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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-72064; File No. SR-NYSEArca-2014-46)

May 1, 2014

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of Fidelity Investment Grade Bond ETF; Fidelity Limited Term Bond ETF; and Fidelity Total Bond ETF under NYSE Arca Equities Rule 8.600

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on April 16, 2014, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On April 30, 2014, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (“Managed Fund Shares”): Fidelity Investment Grade Bond ETF; Fidelity Limited Term Bond ETF; and Fidelity Total Bond ETF. The text of 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.

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

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

<sup>3</sup> See infra note 7.

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

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

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

1. Purpose

The Exchange proposes to list and trade the shares ("Shares") of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares<sup>4</sup>: Fidelity Investment Grade Bond ETF; Fidelity Limited Term Bond ETF; and Fidelity Total Bond ETF (each, a "Fund" and collectively, the "Funds").<sup>5</sup> The Funds are funds of Fidelity Merrimack Street Trust ("Trust"), a Massachusetts business trust.<sup>6</sup>

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<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>5</sup> The Commission has previously approved the listing and trading on the Exchange of other actively managed funds under Rule 8.600. See e.g., Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR-NYSEArca-2009-79) (order approving Exchange listing and trading of five fixed income funds of the PIMCO ETF Trust); 66321 (February 3, 2012) 77 FR 6850 (February 9, 2012) (SR-NYSEArca-2011-95) (order approving Exchange listing and

Fidelity Management & Research Company (“FMR”) will be the Funds’ manager (“Manager”). Fidelity Investments Money Management, Inc. (“FIMM”) and other investment advisers, as described below, will serve as sub-advisers for the Funds (“Sub-Advisers”). FIMM will have day-to-day responsibility for choosing investments for the Fidelity Investment Grade Bond ETF and Fidelity Limited Term Bond ETF. FMR Co., Inc. (“FMRC”) will serve as a sub-adviser for the Fidelity Total Bond ETF. FIMM and FMRC will each have day-to-day responsibility for choosing certain types of investments of foreign and domestic issuers for Fidelity Total Bond ETF. FIMM and FMRC are affiliates of FMR. Other investment advisers, which also are affiliates of FMR, will assist FMR with foreign investments, including Fidelity Management & Research (U.K.) Inc., Fidelity Management & Research (Hong Kong) Limited, and Fidelity Management & Research (Japan) Inc. Fidelity Distributors Corporation (“FDC”) will be the distributor for the Funds’ Shares.<sup>7</sup>

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser will erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company

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trading of PIMCO Total Return ETF); 66670 (March 28, 2012) 77 FR 20087 (April 3, 2012) (SR-NYSEArca-2012-09) (order approving Exchange listing and trading of PIMCO Global Advantage Inflation-Linked Bond Strategy Fund).

<sup>6</sup> The Trust is registered under the 1940 Act. On April 17, 2014, 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) (“1933 Act”) and the 1940 Act relating to the Funds (File Nos. 333-186372 and 811-22796) (the “Registration Statement”). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 30513 (May 10, 2013) (“Exemptive Order”) (File No. 812-14104).

<sup>7</sup> This Amendment No. 1 to SR-NYSEArca-2014-46 replaces SR-NYSEArca-2014-46 as originally filed and supersedes such filing in its entirety.

portfolio.<sup>8</sup> In addition, Commentary .06 further requires that personnel who make decisions on an open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Manager and the Sub-Advisers are not broker-dealers but are affiliated with one or more broker-dealers and have each implemented a fire wall with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the portfolios, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolios. In the event (a) the Manager or any of the Sub-Advisers becomes a registered broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

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<sup>8</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Manager and the Sub-Advisers, and their related personnel, are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

## Fidelity Investment Grade Bond ETF

According to the Registration Statement, Fidelity Investment Grade Bond ETF will seek a high level of current income.

FMR will normally<sup>9</sup> invest at least 80% of the Fund's assets in investment-grade debt securities (those of medium and high quality).<sup>10</sup> The debt securities in which the Fund may invest are corporate debt securities<sup>11</sup>; U.S. Government securities<sup>12</sup>; repurchase agreements and reverse repurchase agreements<sup>13</sup>; money market securities; mortgage and other asset-backed securities<sup>14</sup>;

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<sup>9</sup> The term "normally" as used herein includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. According to the Registration Statement, however, each Fund reserves the right to invest without limitation in investment-grade money market or short-term debt instruments for temporary, defensive purposes.

<sup>10</sup> According to the Registration Statement, investment-grade debt securities include all types of debt instruments that are of medium and high-quality. An investment-grade rating means the security or issuer is rated investment-grade by a credit rating agency registered as a nationally recognized statistical rating organization with the Commission (for example, Moody's Investors Service, Inc.), or is unrated but considered to be of equivalent quality by the relevant Fund's Manager or Sub-Adviser.

<sup>11</sup> According to the Manager, corporate debt securities are bonds and other debt securities issued by corporations and other business structures.

<sup>12</sup> According to the Manager, U.S. Government securities are high-quality securities issued or guaranteed by the U.S. Treasury or by an agency or instrumentality of the U.S. Government. U.S. Government securities may be backed by the full faith and credit of the U.S. Treasury, the right to borrow from the U.S. Treasury, or the agency or instrumentality issuing or guaranteeing the security. Certain issuers of U.S. Government securities, including the Federal National Mortgage Association ("Fannie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac"), and the Federal Home Loan Banks, are sponsored or chartered by Congress but their securities are neither issued nor guaranteed by the U.S. Treasury. U.S. Government securities include mortgage and other asset-backed securities.

<sup>13</sup> According to the Registration Statement, a repurchase agreement is an agreement to buy a security at one price and a simultaneous agreement to sell it back at an agreed-upon

loans<sup>15</sup>; loan participations and loan assignments and other evidences of indebtedness, including letters of credit, revolving credit facilities and other standby financing commitments; structured

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price. Investment-grade debt securities include repurchase agreements collateralized by U.S. Government securities as well as repurchase agreements collateralized by equity securities, non-investment-grade debt, and all other instruments in which a Fund can perfect a security interest, provided the repurchase agreement counterparty has an investment-grade rating. In a reverse repurchase agreement, a fund sells a security to another party, such as a bank or broker-dealer, in return for cash and agrees to repurchase that security at an agreed-upon price and time. According to the Registration Statement, the Funds may engage in repurchase agreement transactions and enter into reverse repurchase agreements with parties whose creditworthiness has been reviewed and found satisfactory by the Manager.

