and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the Fund.\(^7\)

8. The Fund will allocate all expenses incurred by it among the various classes of Shares based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of a Fund allocated to a particular class of Shares will be borne on a pro rata basis by each outstanding Share of that class. Applicants state that the Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

9. In the event the Fund imposes a contingent deferred sales charge ("CDSC"), the applicants will comply with the provisions of rule 6c–10 under the Act, as if that rule applied to closed-end management investment companies. With respect to any waiver of, scheduled variation in, or elimination of the CDSC, the Fund will comply with rule 22d–1 under the Act as if the Fund were an open-end investment company.

**Applicants’ Legal Analysis**

**Multiple Classes of Shares**

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of Shares of the Fund may be prohibited by section 18(c).

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that permitting multiple classes of Shares of the Fund may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Fund to issue multiple classes of Shares.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit the Fund to facilitate the distribution of its Shares and provide investors with a broader choice of shareholder options. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies’ multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that the Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

**CDSCs**

1. Applicants believe that the requested relief meets the standards of section 6(c) of the Act. Rule 6c–10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that any CDSC imposed by the Fund will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Fund also will disclose CDSCs in accordance with the requirements of Form N–1A concerning CDSCs as if the Fund were an open-end investment company. Applicants further state that the Fund will apply the CDSC (and any waivers or scheduled variations of the CDSC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act.

**Asset-Based Service and/or Distribution Fees**

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to permit the Fund to impose asset-based service and/or distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

**Applicants’ Condition**

The Fund agrees that any order granting the requested relief will be subject to the following condition: Applicants will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3 and 22d–1 under the Act, as amended from time to time or replaced, as if those rules applied to closed-end management investment companies, and will comply with the NASD Conduct Rule 2830, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O’Neill,
Deputy Secretary.

[FR Doc. 2014–09927 Filed 4–30–14; 8:45 am]

**BILLING CODE 8011–01–P**

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\(^7\) See, e.g., Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions in Certain Mutual Funds and Other Securities, and Other Confirmation Requirement Amendments, and Amendments to the Registration Form for Mutual Funds, Investment Company Act Release No. 26341 (Jan. 29, 2004) (proposing release).

**SECURITIES AND EXCHANGE COMMISSION**


Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of the First Trust Enhanced Short Maturity ETF of First Trust Exchange-Traded Fund IV

April 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934
Fund Shares’). The shares of the Fund under Nasdaq Rule 5735 (‘‘Managed Exchange-Traded Fund IV (the ‘‘Trust’’)) 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.

3 By Amendment No. 1, the Exchange: (1) Clarifies that the Fund (defined below) will limit its investments in asset-backed and non-agency mortgage-backed securities (in the aggregate) to 20% of its net assets; (2) modifies its description of how asset-backed or mortgage-backed securities will be valued in certain circumstances; and (3) makes certain grammatical corrections.

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. 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 list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares. The Fund will be an actively-managed exchange-traded fund (‘‘ETF’’). The Shares will be offered by the Trust, which was established as a Massachusetts business trust on September 15, 2010. The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (‘‘Registration Statement’’) with the Commission.7 The Fund will be a series of the Trust. The Fund intends to qualify each year as a regulated investment company (‘‘RIC’’) under Subchapter M of the Internal Revenue Code of 1986, as amended. First Trust Advisors L.P. will be the investment adviser (‘‘Adviser’’) to the Fund. First Trust Portfolios L.P. (the ‘‘Distributor’’) will be the principal underwriter and distributor of the Fund’s Shares. The Bank of New York Mellon Corporation (‘‘BNY’’) will act as the administrator, accounting agent, custodian and transfer agent to the Fund.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall 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’s portfolio. Paragraph (g) further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund’s portfolio. Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(ii); however, paragraph (g) in connection with the establishment of a ‘‘fire wall’’ between the investment adviser and the broker-dealer reflects

7 See Post-Effective Amendment No. 66 to Registration Statement on Form N–1A for the Trust, dated April 10, 2014 (File Nos. 333–174332 and 811–22559). The descriptions of the Fund and the Shares contained herein are based on information in the Registration Statement.

