

available publicly. All submissions should refer to File Number SR–BatsBZX–2016–04 and should be submitted on or before May 2, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Robert W. Errett,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77522; File No. SR–NYSEArca–2015–125]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment Nos. 1, 2, and 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3, To List and Trade Shares of RiverFront Dynamic Unconstrained Income ETF and RiverFront Dynamic Core Income ETF Under NYSE Arca Equities Rule 8.600

April 5, 2016.

I. Introduction

On December 15, 2015, NYSE Arca, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to list and trade shares (“Shares”) of the following under NYSE Arca Equities Rule 8.600: RiverFront Dynamic Unconstrained Income ETF and RiverFront Dynamic Core Income ETF (each a “Fund,” and collectively, “Funds”). The Commission published notice of the proposed rule change in the **Federal Register** on January 6, 2016.³ On January 19, 2016, and January 29, 2016, the Exchange submitted Amendment Nos. 1 and 2, respectively, to the proposed rule change.⁴ On February 19, 2016, pursuant to Section

19(b)(2) of the Act,⁵ the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁶ On April 1, 2016, the Exchange submitted Amendment No. 3 to the proposed rule change.⁷ The Commission is publishing this notice to solicit comment on Amendment Nos. 1, 2, and 3 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, on an accelerated basis.

II. The Exchange’s Description of the Proposal⁸

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Funds are each a series of ALPS ETF Trust (“Trust”), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.⁹ The

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 77184, 81 FR 9532 (February 25, 2016). The Commission designated April 5, 2016, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁷ In Amendment No. 3, the Exchange: (i) Revised the description of the Funds’ portfolio construction and asset allocation methodology; (ii) clarified the percentage limitations on investments in the securities of issuers located in emerging markets for each Fund, and (iii) added representations that (a) all statements and representations made in the filing regarding the description of the portfolio, limitations on portfolio holdings or reference assets, or the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange; and (b) the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Funds to comply with the continued listing requirements, and, pursuant to its obligation under section 19(g)(1) of the Exchange Act, the Exchange will, monitor for compliance with its continued listing requirements, and if the Funds are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Exchange’s rules. Amendment No. 3 is available at <https://www.sec.gov/comments/sr-nysearca-2015-125/nysearca2015125-3.pdf>.

⁸ Additional information regarding the Trust (as defined herein), the Funds, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings, disclosure policies, calculation of net asset value (“NAV”), distributions, and taxes, among other things, can be found in the Notice and the Registration Statement, as applicable. See Notice, *supra* note 3, and Registration Statement, *infra* note 9.

⁹ The Exchange states that the Trust is registered under the 1940 Act. According to the Exchange, on September 1, 2015, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”) and the

Funds will be managed by ALPS Advisors, Inc. (“Adviser”), and RiverFront Investment Group, LLC (“Sub-Adviser”) will be the investment sub-adviser for the Funds.¹⁰

A. RiverFront Dynamic Unconstrained Income ETF

1. Principal Investment Strategies

The Exchange states that the investment objective of the Fund will be to seek total return with an emphasis on income as the source of that total return. Under normal circumstances, the Fund will invest at least 65% of its assets in the securities and financial instruments described below.¹¹ The average maturity or duration of the Fund’s portfolio of Fixed Income Securities (as described below) will vary based on the Sub-Adviser’s assessment of economic and market conditions; however, the Sub-Adviser intends to manage the Fund’s portfolio so that it has an average duration of between two and ten years, under normal circumstances.

According to the Exchange, the Fund’s portfolio is constructed through a two-step process. The first step is setting the strategic allocation among different fixed income asset classes, with the objective being to construct an allocation that is designed to balance the probability of upside returns with

1940 Act relating to the Funds (File Nos. 333–148826 and 811–22175) (“Registration Statement”). The Exchange states that the Commission has issued an order granting certain exemptive relief to the Trust and the Adviser (as defined herein) under the 1940 Act. See Investment Company Act Release No. 30553 (June 11, 2013) (File No. 812–13884) (“Exemptive Order”). The Exchange states that the Funds will be offered in reliance upon the Exemptive Order issued to the Trust and the Adviser.

¹⁰ The Exchange states that neither the Adviser nor the Sub-Adviser is registered as a broker-dealer. The Exchange states that each of the Adviser and Sub-Adviser is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition of and/or changes to a Fund portfolio. In the event (a) the Adviser or Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, such adviser or sub-adviser will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition of 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.

¹¹ The term “under normal circumstances” includes, but is not limited to, the absence of extreme volatility or trading halts in the securities markets or the financial markets generally; circumstances under which a Fund’s investments are made for temporary defensive purposes; 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.

¹⁹ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 34–76798 (December 30, 2015), 81 FR 526 (January 6, 2016) (NYSEArca–2015–125) (“Notice”).

⁴ Amendment No. 1 replaced and superseded the original filing in its entirety. Amendment No. 1 is available at <https://www.sec.gov/comments/sr-nysearca-2015-125/nysearca2015125.shtml>.