<sup>14</sup> According to the Registration Statement, asset-backed securities represent interests in pools of mortgages, loans, receivables, or other assets. Each Fund may invest in privately issued asset-backed securities. According to the Manager, each Fund may invest up to 20% of its total assets in mortgage-backed securities or in other asset-backed securities, although this 20% limitation will not apply to U.S. Government securities. According to the Registration Statement, the Funds may invest in mortgage securities, which are issued by government and non-government entities such as banks, mortgage lenders, or other institutions. A mortgage security is an obligation of the issuer backed by a mortgage or pool of mortgages or a direct interest in an underlying pool of mortgages. Some mortgage securities, such as collateralized mortgage obligations (or “CMOs”), make payments of both principal and interest at a range of specified intervals; others make semiannual interest payments at a predetermined rate and repay principal at maturity (like a typical bond). Mortgage securities are based on different types of mortgages, including those on commercial real estate or residential properties. Fannie Maes and Freddie Macs are pass-through securities issued by Fannie Mae and Freddie Mac, respectively. Fannie Mae and Freddie Mac, which guarantee payment of interest and repayment of principal on Fannie Maes and Freddie Macs, respectively, are federally chartered corporations supervised by the U.S. Government that act as governmental instrumentalities under authority granted by Congress. Fannie Mae and Freddie Mac are authorized to borrow from the U.S. Treasury to meet their obligations. Fannie Maes and Freddie Macs are not backed by the full faith and credit of the U.S. Government. According to the Registration Statement, to earn additional income for the Funds, FMR may use a trading strategy that involves selling (or buying) mortgage securities and simultaneously agreeing to purchase (or sell) mortgage securities on a later date at a set price.

<sup>15</sup> According to the Registration Statement, the Funds may acquire loans by buying an assignment of all or a portion of the loan from a lender or by purchasing a loan participation from a lender or other purchaser of a participation.

securities<sup>16</sup>; stripped securities<sup>17</sup>; municipal securities; sovereign debt obligations<sup>18</sup>; obligations of international agencies or supranational entities; and other securities believed to have debt-like characteristics, including hybrid securities,<sup>19</sup> which may offer characteristics similar to those of a bond security such as stated maturity and preference over equity in bankruptcy (collectively, “Debt Securities”).<sup>20</sup>

According to the Registration Statement, the Fund may hold uninvested cash or may invest it in cash equivalents such as repurchase agreements, shares of short-term bond exchange

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<sup>16</sup> According to the Registration Statement, structured securities (also called “structured notes”), are derivative debt securities, the interest rate on or principal of which is determined by an unrelated indicator. The Funds may invest in “indexed securities,” which are instruments whose prices are indexed to the prices of other securities, securities indexes, or other financial indicators.

<sup>17</sup> According to the Registration Statement, the Funds may invest in stripped securities, which are the separate income or principal components of a debt security. Stripped mortgage securities are created when the interest and principal components of a mortgage security are separated and sold as individual securities.

<sup>18</sup> According to the Manager, sovereign debt obligations are issued or guaranteed by foreign governments or their agencies, including debt of developing countries. Sovereign debt may be in the form of conventional securities or other types of debt instruments such as loans or loan participations.

<sup>19</sup> According to the Manager, a hybrid security generally combines both debt and equity characteristics. A common type of hybrid security is a convertible bond that has features of a debt security, until a certain date or triggering event, at which point the security may be converted into an equity security. A hybrid security may also be a warrant, convertible security, certificate of deposit or other evidence of indebtedness.

<sup>20</sup> According to the Manager, Debt Securities may be fixed, variable or floating rate securities. Variable rate securities provide for a specific periodic adjustment in the interest rate, while floating rate securities have interest rates that change whenever there is a change in a designated benchmark rate or the issuer’s credit quality, sometimes subject to a cap or floor on such rate. Some variable or floating rate securities are structured with put features that permit holders to demand payment of the unpaid principal balance plus accrued interest from the issuers or certain financial intermediaries. In addition, Debt Securities may include zero coupon bonds. Investments in Debt Securities may have a leveraging effect on a Fund.

traded funds registered under the 1940 Act (“ETFs”),<sup>21</sup> mutual funds or money market funds, including Fidelity central funds (special types of investment vehicles created by Fidelity for use by the Fidelity funds and other advisory clients).<sup>22</sup>

According to the Registration Statement, FMR will use the Barclays U.S. Aggregate Bond Index (the “Aggregate Index”) as a guide in structuring the Fund and selecting its investments. FMR will manage the Fund to have similar overall interest rate risk to the Aggregate Index.

According to the Registration Statement, FMR will consider other factors when selecting the Fund’s investments, including the credit quality of the issuer, security-specific features, current valuation relative to alternatives in the market, short-term trading opportunities resulting from market inefficiencies, and potential future valuation. In managing the Fund’s exposure to various risks, including interest rate risk, FMR will consider, among other things, the market’s overall risk characteristics, the market’s current pricing of those risks, information on the Fund’s competitive universe and internal views of potential future market conditions.

According to the Registration Statement, FMR will allocate the Fund’s assets among different market sectors (for example, corporate, asset-backed, or government securities) and different maturities based on its view of the relative value of each sector or maturity.

According to the Registration Statement, FMR may invest the Fund’s assets in Debt Securities of foreign issuers in addition to securities of domestic issuers.<sup>23</sup>

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<sup>21</sup> For purposes of this filing, ETFs, which will be listed on a national securities exchange, include the following: 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).

<sup>22</sup> According to the Manager, it is currently expected that the Funds will only invest in Fidelity central funds that are money market funds.

<sup>23</sup> The Fund’s holdings are generally expected to be U.S. dollar denominated.



### Fidelity Limited Term Bond ETF

According to the Registration Statement, the Fidelity Limited Term Bond ETF will seek to provide a high rate of income.

FMR normally<sup>24</sup> will invest at least 80% of the Fund's assets in investment-grade Debt Securities (those of medium and high quality).<sup>25</sup>

According to the Registration Statement, the Fund may hold uninvested cash or may invest it in cash equivalents such as repurchase agreements, shares of short-term bond ETFs, mutual funds or money market funds, including Fidelity central funds (special types of investment vehicles created by Fidelity for use by the Fidelity funds and other advisory clients).<sup>26</sup>

According to the Registration Statement, FMR will use the Fidelity Limited Term Composite Index (the "Composite Index") as a guide in structuring the Fund and selecting its investments. FMR will manage the Fund to have similar overall interest rate risk to the Composite Index.

