OCC’s margin policy, as described above, are designed to reduce the risk that clearing member margin assets would be insufficient should OCC need to use such assets to close-out positions of a defaulted clearing member. The changes are also designed to facilitate OCC to timely meet its settlement obligations because the change will diminish the likelihood that a large percentage of the value of a defaulting clearing member’s margin assets would not be available to OCC to cover losses in the event of a clearing member default. Therefore, the proposed (i) promotes robust risk management (including risk management of concentration risk and wrong-way risk), (ii) promotes safety and soundness, (iii) reduces systemic risks (including those caused by concentration risk and wrong-way risk), and (iv) supports the stability of the broader financial system.

III. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(J) of the Payment, Clearing and Settlement Supervision Act,25 that the Commission DOES NOT OBJECT to the proposal in OCC’s advance notice (SR–OCC–2014–803) and OCC is AUTHORIZED to implement the proposal as of the date of this notice or the date of an order by the Commission approving a proposed rule change that reflects rule changes that are consistent with the proposal in this advance notice (SR–OCC–2014–14), whichever is later.

By the Commission.

Kevin O’Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of Shares of the Validea Market Legends ETF of the ETF Series Solutions ETF Trust

October 31, 2014.

I. Introduction

On September 11, 2014, The NASDAQ Stock Market LLC (“NASDAQ” 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, a proposed rule change to list and trade the shares ("Shares") of the Validea Market Legends ETF ("Fund") under Nasdaq Rule 5735. The proposed rule change was published for comment in the Federal Register on September 26, 2014.3 The Commission received no comments on the proposed rule change. On October 28, 2014, the Exchange filed Amendment No. 1 to the proposed rule change.4 The Commission is approving the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of Proposed Rule Change

The Exchange proposes to list and trade the Shares pursuant to Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the ETF Series Solutions Trust ("Trust"), which was established as a Delaware business trust on February 9, 2012.5 The Fund is a series of the Trust. Validea Capital Management, LLC will be the investment adviser ("Adviser") to the Trust.6 Quasar Distributors, LLC will be the principal underwriter and distributor of the Fund’s Shares. U.S. Bancorp Fund Services, LLC ("USBFS") will act as the administrator, accounting agent, and transfer agent to the Fund. U.S. Bank National Association will act as the custodian to the Fund.

The Exchange has made the following representations and statements in describing the Fund and its principal investments, other investments, and investment restrictions.7

Principal Investments of the Fund

According to the Exchange, the Fund’s primary investment objective is to achieve capital appreciation, with a secondary focus on income. The Fund is a non-diversified, actively-managed exchange-traded fund ("ETF") that will pursue its objectives by investing primarily at least 80% of its assets under normal market conditions,6 in U.S. exchange-listed equity securities of U.S. companies and foreign equity securities traded on a U.S. exchange as American Depositary Receipts ("ADRs").8 The Fund’s investment in ADRs may include ADRs representing companies in emerging markets. With respect to its investments in exchange-listed common stocks and ADRs, the Fund will invest in such securities that trade in markets that are members of the Intermarket Surveillance Group ("ISG").
The Fund may invest in the securities of companies of any market capitalization, but the Adviser expects that the Fund will have a bias toward small-cap and mid-cap companies. The Adviser also expects to limit the Fund’s investment in any individual economic sector to no more than 40% of the Fund’s total assets.

The Exchange notes that the Adviser will select securities using a proprietary quantitative and fundamentals-based system that evaluates investment opportunities based on the published investment strategies of legendary investors whose investment strategies have generally been subject to significant academic or media analysis, such as Warren Buffett, Peter Lynch, and David Dreman. The Adviser’s system incorporates 17 stock selection models, each intended to replicate the strategy of a legendary investor. The models incorporate over 300 unique fundamental metrics of companies, including measures relating to profitability, valuation, growth, cash flow, financing, and past performance, among others. The Adviser scores over 6,000 companies based on the metrics of its investor models and expects that the Fund will generally hold approximately 100 securities.

According to the Exchange, the Adviser’s system, using historical data, evaluates the long term performance, risks, and correlation of each model, and blends some or all of the models to identify the composite strategy that the Adviser believes is most likely to achieve the Fund’s investment objectives while reducing volatility. By utilizing various stock picking methods in the creation of the composite strategy, the Adviser will seek to reduce the volatility of the Fund’s returns in different market environments and limit investment style specific risk.

The Exchange notes that the Adviser expects that the Fund will regularly update or “rebalance” the securities that it holds, but no more often than once every 28 days and at least 5 times per year. On each such date, securities whose scores no longer meet the Fund’s requirements will be removed and replaced with higher scoring securities. A stock will only be sold in between rebalance dates if the stock has significantly underperformed the overall market since the time the stock was purchased.

Other Investments and Restrictions

While the Fund, under normal circumstances, will invest at least 80% of its net assets in U.S. exchange-listed equity securities, the Fund may invest the remaining assets in a variety of other securities in support of its primary investment strategy, including, but not limited to: (a) equity securities traded over-the-counter; (b) equity securities of other U.S. registered investment companies, including open-end mutual funds, money market mutual funds and exchange-traded funds; and (c) money market instruments.