Amendment No. 2 replaced and superseded the original filing, as modified by Amendment No. 1, in its entirety. Amendment No. 2 is available at <https://www.sec.gov/comments/sr-nysearca-2015-125/nysearca2015125.shtml>.

downside risks for investors with a five-year time horizon for their investments. The second step is tactically adjusting these allocations as market conditions warrant and determining security selection within those asset classes in order to maximize potential returns over time.

The Exchange states that the strategic allocation across long-term, medium-term and short-term investment grade securities, long-term and short-term high yield securities, and emerging market debt is adjusted at least annually or as market conditions warrant and is determined by a quantitative methodology. This methodology models historical returns as a function of initial valuation conditions and creates estimates of potential returns and downside risks consistent with historical market behavior. The capital market assumptions produced by this methodology are then incorporated into a proprietary Mean Reversion Optimization (MRO) process to produce the model weighting for each of the major fixed income asset classes.

The Fund will seek to achieve its investment objective by investing in a global portfolio of "Fixed Income Securities" (as described below) of various maturities, ratings, and currency denominations. The Fund intends to utilize various investment strategies in a broad array of fixed income sectors. The Fund will allocate its investments based upon the analysis of the Sub-Adviser of the pertinent economic and market conditions, as well as yield, maturity, credit and currency considerations.

For purposes of this filing, Fixed Income Securities include the following: Corporate bonds, notes, and debentures; securities issued by the U.S. government or its agencies, instrumentalities, or sponsored corporations (including those not backed by the full faith and credit of the U.S. government); agency and non-agency mortgage-backed securities ("MBS") and asset-backed securities

("ABS");¹² municipal securities;¹³ U.S. agency mortgage pass-through securities;¹⁴ convertible securities;¹⁵ preferred stocks;¹⁶ commercial instruments;¹⁷ variable or floating rate instruments and variable rate demand instruments;¹⁸ zero-coupon and pay-in-

¹² The MBS in which a Fund may invest includes residential mortgage-backed securities ("RMBS"), collateralized mortgage obligations ("CMOs"), and commercial mortgage-backed securities ("CMBS"). The ABS in which the Fund may invest includes collateralized debt obligations ("CDOs"). CDOs include collateralized bond obligations ("CBOs"), collateralized loan obligations ("CLOs"), and other similarly structured securities. A CBO is a trust which is backed by a diversified pool of high-risk, below investment-grade, fixed income securities. A CLO is a trust typically collateralized by a pool of loans, which may include domestic and foreign senior secured loans, senior unsecured loans, and subordinate corporate loans, including loans that may be rated below investment grade or equivalent unrated loans. Specifically, the Exchange notes that such ABS are bonds backed by pools of loans or other receivables and are securitized by a wide variety of assets that are generally broken into three categories: consumer, commercial, and corporate. The consumer category includes credit card, auto loan, student loan, and timeshare loan ABS. The commercial category includes trade receivables, equipment leases, oil receivables, film receivables, rental cars, aircraft securitizations, ship and container securitizations, whole business securitizations, and diversified payment right securitizations. Corporate ABS includes cash flow collateralization loan obligations, collateralized by both middle market and broadly syndicated bank loans. ABS are issued through special purpose vehicles that are bankruptcy remote from the issuer of the collateral. The credit quality of an ABS tranche depends on the performance of the underlying assets and the structure. To protect ABS investors from the possibility that some borrowers could miss payments or even default on their loans, ABS includes various forms of credit enhancement.

¹³ The municipal securities which each Fund may purchase include general obligation bonds and limited obligation bonds (or revenue bonds), including industrial development bonds issued pursuant to former federal tax law, and lease obligations.

¹⁴ Each Fund will seek to obtain exposure to U.S. agency mortgage pass-through securities primarily through the use of "to-be-announced" or "TBA transactions." "TBA" refers to a commonly used mechanism for the forward settlement of U.S. agency mortgage pass-through securities, and not to a separate type of mortgage-backed security. Most transactions in mortgage pass-through securities occur through the use of TBA transactions. TBA transactions generally are conducted in accordance with widely-accepted guidelines which establish commonly observed terms and conditions for execution, settlement and delivery.

¹⁵ Convertible securities include bonds, debentures, notes, preferred stocks, and other securities that may be converted into a prescribed amount of common stock or other equity securities at a specified price and time. The holder of convertible securities is entitled to receive interest paid or accrued on debt, or dividends paid or accrued on preferred stock, until the security matures or is converted.

¹⁶ The preferred stocks in which each Fund may invest may be either exchange-traded or traded over-the-counter.

¹⁷ Commercial instruments include commercial paper and other short-term corporate instruments.

¹⁸ Variable or floating interest rates are readjusted on set dates (such as the last day of the month or calendar quarter) in the case of variable rates or

kind securities;¹⁹ bank instruments, including certificates of deposit, time deposits, and bankers' acceptances from U.S. banks; and participations in and assignments of bank loans or corporate loans,²⁰ which loans include senior loans, syndicated bank loans, junior loans, bridge loans, unfunded commitments, revolving credit facilities, and participation interests.²¹

The Fund may purchase Fixed Income Securities issued by U.S. or foreign corporations²² or financial institutions.