According to the Registration Statement, FMR will consider other factors when selecting the Fund's investments, including the credit quality of the issuer, security-specific features, current valuation relative to alternatives in the market, short-term trading opportunities resulting from market inefficiencies, and potential future valuation. In managing the Fund's exposure to various risks, including interest rate risk, FMR will consider, among other things, the market's overall risk characteristics, the market's current pricing of those risks, information on the Fund's competitive universe and internal views of potential future market conditions.

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<sup>24</sup> See, supra note 9.

<sup>25</sup> See, supra note 10.

<sup>26</sup> See, supra note 22.

According to the Registration Statement, in addition, the Fund will normally maintain a dollar-weighted average maturity between two and five years. In determining a security's maturity for purposes of calculating the Fund's average maturity, an estimate of the average time for its principal to be paid may be used.

According to the Registration Statement, FMR will allocate the Fund's assets among different market sectors (for example, corporate, asset-backed, or government securities) and different maturities based on its view of the relative value of each sector or maturity.

According to the Registration Statement, FMR may invest the Fund's assets in Debt Securities of foreign issuers in addition to securities of domestic issuers.<sup>27</sup>

#### Fidelity Total Bond ETF

According to the Registration Statement, Fidelity Total Bond ETF will seek a high level of current income.

FMR normally<sup>28</sup> will invest at least 80% of the Fund's assets in Debt Securities. FMR will allocate the Fund's assets across investment-grade, high yield, and emerging market Debt Securities. FMR may invest up to 20% of the Fund's assets in lower-quality Debt Securities.<sup>29</sup>

According to the Registration Statement, the Fund may hold uninvested cash or may invest it in cash equivalents such as repurchase agreements, shares of short-term bond ETFs mutual funds or money market funds, including Fidelity central funds (special types of

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<sup>27</sup> See, supra note 23.

<sup>28</sup> See, supra note 9.

<sup>29</sup> According to the Registration Statement, lower-quality debt securities are those of less than investment-grade quality, also referred to as high yield debt securities. Emerging market securities may be investment-grade or less than investment-grade quality. See, supra note 10.

investment vehicles created by Fidelity for use by the Fidelity funds and other advisory clients).<sup>30</sup>

According to the Registration Statement, FMR will use the Barclays U.S. Universal Bond Index (the “Universal Index”) as a guide in structuring the Fund and selecting its investments. FMR will use the Universal Index as a guide in allocating the Fund’s assets across the investment-grade, high yield, and emerging market asset classes. FMR will manage the Fund to have similar overall interest rate risk to the Universal Index.

According to the Registration Statement, FMR will consider other factors when selecting the Fund’s investments, including the credit quality of the issuer, security-specific features, current valuation relative to alternatives in the market, short-term trading opportunities resulting from market inefficiencies, and potential future valuation. In managing the Fund’s exposure to various risks, including interest rate risk, FMR will consider, among other things, the market’s overall risk characteristics, the market’s current pricing of those risks, information on the Fund’s competitive universe and internal views of potential future market conditions.

According to the Registration Statement, FMR may invest the Fund’s assets in Debt Securities of foreign issuers in addition to securities of domestic issuers.<sup>31</sup>

According to the Registration Statement, FMR will allocate the Fund’s assets among different asset classes using the composition of the Universal Index as a guide, and among different market sectors (for example, corporate, asset-backed, or government securities) and different maturities based on its view of the relative value of each sector or maturity.

According to the Registration Statement, in selecting foreign debt securities, FMR’s analysis will also consider the credit, currency, and economic risks associated with the security

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<sup>30</sup> See, supra note 22.

<sup>31</sup> The Fund’s holdings may be U.S. dollar denominated and non-dollar denominated.

and the country of its issuer. FMR may also consider an issuer's potential for success in light of its current financial condition, its industry position, and economic and market conditions.

#### Other Investments

While, as described above, FMR normally<sup>32</sup> will invest at least 80% of assets of the Fidelity Investment Grade Bond ETF and Fidelity Limited Term Bond ETF in investment-grade Debt Securities, and FMR normally will invest at least 80% of assets of the Fidelity Total Bond ETF in Debt Securities, FMR may invest up to 20% of a Fund's assets in other securities and financial instruments, as summarized below.

According to the Registration Statement, the Funds may invest in securities of other investment companies, including, in addition to the short-term bond ETFs described above, shares of ETFs, closed-end investment companies (which include business development companies), unit investment trusts, and open-end investment companies. In addition, the Funds may invest in other exchange-traded products ("ETPs") such as commodity pools, or other entities that are traded on an exchange.<sup>33</sup>

According to the Registration Statement, the Funds may invest in inverse ETFs (also called "short ETFs" or "bear ETFs"), shares of which are expected to increase in value as the value of the underlying benchmark decreases.

According to the Registration Statement, the Funds also may invest in leveraged and inverse leveraged ETFs, which seek to deliver multiples or inverse multiples of the performance

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<sup>32</sup> See, supra note 9.

<sup>33</sup> For purposes of this filing, ETPs include Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500).

of an index or other benchmark they track and use derivatives in an effort to amplify the returns of the underlying index or benchmark.

According to the Registration Statement, the Funds may invest in exchange traded notes (“ETNs”), which are a type of senior, unsecured, unsubordinated debt security issued by financial institutions that combines aspects of both bonds and ETFs.<sup>34</sup> An ETN’s returns are based on the performance of a market index or other reference asset minus fees and expenses. The Funds may invest in leveraged ETNs.

According to the Registration Statement, the Funds may invest in American Depositary Receipts (“ADRs”) as well as other “hybrid” forms of ADRs, including European Depositary Receipts (“EDRs”) and Global Depositary Receipts (“GDRs”), which are certificates evidencing ownership of shares of a foreign issuer.<sup>35</sup> These certificates are issued by depository banks and generally trade on an established market in the United States or elsewhere. The underlying shares are held in trust by a custodian bank or similar financial institution in the issuer’s home country. The depository bank may not have physical custody of the underlying securities at all times and may charge fees for various services, including forwarding dividends and interest and corporate actions. ADRs are alternatives to directly purchasing the underlying foreign securities in their national markets and currencies.

In addition to the investment-grade Debt Securities described above, Fidelity Investment Grade Bond ETF and Fidelity Limited Term Bond ETF may invest in lower-quality Debt

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<sup>34</sup> ETNs are securities such as those described in NYSE Arca Equities Rule 5.2(j)(6).

<sup>35</sup> The Funds will invest only in ADRs, EDRs and GDRs that are traded on an exchange that is a member of the Intermarket Surveillance Group (“ISG”) or with which the Exchange has in place a comprehensive surveillance sharing agreement. See, infra note 63.

