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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14]

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

- 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–2017–095 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–095. This file number should be included on the subject line if email 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 Web site (*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 Web site 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–2017–095 and should be submitted on or before October 20, 2017.

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20886 Filed 9–28–17; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81686; File No. SR–NYSEArca–2017–05]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 2 and 3 Thereto, To List and Trade Shares of Direxion Daily Crude Oil Bull 3x Shares and Direxion Daily Crude Oil Bear 3x Shares Under NYSE Arca Equities Rule 8.200

September 22, 2017.

I. Introduction

On January 23, 2017, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of Direxion Daily Crude Oil Bull 3x Shares and Direxion Daily Crude Oil Bear 3x Shares (individually, ''Fund,'' and, collectively, ''Funds'') Under NYSE Arca Equities Rule 8.200. The proposed rule change was published for comment in the **Federal Register** on February 7, 2017.[3] On March 16, 2017, 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] On May 5, 2017, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] On June 23, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[7] On July 27, 2017, the Commission designated a longer period for Commission action on the proposed rule change.[8] On August 1, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[9] On September 19, 2017, the Exchange filed Amendment No. 3 to the proposed rule change.[10] The Commission has received

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79916 (February 1, 2017), 82 FR 9608.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 80265, 82 FR 14778 (March 22, 2017).

[6] *See* Securities Exchange Act Release No. 80606, 82 FR 22042 (May 11, 2017). 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 22043.

[7] Amendment No. 1, which amended the replaced the original filing in its entirety, is available on the Commission's Web site at: *https://www.sec.gov/comments/sr-nysearca-2017-05/nysearca201705-1822806-154288.pdf.*

[8] *See* Securities Exchange Act Release No. 81224, 82 FR 36030 (August 2, 2017).

[9] In Amendment No. 2, which amended and replaced the proposed rule change, as modified by Amendment No. 1 thereto, in its entirety, the Exchange: (1) Supplemented its descriptions of the Funds' investments in over-the-counter transactions and Short-Term Investments; (2) supplemented its description of the calculation of the daily value of each Fund's net asset value (''NAV''); (3) provided information regarding the calculation and dissemination of the Indicative Fund Value of the Funds; (4) added a representation regarding the dissemination of the Benchmark; (5) clarified the information that will be made available on the Funds' Web site regarding the Funds and their portfolio holdings; (6) supplemented its description of the Exchange's surveillance procedures; (7) represented that the applicability of Exchange listing rules specified in the proposed rule change shall constitute continued listing requirements for listing the Shares on the Exchange; (8) clarified the type of information that will be available in the Information Bulletin regarding the Funds' portfolio holdings; and (9) made other technical changes. Amendment No. 2 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues. Amendment No. 2 to the proposed rule change is available on the Commission's Web site at: *https://www.sec.gov/comments/sr-nysearca-2017-05/nysearca201705-2161993-157780.pdf.*

[10] In Amendment No. 3, which partially amended the proposed rule change, as modified by Amendment No. 2 thereto, the Exchange made representations regarding the size and liquidity of the oil contract market. Amendment No. 3 is not subject to notice and comment because it does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

Continued

no comments on the proposed rule change. This order grants approval of the proposed rule change, as modified by Amendment Nos. 2 and 3 thereto.

II. Exchange's Description of the Proposal [11]

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 8.200, Commentary .02, which governs the listing and trading of Trust Issued Receipts.[12] Each Fund is a series of the Direxion Shares ETF Trust II (''Trust''), a Delaware statutory trust.[13] The Trust and the Funds are managed and controlled by Direxion Asset Management, LLC (''Sponsor''). The Sponsor is registered as a commodity pool operator with the Commodity Futures Trading Commission (''CFTC'') and is a member of the National Futures Association. Bank of New York Mellon will be the custodian and transfer agent for the Funds. U.S. Bancorp Fund Services, LLC serves as administrator for the Funds, and Foreside Fund Services, LLC serves as the distributor of the Funds.