The Fund may purchase securities issued or guaranteed by the U.S. or foreign governments (including foreign states, provinces, and municipalities) or their agencies and instrumentalities or issued or guaranteed by international organizations designated or supported

whenever a specified interest rate change occurs in the case of a floating rate instrument. The terms of such demand instruments require payment of principal and accrued interest by the issuer, a guarantor and/or a liquidity provider. The Sub-Adviser will monitor the pricing, quality and liquidity of the variable or floating rate securities held by the Fund.

¹⁹ Zero-coupon or pay-in-kind securities are debt securities that do not make regular cash interest payments. Zero-coupon securities are sold at a deep discount to their face value. Pay-in-kind securities pay interest through the issuance of additional securities.

²⁰ The Adviser expects that under normal market conditions, the Fund generally will seek to invest at least 80% of its corporate loan assets in issuances that have at least \$100,000,000 par amount outstanding (if tied to developed countries) and at least \$200,000,000 par amount outstanding (if tied to emerging market countries).

²¹ Participation interests generally will be acquired from a commercial bank or other financial institution (a "Lender") or from other holders of a participation interest (a "Participant"). The purchase of a participation interest either from a Lender or a Participant will not result in any direct contractual relationship with the borrowing company (the "Borrower"). The Fund generally will have no right directly to enforce compliance by the Borrower with the terms of the credit agreement. Instead, the Fund will be required to rely on the Lender or the Participant that sold the participation interest, both for the enforcement of the Fund's rights against the Borrower and for the receipt and processing of payments due to the Fund under the loans. Under the terms of a participation interest, the Fund may be regarded as a member of the Participant, and thus the Fund is subject to the credit risk of both the Borrower and a Participant. Participation interests are generally subject to restrictions on resale.

²² The Fund will invest only in securities that the Adviser or Sub-Adviser deems to be sufficiently liquid. While corporate debt securities tied to developed market countries generally must have \$100 million or more par amount outstanding and significant par value traded to be considered as an eligible investment, at least 75% of issues of such corporate debt held by the Fund will have \$100 million or more par amount outstanding. While corporate debt securities tied to emerging market countries generally must have \$200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment, at least 75% of issues of such corporate debt held by the Fund will have \$200 million or more par amount outstanding.

by multiple government entities to promote economic reconstruction or development.

The Fund may invest in MBS issued or guaranteed by federal agencies and/or U.S. government sponsored instrumentalities, such as the Government National Mortgage Administration (“Ginnie Mae”), the Federal Housing Administration (“FHA”), the Federal National Mortgage Association (“Fannie Mae”), and the Federal Home Loan Mortgage Corporation (“Freddie Mac”). The MBS in which the Fund may invest will be either pass-through securities or CMOs and may be TBA transactions.²³

The Fund may purchase or sell securities on a when-issued,²⁴ delayed delivery, or forward commitment basis, and may enter into repurchase and reverse repurchase agreements.²⁵

The Fund may invest in exchange-traded funds (“ETFs”)²⁶ and/or exchange-traded closed-end funds that invest in Fixed Income Securities.

The Fund may invest without limitation in U.S. dollar-denominated

securities of foreign issuers in developed markets. The Fund can invest up to 50% of its assets in non-dollar-denominated securities. The Fund can invest up to 50% of its assets in the securities of issuers located in emerging markets (either US dollar-denominated or non-dollar-denominated). The Sub-Adviser may attempt to reduce currency risk by entering into contracts with banks, brokers, or dealers to purchase or sell securities or foreign currencies at a future date (“forward contracts”).²⁷

The Fund may enter into cleared and over-the-counter (“OTC”) total return swap agreements that effectively bundle the purchase of foreign bonds and the hedging of foreign currency into a single transaction.²⁸

The Fund may invest in securities that are offered pursuant to Rule 144A under the Securities Act.

The Fund may also use leverage to the extent permitted under the 1940 Act by entering into reverse repurchase agreements and borrowing transactions (principally lines of credit) for investment purposes. The Fund’s exposure to reverse repurchase agreements will be covered by securities having a value equal to or greater than such commitments. The Exchange represents that, under the 1940 Act, reverse repurchase agreements are considered borrowings. Although there is no limit on the percentage of Fund assets that can be used in connection with reverse repurchase agreements, the Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 33 $\frac{1}{3}$ % of its assets.

2. Other Investments

While the Fund will, under normal circumstances, invest at least 65% of its assets in the securities and financial instruments described above, the Fund may invest its remaining assets in the securities and financial instruments described below.

The Fund may invest in money market instruments, including other funds which invest exclusively in money market instruments. The Fund may invest in structured notes (notes on which the amount of principal repayment and interest payments are based on the movement of one or more specified factors, such as the movement

of a particular bond or bond index). In addition to the types of forward contracts and swaps discussed above, the Fund may invest in other types of forward contracts and swaps, as well as options and futures contracts (as discussed below), each based on fixed-income securities, currencies, or indexes of fixed-income securities or currencies.²⁹

The Fund may invest up to 5% of its assets in U.S. exchange-traded equity securities (excluding ETFs and closed-end funds).