Securities.<sup>36</sup> FMR may invest up to 10% of the Fidelity Investment Grade Bond ETF's assets in lower-quality Debt Securities. Lower-quality Debt Securities include all types of debt instruments that have poor protection with respect to the payment of interest and repayment of principal, or may be in default.

According to the Manager, in addition to the investment grade repurchase agreements described above, Investment Grade Bond ETF and Limited Term Bond ETF may invest in repurchase agreements collateralized by U.S. Government securities as well as repurchase agreements collateralized by equity securities, non-investment-grade debt, and all other instruments in which a Fund can perfect a security interest, with repurchase agreement counterparties that do not have an investment-grade rating.

According to the Registration Statement, the Funds may invest in preferred securities.<sup>37</sup> Preferred securities may take the form of preferred stock and represent an equity or ownership interest in an issuer that pays dividends at a specified rate and that has precedence over common stock in the payment of dividends. In the event an issuer is liquidated or declares bankruptcy, the claims of owners of bonds take precedence over the claims of those who own preferred and common stock.

According to the Registration Statement, the Funds may invest in real estate investment trusts ("REITs").<sup>38</sup> REITs issue debt securities to fund the purchase and/or development of commercial properties.

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<sup>36</sup> See, supra note 29. As noted above, Fidelity Total Bond ETF may invest in Debt Securities, including lower-quality debt securities.

<sup>37</sup> According to the Manager, a Fund may invest in exchange-listed or non-exchange-listed preferred securities.

<sup>38</sup> According to the Manager, each Fund may invest in exchange-listed or non-exchange-listed REITs.

According to the Registration Statement, the Funds may invest in restricted securities, which are subject to legal restrictions on their sale. Restricted securities generally can be sold in privately negotiated transactions, pursuant to an exemption from registration under the 1933 Act, or in a registered public offering.

As described in the Registration Statement, FMR may make investments in derivatives,<sup>39</sup> regardless of whether the Fund may own the asset, instrument, currency, or components of the index underlying the derivative, as well as forward-settling securities,<sup>40</sup> as applicable. The Funds' derivative investments may be on Debt Securities, interest rates, currencies, and related indexes. Depending on FMR's outlook and market conditions, FMR may engage, as applicable, in these transactions to increase or decrease a Fund's exposure to changing security prices, interest rates, credit qualities, foreign exchange rates, or other factors that affect security values, or to gain or reduce exposure to an asset, instrument, currency, or index. Currency-related derivatives include foreign exchange ("FX") transactions such as FX forwards, non-deliverable forwards, and cross-currency FX trades ("Currency-related Derivatives").

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<sup>39</sup> According to the Registration Statement, derivatives are investments whose values are tied to an underlying asset, instrument, currency or index. The derivatives in which the Funds may invest are futures (both long and short positions), options (including options on futures and swaps), forwards, and swaps (including interest rate swaps (exchanging a floating rate for a fixed rate)), total return swaps (exchanging a floating rate for the total return of an index, security, or other instrument or investment) and credit default swaps (buying or selling credit default protection). Investments in derivatives may have a leveraging effect on a Fund. Not more than 10% of the net assets of a Fund in the aggregate 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.

<sup>40</sup> According to the Registration Statement, forward-settling securities involve a commitment to purchase or sell specific securities when issued, or at a predetermined price or yield. When a Fund does not already own or have the right to obtain securities equivalent in kind and amount, a commitment to sell securities is equivalent to a short sale. Payment and delivery take place after the customary settlement period.

According to the Registration Statement, the Funds may conduct foreign currency transactions on a spot (i.e., cash) or forward basis (i.e., by entering into forward contracts to purchase or sell foreign currencies). Forward contracts are customized transactions that require a specific amount of a currency to be delivered at a specific exchange rate on a specific date or range of dates in the future. Forward contracts are generally traded in an interbank market directly between currency traders (usually large commercial banks) and their customers. The parties to a forward contract may agree to offset or terminate the contract before its maturity, or may hold the contract to maturity and complete the contemplated currency exchange.

According to the Registration Statement, the Funds may utilize certain currency management strategies involving forward contracts, as described below. The Funds may also use swap agreements, indexed securities, and options and futures contracts relating to foreign currencies for the same purposes. Forward contracts not calling for physical delivery of the underlying instrument will be settled through cash payments rather than through delivery of the underlying currency.

According to the Registration Statement, forward contracts may be used as a “settlement hedge” or “transaction hedge” designed to protect a Fund against an adverse change in foreign currency values between the date a security denominated in a foreign currency is purchased or sold and the date on which payment is made or received. Entering into a forward contract for the purchase or sale of the amount of foreign currency involved in an underlying security transaction for a fixed amount of U.S. dollars “locks in” the U.S. dollar price of the security. Forward contracts to purchase or sell a foreign currency may also be used to protect a Fund in anticipation of future purchases or sales of securities denominated in foreign currency, even if the specific investments have not yet been selected.



According to the Registration Statement, the Funds may also use forward contracts to hedge against a decline in the value of existing investments denominated in a foreign currency. The Funds also may enter into forward contracts to shift its investment exposure from one currency into another. This may include shifting exposure from U.S. dollars to a foreign currency, or from one foreign currency to another foreign currency. This type of strategy, sometimes known as a “cross-hedge,” will tend to reduce or eliminate exposure to the currency that is sold, and increase exposure to the currency that is purchased, much as if a Fund had sold a security denominated in one currency and purchased an equivalent security denominated in another.<sup>41</sup>

According to the Registration Statement, the Funds may invest in options and futures relating to foreign currencies.<sup>42</sup> Currency futures contracts are similar to forward currency exchange contracts, except that they are traded on exchanges (and have margin requirements) and are standardized as to contract size and delivery date. Most currency futures contracts call for payment or delivery in U.S. dollars. The underlying instrument of a currency option may be a foreign currency, which generally is purchased or delivered in exchange for U.S. dollars, or may be a futures contract. The purchaser of a currency call obtains the right to purchase the underlying currency, and the purchaser of a currency put obtains the right to sell the underlying currency.

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<sup>41</sup> According to the Registration Statement, each Fund may cross-hedge its U.S. dollar exposure in order to achieve a representative weighted mix of the major currencies in its benchmark index and/or to cover an underweight country or region exposure in its portfolio. Cross-hedges protect against losses resulting from a decline in the hedged currency, but will cause a Fund to assume the risk of fluctuations in the value of the currency it purchases.

<sup>42</sup> The Funds’ investments in foreign currency options will be exchange traded.