Overview of the Funds

The investment objective of Direxion Daily Crude Oil Bull 3X Shares is to seek, on a daily basis, investment results that correspond (before fees and expenses) to a multiple of three times (3x) of the daily performance of the Bloomberg WTI Crude Oil Subindex, a subindex of the Bloomberg Commodity Index (''Benchmark'').[14] The investment objective of Direxion Daily Crude Oil Bear 3X Shares is to seek, on a daily basis, investment results that correspond (before fees and expenses) to three times (3x) the inverse of the performance of the Benchmark. The Benchmark is intended to reflect the performance of crude oil as measured by the price of West Texas Intermediate crude oil futures contracts traded on the New York Mercantile Exchange (''NYMEX''), including the impact of rolling, without regard to income earned on cash positions. The Funds will not be directly linked to the ''spot'' price of crude oil. The Exchange states that a Fund will not seek to achieve its investment objective over a period greater than a single trading day.[15]

In seeking to achieve the Funds' investment objectives, the Sponsor will utilize a mathematical approach to determine the type, quantity, and mix of investment positions that the Sponsor believes, in combination, should produce daily returns consistent with the Funds' respective objectives. The Sponsor will rely on a pre-determined model to generate orders that result in repositioning the Funds' investments in accordance with their respective investment objectives.

Investments of the Funds

Each Fund will seek to achieve its respective investment objective by investing, under normal market conditions,[16] substantially all of its assets in oil futures contracts traded in the U.S. and listed options on such contracts (collectively, ''Futures Contracts''). The Funds' investments in Futures Contracts will be used to produce economically ''leveraged'' or ''inverse leveraged'' investment results for the Funds.

In the event position, price, or accountability limits are reached with respect to Futures Contracts,[17] each Fund may obtain exposure to the Benchmark through investment in swap transactions and forward contracts referencing such Benchmark or other benchmarks the Sponsor believes should be closely correlated to the performance of each Fund's benchmark such as the Energy Select Sector Index or the S&P Oil & Gas Exploration & Production Select Industry Index (''Financial Instruments''). To the extent that the Trust invests in Financial Instruments, it would first make use of exchange-traded Financial Instruments, if available. If an investment in exchange-traded Financial Instruments is unavailable, then the Trust would invest in Financial Instruments that clear through derivatives clearing organizations that satisfy the Trust's criteria, if available. If an investment in cleared Financial Instruments is unavailable, then the Trust would invest in other Financial Instruments, including uncleared Financial Instruments in the over-the-counter (''OTC'') market. The Funds may also invest in Financial Instruments if the market for a specific futures contract experiences emergencies (*e.g.,* natural disaster, terrorist attack, or an act of God) or disruptions (*e.g.,* a trading halt or a flash crash) that prevent or make it impractical for a Fund to obtain the appropriate amount of investment exposure using Futures Contracts.

The Exchange represents that each Fund will enter into swap agreements and other OTC transactions only with large, established, and well capitalized financial institutions that meet certain credit quality standards and monitoring policies. The Exchange states that each Fund will use various techniques to minimize credit risk including early termination or reset and payment, using different counterparties and limiting the net amount due from any individual counterparty.[18]

Although the Funds will invest such that each Fund's exposure to the Benchmark will consist substantially of

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Amendment No. 3 to the proposed rule change is available on the Commission's Web site at: *https://www.sec.gov/comments/sr-nysearca-2017-05/nysearca201705-2583842-161105.pdf.*

[11] A more detailed description of the Funds, the Shares, and the Benchmark, as well as investment risks, creation and redemption procedures, NAV calculation, availability of values and other information regarding the Funds' portfolio holdings, and fees, among other things, is included in the Registration Statement (as defined herein), as well as Amendment No. 2 to the proposed rule change, as applicable. *See infra* note 13, and *supra* note 9, respectively.

[12] Commentary .02 to NYSE Arca Equities Rule 8.200 applies to Trust Issued Receipts that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[13] The Trust is registered under the Securities Act of 1933 (''Securities Act''). According to the Exchange, on December 14, 2016, the Trust filed with the Commission a registration statement on Form S–1 under the Securities Act relating to the Funds (File No. 333–215091) (''Registration Statement'').

[14] According to the Exchange, the Bloomberg WTI Crude Oil Subindex is a ''rolling index,'' which means that the index does not take physical possession of any commodities. The Exchange states that futures contracts held by the Funds near expiration are generally closed out and replaced by contracts with a later expiration as required by the Bloomberg WTI Crude Oil Subindex. The Exchange states that this process is referred to as ''rolling.'' *See* Amendment No. 2, *supra* note 9, at 5 n.6–7.

