

October 1, 2022. 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 Exchange to coordinate its implementation of the revised clearly erroneous execution rules with the other national securities exchanges and FINRA, and will help ensure consistency across the SROs.<sup>33</sup> For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.<sup>34</sup>

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

#### 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 SR-MEMX-2022-25 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-MEMX-2022-25. 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 website (<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 website 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 a.m. and 3 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions.

You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MEMX-2022-25 and should be submitted on or before October 11, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>35</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-95752; File No. SR-NYSEARCA-2022-58]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change in Connection With the iShares® Gold Trust Micro

September 13, 2022.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on August 31, 2022, NYSE Arca, Inc. ("NYSE Arca" or "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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>35</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

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

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes, in connection with the iShares® Gold Trust Micro (the "Trust"), to (1) delete a duplicative representation, and (2) amend a representation regarding the availability of gold spot prices on the Trust's website. The proposed rule change is available on the Exchange's website 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes, in connection with the Trust, to (1) delete a duplicative representation, and (2) amend a representation regarding the availability of gold spot prices on the Trust's website. Shares ("Shares") of the Trust are currently listed on the Exchange under NYSE Arca Rule 8.201-E.<sup>4</sup>

In the proposed rule change filed with the Commission regarding the listing and trading of the Shares, the Exchange described the information available to the public regarding the price of gold and the gold market information as follows:

Investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Investors may obtain gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Current spot

<sup>4</sup> See Securities Exchange Act Release No. 91669 (April 26, 2021), 86 FR 22996 (April 30, 2021) (SR-NYSEARCA-2021-25) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Shares of the iShares® Gold Trust Micro Under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares)) ("Notice").

<sup>33</sup> See SR-ChoeBZX-2022-37 (July 8, 2022).

<sup>34</sup> 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).

prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Trust's website will provide pricing information for gold spot prices and the Shares.<sup>5</sup>

The Exchange proposes two changes to these representations, as follows.

First, the Exchange proposes the non-substantive change of deleting the following representation: "Investors may obtain gold pricing information based on the spot price for an ounce of gold from various financial information service providers" as duplicative of the first sentence.

Second, the Exchange proposes to amend the representation regarding the availability of gold spot prices on the Trust's website ([www.ishares.com](http://www.ishares.com)). Specifically, the Notice stated that the Trust's website would provide pricing information for gold spot prices and the Shares. Currently, the website provides the London Bullion Market Association ("LBMA") Gold Price PM, the price utilized by the Trustee to value the Trust's gold as described in the prospectus, free of charge to anyone accessing the website. The LBMA Gold Price PM is also available, free of charge to the public, on LBMA's website.<sup>6</sup> Given the availability of information regarding the delayed spot price of gold from various sources that are also free of charge, the Trust will no longer provide delayed pricing information for gold spot prices free of charge on its website.<sup>7</sup> The Exchange accordingly proposes to delete the reference to the Trust's website providing pricing information for gold spot prices. The Exchange believes that removing the delayed spot gold prices from the website will not harm investors because the same information is currently available to investors from other sources.

Other than the proposed changes to the two representations as described herein, the Trust would continue to comply with all other requirements set forth in the Notice and in NYSE Arca Rule 8.201-E, respectively.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(1)<sup>9</sup> in particular, in that it enables the Exchange to be so organized as to

have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>10</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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 Exchange proposes to delete a duplicative representation and amend a representation to reflect that that the Trust will no longer provide delayed pricing information for gold spot prices free of charge on its website. The Exchange believes that these proposed non-substantive clarifying changes would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and comply with the provisions of the Act by its members and persons associated with members by adding clarity, transparency and consistency to the Exchange's rules with respect to the listing requirements for the Shares. The Exchange believes that the change would be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from the increased clarity and transparency that the changes would introduce, thereby reducing potential confusion.

In addition, the Exchange believes that amending the Notice to reflect that the Trust will no longer provide delayed pricing information for gold spot prices free of charge on its website would be consistent with the public interest and the protection of investors because the same information that the Trust posts on its website (*i.e.*, the delayed spot price of gold) is currently available to investors in the same form and equally free of charge on the LBMA's website. As noted, there is a considerable amount of gold price and gold market information available on public websites and through professional as well as subscription services, including the spot price of gold. Specifically, investors may obtain on a 24-hour basis

gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. The delayed spot price of gold available to investors directly from the LBMA's website would be the same as that currently available on the Trust's website and would be equally free of charge.<sup>11</sup> The Exchange accordingly believes that, given the widespread availability of delayed information on the spot price of gold and gold prices at no charge, investors will continue to have ready access to the same information on the spot price of gold that the Trust currently provides on its website and investors will not be harmed by the Trust no longer providing the spot price of gold on its website.

## 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 change is not designed to address any competitive issue but rather to delete a duplicative representation and amend a representation regarding the availability of information on the spot price of gold on the website of the Trust whose Shares are currently listed on the Exchange based on the availability of the same information in the same format and equally free of charge from other sources.

## 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 prior to 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)

<sup>5</sup> See *id.*, 86 FR at 23000.

<sup>6</sup> See <https://www.lbma.org.uk/prices-and-data/precious-metal-prices#/table>.

<sup>7</sup> As noted, the Trust's website currently provides delayed information regarding the spot price of gold.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(1).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> See note 6, *supra*.

of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>14</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that the Exchange represents that the delayed spot price of gold is widely available, including from public websites, and through professional and subscription services, and investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. The Exchange further represents that the delayed spot price of gold available to investors directly from the LBMA's website would be the same as that currently available on the Trust's website and would be equally free of charge. Thus, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>15</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### 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-2022-58 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-2022-58. 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 website (<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 website 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 a.m. and 3 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2022-58 and should be submitted on or before October 11, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

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**BILLING CODE 8011-01-P**

## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2022-0006]

### Rescission of Social Security Acquiescence Ruling 12-1(8)

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Rescission of Social Security Acquiescence Ruling 12-1(8)—*Petersen v. Astrue*, 633 F.3d 633 (8th Cir. 2011)—Whether a National Guard Technician Who Worked in Noncovered Employment Is Exempt from the Windfall Elimination Provision (WEP)—Title II of the Social Security Act.

**SUMMARY:** In accordance with 20 CFR 402.35(b)(2) and 404.985(e)(1), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling (AR) 12-1(8).

**DATES:** We will apply this rescission notice on September 19, 2022.

**FOR FURTHER INFORMATION CONTACT:** Stacey W. Harris, Office of the General Counsel, Office of Program Law, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-9180, or TTY 410-966-5609, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** An AR explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review. As provided by 20 CFR 404.985(e)(1), we will rescind an AR as obsolete and apply our interpretation of the Act or regulations if the Supreme Court overrules or limits a circuit court holding that was the basis of an AR.

On August 27, 2012, we issued AR 12-1(8) to reflect the holding of the United States Court of Appeals for the Eighth Circuit in *Petersen v. Astrue*, 633 F.3d 633 (8th Cir. 2011).<sup>1</sup> The Eighth Circuit held that the Civil Service Retirement System (CSRS) payments to dual-status National Guard technicians are based wholly on work "as a member of" a uniformed service pursuant to 42 U.S.C. 415(a)(7)(A)(III) and therefore qualify for the uniformed services exception to the windfall elimination

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> 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).

<sup>16</sup> 17 CFR 200.30-3(a)(12), (59).

<sup>17</sup> 77 FR 51842, corrected at 77 FR 54646 (September 5, 2012).