



8011-01
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79706; File No. SR-NASDAQ-2016-180)

December 29, 2016

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Listing and Trading of the Shares of the First Trust Strategic Income ETF of First Trust Exchange-Traded Fund IV

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 16, 2016, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. 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

Nasdaq proposes a proposed rule change relating to the First Trust Strategic Income ETF (the “Fund”) of First Trust Exchange-Traded Fund IV (the “Trust”), the shares of which have been approved by the Commission for listing and trading under Nasdaq Rule 5735 (“Managed Fund Shares”). The shares of the Fund are collectively referred to herein as the “Shares.”

The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com>, at Nasdaq’s principal office, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

In its filing with the Commission, Nasdaq 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 these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects 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 reflect changes to the means of achieving the Fund’s investment objectives. The Commission has approved the listing and trading of Shares under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange.³ The Exchange believes the proposed rule change reflects no significant issues not previously addressed in the Prior Release. The Fund is an actively-managed exchange-traded fund (“ETF”). The Shares are offered by the Trust, which was established as a Massachusetts business trust on September 15, 2010. The Trust, which is registered with the Commission as an investment company under the Investment Company Act of 1940 (the “1940 Act”), has filed a

³ The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR-NASDAQ-2008-039). The Commission previously approved the listing and trading of the Shares of the Fund. See Securities Exchange Act Release No. 72506 (July 1, 2014), 79 FR 38631 (July 8, 2014) (SR-NASDAQ-2014-050) (“Prior Order”). See also Securities Exchange Act Release No. 72169 (May 15, 2014), 79 FR 29247 (May 21, 2014) (SR-NASDAQ-2014-050) (“Prior Notice,” and together with the Prior Order, the “Prior Release”).

registration statement on Form N-1A (“Registration Statement”) relating to the Fund with the Commission.⁴ The Fund is a series of the Trust.

First Trust Advisors L.P. is the investment adviser (“Adviser”) to the Fund. The following serve as investment sub-advisers (each a “Sub-Adviser”) to the Fund: First Trust Global Portfolios Ltd.; Energy Income Partners, LLC; Stonebridge Advisors LLC; and Richard Bernstein Advisors LLC. First Trust Portfolios L.P. is the principal underwriter and distributor of the Fund’s Shares. The Bank of New York Mellon Corporation acts as the administrator, accounting agent, custodian and transfer agent to the Fund.

The Prior Release provided that the primary investment objective of the Fund would be to seek risk-adjusted income and that its secondary objective would be capital appreciation. Additionally, the Prior Release stated that under normal market conditions, the Fund would seek to achieve its investment objectives by following a strategic and tactical asset allocation process that would provide diversified exposure to income-producing asset classes. Further, the Prior Release stated that the Adviser would determine the Fund’s strategic allocation among the following investment categories (the following currently existing investment categories, as well as the proposed new investment category described below, are each referred to as an “Investment Category”) and allocate the Fund’s assets to portfolio management teams comprised of personnel of the Adviser and/or a Sub-Adviser (each such team, with respect to the currently existing Investment Categories as well as the proposed new Investment Category described below, is referred to as a “Management Team”) which would employ their respective investment

⁴ See Post-Effective Amendment No. 140 to Registration Statement on Form N-1A for the Trust, dated February 26, 2016 (File Nos. 333-174332 and 811-22559). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. See also note 5.

strategies: (i) high yield corporate bonds and first lien senior secured floating rate bank loans (referred to as “senior loans”); (ii) mortgage-related investments; (iii) preferred securities (“Investment Category (iii)”); (iv) international sovereign bonds; (v) equity securities of Energy Infrastructure Companies (as defined in the Prior Release) (“Investment Category (v)”); and (vi) dividend paying domestic equity securities and Depository Receipts (as defined in the Prior Release), together with a related Option Overlay Strategy (as defined in the Prior Release) (“Investment Category (vi)”).

