

Credit identical to that proposed for the BATS One Summary Feed. As a result, a competing vendor would incur similar costs as the Exchange in offering such free period and offer a competing product on a similar basis as the Exchange.

The Exchange further believes that its proposed monthly Data Consolidation Fee would be pro-competitive because it is identical to a similar fee charged by the NYSE for its BQT feed and a vendor could create a competing product, perform a similar aggregating and consolidating function, and similarly charge for such service. The Exchange notes that a competing vendor might engage in a different analysis of assessing the cost of a competing product. The Exchanges believes that the incremental cost to a particular vendor for aggregation can be supported by the vendor's revenue opportunity and may be inconsequential if such vendor already has systems in place to perform these functions as part of creating its proprietary market data products and is able to allocate these costs over numerous products and customer relationships. For these reasons, the Exchange believes the proposed pricing, including the New External Distributor Fee Credit, would enable a vendor to create a competing product based on the individual data feeds and charge its clients a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with BATS One Feed pricing.

Finally, the Exchange notes that there is already actual competition for products similar to the BATS One Feed. The NYSE offers BQT which provides BBO and last sale information for the NYSE, NYSE Arca Equities, Inc. and NYSE MKT LLC.<sup>58</sup> Nasdaq already offers Nasdaq Basic, a filed market data product, and through its affiliate, offers NLS Plus which provides a unified view of last sale information similar to the BATS One Feed.<sup>59</sup> The existence of these competing data products demonstrates that there is ample, existing competition for products such as the BATS One Feed and the fees associated by such products is constrained by competition.

In establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary 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 alternatives to the BATS One Feed, including the existing underlying feeds, consolidated data, and 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 its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>60</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>61</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.

### **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-EDGA-2015-09 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-EDGA-2015-09. 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 the filing also will be available for inspection and copying at the principal office of EDGA. 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-EDGA-2015-09 and should be submitted on or before March 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>62</sup>

**Brent J. Fields,**  
*Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-74290; File No. SR-NYSEArca-2015-05]**

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of WisdomTree Put Write Strategy Fund Under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3)**

February 18, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the

<sup>58</sup> See *supra* note 55.

<sup>59</sup> *Id.*

<sup>60</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>61</sup> 17 CFR 240.19b-4(f)(2).

<sup>62</sup> 17 CFR 200.30-3(a)(12).

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

“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on February 3, 2015, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 the Substance of the Proposed Rule Change

The Exchange proposes to list and trade the shares of the following fund of the WisdomTree Trust under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3) (“Investment Company Units”): The WisdomTree Put Write Strategy Fund. The text of the proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://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 list and trade shares (“Shares”) of the WisdomTree Put Write Strategy Fund (“Fund”) under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3), which governs the listing and trading of Investment Company Units on the Exchange.<sup>4</sup> The Fund will be an index-

based exchange traded fund (“ETF”). The Shares will be offered by the WisdomTree Trust (“Trust”), which was established as a Delaware statutory trust on December 15, 2005. The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N-1A (“Registration Statement”) with the Commission on behalf of the Fund.<sup>5</sup>

WisdomTree Asset Management, Inc. (“WisdomTree Asset Management”) will be the investment adviser (“Adviser”) to the Fund.<sup>6</sup> Mellon Capital Management will serve as sub-adviser for the Fund (“Sub-Adviser”).<sup>7</sup> State Street Bank and Trust Company will be the administrator, custodian and transfer agent for the Trust. Foreside Fund Services, LLC will serve as the distributor for the Fund (“Distributor”).<sup>8</sup>

#### Description of the Shares and the Fund

As discussed in more detail below, the Fund’s investment objective is to seek investment results that, before fees and expenses, closely correspond to the price and yield performance of the CBOE S&P 500 Put Write Index (“Index”). The Index was developed and is maintained by the Chicago Board Options Exchange, Inc. (“CBOE” or the “Index Provider”). None of the Trust, the Adviser, the Sub-Adviser, State Street Bank and Trust Company, or the Distributor is affiliated with the Index Provider.

Commentary .01(b)(1) to Rule 5.2(j)(3) provides that, if the applicable index is maintained by a fund advisor or a broker-dealer, such fund advisor or broker-dealer shall erect a “fire wall” around the personnel who have access to information concerning changes and adjustments to the index, and the index shall be calculated by a third party who

company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities).

<sup>5</sup> See Post-Effective Amendment No. 381 to Registration Statement on Form N-1A for the Trust, dated December 15, 2014 (File Nos. 333-132380 and 811-21864). The descriptions of the Fund and the Shares contained herein are based on information in the Registration Statement.

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

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

<sup>8</sup> The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”). See Investment Company Act Release No. 28171 (October 27, 2008) (File No. 812-13458) (“Exemptive Order”). Investments made by the Fund will comply with the conditions in the Exemptive Order.

is not a broker-dealer or fund advisor.<sup>9</sup> The Index Provider is not registered as an investment adviser or broker-dealer and is not affiliated with any broker-dealers. The Adviser is not registered as, or affiliated with, any broker-dealer.<sup>10</sup> The Sub-Adviser is affiliated with multiple broker-dealers and has implemented a “fire wall” with respect to such broker-dealers and their personnel regarding access to information concerning the composition and/or changes to the Index.<sup>11</sup> In addition, Sub-Adviser personnel who make decisions regarding the Fund’s portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund’s portfolio.

In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-

<sup>9</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and Sub-adviser 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.

<sup>10</sup> The Adviser and the Index Provider have represented that a fire wall exists around the respective personnel who have access to information concerning changes and adjustments to the Index.