According to the Registration Statement, each Fund may invest in futures.<sup>43</sup>

According to the Registration Statement, the Funds may invest in U.S. exchange-traded as well as over-the-counter (“OTC”) options. Unlike exchange-traded options, which are standardized with respect to the underlying instrument, expiration date, contract size, and strike price, the terms of OTC options generally are established through negotiation with the other party to the option contract. The OTC options in which the Funds may invest will have various types of underlying instruments, including currencies, specific assets or securities, baskets of assets or securities, indexes of securities or commodities prices, and futures contracts (including commodity futures contracts).

According to the Registration Statement, the Funds may also buy and sell options on swaps (swaptions), which are generally options on interest rate swaps. An option on a swap gives a party the right (but not the obligation) to enter into a new swap agreement or to extend, shorten, cancel or modify an existing contract at a specific date in the future in exchange for a premium.

According to the Registration Statement, the Funds may hold swap agreements.<sup>44</sup> Swap agreements can take many different forms and are known by a variety of names, including

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<sup>43</sup> According to the Registration Statement, in purchasing a futures contract, the buyer agrees to purchase a specified underlying instrument at a specified future date. In selling a futures contract, the seller agrees to sell a specified underlying instrument at a specified date. Futures contracts are standardized, exchange-traded contracts and the price at which the purchase and sale will take place is fixed when the buyer and seller enter into the contract. Some currently available futures contracts are based on specific securities or baskets of securities, some are based on commodities or commodities indexes (for funds that seek commodities exposure), and some are based on indexes of securities prices (including foreign indexes for funds that seek foreign exposure) or rates. In addition, some currently available futures contracts are based on Eurodollars. Positions in Eurodollar futures reflect market expectations of forward levels of three-month London Interbank Offered Rate (LIBOR) rates.

<sup>44</sup> According to the Registration Statement, swap agreements are two-party contracts entered into primarily by institutional investors. Cleared swaps are transacted through futures commission merchants that are members of central clearinghouses with the

interest rate swaps (where the parties exchange a floating rate for a fixed rate), asset swaps (e.g., where parties combine the purchase or sale of a bond with an interest rate swap), total return swaps, and credit default swaps.

According to the Registration Statement, a total return swap is a contract whereby one party agrees to make a series of payments to another party based on the change in the market value of the assets underlying such contract (which can include a security or other instrument, commodity, index or baskets thereof) during the specified period. In exchange, the other party to the contract agrees to make a series of payments calculated by reference to an interest rate and/or some other agreed-upon amount (including the change in market value of other underlying assets). A Fund may use total return swaps to gain exposure to an asset without owning it or taking physical custody of it.

According to the Registration Statement, in a credit default swap, the credit default protection buyer makes periodic payments, known as premiums, to the credit default protection seller. In return the credit default protection seller will make a payment to the credit default protection buyer upon the occurrence of a specified credit event. A credit default swap can refer to a single issuer or asset, a basket of issuers or assets or index of assets, each known as the reference entity or underlying asset.

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clearinghouse serving as a central counterparty similar to transactions in futures contracts. In a standard "swap" transaction, two parties agree to exchange one or more payments based, for example, on the returns (or differentials in rates of return) earned or realized on particular predetermined investments or instruments (such as securities, commodities, indexes, or other financial or economic interests). A portion of each Fund's holdings of swap agreements may consist of cleared swaps. The underlier of a cleared swap will depend on the product being cleared. For a cleared interest rate swap, as with previously uncleared interest rate swaps, the underlier will be a designated interest rate indicator. According to the Registration Statement, to limit the counterparty risk involved in swap agreements, a Fund will enter into swap agreements only with counterparties that meet certain standards of creditworthiness.

According to the Registration Statement, the Funds may engage in transactions with financial institutions that are, or may be considered to be, “affiliated persons” of the Funds under the 1940 Act. These transactions may involve repurchase agreements with custodian banks; short-term obligations of, and repurchase agreements with, the 50 largest U.S. banks (measured by deposits); municipal securities; U.S. Government securities with affiliated financial institutions that are primary dealers in these securities; short-term currency transactions; and short-term borrowings. In accordance with exemptive orders issued by the Commission, each Fund’s Board of Trustees has established and periodically reviews procedures applicable to transactions involving affiliated financial institutions.

#### Limitations on Investments

Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Manager or Sub-Advisers.<sup>45</sup> Each 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

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<sup>45</sup> According to the Manager, each Fund does not currently intend to purchase any asset if, as a result, more than 10% of its net assets would be invested in assets that are deemed to be illiquid because they are subject to legal or contractual restrictions on resale or because they cannot be sold or disposed of in the ordinary course of business at approximately the prices at which they are valued. For purposes of a Fund’s illiquid assets limitation discussed above, if through a change in values, net assets, or other circumstances, the Fund were in a position where more than 10% of its net assets were invested in illiquid assets, it would consider appropriate steps to protect liquidity. According to the Registration Statement, various factors may be considered in determining the liquidity of the Fund’s investments, including: (1) the frequency of trades and quotes for the asset; (2) the number of dealers wishing to purchase or sell the asset and the number of other potential purchasers; (3) dealer undertakings to make a market in the asset; and (4) the nature of the asset and the nature of the marketplace in which it trades (including any demand, put or tender features, the mechanics and other requirements for transfer, any letters of credit or other credit enhancement features, any ratings, the number of holders, the method of soliciting offers, the time required to dispose of the security, and the ability to assign or offset the rights and obligations of the asset).

maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.<sup>46</sup>

According to the Registration Statement, each Fund may not with respect to 75% of the Fund's total assets, purchase the securities of any issuer (other than securities issued or guaranteed by the U.S. Government or any of its agencies or instrumentalities, or securities of other investment companies) if, as a result, (a) more than 5% of the Fund's total assets would be invested in the securities of that issuer, or (b) the Fund would hold more than 10% of the outstanding voting securities of that issuer.<sup>47</sup>

According to the Registration Statement, each Fund may not purchase the securities of any issuer (other than securities issued or guaranteed by the U.S. Government or any of its agencies or instrumentalities) if, as a result, more than 25% of the Fund's total assets would be

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<sup>46</sup> The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

<sup>47</sup> The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

invested in the securities of companies whose principal business activities are in the same industry.<sup>48</sup>

According to the Registration Statement, the Trust, on behalf of the Funds, has filed with the National Futures Association a notice claiming an exclusion from the definition of the term “commodity pool operator” (“CPO”) under the Commodity Exchange Act, as amended, and the rules of the Commodity Futures Trading Commission (“CFTC”) promulgated thereunder, with respect to the Funds’ operation. Accordingly, neither the Funds nor their Manager is subject to registration or regulation as a commodity pool or a CPO. However, the CFTC has adopted certain rule amendments that significantly affect the continued availability of this exclusion, and may subject advisers to funds to regulation by the CFTC. Neither the Manager nor any of the Sub-Advisers currently expects to register as a CPO of the Funds. However, there is no certainty that a fund or its adviser will be able to rely on an exclusion in the future as the fund’s investments change over time. A fund may determine not to use investment strategies that trigger additional CFTC regulation or may determine to operate subject to CFTC regulation, if applicable. If the Fund or FMR operates subject to CFTC regulation, it may incur additional expenses.