The Exchange now proposes to modify the description of the measures utilized to achieve the Fund’s investment objectives. As described in further detail below, these changes would: (1) remove a current limitation on the Fund’s ability to invest in Other ETFs (as defined below) and clarify, modify or delete certain representations to facilitate the Fund’s ability to do so; (2) in conjunction with Investment Category (vi), (a) expand the Fund’s permissible investments in equity securities to include, in addition to the equity securities specified in the Prior Release, dividend paying U.S. exchange-traded equity securities (including common stock) of companies domiciled outside of the United States and U.S. exchange-traded closed-end funds and (b) modify the description of the Option Overlay Strategy (as defined in the Prior Release) so that it provides (x) that the Option Overlay Strategy may be used in connection with any of the Fund’s other investments (as expanded) included in Investment Category (vi) and (y) that options utilized in connection with the Option Overlay Strategy will have one year or less to expiration; and (3) add a new Investment Category (the “New Investment Category”) relating to investments

in equity securities of U.S. exchange-traded mortgage real estate investment trusts (“Mortgage REITs”).⁵

These modifications are being proposed to enhance the flexibility of the Adviser and the Management Teams in pursuing the Fund’s investment objectives. The Adviser represents that there would be no change to the Fund’s investment objectives. Except as provided herein, all other facts presented and representations made in the Prior Release would remain unchanged. The Fund and the Shares would continue to comply with all initial and continued listing requirements under Nasdaq Rule 5735.

The Fund’s Investments in Other ETFs

1. General: Proposal to Remove 50% Limitation

The Prior Release stated that the Fund would seek to provide income and total return by having each Management Team focus on those securities within its respective Investment Category. The Prior Release also stated that the Fund may directly invest in securities covered by the applicable Investment Category or, alternatively, may invest in other ETFs that generally provide exposure to such Investment Category (referred to for purposes of this filing as “Other ETFs”).⁶ Further, the Prior Release included the following statement (the “Other ETFs

⁵ These changes will be effected contingent upon the effectiveness of a post-effective amendment (which has not yet been filed as of the date of this filing) to the Trust’s Registration Statement reflecting such changes. The Adviser represents that the Adviser and the Management Teams will not implement these changes until the instant proposed rule change is operative.

⁶ Other ETFs will be limited to ETFs described in this footnote, consistent with the Prior Release. The Prior Release stated that an ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. In addition, the Prior Release required that any ETFs included in the Fund would be listed and traded in the U.S. on one or more registered exchanges. Further, the Prior Release noted that the ETFs in which the Fund may invest included Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depositary Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as

Statement”): “The Adviser expects that the Fund may at times invest significantly (and, potentially, may invest up to 50% of its net assets) in other ETFs, including but not limited to, other ETFs that are advised by the Adviser; however, the Fund does not intend to operate principally as a ‘fund of funds.’” As a related matter, the Prior Release included an acknowledgment that any other ETFs in which the Fund invests to gain exposure to an Investment Category may be subject to investment parameters that differ in certain respects from those that have been established for such Investment Category.

Going forward, the Exchange proposes to amend the Other ETFs Statement by replacing it with the following: “The Adviser expects that the Fund may at times invest significantly in other ETFs, including but not limited to, other ETFs that are advised by the Adviser; accordingly, the Fund may operate as a ‘fund of funds,’ but will not necessarily operate as such at all times.” Therefore, going forward, in pursuing its investment objectives, the Fund’s investments in Other ETFs would not be limited to 50% of its net assets. The Adviser believes that the proposed modification to the Other ETFs Statement would provide the Management Teams with additional flexibility in managing the assets allocated to their respective Investment Categories and, accordingly, would enhance the ability of the Fund to achieve its investment objectives.⁷

described in Nasdaq Rule 5735). Further, the Prior Release stated that the Fund may invest in inverse ETFs, but would not invest in leveraged or inverse leveraged (e.g., 2X or -3X) ETFs.

⁷ Specific representations, including representations regarding the portion of the Fund’s net assets to be allocated to an Investment Category (the “Allocation Representations”), are set forth in the Prior Release (with respect to the currently existing Investment Categories) and below (with respect to Investment Category (vi), as modified, and the New Investment Category). Investments in Other ETFs intended to gain exposure to an Investment Category will be treated as investments in the securities and other instruments comprising such Investment Category for purposes of the Allocation Representations.

