through its investment in a wholly-owned and controlled subsidiary organized outside the United States in the Cayman Islands (''Gold/British Pound ETF Subsidiary''), the Gold/British Pound ETF will obtain long exposure to the international gold market. Section 18(f) of the 1940 Act and related Commission guidance limit the amount of leverage an investment company, and in this case, the Gold/British Pound ETF Subsidiary, can obtain.

The Gold/British Pound ETF may also invest in Underlying ETPs. The Sub-Adviser will rebalance its positions in the Gold/British Pound ETF and in the Gold/British Pound ETF Subsidiary periodically as the value of gold relative to the value of the British Pound fluctuates in international markets.

The Gold/British Pound ETF may invest directly, or indirectly, in foreign currencies. The Gold/British Pound ETF may conduct foreign currency transactions on a spot (*i.e.,* cash) or forward basis (*i.e.,* by entering into forward contracts to purchase or sell foreign currencies). Currency transactions made on a spot basis are for cash at the spot rate prevailing in the currency exchange market for buying or selling currency. Forward contracts are customized transactions that require a specific amount of a currency to be delivered at a specific exchange rate on a specific date or range of dates in the future and can have substantial price volatility. Forward contracts are generally traded in an interbank market directly between currency traders (usually large commercial banks) and their customers.

The Gold/British Pound ETF, and certain Underlying ETPs in which the Gold/British Pound ETF invests, may enter into swap agreements, including, but not limited to, total return and index swaps. The Gold/British Pound ETF may utilize swap agreements in an attempt to gain exposure to an asset in a market without actually purchasing the asset or to hedge a position. Any swaps used will be cash collateralized as required.[15]

On a daily basis, the Sub-Adviser will evaluate the gold market to determine whether the exchange-traded markets or the OTC markets provide the Gold/British Pound ETF with optimal investment opportunities. As part of its daily evaluation, the Sub-Adviser will utilize information from The Gartman Letter, as referenced above. The Sub-Adviser will carefully consider the liquidity of the investment, the cost of executing the purchase or sale, and the creditworthiness of the counterparty. Similarly, the Sub-Adviser will evaluate the market for the British Pound to achieve the optimal duration at which to finance gold purchases for the Gold/British Pound ETF. The Sub-Adviser will not participate in transactions in the British Pound where the maximum duration exceeds ninety days.

In managing the Gold/British Pound ETF, the Sub-Adviser will consider the asset size of the Gold/British Pound ETF, as well as liquidity conditions in both the gold and currency markets, in an effort to ensure best execution and minimize potential market disruption.

As discussed above, the Sub-Adviser will seek to gain additional exposure to gold through its investment in the Gold/British Pound ETF Subsidiary The Gold/British Pound ETF's investment in the Gold/British Pound ETF Subsidiary may not exceed 25% of the Gold/British Pound ETF's total assets at each quarter end of the Gold/British Pound ETF's fiscal year. The purpose of the Gold/British Pound ETF's investment in the Gold/British Pound ETF Subsidiary will

[15] *See supra* note 13.

be to provide the Gold/British Pound ETF with additional exposure to commodity returns within the limits of the federal tax requirements applicable to investment companies, such as the Gold/British Pound ETF. The Gold/British Pound ETF Subsidiary's investments in commodity-linked derivative instruments (*i.e.,* futures, forwards, and swaps based on the price of gold) will be subject to limits on leverage imposed by the 1940 Act. Section 18(f) of the 1940 Act and related Commission guidance limit the amount of leverage an investment company, and in this case the Gold/British Pound ETF Subsidiary, can obtain. Except as noted, references to the investment strategies and risks of the Gold/British Pound ETF include the investment strategies and risks of the Gold/British Pound ETF Subsidiary. The Gold/British Pound ETF Subsidiary's shares will only be offered to the Gold/British Pound ETF and the Gold/British Pound ETF will not sell any shares of the Gold/British Pound ETF Subsidiary to any other investors.

Gold/Euro ETF—Principal Investments

The Gold/Euro ETF will seek to provide positive returns by utilizing the Euro to invest its assets in the gold market. In seeking to achieve the Gold/Euro ETF's investment objective, the Sub-Adviser will invest the Gold/Euro ETF's assets in instruments that provide exposure to the international gold market utilizing the Euro. This strategy provides an investment vehicle for investors who believe that the value of the Gold/Euro ETF's investments in gold purchased in Euros will appreciate.

Accordingly, in managing the Gold/Euro ETF, the Sub-Adviser will use the Euro, obtained synthetically through the sale of either exchange-traded currency futures or OTC foreign exchange forward contracts, as the currency in which purchases of gold are made. This ''Gold Financed in Euro'' investment strategy will enable the Sub-Adviser to provide an alternate gold investment vehicle that will seek to reduce U.S. dollar exposure.