B. RiverFront Dynamic Core Income ETF

1. Principal Investment Strategies

The Exchange states that the investment objective of the Fund will be to seek total return with an emphasis on income as the source of that total return. Under normal circumstances, the Fund will invest at least 65% of its assets in the securities and financial instruments described below.³⁰ The average maturity or duration of the Fund’s portfolio of Fixed Income Securities will vary based on the Sub-Adviser’s assessment of economic and market conditions; however, the Sub-Adviser intends to manage the Fund’s portfolio so that it has an average duration of between two and eight years, under normal circumstances.

The Fund’s portfolio is constructed through a two-step process. The first step is setting the strategic allocation among different fixed income asset classes, with the objective being to construct an allocation that is designed to balance the probability of upside returns with downside risks for investors with a five-year time horizon for their investments. The second step is tactically adjusting these allocations as market conditions warrant and determining security selection within those asset classes in order to maximize potential returns over time.

The strategic allocation across long-term, medium-term and short-term investment grade securities, long-term and short-term high yield securities and emerging market debt is adjusted at least annually or as market conditions warrant and is determined by a quantitative methodology. This methodology models historical returns as a function of initial valuation conditions and creates estimates of potential returns and downside risks consistent with historical market behavior. The capital market assumptions produced by this methodology are then incorporated into

²³ Pass-through securities represent a right to receive principal and interest payments collected on a pool of mortgages, which are passed through to security holders. CMOs are created by dividing the principal and interest payments collected on a pool of mortgages into several revenue streams (tranches) with different priority rights to portions of the underlying mortgage payments. The Fund will not invest in CMO tranches which represent a right to receive interest only (“IOs”), principal only (“POs”) or an amount that remains after other floating-rate tranches are paid (an inverse floater).

²⁴ Purchasing securities on a “when-issued” basis means that the date for delivery of and payment for the securities is not fixed at the date of purchase, but is set after the securities are issued. The payment obligation and, if applicable, the interest rate that will be received on the securities are fixed at the time the buyer enters into the commitment. The Fund will only make commitments to purchase such securities with the intention of actually acquiring such securities, but the Fund may sell these securities before the settlement date if it is deemed advisable.

²⁵ Repurchase agreements are agreements pursuant to which securities are acquired by the Fund from a third party with the understanding that they will be repurchased by the seller at a fixed price on an agreed date. These agreements may be made with respect to any of the portfolio securities in which the Fund is authorized to invest. Repurchase agreements may be characterized as loans secured by the underlying securities. Reverse repurchase agreements involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing. The securities purchased with the funds obtained from the agreement and securities collateralizing the agreement will have maturity dates no later than the repayment date.

²⁶ For purposes of this filing, ETFs consist of Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)), Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100), and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). All ETFs will be listed and traded in the U.S. on a national securities exchange. The Funds will not invest in leveraged or leveraged inverse ETFs.

²⁷ A foreign currency forward contract is a negotiated agreement between the contracting parties to exchange a specified amount of currency at a specified future time at a specified rate. The rate can be higher or lower than the spot rate between the currencies that are the subject of the contract.

²⁸ See “The Funds’ Use of Derivatives,” Section II. D. *infra*.

²⁹ See “The Funds’ Use of Derivatives,” Section II. D. *infra*.

³⁰ See note 11, *supra*.

a proprietary Mean Reversion Optimization (MRO) process to produce the model weighting for each of the major fixed income asset classes.

The Fund will seek to achieve its investment objective by investing in a global portfolio of Fixed Income Securities (as described above)³¹ of various maturities, ratings, and currency denominations. The Fund intends to utilize various investment strategies in a broad array of fixed income sectors. The Fund will allocate its investments based upon the analysis of the Sub-Adviser of the pertinent economic and market conditions, as well as yield, maturity, credit, and currency considerations.

The Fund may purchase Fixed Income Securities issued by U.S. or foreign corporations³² or financial institutions.

The Fund may purchase securities issued or guaranteed by the U.S. or foreign governments (including foreign states, provinces, and municipalities) or their agencies and instrumentalities or issued or guaranteed by international organizations designated or supported by multiple government entities to promote economic reconstruction or development.

The Fund may invest in MBS issued or guaranteed by federal agencies and/or U.S. government sponsored instrumentalities, such as Ginnie Mae, the FHA, Fannie Mae, and Freddie Mac. The MBS in which the Fund may invest will be either pass-through securities or CMOs and may be TBA transactions.³³

The Fund may purchase or sell securities on a when-issued,³⁴ delayed delivery, or forward commitment basis, and may enter into repurchase and reverse repurchase agreements.³⁵

The Fund may invest in ETFs³⁶ and/or exchange-traded closed-end funds which invest in Fixed Income Securities.

The Fund may invest without limitation in U.S. dollar-denominated securities of foreign issuers in developed markets. The Fund can invest up to 10% of its assets in non-dollar denominated securities. The Fund can invest up to 10% of its assets in the securities of issuers located in emerging markets (either US dollar-denominated or non-dollar-denominated). The Sub-Adviser may attempt to reduce currency risk by entering into forward contracts.³⁷

³¹ See *supra* Section II.A.1. See also *supra* notes 12–21 and accompanying text.

³² See note 22, *supra*.