2. Certain Representations

The Adviser has considered the impact of the proposed change to the Other ETFs Statement on various other representations that are set forth in the Prior Release. In this regard, the Adviser notes that although the Prior Release included certain representations that apply to Other ETFs, a number of other representations were designed to apply to direct investments in securities and other instruments rather than to investments in Other ETFs made for the purposes of gaining exposure to Investment Categories. To facilitate the ability of the Fund to pursue its investment objectives by investing in Other ETFs and to clarify the applicability of certain representations, the Exchange is proposing the following:

a. Non-Affiliated Issuers

The Prior Release included the following representation: “The Fund represents that its portfolio will include a minimum of 13 non-affiliated issuers of fixed income securities” (the “13 Issuer Representation”). Consistent with the proposal above to amend the Other ETFs Statement to enhance the Fund’s ability to gain investment exposure through investing in Other ETFs, the Exchange is proposing that going forward, the 13 Issuer Representation be replaced with the following: “The Fund represents that if its portfolio (excluding exempted securities as defined in Section 3(a)(12) of the Act) includes fixed income securities, such portfolio will include a minimum of 13 non-affiliated issuers of fixed income securities; provided, however, that there shall be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the Fund’s net assets consist of equity securities (including without limitation other ETFs). If at least 70% of the Fund’s net assets consist of equity securities (including without limitation other ETFs), no single issuer of fixed income securities (excluding issuers of U.S.

Department of Treasury securities and government-sponsored entity securities) will represent more than 5% of the Fund's net assets.”

b. Exposure to Single Countries

The Prior Release included the following representation with respect to the Fund's exposure to single countries (the “Single Country Representation”): “The Fund's exposure to any single country (outside of the U.S.) will generally be limited to 20% of the Fund's net assets.” To facilitate the Fund's ability to gain investment exposure through investing in Other ETFs (which may provide exposure of varying degrees to one or more countries), as well as to provide the Adviser and the applicable Management Teams with additional flexibility, the Exchange is proposing that going forward, the Single Country Representation be deleted.

c. Representations Applicable to Investment Categories

With respect to each currently existing Investment Category, the Prior Release included statements and representations describing the nature of the securities and other instruments comprising such Investment Category. Statements and representations pertaining to Investment Category (vi), as modified, as well as to the New Investment Category, are set forth below. For the avoidance of doubt, with respect to the currently existing Investment Categories (including Investment Category (vi), as modified) as well as the New Investment Category, such statements and representations shall apply only to the Fund's direct investments in securities and other instruments comprising the applicable Investment Categories and not to holdings by Other ETFs.

As a related matter, with respect to the Fund's investments in particular Investment Categories emphasizing fixed income securities, the Prior Release included certain statements and representations pertaining to, in general terms, issuance amounts and amounts outstanding, as well as credit quality, that were based on percentages of the Fund's investments in specific

types of assets (the “Percentage Representations”).⁸ For the avoidance of doubt, the Percentage Representations shall be based only on the Fund’s direct investments in securities and other instruments without regard to holdings by Other ETFs.

Investment Category (vi)

In connection with Investment Category (vi), the Prior Release stated that the Fund intended to invest between 0% and 30%, but could invest up to 50%, of its net assets in dividend paying U.S. exchange-traded equity securities (including common stock) of companies domiciled in the United States and Depositary Receipts (as defined in the Prior Release). Going forward, the Exchange proposes that the foregoing be revised to provide that the Fund intends to invest between 0% and 30%, but may invest up to 50%, of its net assets in (a) dividend paying U.S. exchange-traded equity securities (including common stock) of companies (that may be domiciled in or outside of the United States) and Depositary Receipts and/or (b) U.S. exchange traded closed end funds.⁹

⁸ In this regard, the Prior Release provided that, under normal market conditions, the Fund would seek to invest at least 75% of its net assets that are invested in high yield corporate bonds and senior loans (in the aggregate) in bonds and loans that, at the time of original issuance, have at least \$100 million par amount outstanding. Similarly, the Prior Release provided that, under normal market conditions, the Fund would seek to invest at least 75% of its net assets that are invested in preferred securities in preferred securities that have a minimum initial issuance amount of at least \$100 million. Additionally, the Prior Release included a statement that the Fund expected that, under normal market conditions, at least 80% of the Sovereign Debt (as defined in the Prior Release) in which it invested would be issued by issuers with outstanding debt of at least \$200 million (or the foreign currency equivalent thereof). With respect to credit quality, the Prior Release provided that at least 50% of the Fund’s net assets that are invested in Sovereign Debt would be invested in securities of issuers rated investment grade at the time of purchase by at least one nationally recognized statistical rating organization and unrated securities judged to be of comparable quality by the Adviser and/or the applicable Management Team.