The Gold/Euro ETF will seek to achieve its investment objective by investing directly (and not through the Gold/Euro ETF Subsidiary, as described below), under normal circumstances, at least 75% of its assets in cash and cash equivalents, plus currency-linked derivatives (consisting of exchange-traded Euro futures traded on the CME, Euro forward contracts, and currency (and not gold) swaps), with cash and cash equivalents comprising the majority of the Gold/Euro ETF's assets. Up to 25% of the Gold/Euro ETF's assets will be invested in the Gold/Euro ETF Subsidiary, as described below. The distribution of the Gold/Euro ETF's investments in these currency-linked derivatives will be at the discretion of the Fund's Sub-Adviser. All of the Gold/Euro ETF's investments in these currency-linked derivatives will be backed by collateral of the Gold/Euro ETF's assets, as required, and will be diversified across multiple (generally more than 5) counterparties. In addition, these currency-linked derivatives will be subject to the limits on leverage imposed by the 1940 Act. Through its investment in a wholly-owned and controlled subsidiary organized outside the United States in the Cayman Islands (''Gold/Euro ETF Subsidiary''), the Gold/Euro ETF will obtain long exposure to the international gold market. The Gold/Euro ETF may also invest in Underlying ETPs. The Sub-Adviser will rebalance its positions in the Gold/Euro ETF and in the Gold/Euro ETF Subsidiary periodically as the value of gold relative to the value of the Euro fluctuates in international markets.

The Gold/Euro ETF may invest directly and indirectly in foreign currencies. The Gold/Euro ETF may conduct foreign currency transactions on a spot (*i.e.,* cash) or forward basis (*i.e.,* by entering into forward contracts to purchase or sell foreign currencies). Currency transactions made on a spot basis are for cash at the spot rate prevailing in the currency exchange market for buying or selling currency. Forward contracts are customized transactions that require a specific amount of a currency to be delivered at a specific exchange rate on a specific date or range of dates in the future and can have substantial price volatility. Forward contracts are generally traded in an interbank market directly between currency traders (usually large commercial banks) and their customers.

The Gold/Euro ETF, and certain Underlying ETPs in which the Gold/Euro ETF invests, may enter into swap agreements, including, but not limited to, total return swaps and index swaps. The Gold/Euro ETF may utilize swap agreements in an attempt to gain exposure to an asset in a market without actually purchasing the asset or to hedge a position. Any swaps used will be cash collateralized as required.[16]

On a daily basis, the Sub-Adviser will evaluate the gold market to determine whether the exchange-traded markets or the OTC markets provide the Gold/Euro ETF with optimal investment opportunities. As part of its daily evaluation, the Sub-Adviser will utilize information from The Gartman Letter, as referenced above. The Sub-Adviser will carefully consider the liquidity of the investment, the cost of executing the purchase or sale, and the creditworthiness of the counterparty. Similarly, the Sub-Adviser will evaluate the market for Euros to achieve the optimal duration at which to finance gold purchases for the Gold/Euro ETF. The Sub-Adviser will not participate in transactions in the Euro where the maximum duration exceeds ninety days.

In managing the Gold/Euro ETF, the Sub-Adviser will consider the asset size of the Gold/Euro ETF, as well as liquidity conditions in both the gold and currency markets, in an effort to ensure best execution and minimize potential market disruption.

As discussed above, the Sub-Adviser seeks to gain additional exposure to gold through its investment in the Gold/Euro ETF Subsidiary. The Gold/Euro ETF's investment in the Gold/Euro ETF Subsidiary may not exceed 25% of the Gold/Euro ETF's total assets at each quarter end of the Gold/Euro ETF's fiscal year. The purpose of the Gold/Euro ETF's investment in the Gold/Euro ETF Subsidiary will be to provide the Gold/Euro ETF with additional exposure to commodity returns within the limits of the federal tax requirements applicable to investment companies, such as the Gold/Euro ETF. The Gold/Euro ETF Subsidiary's investments in commodity-linked derivative instruments (*i.e.,* futures, forwards, and swaps based on the price of gold) will be subject to limits on leverage imposed by the 1940 Act. Section 18(f) of the 1940 Act and related Commission guidance limit the amount of leverage an investment company, and in this case the Gold/Euro ETF Subsidiary, can obtain. Except as noted, references to the investment strategies and risks of the Gold/Euro ETF include the investment strategies and risks of the Gold/Euro ETF Subsidiary. The Gold/Euro ETF Subsidiary's shares will only be offered to the Gold/Euro ETF and the Gold/Euro ETF will not sell any shares of the Gold/Euro ETF Subsidiary to any other investors.

