

which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, setting forth the: (a) party from whom the securities were acquired, (b) identity of the underwriting syndicate's members, (c) terms of the purchase, and (d) information or materials upon which the Board's determinations were made.

8. Before investing in shares of a Fund in excess of the limits in section 12(d)(1)(A) of the Act, each Investing Fund and Fund will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Prior to approving any advisory contract under section 15 of the Act, the Board of each Investing Fund, including a majority of the Independent Trustees, will find that the advisory fees charged under such advisory contracts are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Fund in which the Investing Fund may invest. Such finding and the basis upon which the finding was made will be recorded fully in the minute books of the appropriate Investing Fund.

10. The Investing Fund Adviser will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to a plan adopted by a Fund under Rule 12b-1 under the Act) received from a Fund by the Investing Fund Adviser, or an affiliated person of the Investing Fund Adviser, other than any advisory fees paid to the Investing Fund Adviser or its affiliated

person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Subadviser will waive fees otherwise payable to the Investing Fund Subadviser, directly or indirectly, by the Investing Fund in an amount at least equal to any compensation received from a Fund by the Investing Fund Subadviser, or an affiliated person of the Investing Fund Subadviser, other than any advisory fees paid to the Investing Fund Subadviser or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund made at the direction of the Investing Fund Subadviser. In the event that the Investing Fund Subadviser waives fees, the benefit of the waiver will be passed through to the Investing Fund.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin O'Neill, Deputy Secretary.

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BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-72638; File No. SR-FINRA-2014-033]

**Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Serving Electronically Written Decisions on Members Seeking Exemptive Relief Under NASD Rule 1070**

July 17, 2014.

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> notice is hereby given that on July 9, 2014, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the

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

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

Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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**

FINRA is proposing to amend FINRA Rule 9620 (Decision) to permit FINRA staff to serve by an electronic method written decisions on members seeking exemptive relief from FINRA's qualification examination requirements under NASD Rule 1070.

Below is the text of the proposed rule change. Proposed new language is in italics.

\* \* \* \* \*

9000. CODE OF PROCEDURE

\* \* \* \* \*

9600. PROCEDURES FOR EXEMPTIONS

\* \* \* \* \*

9620. Decision

After considering an application, FINRA staff shall issue a written decision setting forth its findings and conclusions. The decision shall be served on the Applicant pursuant to Rules 9132 and 9134, *except with respect to written decisions for exemptive relief under NASD Rule 1070 (Qualification Examinations and Waiver of Requirements), which shall be served on the Applicant electronically.* After the decision is served on the Applicant, the application and decision may be publicly available.

\* \* \* \* \*

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

In its filing with the Commission, FINRA 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. FINRA 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

FINRA is proposing to amend FINRA Rule 9620 (Decision) permit [sic] FINRA staff to serve by an electronic method written decisions on members seeking exemptive relief from FINRA's qualification examination requirements.

The NASD Rule 1000 Series specifies, among other things, registration and qualification requirements for registered representatives and principals associated with firms. NASD Rule 1070(d) authorizes FINRA, pursuant to the FINRA Rule 9600 Series, in exceptional cases and where good cause is shown, to waive qualification examinations (as specified in the NASD Rule 1000 Series) and accept other standards as evidence of an applicant's qualification for registration. Under the FINRA Rule 9600 Series, an initial application for relief under any FINRA rule for which exemptive relief may be granted, including qualification examination waivers under NASD Rule 1070 (Qualification Examinations and Waiver of Requirements), is filed with the appropriate department or staff.

All applications for qualification examination waivers under NASD Rule 1070 are filed by a member. As of January 16, 2009, members have been required to submit all applications for qualification examination waivers to FINRA's Department of Member Regulation ("Department") through the Firm Gateway, a comprehensive web-based tool that provides members with consolidated access to FINRA regulatory and filing applications.<sup>3</sup> Each member has a Firm Gateway account and an account administrator who can apply for a qualification examination waiver electronically or can give entitlement privileges to other firm personnel to file the application electronically. In connection with each qualification examination waiver application, the member contemporaneously provides, among other things, an email address for a contact person at the firm. Once submitted, the Department examines the merits of the application, determines what action to take, and issues a decision to the applicant that grants or denies the application. Currently, the Department serves the decision on the applicant by U.S. mail in accordance with FINRA Rules 9132 (Service of Orders, Notices, and Decisions by

Adjudicator) and 9134 (Methods of, Procedures for Service).