⁹ The closed-end funds in which the Fund invests (“Closed-End Funds”) will be registered under the 1940 Act and listed and traded in the U.S. on one or more registered exchanges.

In addition, the Prior Release provided that the Fund may use an Option Overlay Strategy in connection with certain of its other investments included in Investment Category (vi), whereby it would write (sell) covered U.S. exchange-traded call options in order to seek additional cash flow in the form of premiums on the options, and that the maturity of the options utilized would generally be between one week and three months. Going forward, the Exchange proposes that (a) the Fund may use its Option Overlay Strategy in connection with any of its other investments (as expanded) included in Investment Category (vi) and (b) the foregoing provision regarding maturity of options be replaced to provide that options utilized in connection with the Option Overlay Strategy will have one year or less to expiration.

New Investment Category Relating to the Fund's Investments in Mortgage REITs.

The Exchange proposes to add the New Investment Category. Accordingly, going forward, the Fund intends to invest between 0% and 30%, but may invest up to 50%, of its net assets in the exchange-traded common shares of U.S. exchange-traded Mortgage REITs. In general terms, a Mortgage REIT makes loans to developers and owners of property and invests primarily in mortgages and similar real estate interests, and includes companies or trusts that are primarily engaged in the purchasing or servicing of commercial or residential mortgage loans or mortgage-related securities, which may include mortgage-backed securities issued by private

Closed-End Funds may invest in securities and instruments of any type. As indicated in the Prior Release, this Investment Category and these percentages do not include investments in preferred securities that are included in Investment Category (iii), investments in those equity securities that are included in Investment Category (v), or investments in Other ETFs that are intended to provide exposure to any of the other Investment Categories. In addition, going forward, this Investment Category and the foregoing percentages shall not include investments in exchange-traded common shares issued by Mortgage REITs, which are included in the New Investment Category described below. Further, going forward, investments in preferred securities issued by Closed-End Funds will be included in this Investment Category and not in Investment Category (iii).

issuers and those issued or guaranteed by U.S. Government agencies, instrumentalities or sponsored entities.

Addition of Mortgage REITs, Closed-End Funds and Dividend Paying U.S. Exchange Traded Equity Securities of Companies Domiciled Outside of the United States as Fund Investments

For purposes of calculating net asset value (“NAV”), exchange-traded common shares of U.S. exchange-traded Mortgage REITs, dividend paying U.S. exchange-traded equity securities of companies domiciled outside of the United States (“Foreign Company Equities”), and shares of Closed-End Funds listed on any exchange other than the Exchange will typically be valued at the last sale price on the exchange on which they are principally traded on the business day as of which such value is being determined. Such equity securities listed on the Exchange will typically be valued at the official closing price on the business day as of which such value is being determined. If there has been no sale on such day, or no official closing price in the case of such equity securities traded on the Exchange, such equity securities will typically be valued using fair value pricing. Such equity securities traded on more than one securities exchange will typically be valued at the last sale price or official closing price, as applicable, on the business day as of which such value is being determined at the close of the exchange representing the principal market for such securities.

Quotation and last sale information for Mortgage REITs, Foreign Company Equities and Closed-End Funds (in addition to the U.S. exchange-traded equity securities referenced in the Prior Release) will be available via the Consolidated Tape Association (“CTA”) high-speed line, and will be available from the national securities exchanges on which they are listed. Pricing information for Closed-End Funds, Foreign Company Equities and Mortgage REITs (in addition to the exchange-traded equity securities referenced in the Prior Release) will be available from the exchanges on which they trade and from major market data vendors.

The Exchange represents that trading in the Shares will continue to be subject to the existing trading surveillances, administered by both Nasdaq and also 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.¹⁰ 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 applicable federal securities laws.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Mortgage REITs, Foreign Company Equities and Closed-End Funds held by the Fund (in addition to the Shares and the other exchange-traded securities and instruments referenced in the Prior Release) with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”)¹¹ and FINRA may obtain trading information regarding trading in the Mortgage REITs, Foreign Company Equities and Closed-End Funds held by the Fund (in addition to the Shares and the other exchange-traded securities and instruments referenced in the Prior Release) from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Mortgage REITs, Foreign Company Equities and Closed-End Funds held by the Fund (in addition to the Shares and the other exchange-traded securities and instruments referenced in the Prior Release) from markets and other entities that

¹⁰ 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.