Other Investments of the Funds

In the absence of normal circumstances,[17] a Fund may have temporary defensive positions to respond to adverse market, economic, political, or other conditions. A Fund may invest 100% of its total assets, without limitation, either directly or indirectly through Underlying ETPs, in debt securities and money market

[16] *See supra* note 13.

[17] *See supra* note 8.

instruments, shares of other mutual funds, commercial paper, certificates of deposit, bankers' acceptances, U.S. government securities, repurchase agreements, or bonds that are rated BBB or higher by Standard & Poor's Ratings Group (''S&P''). A Fund may be invested in this manner for extended periods depending on the Sub-Adviser's assessment of market conditions.

While each Fund's principal investments, under normal circumstances, will be as described above, a Fund may invest up to 20% of its assets in other investments, as described below.

The International Gold ETF may invest directly and indirectly in foreign currencies. The International Gold ETF may invest in foreign currency transactions on a spot (*i.e.,* cash) or forward basis (*i.e.,* by entering into forward contracts to purchase or sell foreign currencies). Currency transactions made on a spot basis are for cash at the spot rate prevailing in the currency exchange market for buying or selling currency. Forward contracts are customized transactions that require a specific amount of a currency to be delivered at a specific exchange rate on a specific date, or range of dates, in the future and can have substantial price volatility. Forward contracts are generally traded in an interbank market directly between currency traders (usually large commercial banks) and their customers.

The International Gold ETF, and certain Underlying ETPs in which the International Gold ETF invests, may enter into swap agreements, including, but not limited to, total return and index swaps, which will be expected to only be tied to the price of gold. The International Gold ETF may utilize swap agreements in an attempt to gain exposure to an asset in a market without actually purchasing the asset (in this case, gold), or to hedge a position.[18] The International Gold ETF will utilize cleared swaps if available and to the extent practicable, and will not enter into any swap agreement unless the Adviser believes that the other party to the transaction is creditworthy.[19] Any swaps used will be cash collateralized as required.

The International Gold ETF may also invest a proportion of its assets in Underlying ETPs that do not offer diversified exposure to the international gold market.

Periodically, with respect to the International Gold ETF, the Sub-Adviser may decide to purchase downside market protection to hedge against the risk of a large downward movement in the price of gold based on a proprietary assessment of the expected return from holding gold over a time horizon of generally no more than ninety days. The Sub-Adviser may implement this portion of its investment strategy by employing a number of option-based strategies using U.S.-listed equity options with maturities of no more than 90 days. The Sub-Adviser may pay a premium to buy a put option tied to the price of gold, which should rise in value when the price of gold declines, thus protecting the value of the International Gold ETF in the event of a large downward movement in the price of gold. The Sub-Adviser also may employ a strategy of buying a put option tied to the price of gold and simultaneously selling a call option tied to the price of gold, known as a ''collar'' hedging strategy. Both options should increase in value as the price of gold declines, while the combination of the put and call options is intended to reduce the premium cost of the hedge transaction. However, writing gold options may limit the potential profit the International Gold ETF would earn if the price of gold rises. Regardless of the option-based strategy employed, the Sub-Adviser will not utilize any strategy in which the value of the options sold exceeds the value of the International Gold ETF's portfolio investments, thereby limiting potential losses. The Sub-Adviser will utilize this option strategy only as a means to hedge its long position in gold.

The Gold/British Pound ETF, Gold/Yen ETF, and Gold/Euro ETF may invest in ETFs that are primarily index-based ETFs that hold substantially all of their assets in securities representing a specific index. The Gold/British Pound ETF, Gold/Yen ETF, and Gold/Euro ETF also may invest in ETFs that are actively managed and may invest in closed-end funds.

While the Funds do not anticipate doing so, they may borrow money for investment purposes, a form of leverage. A Fund may also borrow money to facilitate management of a Fund's portfolio by enabling a Fund to meet redemption requests when the liquidation of portfolio instruments would be inconvenient or disadvantageous. This borrowing will not be for investment purposes, will be repaid by a Fund promptly, and will be consistent with the requirements of the 1940 Act and the rules thereunder.

At the discretion of the Adviser, the Funds may, but are not obligated to, enter into forward currency exchange contracts for hedging purposes to help reduce the risks and volatility caused by changes in foreign currency exchange rates.

While the Funds do not expect to engage in currency hedging, they may (and certain of the Underlying ETPs in which the Funds invest may) use currency transactions in order to hedge the value of portfolio holdings denominated in particular currencies against fluctuations in relative value, including forward currency contracts, exchange-listed currency futures and currency options, exchange-listed and OTC options[20] on currencies and currency swaps, and options on currency futures. The Funds may use futures contracts and related options for bona fide hedging; attempting to offset changes in the value of securities held or expected to be acquired or be disposed of; or other risk management purposes.[21]

A Fund's or an Underlying ETP's dealings in forward currency contracts

[18] *See supra* note 13.