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<sup>48</sup> See Form N-1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. See, e.g., Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975). According to the Registration Statement, for purposes of each Fund’s concentration limitation discussed above, with respect to any investment in repurchase agreements collateralized by U.S. Government securities, FMR will look through to the U.S. Government securities. For purposes of each Fund’s concentration limitation discussed above, FMR may analyze the characteristics of a particular issuer and security and assign an industry or sector classification consistent with those characteristics in the event that the third-party classification provider used by FMR does not assign a classification.

Any foreign equity securities in which a Fund may invest will be limited to securities that trade in markets that are members of ISG, which includes all U.S. national securities exchanges and certain foreign exchanges, or are parties to a comprehensive surveillance sharing agreement with the Exchange.<sup>49</sup>

According to the Registration Statement, each Fund intends to qualify annually and to elect to be treated as a regulated investment company (“RIC”) under the Internal Revenue Code.<sup>50</sup>

#### Net Asset Value

According to the Registration Statement, each Fund’s net asset value (“NAV”) will be the value of a single Share. The NAV of a Fund will be computed by adding the value of the Fund’s investments, cash, and other assets, subtracting its liabilities, and dividing the result by the number of Shares outstanding.

The value of a Fund’s Shares bought and sold in the secondary market will be driven by market price. The price of these Shares, like the price of all traded securities, will be subject to factors such as supply and demand, as well as the current value of the portfolio securities held by the Fund. Secondary market Shares, available for purchase or sale on an intraday basis, do not have a fixed relationship either to the previous day’s NAV or to the current day’s NAV. Prices in the secondary market, therefore, may be below, at, or above the most recently calculated NAV of such Shares.

According to the Registration Statement, the Board of Trustees has delegated day-to-day valuation oversight responsibilities to FMR. FMR has established the FMR Fair Value Committee (“FMR Committee”) to fulfill these oversight responsibilities.

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<sup>49</sup> See, infra “Surveillance”.

<sup>50</sup> 26 U.S.C. 851.

Generally, portfolio securities and assets held by a Fund will be valued as follows:

In computing each Fund's NAV, such Fund's Debt Securities (including defaulted debt<sup>51</sup> but excluding exchange-traded convertible securities); restricted securities; OTC-traded REITs; OTC-traded preferred securities; and forward-settling securities (collectively, "OTC-Traded Securities") will be valued based on price quotations obtained from a broker-dealer who makes markets in such securities or other equivalent indications of value provided by a third-party pricing service. Any such third-party pricing service may use a variety of methodologies to value some or all of such securities to determine the market price. For example, the prices of securities with characteristics similar to those held by a Fund may be used to assist with the pricing process. In addition, the pricing service may use proprietary pricing models. A Fund's OTC-Traded Securities will generally be valued at bid prices. In certain cases, some of a Fund's OTC-Traded Securities may be valued at the mean between the last available bid and ask prices.<sup>52</sup>

Debt securities with remaining maturities of sixty days or less for which market quotations and information furnished by a pricing service are not readily available will be valued at amortized cost, which approximates current value.

Exchange traded equity securities, including ETFs, ETPs, ETNs, ADRs, EDRs, and GDRs, as well as exchange-traded REITs, exchange-traded preferred securities, and exchange-traded convertible securities, will be valued at market value, which will generally be determined using the last reported official closing or last trading price on the exchange or market on which

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<sup>51</sup> According to the Manager, when a bond defaults and goes into bankruptcy, a market often continues to exist for the bond (normally at a steep discount to its face value). Buyers typically value the defaulted bond based on expected restructuring outcomes or liquidation distributions. Market quotations provided by broker-dealers or pricing services reflect these market indicators.

<sup>52</sup> For example, foreign bonds for which a current bid price was not available would be valued at the mean between the last available bid and ask prices.



the security is primarily traded at the time of valuation or, if no sale has occurred, at the last quoted bid price on the primary market or exchange on which they are traded.

Investment company securities (other than ETFs), including money market funds, central funds, closed end investment companies, unit investment trusts and open- end investment companies will be valued at NAV.

Futures contracts will be valued at the settlement or closing price determined by the applicable exchange. Exchange-traded option contracts, including options on futures and swaps, will be valued at their most recent sale price. If no such sales are reported, these contracts will be valued at their most recent bid price. In certain cases, some of a Fund's exchange-traded derivative securities may be valued at the mean between the last available bid and ask prices.

OTC-traded derivative instruments, including OTC-traded options, swaps, forwards and Currency-related Derivatives, will normally be valued on the basis of quotes obtained from a third party broker-dealer who makes markets in such instruments or on the basis of quotes obtained from an independent third-party pricing service. A Fund's OTC-traded derivative instruments will generally be valued at bid prices. Certain OTC-traded derivative instruments, such as interest rate swaps and credit default swaps, will be valued at the mean price.

Prices described above will be obtained from pricing services that have been approved by the Board of Trustees. A number of independent third party pricing services are available and the Funds may use more than one of these services. A Fund may also discontinue the use of any pricing service at any time. FMR will engage in oversight activities with respect to the Funds' pricing services, which include, among other things, testing the prices provided by pricing services prior to calculation of the Funds' NAV, conducting periodic due diligence meetings, and periodically reviewing the methodologies and inputs used by these services.

Foreign securities and instruments will be valued in their local currency following the methodologies described above. Foreign securities, instruments and currencies will be translated to U.S. dollars, based on foreign currency exchange rate quotations supplied by a pricing service as of the close of the New York Stock Exchange (“NYSE”), which will use a proprietary model to determine the exchange rate.

Forward foreign currency exchange contracts will be valued at an interpolated rate based on days to maturity between the closest preceding and subsequent settlement period. Such interpolated rates are derived from foreign currency exchange rate quotations reported by an independent third-party pricing service.