<sup>11</sup> The Exchange represents that the Adviser and Sub-Adviser, and their related personnel, are subject to Advisers Act Rule 204A-1. This Rule specifically requires the adoption of a code of ethics by an investment adviser to include, at a minimum: (i) Standards of business conduct that reflect the firm’s/personnel fiduciary obligations; (ii) provisions requiring supervised persons to comply with applicable federal securities laws; (iii) provisions that require all access persons to report, and the firm to review, their personal securities transactions and holdings periodically as specifically set forth in Rule 204A-1; (iv) provisions requiring supervised persons to report any violations of the code of ethics promptly to the chief compliance officer (“CCO”) or, provided the CCO also receives reports of all violations, to other persons designated in the code of ethics; and (v) provisions requiring the investment adviser to provide each of the supervised persons with a copy of the code of ethics with an acknowledgement by said supervised persons. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> NYSE Arca Equities Rule 5.2(j)(3)(A) provides that an Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment

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, it 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 will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet all of the “generic” listing requirements of Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3), applicable to the listing of Investment Company Units based upon an index of “US Component Stocks.”<sup>12</sup> Specifically, Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3) sets forth the requirements to be met by components of an index or portfolio of US Component Stocks. Because, as discussed in more detail herein, the Index will consist primarily of S&P 500 Index put options (“SPX Puts”), rather than US Component Stocks, the Index does not satisfy the requirements of Commentary .01(a)(A).<sup>13</sup>

<sup>12</sup> NYSE Arca Equities Rule 5.2(j)(3) provides that the term “US Component Stock” shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act and an American Depositary receipt, the underlying equity securities of which is registered under Sections 12(b) or 12(g) of the Act.

<sup>13</sup> The Exchange notes that the S&P 500 Index has been previously approved by the Commission under Section 19(b)(2) of the Act in connection with the listing and trading of index options and Portfolio Depositary Receipts, as well as other securities. *See, e.g.*, Securities Exchange Act Release Nos. 19907 (June 24, 1983), 48 FR 30814 (July 5, 1983) (approving the listing and trading of options on the S&P 500 Index); 31591 (December 18, 1992), 57 FR 60253 (December 18, 1992) (approving the listing and trading of Portfolio Depositary Receipts based on the S&P 500 Index). NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(5) provides that all securities in the applicable index or portfolio shall be US Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 under Regulation NMS of the Act. Each component stock of the S&P 500 Index is a US Component Stock that is listed on a national securities exchange and is an NMS Stock. Options are excluded from the definition of NMS Stock. The Fund and the Index meet all of the requirements of the listing standards for Investment Company Units in Rule 5.2(j)(3) and the requirements of Commentary .01, except the requirements in Commentary .01(a)(A)(1)–(5), as the Index consists of options on US Component Stocks. The S&P 500 Index consists of US Component Stocks and satisfies the requirements of Commentary .01(a)(A)(1)–(5).

#### WisdomTree Put Write Strategy Fund Index Methodology

The Fund’s investment objective is to seek investment results that, before fees and expenses, closely correspond to the price and yield performance of the Index. The Index tracks the value of a passive investment strategy, which consists of overlaying “SPX Puts” over a money market account, invested in one and three-month Treasury bills (“PUT Strategy”).<sup>14</sup> The SPX Puts are struck at-the-money and are sold on a monthly basis, usually the third Friday of the month (*i.e.*, the “Roll Date”), which matches the expiration date of the SPX Puts.<sup>15</sup> All SPX Puts are standardized options traded on the Chicago Board Options Exchange.

At each Roll Date, any settlement loss from the expiring SPX Puts is financed by the Treasury bill account and a new batch of at-the-money SPX Puts is sold. The revenue from their sale is added to the Treasury bill account. In March quarterly cycle months, the three-month Treasury bills are deemed to mature, and so the total cash available is reinvested at the three-month Treasury bill rate. In other months, the revenue from the sale of SPX Puts is invested separately at the one-month Treasury bill rate.

The number of SPX Puts sold is chosen to ensure “Full Collateralization”.<sup>16</sup> The strike price of the new SPX Puts that are sold is the strike price of listed SPX Puts that is closest to but not greater than the last value of the S&P 500 Index reported before 11:00 a.m. Eastern time (“ET”). For example, if the last S&P 500 Index value reported before 11:00 a.m. ET is 1233.10 and the closest listed SPX Put

<sup>14</sup> The put-write strategy of selling cash-secured SPX Puts has the potential to appeal to investors who wish to add income and attempt to boost risk-adjusted returns, in return for risking under-performance during bull markets. An investor who engages in a cash-secured (*i.e.*, collateralized) put sales strategy sells (or “writes”) a put option contract and at the same time deposits the full cash amount necessary for a possible purchase of underlying shares in the investor’s brokerage account. Additional information on the methodology used to calculate the Index can be found at: <http://www.cboe.com/micro/put/PutWriteMethodology.pdf>.

<sup>15</sup> The base date for the Index is June 1, 1988 (“Base Date”), when the value of the Index was 100. The daily historical value for the Index recently was extended back to June 30, 1986, on which date the Index value was 89.91. Daily historical value of the Index is available at [www.CBOE.com/PUT](http://www.CBOE.com/PUT) and from Bloomberg and other price quote vendors.

<sup>16</sup> Full Collateralization means that at the expiration of the SPX Puts, the total value of the Treasury bill investments must be equal to the maximum possible loss from final settlement of the SPX Puts or the product of the number of SPX Puts sold and the at-the-money strike price.

strike price below 1233.10 is 1230 then 1230 strike SPX Puts are sold.

