



8011-01

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84732; File No. SR-NYSEArca-2018-40]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change Regarding Investments of the REX BKCM ETF

December 6, 2018

On June 26, 2018, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change seeking to modify certain investments of the REX BKCM ETF, a series of the Exchange Listed Funds Trust, the shares of which are currently listed and traded on the Exchange under NYSE Arca Rule 8.600-E, Managed Fund Shares. The proposed rule change was published for comment in the Federal Register on July 3, 2018.³ On August 14, 2018, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 83546 (June 28, 2018), 83 FR 31214 (July 3, 2018).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 83844 (Aug. 14, 2018), 83 FR 42178 (Aug. 20, 2018).

On September 24, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act⁸ provides that after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on July 3, 2018. December 30, 2018, is 180 days from that date, and February 28, 2019, is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2)

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 84275 (Sept. 24, 2018), 83 FR 49142 (Sept. 28, 2018). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade," and "to protect investors and the public interest." See *id.* at 49143 (citing 15 U.S.C. 78f(b)(5)).

⁸ 15 U.S.C. 78s(b)(2).

of the Act,⁹ designates February 28, 2019, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NYSEArca-2018-40).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Eduardo A. Aleman,
Assistant Secretary.

⁹ Id.

¹⁰ 17 CFR 200.30-3(a)(57).

[FR Doc. 2018-26829 Filed: 12/11/2018 8:45 am; Publication Date: 12/12/2018]