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 Adviser and its 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 (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

Additionally, the Commission has previously approved the listing and trading of a number of actively-managed funds listed on the Exchange; e.g., Securities Exchange Act Release Nos. 68870 (February 8, 2013), 78 FR 11245 (February 15, 2013) (SR–NYSEArca–2012–130) (order approving listing and trading of First Trust Preferred Securities and Income ETF); 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR–NYSEArca–2011–21) (order approving listing and trading of WisdomTree Global Real Return Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.
the applicable open-end fund’s portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer, although it is affiliated with the Distributor, a broker-dealer. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In addition, personnel who make decisions on the Fund’s portfolio composition will be subject to procedures designed to prevent the unauthorized dissemination of material non-public information regarding the Fund’s portfolio. In the event (a) the Adviser or any sub-adviser becomes, 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 and/or such broker-dealer affiliate, as applicable, 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. The Fund does not currently intend to use a sub-adviser.

First Trust Enhanced Short Maturity ETF

The investment objective of the Fund will be to seek current income, consistent with preservation of capital and daily liquidity. Under normal market conditions, the Fund will seek to achieve its investment objective by investing in a portfolio of U.S. dollar-denominated fixed- and variable-rate instruments (collectively, “Fixed Income Securities”) issued by U.S. and non-U.S. public- and private-sector entities. The Fund will hold Fixed Income Securities of at least 13 non-affiliated issuers.

At least 80% of the Fund’s net assets will be invested in Fixed Income Securities that are, at the time of purchase, investment grade. To be considered “investment grade,” under normal market conditions, short-term securities (generally securities with original maturities of one year or less) held by the Fund and rated by at least one nationally recognized statistical ratings organization (“NRSRO”) will carry, at the time of purchase, a short-term rating in the highest three rating categories of at least one NRSRO (e.g., A–3, P–3 or F–3 or better by Standard & Poor’s Ratings Services, a division of the McGraw-Hill Companies, Inc. (“S&P”), Moody’s Investors Service, Inc. ("Moody’s") or Fitch Ratings (“Fitch”), respectively), and other rated securities will carry, at the time of purchase, a rating in the highest four rating categories of at least one NRSRO (e.g., BBB- or higher by S&P and/or Fitch or Ba3 or higher by Moody’s). For unrated securities to be considered “investment grade,” under normal market conditions, such securities will be determined, at the time of purchase, to be of comparable quality by the Adviser.

Principal Investments

The Fund intends to achieve its investment objective by investing, under normal market conditions, at least 80% of its net assets in a portfolio of U.S. dollar-denominated Fixed Income Securities issued by U.S. and non-U.S. public- and private-sector entities. Fixed Income Securities will include the following types of fixed- and variable-rate debt securities: corporate and government bonds and notes; agency securities; 14 instruments issued by non-U.S. issuers in developed markets, privately-issued securities; 15 asset-backed securities; 16 mortgage-backed securities; 17 municipal bonds; money market securities; 18 and investment companies 19 (including investment companies advised by the Adviser) that invest primarily in the foregoing types of securities.

For the avoidance of doubt, if a security is rated by multiple NRSROs and receives different ratings, the Fund will treat the security as being rated in the highest rating category received from an NRSRO.

For temporary defensive purposes, during the initial invest-up period and during periods of high cash inflows or outflows, the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, the Fund may not be able to achieve its investment objective. The Fund may adopt a defensive strategy when the Adviser believes securities in which the Fund normally invests have elevated risks due to political or economic conditions in and or other extraordinary circumstances.

For these purposes, the term “variable-rate” also includes similar terms such as “floating-rate” and “adjustable-rate.”
of Fixed Income Securities. The Fund will limit its investments in asset-backed securities and non-agency mortgage-backed securities (in the aggregate) to 20% of its net assets.

Under normal market conditions, the Fund’s duration is expected to be below one year and the maturity of the Fund’s portfolio is expected to be below three years.