The SPX Puts are deemed to be sold at a price equal to the volume-weighted average price (“VWAP”) of SPX Puts with that strike price during the half-hour period beginning at 11:30 a.m. ET.<sup>17</sup> If no transactions occur at the new SPX Put strike price between 11:30 a.m. and 12:00 p.m. ET, then the new SPX Puts will be deemed sold at the last bid price reported before 12:00 p.m. ET.

At expiration, the SPX Puts are settled against a Special Opening Quotation (“SOQ”) of the S&P 500 Index. The SOQ is a special calculation of the S&P 500 Index that is compiled from the opening prices of component stocks underlying the S&P 500 Index. The SOQ calculation is performed when all 500 stocks underlying the S&P 500 Index have opened for trading, and is usually determined before 11:00 a.m. ET.<sup>18</sup> The final settlement price of the expiring SPX Puts is equal to the difference between their strike price and the SOQ, not to exceed zero.

The CBOE calculates the Index value in real-time every fifteen seconds during each trading day excluding roll days. On any given date, the Index represents the mark-to-market value of the base date \$100 invested in the Put Strategy.

#### Fund’s Investment Methodology

Under normal circumstances,<sup>19</sup> the Fund will invest not less than 80% of

<sup>17</sup> The CBOE calculates the VWAP in a two-step process: First, the Fund will exclude trades in the new call option between 11:30 a.m. and 1:30 p.m. ET that are identified as having been executed as part of a “spread”, and then the Fund will calculate the weighted average of all remaining transaction prices of the new call option between 11:30 a.m. and 1:30 p.m. ET, with weights equal to the fraction of total non-spread volume transacted at each price during this period. The source of the transaction prices used in the calculation of the VWAP will be the CBOE’s Market Data Retrieval (“MDR”) System. Time and sales information from CBOE’s MDR System is disseminated through the Options Price Reporting Authority and is publicly available through price quote vendors.

<sup>18</sup> If the third Friday of the month is an exchange holiday, the SPX Puts are settled against the SOQ on the previous business day and the new SPX Puts are selected on that day as well.

<sup>19</sup> The terms “under normal circumstances” and “normal market conditions” include, but are not limited to, the absence of extreme volatility or trading halts in the fixed income 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. In response to adverse market, economic, political, or other conditions the Fund reserves the right to invest in U.S. government securities, other “money market instruments” (as defined below), and cash, without limitation, as determined by the Adviser or Sub-Adviser. In the event the Fund engages in these temporary defensive strategies that are inconsistent with its investment strategies, the Fund’s ability to achieve its investment objectives may be limited.

its assets in SPX Puts and short-term U.S. Treasury securities.<sup>20</sup> The Fund's investment strategy will be designed to sell a sequence of one-month, at-the-money, SPX Puts and invest cash at one and three-month Treasury bill rates. The number of SPX Puts sold will vary from month to month, but will be limited to permit the amount held in the Fund's investment in Treasury bills to finance the maximum possible loss from final settlement of the SPX Puts.<sup>21</sup>

The SPX Puts will be struck at-the-money and will be sold on a monthly basis on the Roll Date, (*i.e.*, the same Roll Date at [sic] that used by the Index), which matches the expiration date of the SPX Put options. At each Roll Date, any settlement loss from the expiring SPX Puts will be financed by the Fund's Treasury bill investments and a new batch of at-the-money SPX Puts will be sold. The revenue from their sale will be added to the Treasury bill account. In March quarterly cycle months, the three-month Treasury bills will be deemed to mature, and so the total cash available will be reinvested at the three-month Treasury bill rate. In other months, the revenue from the sale of puts will be invested separately at the one-month Treasury bill rate.

The strike price of the new SPX Puts that are sold will be the strike price of listed SPX Puts that is closest to but not greater than the last value of the S&P 500 Index reported before 11:00 a.m. ET. For example, if the last S&P 500 Index value reported before 11:00 a.m. ET is 1233.10 and the closest listed SPX Put strike price below 1233.10 is 1230 then 1230 strike SPX Puts will be sold.

The SPX Puts will be deemed to be sold at a price equal to the VWAP of SPX Puts with that strike during the half-hour period beginning at 11:30 a.m. ET.<sup>22</sup> If no transactions occur at the new put strike price between 11:30 a.m. and 12:00 p.m. ET, then the new put options will be deemed sold at the last bid price reported before 12:00 p.m. ET.

At expiration, the SPX Puts will be settled against a SOQ of the S&P 500 Index. The Fund will calculate the SOQ in the same manner as is used by CBOE to determine the Index value.

<sup>20</sup> The Treasury securities in which the Fund may invest will include variable rate Treasury securities, whose rates are adjusted daily (or at such other interval as may later be determined by the Department of the Treasury) to correspond with the rate paid on one-month or three-month month [sic] Treasury securities, as applicable.

<sup>21</sup> The number of SPX Puts sold will be chosen to ensure Full Collateralization, *see* note 16, *supra*.

<sup>22</sup> The Fund will calculate the VWAP in the same manner as is used by CBOE to calculate the VWAP to determine the Index value. *See* note 17, *supra*.