¹¹ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Disclosed Portfolio (as defined in the Prior Release) may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

At least 90% of the Fund's net assets that are invested in exchange-traded equity securities of both domestic and foreign issuers (including Mortgage REITs, Foreign Company Equities and Closed-End Funds in addition to the other exchange-traded equity securities referenced in the Prior Release), exchange-traded products and exchange-traded derivatives (in the aggregate) will be invested in investments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Except as provided herein, all other facts presented and representations made in the Prior Release will remain unchanged. The Fund will continue to comply with all the initial and continued listing requirements under Nasdaq Rule 5735.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares would continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735 and, except as provided herein, all other facts presented and representations made in the Prior Release would remain unchanged. The Exchange represents that trading in the Shares would be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA, on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal

securities laws. FINRA, on behalf of the Exchange, would communicate as needed regarding trading in the Mortgage REITs, Foreign Company Equities and Closed-End Funds held by the Fund (in addition to the Shares and the other exchange-traded securities and instruments referenced in the Prior Release) with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Mortgage REITs, Foreign Company Equities and Closed-End Funds held by the Fund (in addition to the Shares and the other exchange-traded securities and instruments referenced in the Prior Release) from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Mortgage REITs, Foreign Company Equities and Closed-End Funds held by the Fund (in addition to the Shares and the other exchange-traded securities and instruments referenced in the Prior Release) from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. At least 90% of the Fund's net assets that are invested in exchange-traded equity securities of both domestic and foreign issuers (including Mortgage REITs, Foreign Company Equities and Closed-End Funds in addition to the other exchange-traded equity securities referenced in the Prior Release), exchange-traded products and exchange-traded derivatives (in the aggregate) would be invested in investments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

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 Adviser represents that the purpose of the proposed changes is to provide it and the Management Teams with greater flexibility in meeting the Fund's investment objectives. These changes, which would: (1) remove a current

limitation on the Fund's ability to invest in Other ETFs and clarify, modify or delete certain representations to facilitate the Fund's ability to do so; (2) in conjunction with Investment Category (vi), (a) expand the Fund's permissible investments in equity securities to include, in addition to the equity securities specified in the Prior Release, dividend paying U.S. exchange-traded equity securities (including common stock) of companies domiciled outside of the United States and U.S. exchange-traded closed-end funds and (b) modify the description of the Option Overlay Strategy (as defined in the Prior Release) so that it provides (x) that the Option Overlay Strategy may be used in connection with any of the Fund's other investments (as expanded) included in Investment Category (vi) and (y) that options utilized in connection with the Option Overlay Strategy will have one year or less to expiration; and (3) add the New Investment Category (relating to investments in equity securities of U.S. exchange-traded Mortgage REITs), would be effected contingent upon the effectiveness of a post-effective amendment to the Trust's Registration Statement reflecting such changes and would not be implemented by the Adviser or the Management Teams until the instant proposed rule change is operative. In addition, consistent with the Prior Release, the NAV per Share would continue to be calculated daily and the NAV and the Disclosed Portfolio (as defined in the Prior Release) would continue to be made available to all market participants at the same time.

In addition, a large amount of information would continue to be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Pricing information for Closed-End Funds, Foreign Company Equities and Mortgage REITs (in addition to the exchange-traded equity securities referenced in the Prior Release) would be available from the exchanges on which they trade and from major market data vendors. Moreover, the Intraday Indicative Value (as described in the Prior Release), available on the NASDAQ OMX

Information LLC proprietary index data service, would continue to be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund would continue to disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.

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. As noted above, the additional flexibility to be afforded to the Adviser and the Management Teams under the proposed rule change is intended to enhance their ability to meet the Fund's investment objectives. In addition, the Exchange may obtain information regarding trading in the Mortgage REITs, Foreign Company Equities and Closed-End Funds held by the Fund (in addition to the Shares and the other exchange-traded securities and instruments referenced in the Prior Release) from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will permit the Adviser and the Management Teams to have additional flexibility, thereby helping the Fund to achieve its investment objectives and enhancing 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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

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

IV. Solicitation of Comments

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

Electronic Comments:

¹² 15 U.S.C. 78s(b)(3)(A).

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

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2016-180 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-NASDAQ-2016-180. 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-NASDAQ-2016-180 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.¹⁴

Eduardo A. Aleman
Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).

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