

Tradebook, Island, RediBook, Attain, TrackECN, and BATS. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008. Two new options exchanges have launched operations since December 2012.<sup>33</sup>

In establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary options market data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors, and has not considered irrelevant factors, in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

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

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

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>34</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>35</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)<sup>36</sup> of the Act to determine whether the proposed rule

change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the 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-NYSEMKT-2014-73 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-NYSEMKT-2014-73. 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 the Exchange. 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-NYSEMKT-2014-73 and should be submitted on or before October 2, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>37</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014-21647 Filed 9-10-14; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-73007; File No. SR-ICC-2014-11]

**Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change, As Modified by Amendment No. 2 Thereto, To Revise Rules To Provide for the 2014 ISDA Definitions**

September 5, 2014.

**I. Introduction**

On July 24, 2014, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-ICC-2014-11 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> The proposed rule change was published for comment in the **Federal Register** on August 5, 2014.<sup>3</sup> The Commission did not receive comments on the proposed rule change. On September 2, 2014, ICC filed Amendment No. 2 to the proposed rule change to correct a factual inaccuracy in a statement made in its filing.<sup>4</sup> For the reasons described below, the Commission is approving the proposed rule change.

<sup>37</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Securities Exchange Act Release No. 34-72701 (Jul. 29, 2014); 79 FR 45565 (Aug. 5, 2014) (SR-ICC-2014-11).

<sup>4</sup> On August 28, 2014, ICC filed Amendment No. 1 to the proposed rule change. ICC withdrew Amendment No. 1 on September 2, 2014. ICC subsequently filed Amendment No. 2 on September 2, 2014. In Amendment No. 2, ICC clarified that CDS contracts on sovereigns cleared at ICC will be Converting Contracts (as discussed herein). ICC stated that its implementation of the 2014 ISDA definitions is intended to be fully consistent with the planned ISDA protocol implementation. ICC noted that, on August 15, 2014, ISDA published a memorandum and FAQ that, in relevant part, explains that based on industry feedback related to the draft protocol, the protocol would be amended to include certain emerging market sovereign single names. Following the protocol amendment, all sovereign single names cleared at ICC will now be included in the protocol. Amendment No. 2 corrects a factual inaccuracy in a statement made in ICC's filing, and because it does not materially affect the substance of the proposed rule change, the Commission is not publishing it for comment.

<sup>33</sup> See *supra* note 28.

<sup>34</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>35</sup> 17 CFR 240.19b-4(f)(2).

<sup>36</sup> 15 U.S.C. 78s(b)(2)(B).

## II. Description of the Proposed Rule Change

ICC has stated that the principal purpose of the proposed rule change is to amend ICC rules to incorporate references to revised Credit Derivatives Definitions, as published by the International Swaps and Derivatives Association, Inc. ("ISDA") on February 21, 2014 (the "2014 ISDA Definitions"). ICC has stated that, as described by ISDA, the 2014 ISDA Definitions make a number of changes from the ISDA Credit Derivatives Definitions published previously in 2003 (as amended in 2009, the "2003 ISDA Definitions") to the standard terms for CDS Contracts, including (i) introduction of new terms applicable to credit events involving financial reference entities and settlement of such credit events, (ii) introduction of new terms applicable to credit events involving sovereign reference entities and settlement of such credit events, (iii) implementation of standard reference obligations applicable to certain reference entities, and (iv) various other improvements and drafting updates that reflect market experience and developments since the 2009 amendments to the 2003 ISDA Definitions. The 2014 ISDA Definitions will become effective on the industry implementation date of September 22, 2014.

ICC has proposed that, consistent with the approach being taken throughout the CDS market, the 2014 ISDA Definitions will be applicable to certain products cleared by ICC beginning on September 22, 2014. In addition, the proposed amendments will provide for the conversion of certain existing contracts (so-called "Converting Contracts"), currently based on the 2003 ISDA Definitions, into contracts based on the 2014 ISDA Definitions. ICC asserts that this approach is consistent with expected industry practice for similar contracts not cleared by ICC, which will be subject to a multilateral amendment "protocol" sponsored by ISDA, and that ICC Participants plan to adhere to the ISDA protocol and would desire ICC to convert certain contracts cleared at ICC into contracts based on the 2014 ISDA Definitions, consistent with the ISDA protocol. For contracts that are not Converting Contracts, ICC expects to continue to accept for clearing both new transactions referencing the 2014 ISDA Definitions and new transactions referencing the 2003 ISDA Definitions (and such contracts based on different definitions will not be fungible). ICC proposes to publish on its Web site a list of Converting Contracts, which is

expected to be the same as the list of contracts subject to the ISDA protocol. ICC anticipates that most ICC Contracts will be Converting Contracts with certain exceptions including certain financial reference entities.