### Secondary Investment Strategies

The Fund may invest its remaining assets in short-term, high quality securities issued or guaranteed by the U.S. government (in addition to U.S. Treasury securities) and non-U.S. governments, and each of their agencies and instrumentalities; U.S. government sponsored enterprises; repurchase agreements backed by U.S. government and non-U.S. government securities; money market mutual funds; and deposit and other obligations of U.S. and non-U.S. banks and financial institutions ("money market instruments")<sup>23</sup> and derivative instruments or other investments, as described below. The Fund may invest up to 20% of its net assets (in the aggregate) in one or more of the following investments not included in the Index, but which the Adviser or Sub-Adviser believes will help the Fund to track the Index. For example, there may be instances in which the Adviser or Sub-Adviser may choose to purchase or sell financial instruments not in the Index which the Adviser or Sub-Adviser believes are appropriate to substitute for one or more Index components in seeking to replicate, before fees and expenses, the performance of the Index. To effect this investment strategy, the Fund may invest in S&P 500 ETF put options,<sup>24</sup> total return swaps on the Index,<sup>25</sup> S&P 500 Index futures

<sup>23</sup> All money market instruments acquired by the Fund will be rated investment grade, except that a Fund may invest in unrated money market instruments that are deemed by the Adviser or Sub-Adviser to be of comparable quality to money market securities rated investment grade. The term "investment grade," for purposes of money market instruments only, is intended to mean securities rated A1 or A2 by one or more nationally recognized statistical rating organizations.

<sup>24</sup> An index option gives its holder the right, but not the obligation, to buy or sell a basket of stocks, at an agreed upon price at or before a certain date. An ETF option gives its holder the right, but not the obligation, to buy or sell an exchange-traded product, such as shares in an ETF, at an agreed upon price, at or before a certain date.

<sup>25</sup> To the extent practicable, the Fund will invest in swaps cleared through the facilities of a centralized clearing house. The Fund may also invest in money market instruments that may serve as collateral for the swap agreements. The Adviser or Sub-Adviser will also attempt to mitigate the Fund's respective credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of the counterparty. The Adviser or Sub-Adviser will take various steps to limit counterparty credit risk as described in the Registration Statement. The Fund will enter into over-the-counter non-centrally cleared instruments only with financial institutions that meet certain credit quality standards and monitoring policies. The Fund may also use various techniques to minimize credit risk, including early termination or reset and payment, using different counterparties, and limiting the net amount due from any individual counterparty. The Fund generally will collateralize over-the-counter non-centrally cleared

(including E-mini S&P 500 Futures), or options on S&P 500 Index futures,<sup>26</sup> whose collective performance is intended to correspond to the Index.<sup>27</sup> The Fund, may invest up to 10% of its assets in over-the-counter S&P 500 Index put options ("OTC S&P 500 Index put options"). The foregoing investments shall include buying the applicable derivative instrument or selling the applicable derivative instrument (*i.e.*, writing the applicable put option) and investing the proceeds.

The Fund may invest up to 20% of its assets in other exchange traded products ("ETPs"), such as other ETFs, as well as in non-exchange-traded registered open-end investment companies (*i.e.*, mutual funds).<sup>28</sup>

instruments with cash and/or certain securities. Such collateral will generally be held for the benefit of the counterparty in a segregated tri-party account at the custodian to protect the counterparty against non-payment by the Fund. In the event of a default by the counterparty, and the Fund is owed money in the over-the-counter non-centrally cleared instruments transaction, the Fund will seek withdrawal of the collateral from the segregated account and may incur certain costs exercising its right with respect to the collateral.

<sup>26</sup> The Fund will limit its direct investments in futures and options on futures to the extent necessary for the Adviser to claim the exclusion from regulation as a "commodity pool operator" with respect to the Fund under Rule 4.5 promulgated by the Commodity Futures Trading Commission ("CFTC"), as such rule may be amended from time to time. Under Rule 4.5 as currently in effect, the Fund would limit its trading activity in futures and options on futures (excluding activity for "bona fide hedging purposes," as defined by the CFTC) such that it will meet one of the following tests: (i) Aggregate initial margin and premiums required to establish its futures and options on futures positions will not exceed 5% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions; or (ii) aggregate net notional value of its futures and options on futures positions will not exceed 100% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions. The exchange-listed futures contracts in which the Fund may invest will be listed on exchanges in the U.S. Each of the exchange-listed futures contracts in which the Fund may invest will be listed on exchanges that are members of the Intermarket Surveillance Group ("ISG").

<sup>27</sup> For example, the Fund may invest in total return swaps that create positions equivalent to investments in SPX Puts and U.S. Treasury securities. In a total return swap the underlying asset to the swap agreement is typically an equity index, loans or bonds. The Fund's investments in total return swap agreements will be backed by investments in U.S. government securities in an amount equal to the exposure of such contracts.

<sup>28</sup> The Fund may invest in shares of both taxable and tax-exempted money market funds. When used herein, ETPs may include, without limitation, 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 Depositary 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

Continued

The Fund may invest in securities (other than U.S. Treasury securities, described above) that have variable or floating interest rates which are readjusted on set dates (such as the last day of the month or calendar quarter) in the case of variable rates or whenever a specified interest rate change occurs in the case of a floating rate instrument. Variable or floating interest rates generally reduce changes in the market price of securities from their original purchase price because, upon readjustment, such rates approximate market rates. Accordingly, as interest rates decrease or increase, the potential for capital appreciation or depreciation is less for variable or floating rate securities than for fixed rate obligations.

#### Investment Restrictions

The Fund may hold up to an aggregate of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser.<sup>29</sup> The 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 the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available

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); Trust Units (as described in NYSE Arca Equities Rule 8.500); Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600), and closed-end funds. The ETPs in which the Fund may invest all will be listed and traded on U.S. registered exchanges. The Fund may invest in the securities of ETPs 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 Fund will only make such investments in conformity with the requirements of Section 817 of the Internal Revenue Code of 1986. The ETPs in which the Fund may invest will primarily be index-based ETFs that hold substantially all of their assets in securities representing a specific index. The Fund will not invest in leveraged (e.g., 2X, -2X, 3X, or -3X) ETPs.