While the Fund will generally invest in sponsored ADRs that are listed on ISG member exchanges and that the Adviser deems as liquid, in certain limited circumstances, as stated above, the Fund may invest in unlisted or unsponsored ADRs or ADRs that the Adviser deems illiquid at the time of purchase or for which pricing information is not readily available. The issuers of unlisted or unsponsored ADRs are not obligated to disclose material information in the United States. As such, according to the Exchange, there may be less information available regarding such issuers and there may be no correlation between available information and the market value of the ADRs.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities or other illiquid assets (calculated at the time of investment).

The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether 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.

The Fund may not invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction does not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or securities of other registered investment companies.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange’s proposal to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act, which requires, among other things, that the Exchange’s rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act, which sets forth Congress’ finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services and via the Consolidated Tape Association plans for the Shares. In addition, an estimated value, defined in Nasdaq Rule 5735(c)(3) as the “Intraday Indicative Value,” will be available on the

Continued
NASDQ OMX Information LLC, proprietary index data service and will be updated, widely disseminated, and broadly displayed at least every 15 seconds during the Regular Market Session.\textsuperscript{19} On each business day, before commencement of trading in Shares in the Regular Market Session\textsuperscript{20} on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio, as defined in Nasdaq Rule 5735(c)(2), that will form the basis for the Fund’s calculation of NAV at the end of the business day.\textsuperscript{21} A basket composition file, which price may change, quantity names, amounts, and share quantities, as applicable, required to be delivered in exchange for the Fund’s Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of Nasdaq via the National Securities Clearing Corporation. 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.\textsuperscript{22}

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 any underlying exchange-traded products will be available via the quote and trade service of their respective primary exchanges. Intra-day, executable price quotations on the securities and other assets held by the Fund will be available from major broker-dealer firms. Intra-day price information on the securities and other assets held by the Fund will also be available through subscription or free services that can be accessed by Authorized Participants and other investors: (a) Pricing information for exchange-traded equity securities; investment company securities; exchange-traded ADRs; or other exchange-traded securities will be publicly available from the Web sites of the exchanges on which they trade,\textsuperscript{23} on public financial Web sites, and through subscription services such as Bloomberg and Thompson Reuters; and (b) pricing information regarding over-the-counter ADRs and certain investment company securities) and money market instruments, will be available through subscription services such as Markit.

\textsuperscript{21} On a daily basis, the Fund will disclose the Intraday Indicative Value and the market price may change, quantity names, amounts, and share quantities, as applicable, required to be delivered in exchange for the Fund’s Shares, together with estimates and actual cash components, as the Intraday Indicative Value should not be viewed as a “real time” update of the NAV per Share of the Fund, which is calculated only once a day.

\textsuperscript{22} Exchange-traded equities, exchange-traded ADRs, and other exchange-traded securities will be valued at the official closing price on their principal exchange or board of trade, or lacking any current reported sale at the end of the day, at the mean between the most recent bid and asked quotations. Equity securities traded on the Exchange will be valued on the closing price of the security on its principal exchange or board of trade. Portfolio securities traded on more than one 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. Equity securities traded over-the-counter and ADRs traded over-the-counter will be valued at the mean between the most recent bid and asked quotations received from pricing services; if the most recent bid and asked quotations are not available, these securities will be valued in accordance with the Fund’s fair valuation procedures. Money market instruments with maturities of less than 60 days will be valued at amortized cost; money market instruments with longer maturities will be valued at the mid-point of the bid-ask prices. Investment company shares will be valued at NAV, unless the shares are exchange-traded, in which case they will be valued at the last sale or official closing price on the market on which they primarily trade.

\textsuperscript{23} In addition, the Exchange states that the Adviser is not registered as a broker-dealer and is not affiliated with a broker-dealer and has no present intent or arrangement to become newly affiliated with any broker-dealer. The Fund does not currently intend to use a sub-adviser.\textsuperscript{26}
The Exchange represents that trading in the Shares will be subject to the existing trading surveillance arrangements, administered by both Nasdaq and 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. Prior to the commencement of trading, the Exchange states that it will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange’s existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made the following representations:

1. The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

2. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

3. The Exchange’s surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to detect and deter violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund, which include ADRs, exchange-listed investment companies, or other exchange-traded securities with other markets and other entities that are 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 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.

The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA’s performance under this regulatory services agreement.

members of ISG, and FINRA may obtain trading information regarding trading in the Shares and such exchange-traded equities held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and such exchange-traded equities held by the Fund from markets and other entities that are members of ISG, and 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 Trade Reporting and Compliance Engine.

4. Not more than 10% of the net assets of the Fund, in the aggregate, will be invested in (a) unlisted or unsponsored ADRs, (b) ADRs not listed on an exchange that is a member of ISG or a party to a comprehensive surveillance sharing agreement with the Exchange, or (c) unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

5. 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: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) the dissemination of information regarding the Intraday Indicative Value through major index service providers such as NASDAQ OMX proprietary index data services or other major market proprietary index services; (d) 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; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (f) trading information; and (g) the dissemination of the Disclosed Portfolio though the Fund’s Web site.

6. For initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.

7. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). 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.

8. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange’s representations, including those set forth above and in the Notice, and the Exchange’s description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASDAQ–2014–090), as modified by Amendment No. 1 thereto, be, and it hereby is, approved. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

Kevin M. O’Neill,
Deputy Secretary.

[FR Doc. 2014–26343 Filed 11–5–14; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Commercial Space Transportation Licensing Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our