To this end, ICC has proposed to (i) revise the ICC Clearing Rules ("Rules") to make proper distinctions between the 2014 ISDA Definitions and the 2003 ISDA Definitions and related documentation and (ii) make conforming changes throughout the ICC Rules to reference provisions from the proper ISDA Definitions. ICC has proposed changes to Chapters 20, 21, 22 and 26 of the ICC Rules. ICC has also submitted revisions to the ICC Restructuring Procedures, which ICC states reflect proper distinctions between the 2003 ISDA Definitions and the 2014 ISDA Definitions.<sup>5</sup>

Finally, ICC has proposed revisions to the Risk Management Framework to reflect appropriate portfolio treatment between CDS Contracts cleared under the 2003 and 2014 ISDA Definitions. The revisions to the ICC Risk Management Framework would introduce a "Risk Sub-Factor" as a specific single name and any unique combination of instrument attributes (e.g., restructuring clause, 2003 or 2014 ISDA Definitions, debt tier, etc.). The union of all Risk Sub-Factors that share the same underlying single name would form a single name Risk Factor. The portfolio treatment at the Risk Sub-Factor level would be provided for in the Risk Management Framework, as appropriate. Additionally, the ICC Risk Management Framework would be revised to include long and short positions of Risk Sub-Factors for a single name Risk Factor in the Jump-to-Default requirement. The ICC Risk Management Framework also would be revised to include other cleanup and clarification changes (e.g., to address the difference in risk time horizon between North American and European instruments).

## III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act<sup>6</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-

<sup>5</sup> A more detailed description of the proposed changes to the ICC Rules, ICC Restructuring Procedures, and Risk Management Framework is set forth in the notice of filing of the proposed rule change. See *supra* note 3.

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

regulatory organization. Section 17A(b)(3)(F) of the Act<sup>7</sup> requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that the proposed revisions to the ICC Rules, Restructuring Procedures and Risk Management Framework are consistent with the requirements of Section 17A of the Act<sup>8</sup> and the rules and regulations thereunder applicable to ICC. The proposed rule change, which is principally designed to incorporate and implement the 2014 ISDA Definitions, will permit clearing of contracts, both new and existing, referencing the new definitions, while distinguishing, where applicable, contracts cleared by ICC between those referencing the 2014 ISDA Definitions and those referencing the 2003 ISDA Definitions for purposes of risk management and clearing operations. Additionally, ICC states that the proposed rule change is necessary to provide the market with the assurances that ICC plans to implement the standard credit derivatives definitions consistent with industry practice, thereby facilitating prompt and accurate clearance and settlement. The Commission therefore believes that the proposed rule change is reasonably designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.<sup>9</sup>

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>10</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 15 U.S.C. 78q-1.

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>10</sup> 15 U.S.C. 78q-1.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-ICC-2014-11) as modified by Amendment No. 2 thereto be, and hereby is, approved.<sup>12</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73004; File No. SR-NYSEArca-2014-76]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 1, 2, 3, 4, and 5, To List and Trade Shares of the Cambria Global Momentum ETF Under NYSE Arca Equities Rule 8.600

September 5, 2014.

#### I. Introduction

On July 1, 2014, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares ("Shares") of the Cambria Global Momentum ETF ("Fund") under NYSE Arca Equities Rule 8.600. The Exchange filed Amendment No. 1 to the proposal on July 14, 2014, and on July 15, 2014, the Exchange filed Amendment No. 2 to the proposal.<sup>3</sup> The proposed rule change, as modified by Amendments No. 1 and 2, was published for comment in the **Federal Register** on July 22, 2014.<sup>4</sup> On July 22, 2014, the Exchange filed Amendment No. 3 to the proposal;<sup>5</sup> on July 29, 2014, the

<sup>12</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Amendment No. 1 replaced and superseded the original filing in its entirety, and Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

<sup>4</sup> See Securities Exchange Act Release No. 72631 (July 16, 2014), 79 FR 42605 ("Notice").

<sup>5</sup> Amendment No. 3 replaced and superseded Amendment No. 2 in its entirety. In Amendment No. 3, the Exchange modified inconsistent representations in the filing regarding leverage to clarify that the Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged returns (*i.e.*, 2X and 3X) of the Fund's broad-based securities market index (as defined in Form N-1A).