[15] According to the Exchange, a single trading day is measured from the time a Fund calculates its NAV to the time of a Fund's next NAV calculation. The Exchange states that the return of a Fund for a period longer than a single trading day is the result of its return for each day compounded over the period and thus will usually differ from a Fund's multiple times the return of the Benchmark for the same period. *See id.* at 5 n.8–9.

[16] The term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. *See id.* at 6 n.10.

[17] According to the Exchange, U.S. futures exchanges have established accountability levels and position limits on the maximum net long or net short Futures Contracts in commodity interests that any person or group of persons under common trading control (other than as a hedge, which an investment by a Fund is not) may hold, own or control. These levels and position limits apply to the Futures Contracts that each Fund would invest in to meet its investment objective. In addition to accountability levels and position limits, U.S. futures exchanges also set daily price fluctuation limits on Futures Contracts. The daily price fluctuation limit establishes the maximum amount that the price of a Futures Contract may vary either up or down from the previous day's settlement price. *See id.* at 7–8.

[18] *See id.* at 6–7.

Futures Contracts, the Funds' remaining net assets may be invested in cash or cash equivalents and/or U.S. Treasury securities or other high credit quality, short-term fixed-income or similar securities (such as shares of money market funds and collateralized repurchase agreements, collectively, ''Short-Term Investments'') for direct investment or as collateral for the Funds' investments.

The Funds do not intend to hold Futures Contracts through expiration, but instead intend to either close or ''roll'' their respective positions. When the market for these contracts is such that the prices are higher in the more distant delivery months than in the nearer delivery months, the sale during the course of the ''rolling process'' of the more nearby contract would take place at a price that is lower than the price of the more distant contract.[19]

The Exchange states that the Funds do not expect to have leveraged exposure greater than three times (3x) the Funds' net assets. Thus, the maximum margin held at a Future Commission Merchant would not exceed three times the margin requirement for either Fund.[20] The Exchange represents that not more than 10% of the net assets of a Fund in the aggregate invested in Futures Contracts shall consist of Futures Contracts whose principal market is not a member of the Intermarket Surveillance Group (''ISG'') or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement (''CSSA'').[21]

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 Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[22] In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 2 and 3 thereto, is consistent with Section 6(b)(5) of the Exchange Act,[23] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, 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 also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[24] 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.

According to the Exchange, quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA''). Quotation information for Short-Term Investments and OTC swaps may be obtained from brokers and dealers who make markets in such instruments, and intra-day price information for forward contracts will be available from major market data vendors. Quotation information for exchange-traded swaps will be available from the applicable exchange and major market vendors. The intraday, closing prices, and settlement prices of the Futures Contracts will be readily available from the applicable futures exchange Web sites, automated quotation systems, published or other public sources, or major market data vendors. Complete real-time data for the Futures Contracts also is available by subscription through on-line information services. ICE Futures U.S. and NYMEX also provide delayed futures and options on futures information on current and past trading sessions and market news free of charge on their respective Web sites. The specific contract specifications for Futures Contracts would also be available on such Web sites, as well as other financial informational sources.

The Funds' Web site will display the applicable end of day closing NAV. Each Fund's total portfolio composition will be disclosed on the Funds' Web site each business day that the Exchange is open for trading. The Funds' Web site also will include a form of the prospectus for the Funds that may be downloaded. The Web site will include the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for each Fund.[25] The Web site disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the name, quantity, value, expiration and strike price of Futures Contracts and Financial Instruments, (ii) the counterparty to and value of Financial Instruments, and (iii) the aggregate net value of the Short-Term Investments held in each Fund's portfolio, if applicable.

The Benchmark will be disseminated by one or more major market data vendors every 15 seconds during the NYSE Arca Core Trading Session of 9:30 a.m. to 4:00 p.m. Eastern Time (''E.T.''). The Indicative Fund Value (''IFV'')[26] will be widely disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session Share will be widely disseminated by one or more major market data vendors every 15 seconds during the Exchange's Core Trading Session.[27] Each Fund will compute its NAV at 2:30 p.m. E.T., which is the designated closing time of

[19] The Exchange states that the pattern of higher futures prices for longer expiration Futures Contracts is referred to as ''contango.'' Alternatively, when the market for these contracts is such that the prices are higher in the nearer months than in the more distant months, the sale during the course of the ''rolling process'' of the more nearby contract would take place at a price that is higher than the price of the more distant contract. The Exchange states that the pattern of higher futures prices for shorter expiration Futures Contracts is referred to as ''backwardation.'' According to the Exchange, the presence of contango in certain Futures Contracts at the time of rolling could adversely affect a Fund with long positions, and positively affect a Fund with short positions. Similarly, the Exchange states that the presence of backwardation in certain Futures Contracts at the time of rolling such contracts could adversely affect a Fund with short positions and positively affect a Fund with long positions. *See id.* at 7.

