

submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–010, and should be submitted on or before March 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74308; File No. SR–NYSEArca–2015–07]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period Applicable to Rule 6.65A(c), Obvious and Catastrophic Errors, Until October 23, 2015

February 19, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on February 18, 2015, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) 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 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 extend the pilot period applicable to Rule 6.65A(c), which addresses how the Exchange treats Obvious and Catastrophic Errors during periods of extreme market volatility, until October 23, 2015. The pilot period is currently set to expire on February 20, 2015. The text of the proposed rule change is available on the Exchange’s Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the pilot period applicable to Rule 6.65A(c), which addresses how the Exchange treats Obvious and Catastrophic Errors during periods of extreme market volatility, until October 23, 2015. The pilot period is currently set to expire on February 20, 2015.

In April 2013, in connection with the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the “Plan”),³ the Exchange adopted Rule 6.65A(c) to provide that options executions would not be adjusted or nullified if the execution occurs during periods of extreme market volatility.⁴ Specifically, Rule 6.65A(c) provides that, during the pilot period, electronic transactions in options that overlay an NMS Stock that occur during a Limit State or a Straddle State (as defined by the Plan) are not subject to review under Rule 6.87(a) for Obvious Errors or Rule 6.87(d) for Catastrophic Errors. Nothing in Rule 6.65A(c) prevents electronic transactions in options that overlay an NMS Stock that occur during a Limit State or a Straddle State from being reviewed on Exchange motion pursuant to 6.87(b)(3).

The Plan has been amended several times since inception and was not implemented until February 24, 2014. The Participants to the Plan recently filed to extend the Plan’s pilot period until October 23, 2015 (the “Eighth

³ See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving, on a Pilot Basis, the Plan). The Plan is designed to prevent trades in individual NMS Stocks from occurring outside of specified Price Bands, which are described in more detail in the Plan.

⁴ See Securities and Exchange Act Release No. 69340 (April 8, 2013), 78 FR 22004 (April 12, 2013) (SR–NYSEArca–2013–10) (“Approval Order”).

Amendment”).⁵ The purpose of this proposed extension is to provide time for the Participants to prepare a supplemental assessment and recommendation regarding the Plan and for the public to comment on such assessment for the purpose of determining whether there should be any modifications to the Plan.

In order to align the pilot period for Rule 6.65A(c) with the proposed pilot period for the Plan, the Exchange similarly proposes to extend the pilot period until October 23, 2015. The Exchange believes the benefits afforded to market participants under Rule 6.65A(c) should continue on a pilot basis during the same period as the Plan pilot. The Exchange continues to believe that adding certainty to the execution of orders in Limit or Straddle States would encourage market participants to continue to provide liquidity to the Exchange, and thus, promote a fair and orderly market during those periods. Thus, the Exchange believes that the protections of current Rule 6.65A(c) should continue while the industry gains further experience operating the Plan. In addition, the Exchange believes that extending the pilot period for Rule 6.65A(c) would allow the Exchange to continue to collect and evaluate data, as well as to conduct further data analyses, related to this provision.

Specifically, in connection with the adoption of Rule 6.65A(c), the Exchange committed to review the operation of this provision and to analyze the impact of Limit and Straddle States accordingly.⁶ The Exchange agreed to and has been providing to the Commission and the public data for each Straddle State and Limit State in NMS Stocks underlying options traded on the Exchange beginning in April 2013, limited to those option classes that have at least one (1) trade on the Exchange during a Straddle State or Limit State.⁷ For each of those option classes affected, each data record contains the following information:

- Stock symbol, option symbol, time at the start of the Straddle or Limit

⁵ See Securities Exchange Act Release No. 74110 (January 21, 2015), 80 FR 4321 (January 27, 2015) (File No. 4–631) (notice of proposed Eighth Amendment to the Plan).

⁶ Specifically, the Exchange committed to: “(1) Evaluate the options market quality during Limit States and Straddle States; (2) assess the character of incoming order flow and transactions during Limit States and Straddle States; and (3) review any complaints from members and their customers concerning executions during Limit States and Straddle States.” See Approval Order, 78 FR at 22008.

⁷ See Securities Exchange Act Release No. 71869 (April 4, 2014), 79 FR 19689 (April 9, 2014) (SR–NYSEArca–2014–36).

²⁹ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

State, an indicator for whether it is a Straddle or Limit State.

- For activity on the Exchange:
 - executed volume, time-weighted quoted bid-ask spread, time-weighted average quoted depth at the bid, time-weighted average quoted depth at the offer;
 - high execution price, low execution price;
 - number of trades for which a request for review for error was received during Straddle and Limit States;
 - an indicator variable for whether those options outlined above have a price change exceeding 30% during the underlying stock's Limit or Straddle state compared to the last available option price as reported by OPRA before the start of the Limit or Straddle State (1 if observe 30% and 0 otherwise).

Another indicator variable for whether the option price within five minutes of the underlying stock leaving the Limit or Straddle state (or halt if applicable) is 30% away from the price before the start of the Limit or Straddle state.

In addition, the Exchange has committed to provide to the Commission by May 29, 2015 assessments relating to the impact of the operation of the Obvious Error rules during Limit and Straddle States as follows: (1) Evaluate the statistical and economic impact of Limit and Straddle States on liquidity and market quality in the options markets; and (2) Assess whether the lack of Obvious Error rules in effect during the Straddle and Limit States are problematic. The Exchange notes that, to date, there have not been any requests for review of Obvious Error of options trades that occur during a Limit or Straddle State in the underlying security.