³³ See note 23, *supra*.

³⁴ See note 24, *supra*.

³⁵ See note 25, *supra*.

³⁶ See note 26, *supra*.

³⁷ See note 27, *supra*.

The Fund may enter into cleared and OTC total return swap agreements that effectively bundle the purchase of foreign bonds and the hedging of foreign currency into a single transaction.³⁸

The Fund may invest in securities that are offered pursuant to Rule 144A under the Securities Act.

The Fund may also use leverage to the extent permitted under the 1940 Act by entering into reverse repurchase agreements and borrowing transactions (principally lines of credit) for investment purposes. The Fund's exposure to reverse repurchase agreements will be covered by securities having a value equal to or greater than such commitments. The Exchange represents that, under the 1940 Act, reverse repurchase agreements are considered borrowings. Although there is no limit on the percentage of Fund assets that can be used in connection with reverse repurchase agreements, the Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 33 1/3% of its assets.

2. Other Investments

While the Fund will, under normal circumstances, invest at least 65% of its assets in the securities and financial instruments described above, the Fund may invest its remaining assets in the securities and financial instruments described below.

The Fund may invest in money market instruments, including other funds which invest exclusively in money market instruments. The Fund may invest in structured notes. In addition to the types of forward contracts and swaps discussed above, the Fund may invest in other types of forward contracts and swaps, as well as options and futures contracts (as described below), each based on fixed-income securities, currencies, or indexes of fixed-income securities or currencies.³⁹

The Fund may invest up to 5% of its assets in U.S. exchange-traded equity securities (excluding ETFs and closed-end funds).

C. Investment Restrictions for Each Fund

Each Fund's portfolio holdings that in the aggregate account for at least 75% of the weight of the applicable portfolio each shall have a minimum original principal amount outstanding of \$100 million or more. No fixed-income

³⁸ See "The Funds' Use of Derivatives," Section II.D. *infra*.

³⁹ See "The Funds' Use of Derivatives," Section II.D. *infra*.

security (excluding Treasury Securities and GSE Securities)⁴⁰ held by a Fund shall represent more than 30% of the weight of a Fund's portfolio, and the five most heavily weighted fixed-income securities in a Fund's portfolio shall not in the aggregate account for more than 65% of the weight of the portfolio. Each Fund's portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers.

Each Fund may invest up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including securities that are offered pursuant to Rule 144A under the Securities Act, ABS and MBS issued by private entities, loans, and loan commitments deemed illiquid by the Sub-Adviser. A Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of a Fund's net assets are held in illiquid assets.⁴¹ Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Funds intend to qualify for and to elect to be treated as separate regulated investment companies under Subchapter M of the Internal Revenue Code.

A Fund may invest up to 20% of its total assets in the aggregate in MBS (which may include CMBS) or ABS issued or guaranteed by private entities. The liquidity of such securities will be a substantial factor in a Fund's security selection process. Such holdings will be subject to the respective limitations on a Fund's investments in illiquid assets and high yield securities.

A Fund may invest up to 20% of its total assets, in the aggregate, in syndicated bank loans, junior loans, bridge loans, unfunded commitments,

⁴⁰ The terms "Treasury Securities" and "GSE Securities" are defined in NYSEArca Equities Rule 5.2(j)(3), Commentary. 02.

⁴¹ In reaching liquidity decisions with respect to Rule 144A securities, the Sub-Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers willing 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).

revolving credit facilities, participation interests, and structured notes. Such holdings will be subject to the respective limitations on a Fund's investments in illiquid assets and high yield securities. The liquidity of such securities will be a substantial factor in a Fund's security selection process.

The RiverFront Dynamic Unconstrained Income ETF may invest entirely in high yield securities ("junk bonds"). The Sub-Adviser will consider the credit ratings assigned by nationally recognized statistical rating organizations ("NRSROs") as one of several factors in its independent credit analysis of issuers.

The RiverFront Dynamic Core Income ETF may invest up to 15% of its total assets in Fixed Income Securities that are rated below investment grade by NRSROs, or unrated securities that the Sub-Adviser believes are of comparable quality. The Sub-Adviser will consider the credit ratings assigned by NRSROs as one of several factors in its independent credit analysis of issuers.

The Funds will not invest in non-U.S. equity securities.

A Fund's investments will be consistent with a Fund's investment objective and will not be used to enhance leverage. That is, while a Fund will be permitted to borrow as permitted under the 1940 Act, a Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.*, 2Xs and 3Xs) of a Fund's primary broad-based securities benchmark index (as defined in Form N-1A).⁴²

D. The Funds' Use of Derivatives

According to the Exchange, each Fund proposes to seek certain exposures through derivative transactions. Subject to the investment restrictions described above, with respect to each Fund, derivative instruments may include foreign exchange forward contracts; exchange-traded futures on fixed income securities, currencies, and indices of fixed income securities or currencies; exchange-traded and OTC options; exchange-traded and OTC options on futures contracts; exchange-traded and OTC interest rate swaps, cross-currency swaps, total return swaps, inflation swaps, and credit default swaps; and options on such swaps ("swaptions").⁴³ A Fund may,

⁴² A Fund's broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following a Fund's first full calendar year of performance.