[20] *See id.* at 8.

[21] *See id.* at 13.

[22] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[25] The Funds' Web site will include (1) daily trading volume, the prior business day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the bid/ask spread at the time of NAV calculation (''Bid/Ask Price'') against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters.

[26] The IFV will be calculated by using the prior day's closing net assets of a Fund as a base and updating throughout the Exchange's Core Trading Session of 9:30 a.m. E.T. to 4:00 p.m. E.T. changes in the value of the Futures Contracts and Financial Instruments held by a Fund based on the most recently available prices for the Fund's investments. According to the Exchange, circumstances may arise in which the NYSE Arca Core Trading Session is in progress, but trading in Futures Contracts is not occurring. Such circumstances may result from reasons including, but not limited to, a futures exchange having a separate holiday schedule than the NYSE Arca, a futures exchange closing prior to the close of the NYSE Arca, price fluctuation limits being reached in a Futures Contract, or a futures exchange, imposing any other suspension or limitation on trading in a Futures Contract. In such instances, for IFV calculation purposes, the price of the applicable Futures Contracts, as well as Financial Instruments whose price is derived from the Futures Contracts, would be static or priced by the Fund at the applicable early cut-off time of the exchange trading the applicable Futures Contract. *See* Amendment No. 2, *supra* note 9, at 7 n.13.

[27] The Exchange notes that several major market data vendors display and/or make widely available IFVs taken from the CTA or other data feeds. *See id.*

the crude oil futures market on NYMEX,[28] or if the New York Stock Exchange (''NYSE'') closes earlier than 2:30 p.m. E.T., each Fund will compute its NAV at the time the NYSE closes. The NAV for the Funds' Shares will be disseminated daily to all market participants at the same time.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. If the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. Further, the Exchange may halt trading during the day in which an interruption to the dissemination of the IFV or the value of the Benchmark occurs. If the interruption to the dissemination of the IFV or the value of the Benchmark persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.[29] Moreover, trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit (''ETP'') Holders acting as registered market makers in Trust Issued Receipts to facilitate surveillance.

The Commission notes that the Exchange or the Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain Futures Contracts with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain Futures Contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain Futures Contracts from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA.[30] The Exchange is also able to obtain information regarding trading in the Shares, the physical commodities underlying Futures Contracts through ETP Holders, in connection with such ETP Holders' proprietary or customer trades which they effect through ETP Holders on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions (including transactions in cash-settled options on Futures Contracts) occurring on U.S. futures exchanges, which are members of the ISG.

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange represented that:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.200.

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

(3) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

(4) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The risks involved in trading the Shares during the Early and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (b) the procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (c) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (d) how information regarding the IFV is disseminated; (e) how information regarding portfolio holdings is disseminated; (f) that a static IFV will be disseminated, between the close of trading on the ICE Futures U.S. and NYMEX and the close of the NYSE Arca Core Trading Session; (g) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (h) trading information.

(5) For initial and continued listing, each Fund will be in compliance with Rule 10A–3 under the Act,[31] as provided by NYSE Arca Equities Rule 5.3.

(6) Each Fund will seek to achieve its respective investment objective by investing, under normal market conditions, substantially all of its assets in Futures Contracts. In the event position, price or accountability limits are reached with respect to Futures Contracts, each Fund may obtain exposure to the Benchmark through investments in Financial Instruments. To the extent that the Trust invests in Financial Instruments, it would first make use of exchange-traded Financial Instruments, if available. If an investment in exchange-traded Financial Instruments is unavailable, then the Trust would invest in Financial Instruments that clear through derivatives clearing organizations that satisfy the Trust's criteria, if available. If an investment in cleared Financial Instruments is unavailable, then the Trust would invest in other Financial Instruments, including uncleared Financial Instruments in the OTC market.

(7) The oil contract market is of significant size and liquidity, and has average daily volume of 650,000 contracts and daily open interest of 450,000 contracts. The Sponsor is registered as a commodity pool operator with the CFTC and is a member of the National Futures Association, and the Information Bulletin will reference that the CFTC has regulatory jurisdiction over the trading of Futures Contracts traded on U.S. markets.