The Exchange believes that the extension of the pilot period of Rule 6.65A(c) would allow the Exchange to continue to observe the operation of the pilot and conduct its assessments relating to the impact of the operation of the Rule during Limit and Straddle States, which information will continue to be shared with the Commission and the public as set forth above.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5),⁹ in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of, a free and open market and a national market

system and, in general, to protect investors and the public interest.

Specifically, the proposal to extend the pilot program of Rule 6.65A(c) until October 23, 2015 would align that pilot program with the Pilot Period for the Plan, as proposed in the Eighth Amendment to the Plan. The Exchange believes that aligning the pilot periods would ensure that trading in options that overlay NMS Stocks continues to be appropriately modified to reflect market conditions that occur during a Limit State or a Straddle State in a manner that promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system. The Exchange believes that the extension of Rule 6.65A(c) would help encourage market participants to continue to provide liquidity during extraordinary market volatility.

Moreover, the Exchange believes that extending the pilot period for Rule 6.65A(c) would remove impediments to, and perfect the mechanisms of, a free and open market because it would enable the Exchange to continue to conduct its assessments relating to the impact of the operation of the Obvious Error rules during Limit and Straddle States as set forth above, which, in turn, provides the Exchange with more information from which to assess the impact of Rule 6.65A(c).

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 purposes of the Act. The proposed changes will not impose any burden on competition and will instead provide certainty regarding the treatment and execution of options orders, specifically the treatment of Obvious and Catastrophic Errors during periods of extraordinary volatility in the underlying NMS Stock, and will facilitate appropriate liquidity during a Limit State or Straddle State.

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

Because the proposed rule change does not (i) significantly affect the

protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6)(iii) thereunder.¹¹

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the obvious error pilot program to continue uninterrupted while the industry gains further experience operating under the Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.¹²

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

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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6)(iii). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

¹² For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2015–07 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–2015–07. 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–NYSEArca–2015–07, and should be submitted on or before March 18, 2015.

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

Brent J. Fields,

Secretary.

[FR Doc. 2015–03816 Filed 2–24–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74303; File No. SR–NASDAQ–2014–127]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change Relating to the Listing and Trading of the Shares of the Tuttle Tactical Management U.S. Core ETF of ETFis Series Trust I

February 19, 2015.

I. Introduction

On December 19, 2014, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to list and trade the shares (“Shares”) of the Tuttle Tactical Management U.S. Core ETF (“Fund”) under Nasdaq Rule 5735. The proposed rule change was published for comment in the **Federal Register** on January 6, 2015.³ The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by ETFis Series Trust I (“Trust”), which is registered with the Commission as an investment company.⁴ The Fund is a series of the Trust.

Etfs Capital LLC will be the investment adviser (“Adviser”), and Tuttle Tactical Management, LLC will be the investment sub-adviser (“Sub-Adviser”), to the Fund. ETF Distributors LLC will be the principal underwriter and distributor of the Fund's Shares, and Bank of New York Mellon will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 73960 (Dec. 30, 2014), 80 FR 540 (“Notice”).

⁴ According to the Exchange, the Trust has filed a registration statement on Form N–1A (“Registration Statement”) with the Commission. See Registration Statement on Form N–1A for the Trust filed on July 24, 2014 (File Nos. 333–187668 and 811–22819). In addition, the Exchange states that the Trust has obtained certain exemptive relief under the 1940 Act. See Investment Company Act Release No. 30607 (July 23, 2013) (“Exemptive Order”).

The Exchange represents that the Adviser and Sub-Adviser are not registered as broker-dealers, and the Sub-Adviser is not affiliated with a broker-dealer; however, the Exchange represents that the Adviser is affiliated with a broker-dealer. The Exchange states that the Adviser has implemented a fire wall with respect to its broker dealer affiliate regarding access to information concerning the composition of or changes to the portfolio.⁵ The Exchange also represents that the Shares will be subject to Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares, and that for initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.⁶

The Exchange has made the following representations and statements in describing the Fund and its investment strategy, including, among other things, portfolio holdings and investment restrictions.

A. Principal Investments of the Fund

According to the Exchange, the Fund's investment objective will be to provide long-term capital appreciation, while maintaining a secondary emphasis on capital preservation, primarily through investments in the U.S. equity market. The Sub-Adviser will employ four tactical models in seeking to achieve the Fund's investment objective: “S&P 500 Absolute Momentum,” “Relative Strength Equity,” “Beta Opportunities,” and “Short-Term S&P 500 Counter Trend.” While the Sub-Adviser will generally seek to maintain an equal weighting among these four tactical models, market movements may result in the Fund being overweight or underweight one or more of the tactical models. The Fund will be an actively managed exchange-traded fund (“ETF”) that seeks to achieve its investment objective by utilizing a long-only, multi-strategy, tactically-managed exposure to the U.S. equity market. To obtain such exposure, the Sub-Adviser will invest, under normal circumstances, not less

⁵ See Nasdaq Rule 5735(g). The Exchange states that, in the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, the Adviser, the Sub-Adviser, or any new adviser or sub-adviser, as the case may be, will implement a fire wall with respect to its relevant personnel and its broker-dealer affiliate, as applicable, regarding access to information concerning the composition of or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the portfolio.

⁶ See 17 CFR 240.10A–3.

¹³ 17 CFR 200.30–3(a)(12).