FINRA proposes that the Department use the examination-waiver email address provided by the applicant in Firm Gateway to serve electronically a written decision on the FINRA member seeking exemptive relief from a FINRA qualification examination. Serving written decisions electronically on applicants would allow the Department to issue decisions and allow the applicants to receive the decision more expeditiously. It also would reduce FINRA's costs because of inefficiencies and expenses associated with printing and mailing hard copies of written decisions and scanning hard copies of written decisions for electronic storage. In the event that the Department is unable to serve electronically a decision on a particular applicant because the email address provided by the applicant is no longer valid, the Department would serve the decision on the applicant by U.S. mail in accordance with FINRA Rules 9132 and 9134.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date of the proposed rule change will be August 18, 2014. FINRA will announce the implementation date of the proposed rule change no later than 60 days following Commission notice of the filing of the proposed rule change for immediate effectiveness.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>4</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change will promote efficiency because it will enable members seeking relief under NASD Rule 1070 to receive more expeditiously a written decision regarding an associated person's request to waive a qualification examination. It is in the public interest, and consistent with the Act's purpose, that decisions concerning an associated person's qualifications for registration are timely resolved.

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

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance

of the purposes of the Act. The proposed rule change would not change for any member the process of submitting electronically a qualification examination waiver application through Firm Gateway. The proposed rule change only would change the method of serving the decision on applicants seeking a qualification examination waiver. FINRA believes the proposed rule change would promote efficiency because qualification examination waiver applicants would receive decisions more expeditiously. FINRA further believes that members would not be adversely affected because, in the unlikely circumstance that the Department is unable to serve electronically a decision on the applicant because the email address provided by the applicant is no longer valid, the Department would serve the decision on the applicant in accordance with FINRA Rules 9132 and 9134.

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and Rule 19b-4(f)(6) thereunder.<sup>6</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

<sup>3</sup> See *Regulatory Notice* 08-67 (November 2008).

<sup>4</sup> 15 U.S.C. 78o-3(b)(6).

#### 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 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-FINRA-2014-033 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-FINRA-2014-033. 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 the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2014-033 and should be submitted on or before August 13, 2014.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014-17266 Filed 7-22-14; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72636; File No. SR-BATS-2014-026]

#### **Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of Certain Funds of the Alpha Architect ETF Trust**

July 17, 2014.

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> notice is hereby given that on July 3, 2014, BATS Exchange, Inc. ("Exchange" or "BATS") 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 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 is proposing to list and trade shares of certain funds (the "Fund" when discussed individually or, collectively, the "Funds") of the Alpha Architect ETF Trust (the "Trust") under BATS Rule 14.11(i) ("Managed Fund Shares"). The shares of each Fund and the shares of the Funds collectively, as applicable, are referred to herein as the "Shares."

The text of the proposed rule addition is available at the Exchange's Web site at <http://www.batstrading.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 Exchange 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 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 the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.<sup>3</sup> The Funds will be actively managed funds. The Exchange proposes to list and trade Shares of the following Funds: (i) ValueShares U.S. Quantitative Value ETF; (ii) ValueShares International Quantitative Value ETF; (iii) MomentumShares U.S. Quantitative Momentum ETF; and (iv) MomentumShares International Quantitative Momentum ETF. The Shares will be offered by the Trust, which was established as a Delaware statutory trust on October 11, 2013. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Funds on Form N-1A ("Registration Statement") with the Commission.<sup>4</sup>

##### Description of the Shares and the Funds

Empowered Funds, LLC is the investment adviser ("Adviser") to the Funds.<sup>5</sup> U.S. Bancorp Fund Services, LLC is the administrator and transfer agent ("Administrator," and "Transfer Agent," respectively) for the Trust. U.S. Bank National Association is the Custodian ("Custodian") for the Trust. Quasar Distributors, LLC ("Distributor") serves as the distributor for the Trust.

BATS Rule 14.11(i)(7) 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

<sup>3</sup> The Commission approved BATS Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

<sup>4</sup> See Registration Statement on Form N-1A for the Trust, dated April 25, 2014 (File Nos. 333-195493 and 811-22961). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Company under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act") (the "Exemptive Order"). See Investment Company Act Release No. 31018 (April 16, 2014) (File No. 812-14245).

<sup>5</sup> The Adviser is an indirect subsidiary of Empirical Finance, LLC d/b/a Empiritrage, LLC.

<sup>7</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.