<sup>29</sup>The Fund's Sub-Adviser is responsible for complying with the Fund's restrictions on investing in illiquid assets. In doing that, the Sub-Adviser makes ongoing determinations about the liquidity of Rule 144A securities that the Fund may invest in. In reaching liquidity decisions, the Sub-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).

markets as determined in accordance with Commission staff guidance.<sup>30</sup>

The Fund will not invest in any non-U.S. equity securities. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.<sup>31</sup>

In order to reduce interest rate risk, the Fund will generally maintain a weighted average portfolio maturity of 180 days or less on average (not to exceed 18 months) and will not purchase any money market instrument with a remaining maturity of more than 397 calendar days. The "average portfolio maturity" of a Fund is the average of all current maturities of the individual securities in the Fund's portfolio. The Fund's actual portfolio duration may be longer or shorter depending on market conditions.

The Fund intends to qualify each year as a regulated investment company (a "RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended.<sup>32</sup> The Fund will invest its respective assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. In addition to satisfying the above referenced RIC diversification requirements, no portfolio security held by the Fund (other than U.S. government securities) will represent

<sup>30</sup>The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933 (15 U.S.C. 77a)).

<sup>31</sup>The Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Adviser will segregate or earmark liquid assets or otherwise cover the transactions that give rise to such risk. See 15 U.S.C. 80a-18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); *Dreyfus Strategic Investing*, Commission No-Action Letter (June 22, 1987); *Merrill Lynch Asset Management, L.P.*, Commission No-Action Letter (July 2, 1996).

<sup>32</sup>26 U.S.C. 851.

more than 30% of the weight of the Fund's portfolio and the five highest weighted portfolio securities of the Fund (other than U.S. government securities) will not in the aggregate account for more than 65% of the weight of the Fund's portfolio. For these purposes, the Fund may treat repurchase agreements collateralized by U.S. government securities as U.S. government securities.<sup>33</sup>

The Fund will not concentrate 25% or more of the value of its total assets (taken at market value at the time of each investment) in any one industry, as that term is used in the 1940 Act (except that this restriction does not apply to obligations issued by the U.S. government or their respective agencies and instrumentalities or government-sponsored enterprises).<sup>34</sup>

#### Creation and Redemption of Shares

According to the Registration Statement, the Fund will issue and redeem Shares on a continuous basis at net asset value ("NAV"),<sup>35</sup> only in large blocks of Shares ("Creation Units"), in transactions with Authorized Participants. Creation Units generally will consist of 100,000 Shares, though this may change from time to time. Creation Units are not expected to consist of less than 50,000 Shares.

The consideration for purchase of a Creation Unit of the Fund generally will consist of either (i) the in-kind deposit of a designated portfolio of securities (the "Deposit Securities") per Creation Unit and the "Cash Component" (defined below), computed as described below or (ii) the cash value of the Deposit Securities ("Deposit Cash") and the "Cash Component," computed as described below. Because non-exchange traded derivatives and certain listed derivatives are not currently eligible for in-kind transfer, they will be substituted with an amount of cash of equal value (i.e., Deposit Cash) when the Fund processes purchases of Creation Units

<sup>33</sup>The Fund may enter into repurchase agreements with counterparties that are deemed to present acceptable credit risks, and may enter into reverse repurchase agreements, which involve the sale of securities held by the Fund subject to its agreement to repurchase the securities at an agreed upon date or upon demand and at a price reflecting a market rate of interest.

<sup>34</sup>See Form N-1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. See, e.g., Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

<sup>35</sup>The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange (NYSE), generally 4:00 p.m. ET (the "NAV Calculation Time"). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding.

in-kind. Specifically, the Fund will not accept exchange-traded or over-the-counter options, exchange traded futures (or options on futures), and total return swaps as Deposit Securities.

When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities that would otherwise be provided by an in-kind purchase. Together, the Deposit Securities or Deposit Cash, as applicable, and the Cash Component constitute the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Cash Component is an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities or Deposit Cash, as applicable. The Cash Component serves the function of compensating for any difference between the NAV per Creation Unit and the market value of the Deposit Securities or Deposit Cash, as applicable.

A portfolio composition file, to be sent via the National Securities Clearing Corporation ("NSCC"), will be made available on each business day, prior to the opening of business on the Exchange (currently 9:30 a.m. ET) containing a list of the names and the required amount of each security in the Deposit Securities to be included in the current Fund Deposit for the Fund (based on information about the Fund's portfolio at the end of the previous business day). In addition, on each business day, the estimated Cash Component, effective through and including the previous business day, will be made available through NSCC.

The Fund Deposit will be applicable for purchases of Creation Units of the Fund until such time as the next-announced Fund Deposit is made available. In addition, the composition of the Deposit Securities may change as, among other things, corporate actions and investment decisions by the Adviser are implemented for the Fund's portfolio.

All purchase orders must be placed by an "Authorized Participant." An Authorized Participant must be either a broker-dealer or other participant in the Continuous Net Settlement System ("Clearing Process") of the NSCC or a participant in The Depository Trust Company ("DTC") with access to the DTC system, and must execute an agreement with the Distributor that governs transactions in the Fund's Creation Units. In-kind portions of purchase orders will be processed

though the Clearing Process when it is available.