Exchange filed Amendment No. 4 to the proposal;<sup>6</sup> and on September 4, 2014, the Exchange filed partial Amendment No. 5 to the proposal.<sup>7</sup>

The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change, as modified by Amendment Nos. 1, 2, 3, 4 and 5.

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

The Exchange proposes to list and trade Shares of the Fund pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Cambria ETF Trust ("Trust"), a Delaware statutory trust which is registered with the Commission as an open-end management investment company.<sup>8</sup> Cambria Investment Management, L.P. ("Adviser") will serve as the investment adviser of the Fund. The Exchange states that the Adviser is not registered as a broker-dealer or affiliated with a broker-dealer.<sup>9</sup>

<sup>6</sup> Amendment No. 4 replaced and superseded Amendment No. 3 in its entirety. In Amendment No. 4, the Exchange modified Exhibit 1 to be consistent with the 19b-4, as amended by Amendment No. 3.

<sup>7</sup> Amendment No. 5 partially amended the filing, as amended by Amendment Nos. 1, 2, 3 and 4, to: (i) remove the Fund's ability to invest in inverse Underlying Vehicles (as defined herein); (ii) clarify that the Fund will not invest in leveraged Underlying Vehicles; and (iii) clarify that the Fund's investments will not be used to achieve inverse returns or leveraged returns. Because Amendment Nos. 3, 4 and 5 provide clarification to the proposed rule change and do not materially affect the substance of the proposed rule change or raise any unique or novel regulatory issues, Amendment Nos. 3, 4 and 5 do not require notice and comment.

<sup>8</sup> The Trust will be registered under the Investment Company Act of 1940 ("1940 Act"). The Exchange states that on March 4, 2014, the Trust filed an amendment to the Trust's registration statement on Form N-1A under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333-180879 and 811-22704) ("Registration Statement"). In addition, the Exchange states that the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 30340 (January 4, 2013) ("Exemptive Order"). The Exchange represents that investments made by the Fund will comply with the conditions set forth in the Exemptive Order.

<sup>9</sup> See NYSE Arca Equities Rule 8.600, Commentary .06. The Exchange represents that in the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or 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, such adviser or sub-adviser will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and such adviser or sub-adviser will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Exchange has made the following representations and statements in describing the Fund and its principal investment policies, other investments, and investment restrictions.<sup>10</sup>

#### Principal Investment Policies

The Fund will seek to preserve and grow capital from investments in the U.S. and foreign equity, fixed income, commodity and currency markets, independent of market direction. The Fund will be considered a "fund of funds" that seeks to achieve its investment objective by primarily investing in other 1940 Act-registered exchange-traded funds ("ETFs") and other exchange traded products ("ETPs"), including, but not limited to, exchange-traded notes ("ETNs"),<sup>11</sup> exchange traded currency trusts, and closed-end funds<sup>12</sup> (collectively, "Underlying Vehicles")<sup>13</sup> that offer diversified exposure, including inverse exposure,<sup>14</sup> to global regions (including

<sup>10</sup> The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes, among other things, can be found in the Notice and Registration Statement, as applicable. See *supra* notes 4 and 8, respectively.

<sup>11</sup> ETFs are registered investment companies whose shares are exchange-traded and give investors a proportional interest in the pool of securities and other assets held by the ETF. ETPs are exchange-traded equity securities whose value derives from an underlying asset or portfolio of assets, which may correlate to a benchmark, such as a commodity, currency, interest rate or index. ETFs are one type of ETP. ETNs are unsecured and unsubordinated debt securities whose value derives, in part, from an underlying asset or benchmark and, in part, from the credit quality of the securities' issuer.

<sup>12</sup> A closed-end fund is a pooled investment vehicle that is registered under the 1940 Act and whose shares are listed and traded on a U.S. national securities exchange.

<sup>13</sup> The Exchange states that for purposes of this filing, the term "Underlying Vehicles" includes Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depository Receipts (as described in NYSE Arca Equities Rule 8.100); 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); Commodity Futures Trust Shares (as described in NYSE Arca Equities Rule 8.204); Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600); and closed-end funds. All Underlying Vehicles will be listed and traded in the U.S. on a national securities exchange. The Fund will not invest in inverse (*i.e.*, -1X) or leveraged (*e.g.*, 2X, -2X, 3X or -3X) Underlying Vehicles.

<sup>14</sup> The Commission understands that, although the Fund will not invest in inverse Underlying Vehicles (*i.e.*, Underlying Vehicles that seek to achieve returns equal to -1X an index or benchmark), the Fund may invest in Underlying Vehicles that may provide inverse exposure in

Continued