Other portfolio securities and assets for which market quotations, official closing prices, or information furnished by a pricing service are not readily available or, in the opinion of the FMR Committee, are deemed unreliable will be fair valued in good faith by the FMR Committee in accordance with applicable fair value pricing policies. For example, if, in the opinion of the FMR Committee, a security’s value has been materially affected by events occurring before a Fund’s pricing time but after the close of the exchange or market on which the security is principally traded, that security will be fair valued in good faith by the FMR Committee in accordance with applicable fair value pricing policies. In fair valuing a security, the FMR Committee may consider factors including price movements in futures contracts and ADRs, market and trading trends, the bid/ask quotes of brokers, and off-exchange institutional trading.

#### Creation and Redemption of Shares

According to the Registration Statement, each Fund will issue and redeem Shares on a continuous basis at NAV per Share in aggregations of a specified number of Shares called “Creation Units.” Creation Units generally will be issued in exchange for portfolio securities

and/or cash. Shares will trade in the secondary market at market prices that may differ from the Shares' NAV. Shares will not be individually redeemable, but will be redeemable only in Creation Unit aggregations, and in exchange for portfolio securities and/or cash. A Creation Unit of a Fund initially will consist of a block of 50,000 Shares. The size of a Creation Unit is subject to change. Shareholders who are not "Authorized Participants" (as defined below) will not be able to purchase or redeem Shares directly with or from a Fund.

Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in-kind, under the circumstances set forth in the Exemptive Order.<sup>53</sup>

The Trust will issue and redeem Shares of the Funds only in Creation Units on a continuous basis through FDC, without a sales load, at its NAV next determined after receipt, on any business day, of an order in proper form. To be eligible to place orders to purchase or redeem a Creation Unit of a Fund an entity must be an Authorized Participant which is either (i) a "Participating Party," i.e., broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the National Securities Clearing Corporation ("NSCC"), a clearing agency that is registered with the Commission (the "Clearing Process"); or (ii) a Depository Trust Company ("DTC") participant, and, in each case, must have executed an agreement with FDC with respect to creations and redemptions of Creation Units ("Participant Agreement"). All Shares of the Funds, however created, will be entered on the records of DTC in the name of Cede & Co. for the account of a DTC participant.

The consideration for purchase of a Creation Unit generally will consist of an in-kind deposit of a designated portfolio of securities ("Deposit Securities") together with a deposit of a

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<sup>53</sup> For example, Authorized Participants will be permitted to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Securities or Fund Securities, respectively, if such securities are not eligible for transfer through either the NSCC or DTC process.

specified cash payment (“Cash Component”) computed as described herein. Alternatively, a Fund may issue and redeem Creation Units in exchange for a specified all-cash payment (“Cash Deposit”). Together, the Deposit Securities and the Cash Component or, alternatively, the Cash Deposit, will constitute the “Portfolio Deposit,” which represents the minimum initial and subsequent investment amount for a Creation Unit. In the event a Fund requires Deposit Securities and a Cash Component in consideration for purchasing a Creation Unit, the function of the Cash Component is to compensate for any differences between the NAV per Creation Unit and the Deposit Amount (as defined below). The Cash Component would be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the “Deposit Amount,” which is an amount equal to the market value of the Deposit Securities. A fixed transaction fee is applicable to each purchase of Creation Units, and an additional variable transaction fee may apply under certain circumstances.<sup>54</sup>

Each Fund will make available through the NSCC on each business day, prior to the opening of trading on the NYSE (currently 9:30 a.m. Eastern time), the list of the names and the required number of shares of each Deposit Security and the amount of the Cash Component (or Cash Deposit) to be included in the current Portfolio Deposit (based on information at the end of the previous business day) for the Fund. Such Portfolio Deposit will be applicable, subject to any adjustments as described below, in order to effect purchases of Creation Units until such time as the next-announced Portfolio Deposit composition is made available.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the relevant Fund through the transfer agent

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<sup>54</sup> An additional variable transaction charge will be imposed for purchases effected outside the Clearing Process, which would include purchases of Creation Units for cash and in-kind purchases where the investor is allowed to substitute cash in lieu of depositing a portion of the Deposit Securities.

and only on a business day through an Authorized Participant that has entered into a Participant Agreement. FMR, through NSCC, will make available immediately prior to the opening of trading on NYSE (currently 9:30 a.m. Eastern time) on each business day, the identity of the basket of securities (“Fund Securities”) that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form (as defined below) on that day.

All orders to purchase Creation Units of a Fund must be received by FDC or its agent no later than the closing time of regular trading hours on the NYSE (ordinarily 4:00 p.m. Eastern time), or one hour prior to the closing time (ordinarily 3:00 p.m. Eastern time) in the case of nonconforming orders,<sup>55</sup> in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of shares of the applicable Fund as next determined on such date after receipt of the order in proper form.

The redemption proceeds for a Creation Unit generally will consist of an in-kind transfer of Fund Securities - as announced by a Fund on the business day of the request for redemption received in proper form - plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of the request in proper form, and the value of the Fund Securities (“Cash Redemption Amount”), less a redemption transaction fee and any applicable variable fee. In the event that the Fund Securities have a value greater than the NAV of the Shares being redeemed, a compensating cash payment to the relevant Fund equal to

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<sup>55</sup> A nonconforming order may be placed by an Authorized Participant in the event that a Fund permits the substitution of an amount of cash to be added to the Cash Component to replace any Deposit Security. The Funds reserve the right to permit the substitution of an amount of cash (i.e., a cash in lieu amount) to replace any Deposit Security which may, among other reasons, not be available in sufficient quantity for delivery, not be eligible for transfer through the systems of DTC, the Federal Reserve System or the clearing process, not be permitted to be re-registered in the name of the Trust as a result of an in-kind purchase order pursuant to local law or market convention, restricted under the securities laws or which may not be eligible for trading by an Authorized Participant or the investor for which it is acting.

the differential plus the applicable redemption transaction fee will be required to be made by or through an Authorized Participant by the redeeming shareholder. Notwithstanding the foregoing, the Funds will substitute a cash-in-lieu amount to replace any Fund Security that is a non-deliverable instrument. Non-deliverable instruments will be part of the Cash Component.

An order to redeem Creation Units will be deemed received by a Fund on the transmittal date if such order is received in proper form by the transfer agent not later than 4:00 p.m. Eastern time (or one hour prior to the closing time (ordinarily 3:00 p.m. Eastern time) for nonconforming orders) on such transmittal date and other applicable requirements are met.

The right of redemption may be suspended or the date of payment postponed with respect to a Fund (i) for any period during which the NYSE is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the NYSE is suspended or restricted; (iii) for any period during which an emergency exists as a result of which disposal of the Shares or determination of the relevant Fund's NAV is not reasonably practicable; or (iv) in such other circumstances as is permitted by the Commission.