⁴³ Options on swaps are traded OTC. In the future, in the event that there are exchange-traded options on swaps, a Fund may invest in these instruments.

but is not required to, use derivative instruments for risk management purposes or as part of its investment strategies.⁴⁴ The Exchange states that a Fund may also engage in derivative transactions for speculative purposes to enhance total return, to seek to hedge against fluctuations in securities prices, interest rates or currency rates, to change the effective duration of its portfolio, to manage certain investment risks, and/or as a substitute for the purchase or sale of securities or currencies.

The Exchange states that investments in derivative instruments will be made in accordance with the 1940 Act and consistent with a Fund's investment objective and policies. As described further below, a Fund will typically use derivative instruments as a substitute for taking a position in the underlying asset and/or as part of a strategy designed to reduce exposure to other risks, such as currency risk. A Fund may also use derivative instruments to enhance returns. To limit the potential risk associated with such transactions, the Exchange states that a Fund will segregate or " earmark " assets determined to be liquid by the Sub-Adviser in accordance with procedures established by a Fund's Board of Trustees (the "Board") and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Exchange states that a Fund will include appropriate risk disclosure in its offering documents, including leveraging risk.⁴⁵

⁴⁴ A Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Sub-Adviser will monitor the financial standing of counterparties on an ongoing basis. This monitoring may include information provided by credit agencies, as well as the Sub-Adviser's credit analysts and other team members who evaluate approved counterparties using various methods of analysis, including but not limited to earnings updates, the counterparty's reputation, the Sub-Adviser's past experience with the broker-dealer, market levels for the counterparty's debt and equity, the counterparty's liquidity and its share of market participation.

⁴⁵ 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 Sub-Adviser will segregate or " earmark " liquid assets or otherwise cover the transactions that may give rise to such risk.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.⁴⁶ In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, is consistent with Section 6(b)(5) of the Exchange Act,⁴⁷ which requires, among other things, that the Exchange's rules be 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 a national market system, and, in general, to protect investors and the public interest. The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,⁴⁸ which sets forth the finding of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

According to the Exchange, quotation and last sale information will be available via the Consolidated Tape Association ("CTA") high-speed line for the Shares and for U.S. exchange-traded common stocks, ETFs, and closed-end funds. Price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. Price information for currency spot and forward rates, swaps, money market instruments, repurchase agreements, reverse repurchase agreements, OTC options, structured notes, syndicated bank loans, junior loans, bridge loans, unfunded commitments, revolving credit facilities, participation interests and OTC derivative instruments will be available from major market data vendors. Intra-day and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options is available from the Options

⁴⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴⁷ 15 U.S.C. 78f(b)(5).

⁴⁸ 15 U.S.C. 78k-1(a)(1)(C)(iii).

Price Reporting Authority. Quotation information from brokers and dealers or independent pricing services will be available for Fixed Income Securities. One source of price information for municipal securities is the Electronic Municipal Market Access (“EMMA”), which is administered by the Municipal Securities Rulemaking Board.

In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.⁴⁹ On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, each Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund’s calculation of NAV at the end of the business day.⁵⁰

The NAV for the Shares will be calculated as of the close of the regular trading session on the New York Stock Exchange (“NYSE”) (ordinarily 4:00 p.m., Eastern Time) on each day that such exchange is open. A basket composition file, which will include the security names and share quantities required to be delivered in exchange for each Fund’s Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via the National Securities Clearing Corporation. 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. The

⁴⁹ Currently, it is the Exchange’s understanding that several major market data vendors display and/or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

⁵⁰ On a daily basis, the Adviser or Sub-Adviser will disclose on the Funds’ 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; effective date, if any; market value of the holding; and the percentage weighting of the holding in each Fund’s portfolio. The Web site information will be publicly available at no charge. The Funds’ disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday.

Web site for the Funds will include a form of the prospectus for each Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio for each Fund will be made available to all market participants at the same time.⁵¹

Trading in Shares of the Fund will be halted if the circuit-breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.⁵² Trading in the Shares also will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

The Exchange represents that it has a general policy prohibiting the distribution of material, non-public information by its employees. Each of the Adviser and the Sub-Adviser is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a Fund portfolio.⁵³ Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio of each Fund must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.⁵⁴

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders (“ETP Holders”) in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with

⁵¹ See NYSE Arca Equities Rule 8.600(d)(1)(B).

⁵² These may include: (1) The extent to which trading is not occurring in the securities or the financial instruments constituting the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

⁵³ See *supra* note 10. The Exchange represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940.

⁵⁴ See NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

trading the Shares. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, or regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.⁵⁵

The Exchange represents that it 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. In support of this proposal, the Exchange has also made the following representations:

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

(2) All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

(3) The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Funds to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will monitor⁵⁶ for compliance with the continued listing requirements. If the Funds are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

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

(5) Trading in the Shares will be subject to the existing trading surveillances, administered FINRA on behalf of the Exchange, or regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of

⁵⁵ The Exchange states that 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.