Shares of the Fund may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Distributor and only on a business day. The Fund, through the NSCC, will make available immediately prior to the opening of business on each business day, the list of the names and quantities of the Fund's portfolio securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day ("Fund Securities"). Redemption proceeds for a Creation Unit will be paid either in-kind or in cash or a combination thereof, as determined by the Trust. With respect to in-kind redemptions of the Fund, redemption proceeds for a Creation Unit will consist of Fund Securities plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the "Cash Redemption Amount"). In the event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the differential will be required to be made by or through an Authorized Participant by the redeeming shareholder. Notwithstanding the foregoing, at the Trust's discretion, an Authorized Participant may receive the corresponding cash value of the securities in lieu of the in-kind securities representing one or more Fund Securities.<sup>36</sup> Because non-exchange traded derivatives and certain listed derivatives are not eligible for in-kind transfer, they will be substituted with an amount of cash of equal value when the Fund processes redemptions of Creation Units in-kind. Specifically, the Fund will transfer the corresponding cash value of exchange-traded options, exchange-traded futures, exchange-traded options on futures contracts, and total return swap agreements in lieu of in-kind securities.

The right of redemption may be suspended or the date of payment postponed: (i) For any period during which the NYSE is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the NYSE is suspended or restricted; (iii) for any period during which an emergency

<sup>36</sup> The Adviser represents that, to the extent the Trust effects the redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

exists as a result of which disposal of the Shares or determination of the Fund's NAV is not reasonably practicable; or (iv) in such other circumstances as permitted by the Commission.

For an order involving a Creation Unit to be effectuated at the Fund's NAV on a particular day, it must be received by the Distributor by or before the deadline for such order ("Order Cut-Off Time"). The Order Cut-Off Time for creation and redemption orders for the Fund will be 4:00 p.m. ET. Order for creations or redemptions of Creation Units for cash generally must be submitted by 4:00 p.m. ET. A standard creation or redemption transaction fee (as applicable) will be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

According to the Registration Statement, the Fund Securities received on a redemption will generally correspond pro rata, to the extent practicable, to the securities in the Fund's portfolio. Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Units.

#### Net Asset Value

According to the Registration Statement, the Fund will calculate its NAV at the close of the regular trading session of each business day (normally 4:00 p.m. ET) using the values of the Fund's portfolio securities. The Fund will calculate its NAV by: (i) Taking the current market value of its total assets; (ii) subtracting any liabilities; and (iii) dividing that amount by the total amount of Shares outstanding.

In valuing its securities, the Fund will use market quotes or official closing prices if they are readily available. In cases where quotes are not readily available, the Fund may value securities based on fair values developed using methods approved by the Fund's Board of Trustees ("Board"), as discussed below. When valuing fixed income securities with remaining maturities of 60 days or less, the Fund may use the security's amortized cost, which approximates the security's market value.

According to the Adviser, fixed income securities, including without limitation, U.S. government securities and other money market instruments that are fixed income securities, will generally be valued based on the midpoint of bid-ask prices received from independent pricing services as of the announced closing time for trading in fixed-income instruments in the market in which they trade. In

determining the value of a fixed-income investment, pricing services determine valuations for normal institutional-size trading units of such securities using valuation models or matrix pricing, which incorporates yield and/or price with respect to bonds that are considered comparable in characteristics such as rating, interest rate and maturity date and quotations from securities dealers to determined current value.

Exchange traded assets (including without limitation, SPX Puts, listed futures contracts and options on futures, options on ETFs, and ETPs) will be valued at the last reported sale price or the official closing price on that exchange where the security or other instrument is primarily traded on the day that the valuation is made. Mutual funds will be valued daily at their respective NAVs. Money market funds are typically priced once each business day and their prices are available through the applicable fund's Web site or from major market vendors.

With respect to derivative instruments, if, however, neither the last sales price nor the official closing price is available, each of these derivative instruments will be valued based on the midpoint of bid-ask prices.

Non-exchange-traded derivatives, including total return swaps and OTC S&P 500 Index put options will normally be valued on the basis of quotes obtained from brokers and dealers or pricing services using data reflecting the closing of the principal markets for those assets. Prices from independent pricing services will also include prices based on valuation models or matrix pricing to determine current value. Prices obtained from independent pricing sources typically use information provided by market makers or bond dealers or estimates of market values obtained by reference to yield data relating to investments or securities with similar characteristics, including rating, interest rate, maturity date, option adjusted spread models, prepayment projections, interest rate spreads and yield surveys. Matrix pricing is an estimated price or value for a fixed income security. Matrix pricing is considered a form of fair value pricing, discussed below. In the event that current market valuations are not readily available or such valuations do not reflect current market value, the Trust's procedures require the Trust's Pricing Committee to determine an asset's fair value if a market price is not readily available in accordance with the

1940 Act.<sup>37</sup> In determining such value, the Trust's Pricing Committee may consider, among other things, (i) price comparisons among multiple sources, (ii) a review of corporate actions and news events, and (iii) a review of relevant financial indicators (e.g., movement in interest rates and market indices). In these cases the Fund's NAV may reflect certain portfolio assets' fair values rather than their market prices. Fair value pricing involves subjective judgments and it is possible that the fair value determination for a security is materially different than the value that could be realized upon the sale of the security.