#### Availability of Information

The Trust's website ([www.fidelity.com](http://www.fidelity.com)), which will be publicly available, will include a form of the prospectus for each of the Funds that may be downloaded. The Trust's website will include additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior business day's NAV and the market closing price or, if that is unavailable, the mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),<sup>56</sup> and a calculation of the premium or discount of the market closing price or,

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<sup>56</sup> The Bid/Ask Price of each Fund's Shares will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the

if that is unavailable, the Bid/Ask Price against the NAV. On each business day, before commencement of trading in Shares in the “Core Trading Session” (9:30 a.m. Eastern time to 4:00 p.m. Eastern time) on the Exchange, each Fund will disclose on the Trust’s website the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600 (c) (2) that will form the basis for that Fund’s calculation of NAV at the end of the business day.<sup>57</sup>

On a daily basis, each Fund will disclose for each portfolio security and other financial instrument of the Fund the following information: ticker symbol (if applicable), name of security or financial instrument, number of shares (if applicable) and dollar value of each of the securities and financial instruments held in the portfolio, and percentage weighting of the security and financial instrument in the portfolio. The website information will be publicly available at no charge.

Investors can also obtain the Trust’s Statement of Additional Information (“SAI”), each Fund’s Shareholder Reports, and its Form N-CSR and Form N-SAR, filed twice a year. The Trust’s SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission’s website at [www.sec.gov](http://www.sec.gov). Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. 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.

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Fund’s NAV. The records relating to Bid/Ask Prices will be retained by each Fund or its service providers.

<sup>57</sup> Under accounting procedures followed by the Funds, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T+1”). Accordingly, each Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

Quotation and last sale information for the Shares and underlying securities that are U.S. exchange listed, including ETFs, ETPs, ETNs, ADRs, EDRs, GDRs, exchange-traded REITs, exchange-traded preferred securities and exchange-traded convertible securities, will be available via the Consolidated Tape Association (“CTA”) high-speed line. Quotation and last sale information for such U.S. exchange-listed securities as well as futures will be available from the exchange on which they are listed. Quotation and last sale information for exchange-listed options will be available via the Options Price Reporting Authority.

Quotation information for OTC-Traded Securities, OTC-traded derivative securities (such as options, swaps, forwards and Currency-related Derivatives), and investment company securities (excluding ETFs), may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. The U.S. dollar value of foreign securities, instruments and currencies can be derived by using foreign currency exchange rate quotations obtained from nationally recognized pricing services.

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.<sup>58</sup> The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the approximate value of the underlying portfolio of each Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

### Trading Halts

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<sup>58</sup> Currently, it is the Exchange’s understanding that several major market data vendors display and/or make widely available Portfolio Indicative Values taken from the CTA or other data feeds.



With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.<sup>59</sup> Trading in Shares of a 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. These may include: (1) the extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the relevant Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted.

#### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, each Fund

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<sup>59</sup> See NYSE Arca Equities Rule 7.12.

will be in compliance with Rule 10A-3<sup>60</sup> under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share of each Fund will be calculated daily and that the NAV and the Disclosed Portfolio<sup>61</sup> of each Fund will be made available to all market participants at the same time.

### Surveillance

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, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>62</sup> The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

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

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and underlying exchange-traded options, futures, exchange-traded equity securities (including ADRs, EDRs, and GDRs), and other exchange-traded instruments with other markets

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<sup>60</sup> 17 CFR 240.10A-3.

<sup>61</sup> The term “Disclosed Portfolio” is defined in NYSE Arca Equities Rule 8.600(c)(2).

<sup>62</sup> FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

and other entities that are members of the ISG and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and underlying exchange-traded options, futures, exchange-traded equity securities (including ADRs, EDRs, and GDRs), and other exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and underlying exchange-traded options, futures, exchange traded-equity securities (including ADRs, EDRs, and GDRs), and other exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>63</sup> In addition, 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 ("TRACE").

Not more than 10% of the net assets of a Fund in the aggregate 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.

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

#### Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) the

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<sup>63</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org). The Exchange notes that not all components of the Disclosed Portfolio for the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

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

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>64</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange

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<sup>64</sup> 15 U.S.C. 78f(b)(5).

pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and underlying exchange-traded options, futures, exchange-traded equity securities (including ADRs, EDRs, and GDRs), and other exchange-traded instruments with other markets and other entities that are members of the ISG and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and underlying exchange-traded options, futures, exchange-traded equity securities (including ADRs, EDRs, and GDRs), and other exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and underlying exchange-traded options, futures, equity securities (including ADRs, EDRs, and GDRs), and other exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, 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 TRACE. The Manager and the Sub-Advisers are not broker-dealers but are affiliated with one or more broker-dealers and have each implemented a fire wall with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the portfolios, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolios. Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A

securities deemed illiquid by the Manager or Sub-Advisers.<sup>65</sup> Any foreign equity securities in which a Fund may invest will be limited to securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. The Funds will invest only in ADRs, EDRs and GDRs that are traded on an exchange that is a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Not more than 10% of the net assets of a Fund in the aggregate 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.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Funds and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares and underlying securities that are U.S. exchange listed, including ETFs, ETPs, ETNs, ADRs, EDRs, GDRs, exchange-traded REITs, exchange-traded preferred securities, and exchange-traded convertible securities, will be available via the CTA high-speed line. Quotation and last sale information for such U.S. exchange-listed securities as well as futures will be available from the exchange on which they are listed. Quotation and last sale information for exchange-listed options will be available via the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing services will be available for Debt Securities; restricted securities;

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<sup>65</sup> See, supra notes 45 and 46, and accompanying text.

OTC-traded REITs; OTC-traded preferred securities; OTC-traded derivative securities, including options, swaps, and Currency-related Derivatives; forwards; and investment company securities (other than ETFs). Moreover, the Portfolio Indicative Value will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, each Fund will disclose on the Trust's website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. The Trust's website will include a form of the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its Exchange Traded [sic] Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted. In addition, as noted above, investors will have ready access to information regarding each Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and

may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding each Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of additional actively-managed exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

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

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments



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

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2014-46 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-2014-46. This file number should be included on the subject line if e-mail 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 10:00 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-2014-46 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>66</sup>

Kevin M. O'Neill  
Deputy Secretary

[FR Doc. 2014-10358 Filed 05/05/2014 at 8:45 am; Publication Date: 05/06/2014]

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<sup>66</sup> 17 CFR 200.30-3(a)(12).