⁵⁶ The Commission notes that certain other proposals for the listing and trading of managed fund shares include a representation that the exchange will “surveil” for compliance with the continued listing requirements. See, e.g., Amendment No. 2 to SR-BATS-2016-04, available at: <http://www.sec.gov/comments/sr-bats-2016-04/bats201604-2.pdf>. In the context of this representation, it is the Commission’s view that “monitor” and “surveil” both mean ongoing oversight of the Fund’s compliance with the continued listing requirements. Therefore, the Commission does not view “monitor” as a more or less stringent obligation than “surveil” with respect to the continued listing requirements.

Exchange rules and federal securities laws applicable to trading on the Exchange.

(6) FINRA, on behalf of the Exchange, or regulatory staff of the Exchange, will communicate as needed regarding trading in the Shares, certain exchange-traded options and futures, and certain exchange-traded equities (including ETFs and closed-end funds) with other markets or other entities that are members of the Intermarket Surveillance Group ("ISG"), and FINRA or regulatory staff of the Exchange may obtain trading information regarding trading in the Shares, certain exchange-traded options and futures, and certain exchange-traded equities from such markets or entities. In addition, the Exchange may obtain information regarding trading in the Shares, certain exchange-traded options and futures, and certain exchange-traded equities from markets or other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain Fixed Income Securities held by the Funds reported to FINRA's Trade Reporting and Compliance Engine.

(7) Prior to the commencement of trading of the Shares, the Exchange will inform its ETP Holders in a Bulletin of the special characteristics and risks associated with trading the Shares. The Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) 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; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Intra-day Indicative Value ("IIV") (which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600(c)(3)) will not be calculated or publicly disseminated; (d) how information regarding the IIV and the Disclosed Portfolio is disseminated; (e) 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 (f) trading information.

(8) For initial and continued listing, each Fund will be in compliance with Rule 10A-3 under the Act,⁵⁷ as provided by NYSE Arca Equities Rule 5.3.

(9) A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange.

(10) The Funds will not invest in non-U.S. equity securities. All ETFs that the Funds will invest in will be listed and traded in the U.S. on a national securities exchange. The Funds will not invest in leveraged or leveraged inverse ETFs.

(11) Not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts or options contracts shall consist of futures contracts or exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the

Exchange does not have a comprehensive surveillance sharing agreement.

(12) Each Fund's portfolio holdings that in the aggregate account for at least 75% of the weight of the applicable portfolio each shall have a minimum original principal amount outstanding of \$100 million or more. No fixed-income security (excluding Treasury Securities and GSE Securities) held by a Fund shall represent more than 30% of the weight of the Fund's portfolio, and the five most heavily weighted fixed-income securities in the Fund's portfolio shall not in the aggregate account for more than 65% of the weight of the portfolio. Each Fund's portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers.

(13) At least 75% of issues of corporate debt securities tied to developed market countries held by a Fund will have \$100 million or more par amount outstanding and at least 75% of issues of corporate debt securities tied to emerging market countries held by a Fund will have \$200 million or more par amount outstanding.

(14) Under normal market conditions, each Fund generally will seek to invest at least 80% of its corporate loan assets in issuances that have at least \$100,000,000 par amount outstanding (if tied to developed countries) and at least \$200,000,000 par amount outstanding (if tied to emerging market countries).

(15) Each Fund may invest up to 20% of its total assets in the aggregate in MBS (which may include CMBS) or ABS issued or guaranteed by private entities. The liquidity of such securities will be a substantial factor in a Fund's security selection process. Such holdings would be subject to the respective limitations on a Fund's investments in illiquid assets and high yield securities.

(16) Each Fund may invest up to 20% of its total assets, in the aggregate, in syndicated bank loans, junior loans, bridge loans, unfunded commitments, revolving credit facilities, participation interests, and structured notes. Such holdings would be subject to the respective limitations on a Fund's investments in illiquid assets and high yield securities. The liquidity of such securities will be a substantial factor in a Fund's security selection process.

(17) Each Fund may invest up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including securities that are offered pursuant to Rule 144A under the Securities Act, ABS and MBS issued by private entities, loans and loan commitments deemed illiquid by the Sub-Adviser.

(18) The RiverFront Dynamic Unconstrained Income ETF can invest up to 50% of its assets in the securities of issuers located in emerging markets. The RiverFront Dynamic Core Income ETF can invest up to 10% of its assets in the securities of issuers located in emerging markets.

(19) The RiverFront Dynamic Core Income ETF may invest up to 15% of its total assets in Fixed Income Securities that are rated below investment grade by NRSROs, or unrated securities that the Sub-Adviser believes are of comparable quality.

(20) A Fund's investments will be consistent with a Fund's investment

objective and will not be used to enhance leverage. That is, while a Fund will be permitted to borrow as permitted under the 1940 Act, a Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.*, 2Xs and 3Xs) of a Fund's primary broad-based securities benchmark index (as defined in Form N-1A).

(21) Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with a Fund's investment objective and policies. To limit the potential risk associated with such transactions, a Fund will segregate or "earmark" assets determined to be liquid by the Sub-Adviser in accordance with procedures established by a Fund's Board of Trustees and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. In addition, a Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. To mitigate leveraging risk, the Sub-Adviser will segregate or "earmark" liquid assets or otherwise cover the transactions that may give rise to such risk.