(8) Not more than 10% of the net assets of a Fund in the aggregate invested in Futures Contracts shall consist of Futures Contracts whose principal market is not a member of the

[28] The Exchange states that the daily value of the NAV is calculated as of 2:30 p.m. E.T. to coincide with the designated closing time. Futures Contracts, however, continue to trade past 2:30 p.m. E.T. and through the end of the NYSE Arca Core Trading Session at 4:00 p.m. E.T. *See id.* at 8 n.12.

[29] *See id.* at 13.

[30] For a list of the current members of ISG, *see www.isgportal.org.* According to the Exchange, not all components of a Fund may trade on markets that are members of ISG or with which the Exchange has in place a CSSA. *See id.* at 13 n.18.

[31] 17 CFR 240.10A–3.

ISG or is a market with which the Exchange does not have a CSSA.

(9) Each Fund will enter into swap agreements and other OTC transactions only with large, established and well capitalized financial institutions that meet certain credit quality standards and monitoring policies. Each Fund will use various techniques to minimize credit risk including early termination or reset and payment, using different counterparties and limiting the net amount due from any individual counterparty.

(10) A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange.

The Exchange represents that all statements and representations made in this filing regarding (a) the description of the portfolios of the Funds or Benchmark, (b) limitations on portfolio holdings or the Benchmark, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Funds to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements.[32] If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

This approval order is based on all of the Exchange's representations and description of the Funds, including those set forth above and in Amendment No. 2 to the proposed rule change. The Commission notes that the Shares must comply with the requirements of NYSE Arca Equities Rule 8.200 and Commentary .02 thereto to be listed and traded on the Exchange on an initial and continuing basis.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 2 and 3 thereto, is consistent with Section 6(b)(5) of the Act[33] 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 Exchange Act,[34] that the proposed rule change (SR–NYSEArca–2017–05), as modified by Amendment Nos. 2 and 3 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20896 Filed 9–28–17; 8:45 am]

BILLING CODE 8011–01–P

[32] The Commission notes that certain other proposals for the listing and trading of Managed Fund Shares include a representation that the exchange will "surveil" for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428 (April 7, 2016) (Notice of Filing of Amendment No. 2, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the SPDR DoubleLine Short Duration Total Return Tactical ETF of the SSgA Active Trust), available at: *http://www.sec.gov/rules/sro/bats/2016/34-77499.pdf.* In the context of this representation, it is the Commission's view that "monitor" and "surveil" both mean ongoing oversight of the Fund's compliance with the continued listing requirements. Therefore, the Commission does not view "monitor" as a more or less stringent obligation than "surveil" with respect to the continued listing requirements.

[33] 15 U.S.C. 78f(b)(5).

[34] 15 U.S.C. 78s(b)(2).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81713; File No. SR–NYSEArca–2017–109]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Rule 14.2 To Make Technical and Conforming Updates in Connection With the Recent Merger of NYSE Arca Equities, Inc. With and Into the Exchange

September 25, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 12, 2017, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend NYSE Arca Rule 14.2 (Liability of Exchange) to make technical and conforming updates in connection with the recent merger of NYSE Arca Equities, Inc. ("NYSE Arca Equities") with and into the Exchange.

The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to amend NYSE Arca Rule 14.2 to make technical and conforming updates in connection with the recent merger of its wholly-owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities") with and into the Exchange (the "Merger").

On June 2, 2017, the Exchange filed rule changes with the Securities and Exchange Commission ("Commission") in connection with the proposed Merger (the "Original Filing").[4] On August 15, 2017, the Exchange filed a partial amendment to the Original Filing (the "Amendment"), which, among other things, amended the Original Filing to reflect changes to the proposed rule text that resulted from changes to the NYSE Arca and NYSE Arca Equities rules that became operative after June 2, 2017.[5] On

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 80929 (June 14, 2017), 82 FR 28157 (June 20, 2017) (SR–NYSEArca–2017–40) ("Notice").

[5] *See* Partial Amendment 2 to SR–NYSEArca–2017–40 (August 15, 2017). The Amendment also was submitted to the Commission as a comment letter on the Original Filing. *See* letter from Martha Redding, Associate General Counsel, NYSE Group, to Brent J. Fields, Secretary, Commission (August 15, 2017), available at *https://www.sec.gov/*

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