Other Investments

Under normal market conditions, the Fund will invest primarily in the Fixed Income Securities described above to meet its investment objective. In addition, the Fund may invest up to 20% of its net assets in floating rate loans. The floating rate loans in which the Fund will invest will represent amounts borrowed by companies or other entities from banks and other lenders and a significant portion of such floating rate loans may be rated below investment grade or unrated. Floating rate loans held by the Fund may be senior or subordinated obligations of the borrower and may or may not be secured by collateral. The Fund will generally invest in floating rate loans that the Adviser deems to be liquid with readily available prices; notwithstanding the foregoing, the Fund may invest in floating rate loans that are deemed illiquid so long as the Fund complies with the 15% limitation on investments of its net assets in illiquid assets described below under "Investment Restrictions".

Investment Restrictions

The Fund will not invest 25% or more of the value of its total assets in securities of issuers in any one industry. This restriction does not apply to (a) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities or (b) securities of other investment companies.

The 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 Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund’s net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

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

The liquidity of a security, especially in the case of asset-backed and mortgage-backed securities, is a substantial factor in the Fund’s security selection process. Consistent with the discussion below under “Investment Restrictions,” the Fund will not purchase any Fixed Income Securities (including asset-backed securities and mortgage-backed securities) that, in the Adviser’s opinion, are illiquid if, as a result, more than 15% of the value of the Fund’s net assets will be invested in illiquid assets.

See Amendment No. 1, supra note 3. For the avoidance of doubt, there is no limitation on the Fund’s investments in agency mortgage-backed securities.

Duration is a measure of the expected price volatility of a debt instrument as a result of changes in market rates of interest, based on, among other factors, the weighted average timing of the instrument’s expected principal and interest payments. Duration differs from maturity in that it considers a security’s yield, coupon payments, principal payments, call features and coupon adjustments in addition to the amount of time until the security finally matures.

Maturity is measured relative to the type of security. For Fixed Income Securities (exclusive of asset-backed securities and mortgage-backed securities), maturity shall be calculated using dollar-weighted average maturity, which is calculated by taking the average length of time to maturity. For asset-backed securities and mortgage-backed securities, maturity shall be calculated using weighted average life, which is the estimated time to principal paydown for each underlying instrument held by the Fund, weighted according to the relative holdings per instrument.

The NAV of the Fund’s Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4:00 p.m., Eastern time (the “NAV Calculation Time”). NAV per Share will be calculated by dividing the Fund’s net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating the Fund’s NAV, see the Registration Statement.
Because there is less reliable, objective information regarding respects like an over-the-counter transaction that function in many individually negotiated private and sold by institutional investors in transactions. Such securities will typically be bought and valuation (i) obtained from an exchange, an independent pricing service (“Pricing Service”), or a major market maker (or dealer) or (ii) based on a price quotation or other equivalent indication of value supplied by an exchange, a Pricing Service, or a major market maker (or dealer). The information summarized below is based on the Valuation Procedures as currently in effect; however, as noted above, the Valuation Procedures are amended from time to time and, therefore, such information is subject to change.

Certain securities in which the Fund may invest will not be listed on any securities exchange or board of trade. Such securities will typically be bought and sold by institutional investors in individually negotiated private transactions that function in many respects like an over-the-counter secondary market, although typically no formal market makers will exist. Certain securities, particularly debt securities, will have few or no trades, or trade infrequently, and information regarding a specific security may not be widely available or may be incomplete. Accordingly, determinations of the fair value of debt securities may be based on infrequent and dated information. Because there is less reliable, objective data available, elements of judgment may play a greater role in valuation of debt securities than for other types of securities. Typically, debt securities (other than those described below) will be valued using information provided by a Pricing Service. Debt securities having a remaining maturity of 60 days or less when purchased will be valued at cost adjusted for amortization of premiums and accretion of discounts. Overnight repurchase agreements will be valued at cost and term repurchase agreements (i.e., those whose maturity exceeds seven days) will be valued at the average of the bid quotations obtained daily from at least two recognized dealers.

Asset-backed and mortgage-backed securities will generally be valued by using a Pricing Service. If a Pricing Service does not cover a particular asset-backed or mortgage-backed security, or discontinues covering a particular asset-backed or mortgage-backed security, the security will be priced using broker quotes generally provided by brokers that make or participate in markets in the security. To derive values, Pricing Services and broker-dealers may use matrix pricing and valuation models, as well as recent market transactions for the same or similar assets. Occasionally, the Adviser’s pricing committee (the “Pricing Committee”) may determine that a Pricing Service price does not represent an accurate value of an asset-backed or mortgage-backed security. Such securities may be valued using fair value pricing, as described below.