#### Availability of Information

The Trust's Web site ([www.wisdomtree.com](http://www.wisdomtree.com)), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),<sup>38</sup> and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

On each business day, before commencement of trading in Shares in the Core Trading Session<sup>39</sup> on the Exchange, the Trust will disclose on its Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the

holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, a portfolio composition file, which will include the security names and quantities of securities and other assets required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated prior to the opening of the Exchange via the NSCC. The portfolio will represent one Creation Unit of the Fund. Authorized Participants may refer to the portfolio composition file for information regarding SPX Puts, short-term U.S. Treasury Securities, money market instruments, and any other instrument that may comprise the Fund's portfolio on a given day.

Investors can also obtain the Trust's Statement of Additional Information ("SAI"), the Fund's Shareholder Reports, and its Form N-CSR and Form N-SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N-CSR may be viewed on screen or downloaded from the Commission's Web site at [www.sec.gov](http://www.sec.gov). Information regarding market price and trading volume for 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. Quotation and last sale information for the Shares and any ETPs it [sic] which it invests will be available via the Consolidated Tape Association ("CTA") high-speed line. Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. The intra-day, closing and settlement prices of exchange-traded portfolio assets, including investment companies, futures and options will be readily available from the securities exchanges and futures exchanges trading such securities and futures, as the case may be, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Such price information on fixed income portfolio

<sup>37</sup> The Trust's Board has established a Pricing Committee that is composed of personnel of the Adviser. The Pricing Committee is responsible for the valuation and revaluation of any portfolio investments for which market quotations are not readily available. The Pricing Committee has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding valuation and revaluation of any portfolio investment.

<sup>38</sup> The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

<sup>39</sup> The Core Trading Session is 9:30 a.m. to 4:00 p.m. ET.

securities, including money market instruments, and other Fund assets traded in the over-the-counter markets, including bonds and money market instruments is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. In addition, the value of the Index will be published by one or more major market data vendors every 15 seconds during the NYSE Arca Core Trading Session of 9:30 a.m. ET to 4:00 p.m. ET. Information about the Index constituents, the weighting of the constituents, the Index's methodology and the Index's rules will be available at no charge on the Index Provider's Web site at [www.CBOE.com](http://www.CBOE.com).

In addition, the Intraday Indicative Value ("IIV") as defined in NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(c) will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market vendors.<sup>40</sup> All Fund holdings will be included in calculating the IIV.

The dissemination of the IIV is intended to allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to approximate that value throughout the trading day. The intra-day, closing and settlement prices of the portfolio securities and other Fund investments, including futures and exchange-traded equities, ETPs and exchange-traded options, will also be readily available from the exchanges trading such instruments, automated quotation systems, published or other public sources, and, with respect to swap transactions, from third party pricing sources, or on-line information services such as Bloomberg or Reuters. The intra-day, closing and settlement prices of debt securities and money market instruments will be readily available from published and other public sources or on-line information services. Price information regarding investment company securities, including ETFs, will be available from on-line information services and from the Web site for the applicable investment company security.

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

relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

#### Initial and Continued Listing

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2), except that the Index will not meet the requirements of NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(1–5) in that the Index will consist of options based on US Component Stocks (*i.e.*, SPX Puts), rather than US Component Stocks. The Index will include a minimum of 20 components and therefore, would meet the numerical requirements of NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(4) (a minimum of 13 index or portfolio components). The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3<sup>41</sup> under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and will be made available to all market participants at the same time.

#### Trading Halts

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

If the IIV, Index value or the value of the Index components is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. The Exchange will obtain a representation from the Fund that the

NAV for the Fund will be calculated daily and will be made available to all market participants at the same time. Under NYSE Arca Equities Rule 7.34(a)(5), if the Exchange becomes aware that the NAV for the Fund is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

#### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. ET in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

#### Surveillance

The Exchange represents that the 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.<sup>42</sup> The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-listed

<sup>40</sup> Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIV's taken from the CTA or other data feeds.

<sup>41</sup> See 17 CFR 240.10A–3.

<sup>42</sup> FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.



equity securities, futures contracts, and exchange-traded options contracts 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 in the Shares, exchange-listed equity securities, futures contracts and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-listed equity securities, futures contracts and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>43</sup> All exchange-listed equity securities, futures contracts (and options on futures) and listed options held by the Fund will be traded on U.S. exchanges, all of which are members of ISG or are exchanges with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine ("TRACE").

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

#### Information Bulletin

Prior to the commencement of trading of Shares in the Fund, the Exchange will inform its ETP Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV or Index value will not be calculated or publicly disseminated; (4) how information regarding the IIV and Index value will be disseminated; (5) the requirement that ETP Holders deliver a prospectus to

investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. ET each trading day.

#### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>44</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 5.2(j)(3), Commentary .01, except that the Index will consist of SPX Puts, which are based on an index of US Component Stocks, rather than US Component Stocks themselves. The Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to deter and detect violations of Exchange rules and applicable federal securities laws relating to trading on the Exchange. FINRA and the Exchange, as applicable, may each obtain information via ISG from other exchanges that are members of ISG, and in the case of the Exchange, from other market or entities with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The Index Provider is not registered as an investment adviser or broker-dealer and is not affiliated with any broker-dealers. The Adviser is not registered as, or affiliated with, any broker-dealer. The Sub-Adviser is affiliated with multiple broker-dealers and has implemented a "fire wall" with respect to such broker-dealers and their personnel regarding access to information concerning the composition and/or changes to the Index. In addition, Sub-Adviser personnel who

make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. The Adviser and the Index Provider have represented that a fire wall exists around the respective personnel who have access to information concerning changes and adjustments to the Index. All exchange-listed equity securities, ETPs, options and futures contracts held by the Fund will be traded on U.S. exchanges, all of which are members of ISG or are exchanges with which the Exchange has in place a comprehensive surveillance sharing agreement.