[19] *See id.*

[20] The Funds may trade put and call options on securities, securities indices, and currencies as the Sub-Adviser determines is appropriate in seeking a Fund's investment objective and except as restricted by a Fund's investment limitations. A Fund may buy or sell no more than 10% of its net assets in put and call options on foreign currencies either on exchanges or in the OTC market. A put option on a foreign currency gives the purchaser of the option the right to sell a foreign currency at the exercise price until the option expires. A call option on a foreign currency gives the purchaser of the option the right to purchase the currency at the exercise price until the option expires.

[21] The Exchange states that, to the extent a Fund invests in futures, options on futures, or other instruments subject to regulation by the Commodity Futures Trading Commission (''CFTC''), it will do so in compliance with CFTC regulations in effect from time to time and in accordance with the Fund's policies. To comply with recent changes to the CFTC regulations pertaining to registered investment companies that invest in derivatives regulated by the CFTC, such as futures contracts, the Funds expect to register with the CFTC as commodity pools, and the Adviser expects to register with the CFTC as a commodity pool operator prior to the Funds' commencement of operations. By registering with the CFTC, the Funds and the Adviser will be subject to regulation by the CFTC and the National Futures Association. The recent changes to CFTC regulations went into effect on December 31, 2012, but because the CFTC has not yet adopted regulations intended to ''harmonize'' the CFTC's regulation of newly registered investment companies with that of the Commission, the impact of registration on the Funds' operations is not yet known. Once the compliance obligations of the Funds under the CFTC's regulatory scheme are finalized, the Funds may consider modifying their principal investment strategies and structure by reducing substantially their investments in, or exposure to, derivative instruments subject to regulation by the CFTC in order to qualify for the exemption from CFTC regulation provided by CFTC Regulation 4.5. Alternatively, the Funds may determine to continue to be subject to CFTC regulation and comply with all applicable requirements, including registration and disclosure requirements governing commodity pools under the Commodity Exchange Act. Compliance with the CFTC's additional regulatory requirements may increase a Fund's operating expenses.

and other currency transactions such as futures, options on futures, options on currencies, and swaps will be limited to hedging involving either specific transactions (''Transaction Hedging'') [22] or portfolio positions (''Position Hedging'').[23]

The Funds, or certain Underlying ETPs in which the Funds invest, may also cross-hedge currencies by entering into transactions to purchase or sell one or more currencies that are expected to decline in value relative to other currencies to which the Funds, or certain Underlying ETPs in which the Funds invest, have or in which the Funds, or certain Underlying ETPs in which the Funds invest, expect to have portfolio exposure.

To reduce the effect of currency fluctuations on the value of existing or anticipated holdings of portfolio securities, a Fund, or certain of the Underlying ETPs in which a Fund invests, may also engage in proxy hedging. Proxy hedging is often used when the currency to which the portfolio of a Fund, or of an Underlying ETP in which a Fund invests, is exposed is difficult to hedge or to hedge against the dollar. Proxy hedging entails entering into a forward contract to sell a currency whose changes in value are generally considered to be linked to a currency or currencies in which some or all of a Fund's portfolio securities, or the portfolio securities of an Underlying ETP in which a Fund invests, are or are expected to be denominated, and to buy U.S. dollars. The amount of the contract would not exceed the value of a Fund's securities, or the securities and financial instruments held by the Underlying ETPs in which a Fund invests.

The Funds currently do not intend to enter into forward currency contracts with a term of more than one year, or to engage in Position Hedging with respect to the currency of a particular country to more than the aggregate market value (at the time the hedging transaction is entered into) of its portfolio securities denominated in (or quoted in or currently convertible into or directly related through the use of forward currency contracts in conjunction with money market instruments to) that particular currency.

The Funds may invest in performance indexed paper (PIPs℠), which is U.S. dollar-denominated commercial paper the yield of which is linked to certain foreign exchange rate movements. The yield to the investor on PIPs is established at maturity as a function of spot exchange rates between the U.S. dollar and a designated currency as of or about that time (generally, the index maturity is two days prior to maturity). The yield to the investor will be within a range stipulated at the time of purchase of the obligation, generally with a guaranteed minimum rate of return that is below, and a potential maximum rate of return that is above, market yields on U.S. dollar-denominated commercial paper, with both the minimum and maximum rates of return on the investment corresponding to the minimum and maximum values of the spot exchange rate two business days prior to maturity.