Equity securities listed on any exchange other than the Exchange will 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. Equity securities listed on the Exchange will 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 securities traded on the Exchange, the securities will be valued using fair value pricing, as described below. Equity securities traded on more than one securities exchange will 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. Certain securities may not be able to be priced by pre-established pricing methods. Such securities may be valued by the Trust Board or its delegate at fair value. The use of fair value pricing by the Fund will be governed by the Valuation Procedures and conducted in accordance with the provisions of the 1940 Act. Valuing the Fund’s securities using fair value pricing will result in using prices for those securities that may differ from current market valuations or official closing prices on the applicable exchange.

Availability of Information

The Fund’s Web site (www.ftportfolios.com), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include the Shares’ ticker, Cusip and exchange information along with additional quantitative information updated on a daily basis, including, for the Fund: (1) Daily trading volume, the prior business day’s reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the “Bid/Ask Price”), and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio securities in which the Fund is invested. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

28See Amendment No. 1, supra note 3.
of securities, and other assets (the “Disclosed Portfolio” as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund’s calculation of NAV at the end of the business day. The Disclosed Portfolio will include, as applicable, the names, quantities, percentage weightings and market values of the portfolio securities, and other assets held by the Fund. The Web site information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the “Intraday Indicative Value,” that reflects an estimated intraday value of the Fund’s Disclosed Portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service, will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. The Intraday Indicative Value will be based on quotes and closing prices from the securities’ local market and may not reflect events that occur subsequent to the local market’s close. Premiums and discounts between the Intraday Indicative Value and the market price may occur. This should not be viewed as a “real time” update of the NAV per Share of the Fund, which is calculated only once a day.

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

Investors will also be able to obtain the Fund’s Statement of Additional Information (“SAI”), the Fund’s annual and semi-annual reports (together, “Shareholder Reports”), and its Form N–CSR and Form N–SAR, filed twice a year. The Fund’s SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission’s Web site at 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. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association (“CTA”) plans for the Shares. Intraday executable price quotations on Fixed Income Securities and other assets not traded on an exchange will be available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. Additionally, the Trade Reporting and Compliance Engine (“TRADE”) of the Financial Industry Regulatory Authority (“FINRA”) will be a source of price information for certain Fixed Income Securities held by the Fund, including mortgage-backed securities and asset-backed securities. For exchange-traded assets, intraday pricing information will be available directly from the applicable listing exchange.

[sic] and, for exchange-traded assets, such intraday information will be available directly from the applicable listing exchange. Intraday price information will also be available through subscription services, such as Bloomberg, Markit, and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions and taxes will be included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change will be defined in the Registration Statement.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act. A minimum of 100,000 Shares 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 will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

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 the Fund. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading 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 other assets constituting the Disclosed Portfolio of the 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 also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq’s existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m., Eastern time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will 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 rules.
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.

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 the exchange-traded securities held by the Fund with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG") and FINRA may obtain trading information regarding trading in the Shares and the exchange-traded securities held by the Exchange from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities held by the Exchange 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. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain Fixed Income Securities held by the Fund reported to FINRA’s TRACE.

All of the Fund’s net assets that are invested in exchange-traded equity securities will be invested in securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

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

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund’s Web site.

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.

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 pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange represents that trading in the Shares will 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.

The Adviser is not a broker-dealer, although it is affiliated with the Distributor, a broker-dealer, and is required to implement a “fire wall” with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund’s portfolio. In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the open-end fund’s portfolio.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-traded securities held by the Fund with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares and the exchange-traded securities held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities held by the Fund 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. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain Fixed Income Securities held by the Fund reported to FINRA’s TRACE. All of the Fund’s net assets that are invested in exchange-traded equity securities will be invested in securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The investment objective of the Fund will be to seek current income, consistent with preservation of capital and daily liquidity. Under normal market conditions, the Fund will seek to achieve its investment objective by investing in a portfolio of U.S. dollar-denominated Fixed Income Securities. At least 80% of the Fund’s net assets will be invested in Fixed Income Securities that are, at the time of purchase, investment grade. The Fund intends to limit its investments in asset-backed securities and non-agency mortgage-backed securities (in the aggregate) to 20% of its net assets and does not intend to invest in derivatives. The Fund may hold up to an aggregate amount of 15% of its assets in illiquid assets (calculated at the time of investment), including Rule 144A
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 facilitate the listing and trading of an additional type of actively-managed exchange-traded fund 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

Written comments were neither solicited nor received.