Under normal market conditions, not less than 80% of the Fund's total assets will be comprised of SPX Puts and short-term U.S. Treasury securities, although the Fund may also invest in other U.S. government and money market instruments and in derivative instruments such as listed futures contracts and options on futures, each on the S&P 500 Index (including E-mini S&P 500 Futures), S&P 500 ETF put options and total return swap agreements on the Index, designed to create a position in put options and short-term U.S. Treasury securities. The Fund may invest up to 10% of its net assets in OTC S&P 500 Index put options. The Fund's investments in listed futures contracts and total return swap agreements will be backed by investments in U.S. government securities in an amount equal to the exposure of such contracts. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser, consistent with Commission guidance. The Fund therefore will not use derivative instruments to enhance leverage. The Fund will not invest in non-U.S. equity securities.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily every day the NYSE is open, and that the NAV will be made available to all market participants at the same time. In addition, a large amount of publicly available information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency.

Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15

<sup>43</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org). The Exchange notes that not all of the components of the portfolio for the Fund may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

<sup>44</sup> 15 U.S.C. 78f(b)(5).

seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in the Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotations and last sale information will be available via the CTA high-speed line. Information relating to U.S. exchange-listed options is available via the Options Price Reporting Authority. Quotation and last sale information for the Shares and any ETPs in which it invests will be available via the CTA high-speed line. Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. The intra-day, closing and settlement prices of exchange-traded portfolio assets, including investment companies, futures and options will be readily available from the securities exchanges and futures exchange trading such securities and futures, as the case may be, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Such price information on fixed income portfolio securities, including money market instruments, and other Fund assets traded in the over-the-counter markets, including bonds and money market instruments is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. The Web site for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading the Shares inadvisable. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, the Fund's portfolio,

and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded equity securities, ETPs, futures contract and exchange-traded options contracts with other market and other entities that are members of ISG, and FINRA, on behalf of the Exchange, may obtain trading information in the Shares, exchange-traded equity securities, ETPs, futures contracts and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded equity securities, ETPs, futures contracts and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, and quotation and last sale information for the Shares.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of Investment Company Unit that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

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

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) By order approve or disapprove such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

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

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

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an Email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2015-05 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2015-05. 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 the 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–NYSEArca–2015–05 and should be submitted on or before March 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>45</sup>

**Brent J. Fields,**

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74285; File No. SR–BATS–2015–11]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Fees for the BATS One Feed, and Amend Fees for BZX Top and BZX Last Sale

February 18, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on February 3, 2015, BATS Exchange, Inc. (“BATS” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b–4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. 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 filed a proposal to amend its fee schedule to establish fees for the BATS One Feed, amend fees for

BZX Top and BZX Last Sale, add definitions for terms that apply to market data fees, and make certain technical, non-substantive changes.

The text of the proposed rule change 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 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 fee schedule to establish fees for the BATS One Feed, amend fees for BZX Top and BZX Last Sale, add definitions for terms that apply to market data fees, and make certain technical, non-substantive changes.

###### Technical, Non-Substantive Changes

The Exchange proposes the following technical, non-substantive amendments to its fee schedule regarding its existing market data fees. The Exchange proposes to rename the section entitled “BZX Exchange PITCH Feed” as the “BZX Depth”, “BZX Exchange Top Feed” as “BZX Top”, “BZX Exchange Last Sale Feed” as “BZX Last Sale”, “BZX Exchange Historical TOP” as “BZX Historical Top”, and “Historical PITCH” as “Historical Depth.” The Exchange does not propose to amend the content of these market data products; nor does the Exchange propose to amend the fees for these products, other than for BZX Top and BZX Last Sale as described below.

###### Definitions Applicable to Market Data Fees

The Exchange proposes to include in its fee schedule the following defined terms that relate to the Exchange’s market data fees. The proposed definitions are designed to provide greater transparency with regard to how

the Exchange assesses fees for market data. The Exchange notes that none of the proposed definitions are designed to amend any fee, nor alter the manner in which it assesses fees.

First, the Exchange proposes to define a “Distributor” as “any entity that receives an Exchange Market Data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party.”<sup>5</sup> In turn, an Internal Distributor and External Distributor will be separately defined. An Internal Distributor will be defined as a “Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor’s own entity.”<sup>6</sup> An External Distributor will be defined as a “Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor’s own entity.”<sup>7</sup>

Secondly, the Exchange proposes to add a definition of “User” to its fee schedule. A User will be defined as a “natural person, a proprietorship, corporation, partnership, or entity, or device (computer or other automated service), that is entitled to receive Exchange data.” For purposes of its market data fees, the Exchange will distinguish between “Non-Professional Users” and “Professional Users.” Specifically, a Non-Professional User will be defined as “a natural person who is not: (i) Registered or qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association; any commodities or futures contract market or association; (ii) engaged as an “investment adviser” as that term is defined in Section 201(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that will require registration or qualification if such functions were performed for an organization not so exempt.”<sup>8</sup> A Professional User will be defined as

<sup>5</sup> The proposed definition of “Distributor” is similar to Nasdaq Rule 7047(d)(1).

<sup>6</sup> The proposed definition of “Internal Distributor” is similar to Nasdaq Rule 7047(d)(1)(A).

<sup>7</sup> The proposed definition of “External Distributor” is similar to Nasdaq Rule 7047(d)(1)(B).

<sup>8</sup> The proposed definition of “Professional User” is similar to Nasdaq Rule 7047(d)(3)(A).

<sup>45</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> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b–4(f)(2).