The Funds, and certain Underlying ETPs in which the Funds invest, may invest in commercial paper. Commercial paper is a short-term obligation with a maturity ranging from one to 270 days issued by banks, corporations, and other borrowers. These investments are unsecured and usually discounted. To the extent a Fund invests in commercial paper, a Fund will seek to invest in commercial paper rated A–1 or A–2 by S&P or Prime-1 or Prime-2 by Moody's Investors Service, Inc. (''Moody's'').

The Funds, and certain of the Underlying ETPs in which the Funds invest, may invest in fixed income securities, as described below.

The Funds, and certain Underlying ETPs in which the Funds invest, may seek to invest in debt securities, which are securities consisting of a certificate or other evidence of a debt (secured or unsecured) on which the issuing company or governmental body promises to pay the holder thereof a fixed, variable, or floating rate of interest for a specified length of time, and to repay the debt on the specified maturity date. Some debt securities, such as zero coupon bonds, do not make regular interest payments, but are issued at a discount to their principal or maturity value. Debt securities include a variety of fixed income obligations, including, but not limited to, corporate debt securities, government securities, municipal securities, convertible securities, and mortgage-backed securities. Debt securities include investment-grade securities, non-investment-grade securities, and unrated securities.

The Funds may invest in U.S. government securities. Securities issued or guaranteed by the U.S. government or its agencies or instrumentalities include U.S. Treasury securities, which are backed by the full faith and credit of the U.S. Treasury and which differ only in their interest rates, maturities, and times of issuance. U.S. Treasury bills have initial maturities of one year or less; U.S. Treasury notes have initial maturities of one to ten years; and U.S. Treasury bonds generally have initial maturities of greater than ten years.[24]

The Funds, and certain Underlying ETPs in which the Funds invest, may invest in U.S. Treasury zero-coupon bonds. These securities are U.S. Treasury bonds which have been stripped of their unmatured interest coupons, the coupons themselves, and receipts or certificates representing interests in the stripped debt obligations and coupons. Interest is not paid in cash during the term of these securities, but is accrued and paid at maturity.

The Funds may invest in all grades of corporate debt securities including non-investment grade securities, as described below.

The Funds, and certain Underlying ETPs in which the Funds invest, to the extent a Fund invests in non-investment grade debt securities, will seek to invest no more than 10% of a Fund's net assets in these debt securities. Non-investment-grade debt securities, also

[22] Transaction Hedging is entering into a currency transaction with respect to specific assets or liabilities of a Fund, or certain Underlying ETPs in which a Fund invests, which will generally arise in connection with the purchase or sale of its portfolio securities or the receipt of income therefrom. A Fund, or certain Underlying ETPs in which a Fund invests, may enter into Transaction Hedging out of a desire to preserve the U.S. dollar price of a security when it enters into a contract for the purchase or sale of a security denominated in a foreign currency.

[23] Position Hedging is entering into a currency transaction with respect to portfolio security positions denominated or generally quoted in that currency. A Fund, or certain Underlying ETPs in which a Fund invests, may use Position Hedging when the Adviser believes that the currency of a particular foreign country may suffer a substantial decline against the U.S. dollar. A Fund, or certain Underlying ETPs in which a Fund invests, may enter into a forward foreign currency contract to sell, for a fixed amount of dollars, the amount of foreign currency approximating the value of some or all of its portfolio securities denominated in the foreign currency. A Fund, or certain Underlying ETPs in which a Fund invests, will not enter into a transaction to hedge currency exposure to an extent greater, after netting all transactions intended wholly or partially to offset other transactions, than the aggregate market value (at the time of entering into the transaction) of the securities held in its portfolio that are denominated or generally quoted in or currently convertible into the currency, other than with respect to proxy hedging as described below.

[24] Certain U.S. government securities are issued or guaranteed by agencies or instrumentalities of the U.S. government including, but not limited to, obligations of U.S. government agencies or instrumentalities such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Small Business Administration, the Federal Farm Credit Administration, the Federal Home Loan Banks, Banks for Cooperatives (including the Central Bank for Cooperatives), the Federal Land Banks, the Federal Intermediate Credit Banks, the Tennessee Valley Authority, the Export-Import Bank of the United States, the Commodity Credit Corporation, the Federal Financing Bank, the National Credit Union Administration, and the Federal Agricultural Mortgage Corporation.

referred to as ''high yield securities'' or ''junk bonds,'' are debt securities that are rated lower than the four highest rating categories by a nationally recognized statistical rating organization (for example, lower than Baa3 by Moody's or lower than BBB by S&P) or are determined to be of comparable quality by the Sub-Adviser.

The Funds, and certain Underlying ETPs in which the Funds invest, may seek to invest in unrated debt securities. The creditworthiness of the issuer, as well as any financial institution or other party responsible for payments on the security, will be analyzed to determine whether to purchase unrated bonds.

The Funds, and certain Underlying ETPs in which the Funds invest, will seek to invest no more than 10% of their net assets in asset-backed and mortgaged-backed securities.