This approval order is based on all of the Exchange's representations, including those set forth above, in the Notice, and in Amendment Nos. 1, 2, and 3. The Commission notes that the Funds and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be initially and continuously listed and traded on the Exchange.

IV. Solicitation of Comments on Amendment Nos. 1, 2, and 3

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment Nos. 1, 2, and 3 to the proposed rule change are 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. Please include File Number SR-NYSEArca-2015-125 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-NYSEArca-2015-125. 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

⁵⁷ 17 CFR 240.10A-3.

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-2015-125 and should be submitted on or before May 2, 2016.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, prior to the 30th day after the date of publication of notice of Amendment Nos. 1, 2, and 3 in the **Federal Register**. Amendment Nos. 1, 2, and 3 revised the proposed rule change by: (1) Clarifying that each Fund will invest at least 65% of its assets in the securities and financial instruments described under the headings "Principal Investments;" (2) clarifying the portfolio construction and asset allocation methodology of the Funds; (3) further defining the characteristics of the Fixed Income Instruments in which the Funds may invest; (4) modifying the investment restrictions of each Fund; (5) clarifying how certain investments will be valued for computing each Fund's NAV; (6) describing where price information can be obtained for certain investments of the Funds; and (7) providing additional representations relating to the continued listing requirements for listing the Shares on the Exchange, including issuer notification requirements if a Fund fails to comply with such continued listing requirements, and Exchange surveillance obligations relating to such continued listing requirements.

Amendment Nos. 1, 2, and 3 supplement the proposed rule change by, among other things, clarifying the scope of the Funds' permitted investments and investment restrictions and providing additional information about the availability of pricing information for the Funds' underlying assets. They also help the Commission evaluate whether the listing and trading of the Shares of the Funds would be consistent with the protection of investors and the public interest.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁵⁸ to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 on an accelerated basis.

VI. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Exchange Act,⁵⁹ that the proposed rule change (SR-NYSEArca-2015-125), as modified by Amendment Nos. 1, 2, and 3 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁰

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016-08182 Filed 4-8-16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77523; File No. SR-FINRA-2016-006]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Amend FINRA Rules 7410 (Definitions) and 7440 (Recording of Order Information)

April 5, 2016.

I. Introduction

On February 11, 2016, the Financial Industry Regulatory Authority, Inc. ("FINRA"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² filed with the Securities and Exchange Commission ("Commission") a proposal to amend FINRA Rules 7410 and 7440 to require FINRA members to include on their Order Audit Trail System ("OATS") reports the identity of broker-dealers that are not FINRA members

when the member receives an order from such a broker-dealer. The proposed rule change was published for comment in the **Federal Register** on February 25, 2016.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

First, FINRA proposes to define an "SRO-assigned identifier" in Rule 7410 as "a unique identifier assigned to a broker or dealer by a national securities exchange or national securities association for use by such broker or dealer when accessing the exchange or a facility of the association." The identifier would be considered "unique" if the identifier assigned by the exchange or association is used to identify a single broker-dealer.⁴

Second, FINRA is proposing to amend Rule 7440 of the OATS rules to require members that are subject to the OATS rules ("Reporting Members") to identify non-FINRA-member broker-dealers ("Non-Member Firms") from which they receive orders, on the OATS report for the order.⁵ Under the proposed rule change, Reporting Members that receive an order from a "Reportable Non-Member" (a U.S.-registered broker-dealer that is not a FINRA member or a broker-dealer that is not registered in the U.S. but has received an SRO-assigned identifier in order to access certain FINRA trade reporting facilities) would be required to identify that broker-dealer when reporting receipt of the order to OATS.⁶ Reporting Members that receive an order from, or route an order to, a Non-Member Firm would report one of the following: the Non-Member Firm's Central Registration Depository ("CRD[®]") number, the Non-Member Firm's SRO-assigned identifier, or, for a Non-Member Firm that does not have a CRD number or SRO-assigned identifier (*e.g.*, a foreign broker-dealer), a value indicating that the Non-Member Firm has no CRD number or SRO-assigned identifier.⁷ The proposed rule

³ See Securities Exchange Act Release No. 77180 (February 19, 2016), 81 FR 9545 ("Notice").

⁴ See Notice, *supra* note 3, at 9546, note 4.

⁵ FINRA Rule 7410(o) defines a Reporting Member as "a member that receives or originates an order and has an obligation to report information under Rules 7440 and 7450." The rule also has exceptions. See FINRA Rule 7410(o)(1) and (2).

⁶ See Notice, *supra* note 3, at 9545-6. Certain broker-dealers registered in Canada, but not in the U.S., have SRO-assigned identifiers so that they can access FINRA trade reporting facilities pursuant to FINRA Rule 7220A or 7320. *Id.* at 9546, n. 5.

⁷ See Notice, *supra* note 3, at 9546. The *OATS Reporting Technical Specifications* currently require that OATS reports include an identifier for each national securities exchange to which an order

⁵⁸ 15 U.S.C. 78s(b)(2).

⁵⁹ 15 U.S.C. 78s(b)(2).

⁶⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.