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 Exchange consents, the Commission shall: (a) By order approve or disapprove such 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 email to rule-comments@sec.gov. Please include File Number SR–NASDAQ–2014–041 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–2014–041. This file number should be included on the subject line if email is used. To help the Commission process and review your comments, comments should be presented in a manner that avoids the use of proprietary data and confidential statements.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72026; File No. SR–NYSE–2014–09] Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change To Adopt the Bond Trading License and the Bond Liquidity Provider Programs Pursuant to NYSE Rules 87 and 88

April 25, 2014.

I. Introduction

On February 27, 2014, New York Stock Exchange LLC (“NYSE” 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–42 of a proposed rule change that would provide for a bond trading license (“BTL”) for member organizations that desire to trade only debt securities on the Exchange and that would establish a new class of market participants called bond liquidity providers (“BLPs”). The proposal was published for comment in the Federal Register on March 14, 2014.3 The Commission received no comments on the proposal. This order approves the proposed rule change.4

II. Description of the Proposal

A. Bond Trading License

The Exchange proposes to establish a trading license for its member organizations to trade only debt securities on the Exchange. Generally, to effect any transaction on the Exchange, a member organization must obtain a trading license pursuant to NYSE Rule 300. Under proposed NYSE Rule 87, the Exchange may issue a BTL to any approved member organization to effectuate bond transactions on the Exchange. The BTL would not be transferrable and could not be assigned, sublicensed, or leased.5

B. Bonds Liquidity Providers

Proposed NYSE Rule 88 would provide for a class of market participants called BLPs. The Exchange would provide BLPs with incentives, in the form of rebates, for quoting and for providing liquidity with respect to bonds to which they have been assigned.

1. Qualifications

To qualify as a BLP, an Exchange member organization would have to demonstrate an ability to meet the quoting requirement described below. In addition, an Exchange member organization would need to have mnemonics that identify to the Exchange BLP trading activity in assigned BLP bonds. Finally, an Exchange member organization would need to have adequate trading infrastructure and technology to support electronic trading.

2. Application Process

To become a BLP, an Exchange member organization would be required to submit an application form with supporting documentation to the Exchange. The Exchange would review the application and determine whether the applicant was qualified to be a BLP. In the event an applicant were disapproved or disqualified as a BLP, the applicant could request an appeal or reapply three months after the month in which the applicant received the disapproval or disqualification notice from the Exchange.

3. Matching of BLPs and Issuers

Only one BLP would be assigned with respect to the bonds of a single issuer. Prior to the commencement of the program, the Exchange would match issuers with approved BLPs. For issuers that have at least one debt issue with current outstanding principal of at least $500 million, each BLP would select the issuers it will represent in the program, with the order of selection among BLPs determined by lottery. For issuers that do not have any debt issue with current outstanding principal of at least $500 million, each BLP would submit a list of issuers and bonds it would be willing to represent. The BLP that is willing to represent the most bonds for a given issuer would be matched to that issuer. In the event of a tie, the BLP with the highest lottery number from the first round of matching would be matched with the issuer.

After the commencement of the program, on a monthly basis, BLPs would be able to apply for unrepresented issuers. The BLP willing to represent the most debt issuances of any given unrepresented issuer would be awarded status as a BLP for that issuer, with ties resolved by lottery.

A BLP would be required, with respect to an assigned issuer, to represent each debt issuance of that issuer that has an outstanding principal of $500 million or more. A BLP could, but would not be required to, represent any debt issuance with a smaller outstanding principal amount. If a BLP were representing a debt issuance that was above $500 million but fell below that level, or if a BLP had been voluntarily representing an issuance below the $500 million level where the outstanding principal amount had since been reduced, the BLP would be...