The Funds, and certain of the Underlying ETPs in which the Funds invest, may invest in U.S. equity securities, including common stock, preferred stock, warrants, convertible securities, master limited partnerships, and rights traded in the U.S. or on other registered exchanges.

Each Fund may invest in issuers located outside the United States directly, or in financial instruments or Underlying ETPs that are indirectly linked to the performance of foreign issuers. These financial instruments may be one of the following: American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs''), European Depositary Receipts (''EDRs''), International Depository Receipts (''IDRs''), ordinary shares, and New York shares issued and traded in the U.S. (collectively, ''Equity Financial Instruments'').[25]

A Fund, and certain Underlying ETPs in which a Fund invests, may invest in hybrid instruments. A hybrid instrument is a type of potentially high-risk derivative that combines a traditional stock, bond, or commodity with an option or forward contract. An example of a hybrid instrument could be a bond issued by an oil company that pays a small base level of interest with additional interest that accrues in correlation with the extent to which oil prices exceed a certain predetermined level. This hybrid instrument would be a combination of a bond and a call option on oil. Generally, the principal amount, amount payable upon maturity or redemption, or interest rate of a hybrid is tied (positively or negatively) to the price of some security, commodity, currency, securities index, or another interest rate or some other economic factor (each a ''benchmark''). The interest rate or (unlike most fixed income securities) the principal amount payable at maturity of a hybrid security may be increased or decreased, depending on changes in the value of the benchmark.

Each Fund may invest in structured notes, which are debt obligations that also contain an embedded derivative component with characteristics that adjust the obligation's risk/return profile. Generally, the performance of a structured note will track that of the underlying debt obligation and the derivative embedded within it. Each Fund has the right to receive periodic interest payments from the issuer of the structured notes at an agreed-upon interest rate and a return of the principal at the maturity date.[26]

The Funds may invest in the securities of exchange-traded pooled vehicles that are not investment companies and, thus, not required to comply with the provisions of the 1940 Act.[27] The International Gold ETF may principally invest in these securities through Underlying ETPs while the other Funds (Gold/British Pound ETF, Gold/Yen ETF, and Gold/Euro ETF) may, but are not expected to, invest in these securities as non-principal investments. As a result, as a shareholder of these pooled vehicles, a Fund will not have all of the investor protections afforded by the 1940 Act. These pooled vehicles may, however, be required to comply with the provisions of other federal securities laws, such as the Securities Act. These pooled vehicles typically hold currency or commodities, such as gold or oil, or other property that is itself not a security.

The Funds, and certain Underlying ETPs in which the Funds invest, may invest in exchange-traded shares of real estate investment trusts (''REITs''). REITs are pooled investment vehicles which invest primarily in real estate or real estate-related loans. REITs are generally classified as equity REITs, mortgage REITs, or a combination of equity and mortgage REITs.

The Funds, and certain Underlying ETPs in which the Funds invest, may enter into repurchase agreements with financial institutions, which may be deemed to be loans. The Funds will follow certain procedures designed to minimize the risks inherent in these agreements. These procedures will include effecting repurchase transactions only with large, well-capitalized and well-established financial institutions whose condition will be continually monitored by the Sub-Adviser. In addition, the value of the collateral underlying the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement.

The Funds, and certain Underlying ETPs in which the Funds invest, may enter into reverse repurchase agreements as part of a Fund's investment strategy. However, the Funds do not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 33⅓% of their respective assets. Reverse repurchase agreements involve sales by a Fund of portfolio assets concurrently with an agreement by a Fund to repurchase the same assets at a later date at a fixed price.

The Funds may engage in short sales transactions in which a Fund sells a security it does not own. To complete such a transaction, a Fund must borrow

[25] ADRs are U.S. dollar denominated receipts typically issued by U.S. banks and trust companies that evidence ownership of underlying securities issued by a foreign issuer. The underlying securities may not necessarily be denominated in the same currency as the securities into which they may be converted. The underlying securities are held in trust by a custodian bank or similar financial institution in the issuer's home country. The depositary bank may not have physical custody of the underlying securities at all times and may charge fees for various services, including forwarding dividends and interest and corporate actions. Generally, ADRs in registered form are equity securities designed for use in domestic securities markets and are traded on exchanges or OTC in the U.S. GDRs, EDRs, and IDRs are similar to ADRs in that they are certificates evidencing ownership of shares of a foreign issuer; however, GDRs, EDRs, and IDRs may be issued in bearer form and denominated in other currencies, and are generally designed for use in specific or multiple securities markets outside the U.S. EDRs, for example, are designed for use in European securities markets, while GDRs are designed for use throughout the world. Ordinary shares are shares of foreign issuers that are traded abroad and on a U.S. exchange. New York shares are shares that a foreign issuer has allocated for trading in the U.S. ADRs, ordinary shares, and New York shares all may be purchased with and sold for U.S. dollars. ADRs may be sponsored or unsponsored, but unsponsored ADRs will not exceed 10% of a Fund's net assets. With respect to its investments in equity securities (including Equity Financial Instruments), each Fund will invest at least 90% of its assets invested in these equity securities in securities 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.

[26] In the case of structured notes on credit default swaps, a Fund, or the Underlying ETP in which a Fund invests, will also be subject to the credit risk of the corporate credits underlying the credit default swaps.

[27] These securities include Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500).

or otherwise obtain the security to make delivery to the buyer. A Fund then is obligated to replace the security borrowed by purchasing the security at the market price at the time of replacement.

The Funds, and certain of the Underlying ETPs in which the Funds invest, may enter into time deposits and Eurodollar time deposits. Time deposits are non-negotiable deposits, such as savings accounts or certificates of deposit, held by a financial institution for a fixed term with the understanding that the depositor can withdraw its money only by giving notice to the institution.

The Funds, and certain Underlying ETPs in which the Funds invest, from time to time, in the ordinary course of business, may purchase securities on a when-issued or delayed-delivery basis (*i.e.,* delivery and payment can take place between a month and 120 days after the date of the transaction). These securities are subject to market fluctuation and no interest accrues to the purchaser during this period.

The Funds may not purchase or sell commodities or commodity contracts unless acquired as a result of ownership of securities or other instruments issued by persons that purchase or sell commodities or commodities contracts; but this shall not prevent a Fund from purchasing, selling, and entering into financial futures contracts (including futures contracts on indices of securities, interest rates, and currencies), options on financial futures contracts (including futures contracts on indices of securities, interest rates, and currencies), warrants, swaps, forward contracts, foreign currency spot and forward contracts, or other derivative instruments that are not related to physical commodities.

Other Restrictions of the Funds

A Fund may not, with respect to 75% of its total assets, purchase securities of any issuer (except securities issued or guaranteed by the U.S. government, its agencies or instrumentalities or shares of investment companies) if, as a result, more than 5% of its total assets would be invested in the securities of the issuer, or acquire more than 10% of the outstanding voting securities of any one issuer (and for purposes of this policy, the issuer of the underlying security will be deemed to be the issuer of any respective depositary receipt).

A Fund may not invest 25% or more of its total assets in the securities of one or more issuers conducting their principal business activities in the same industry or group of industries. This limitation does not apply to investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or shares of investment companies. A Fund will not invest 25% or more of its total assets in any investment company that so concentrates.

Each Fund may invest up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser,[28] consistent with Commission guidance. Each 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 a Fund's net assets are invested in illiquid securities. Illiquid securities 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.

Each Fund will seek to qualify for treatment as a Regulated Investment Company under the Internal Revenue Code.

Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. While a Fund may invest in inverse ETFs, a Fund will not invest in leveraged (*e.g.,* 2X, –2X, 3X, or –3X) ETFs.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act[29] and the rules and regulations thereunder applicable to a national securities exchange.[30] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[31] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Funds and the Shares must comply with the initial and continued listing criteria in NYSE Arca Equities Rule 8.600 for the Shares to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[32] 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, Underlying ETPs, REITs, certain Equity Financial Instruments, pooled vehicles, and other U.S. exchange-traded equities will be available via the Consolidated Tape Association (''CTA'') high-speed line, and, for the underlying securities that are U.S. exchange-listed, will be available from the national securities exchange on which they are listed. Price information relating to non-U.S. exchange-traded Equity Financial Instruments will be available from major market data vendors or the foreign exchanges on which these securities are traded. Price information relating to fixed income securities will be available from major market data vendors. Information relating to futures and options on futures also will be available from the exchange on which such instruments are traded. Information relating to exchange-traded options will be available via the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing services will be available for spot currency transactions, hybrid instruments, and non-exchange-traded derivatives, including forwards, swaps, and certain options.

On each business day, before commencement of trading of Shares in the Core Trading Session on the Exchange, the Funds' Web site will disclose the Disclosed Portfolio that will form the basis for each Fund's calculation of NAV at the end of the business day.[33] In addition, the Portfolio

[28] In reaching liquidity decisions, the 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).

[29] 15 U.S.C. 78f.

[30] 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).

[31] 15 U.S.C. 78f(b)(5).

[32] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[33] On a daily basis, the Funds' Web site, or, if applicable, a Fund's subsidiary's Web site, will disclose for each portfolio security and other financial instrument (*e.g.,* futures, forwards, swaps) of each Fund and each Fund's subsidiary, the

Continued

Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[34] The NAV per Share for a Fund will be calculated by the administrator and determined as of the close of the regular trading session on the New York Stock Exchange (''NYSE'') (ordinarily 4:00 p.m., Eastern Time) on each day that such exchange is open. 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. In addition, a basket composition file, which includes the security names and share quantities (as applicable) required to be delivered in exchange for Fund Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via the National Securities Clearing Corporation. The Funds' Web site will include a form of the prospectus for the Funds as well as additional quantitative information updated on a daily basis.

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 Funds 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,[35] and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth additional circumstances under which Shares of a Fund may be halted. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Adviser 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 Fund's portfolio. In addition, the Exchange states that neither the Adviser nor Sub-Adviser is a broker-dealer or is affiliated with a broker-dealer.[36] The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by 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. Moreover, prior to the commencement of trading, the Exchange states that it will inform its Equity Trading Permit Holders in an Information Bulletin 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 representations, including the following:

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

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

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, Underlying ETPs, exchange-listed equity securities (including Equity Financial Instruments), futures, options on futures, exchange-traded options, REITs, and pooled vehicles with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, Underlying ETPs, exchange-listed equity securities (including Equity Financial Instruments), futures, options on futures, exchange-traded options, REITs, and pooled vehicles from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. With respect to its investments in exchange-listed equity securities (including Equity Financial Instruments), a Fund will invest at least 90% of its assets in equity securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(4) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation unit aggregations (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a),

following information: Ticker symbol (if applicable); name and, when available, the individual identifier (CUSIP) of the security and/or financial instrument; number of shares, if applicable, and dollar value of securities and financial instruments held in the portfolio; and percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

[34] According to the Exchange, several major market data vendors display or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

[35] These reasons may include: (1) The extent to which trading is not occurring in the securities or the financial instruments composing the Disclosed Portfolio of the Funds; 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 of suspend trading in the Shares of a Fund.

[36] *See supra* note 6 and accompanying text. 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, Sub-Advisor, 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 the 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.

which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (d) how information regarding the Portfolio Indicative Value is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and continued listing, the Funds must be in compliance with Rule 10A–3 under the Act,[38] as provided by NYSE Arca Equities Rule 5.3.

(6) The Funds may invest up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser consistent with Commission guidance.

(7) The Funds will utilize cleared swaps if available and to the extent practicable and not enter into any swap agreement unless the Adviser believes that the other party to the transaction is creditworthy. The Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. Any swaps used will be cash collateralized as required.

(8) The Funds, and certain Underlying ETPs in which the Funds invest, will invest no more than 10% of a Fund's net assets in non-investment grade debt securities. In addition, the Funds, and certain Underlying ETPs in which the Funds invest, will invest no more than 10% of their net assets in asset-backed and mortgaged-backed securities.

(9) The Funds will effect repurchase transactions only with large, well-capitalized and well-established financial institutions whose condition will be continually monitored by the Sub-Adviser. In addition, the value of the collateral underlying the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement. The Funds do not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 33⅓% of their respective assets.

(10) The Funds will not invest in leveraged (*e.g.,* 2X, –2X, 3X, or –3X) ETFs.

[38] *See* 17 CFR 240.10A–3.

(11) A minimum of 100,000 Shares of each Fund 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 Funds.

For the foregoing reasons, the Commission finds that the proposed rule change 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–NYSEArca–2013–116), 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.

[FR Doc. 2014–02502 Filed 2–5–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71452; File No. SR–NYSE–2014–05]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List To Introduce Fees and Credits for A New Order Type Called a Midpoint Passive Liquidity Order

January 31, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 22, 2014, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

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

[41] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

The Exchange proposes to amend its Price List to introduce fees for a new order type called a Midpoint Passive Liquidity ("MPL") Order. The proposed fees would be operative on January 27, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.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 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 amend its Price List to introduce fees for a new order type called a MPL Order. The proposed fees would be operative on January 27, 2014.

The Exchange recently introduced the MPL Order type,[4] which is an undisplayed limit order that automatically executes at the mid-point of the protected best bid or offer ("PBBO"). An MPL Order is not eligible for manual executions, including openings, re-openings, or closing transactions. An MPL Order also is not eligible to trade if it would trade at a price below $1.00 or if the execution price would be out to five decimal places above $1.00. All market participants—customers, Floor brokers, Designated Market Makers ("DMMs"), and Supplemental Liquidity Providers ("SLPs")—may use the MPL order type.

The Exchange proposes to charge $0.0025 per share for all MPL Orders that remove liquidity from the Exchange if the security is priced $1.00 or more. The Exchange also proposes to offer a

[4] *See* Rule 13 and Securities Exchange Act Release No. 71330 (January 16, 2014) (SR–NYSE–2013–71).