

By the Commission.

**Eduardo A. Aleman,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82066; File No. SR-NYSEArca-2017-85]

### Self-Regulatory Organizations; NYSEArca, Inc.; Notice of Filing of Amendment No. 3, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, To Amend NYSE Arca Rule 8.700-E and To List and Trade Shares of the ProShares European Volatility Futures ETF

November 13, 2017.

#### I. Introduction

On July 28, 2017, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to: (1) Amend NYSE Arca Rule 8.700-E to expand the list of financial instruments that may be held by a trust that issues Managed Trust Securities; and (2) to list and trade shares (“Shares”) of the ProShares European Volatility Futures ETF (“Fund”) under proposed amended NYSE Arca Rule 8.700-E. The proposed rule change was published for comment in the **Federal Register** on August 16, 2017.<sup>3</sup> On September 21, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the original filing in its entirety. On September 26, 2017, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup> On November 2, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and replaced in its

entirety the proposed rule change as modified by Amendment No. 1. On November 9, 2017, the Exchange filed Amendment No. 3 to the proposed rule change.<sup>6</sup> The Commission has received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 3 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 3 on an accelerated basis.

#### II. Summary of the Proposed Rule Change, as Modified by Amendment No. 3<sup>7</sup>

The Exchange proposes to amend NYSE Arca Rule 8.700-E to add the VSTOXX as a reference asset to the futures contracts and swaps that may be held by trusts that issue Managed Trust Securities.<sup>8</sup> NYSE Arca Rule 8.700-E

<sup>6</sup> In Amendment No. 3, the Exchange: (1) Represented that the EURO STOXX 50 Volatility Index (“VSTOXX”) levels will be widely disseminated by major market data vendors on a real-time basis throughout each trading day; (2) expanded its representation regarding when the sponsor would erect a “fire wall” to include the circumstance where the sponsor becomes a broker-dealer and represented that the sponsor will maintain the “fire wall” it implemented regarding access to information concerning the composition and/or changes to the Fund’s portfolio; (3) narrowed the list of the Fund’s permitted investments to exclude forwards; (4) described the Fund’s policies concerning swap counterparties; (5) analyzed the impacts on arbitrage of the 9 a.m. Eastern Time creation and redemption order deadline and 11:30 a.m. Eastern Time net asset value (“NAV”) calculation time; (6) represented that, to the extent that the sponsor permits an exchange of a futures contract for a related position or block trade with the Fund, such transactions will be effected on that day in the same manner for all authorized participants; (7) supplemented its description of the Fund’s NAV calculation methodology and the availability of price information for the Fund’s permitted investments; (8) modified its description of the Indicative Optimized Portfolio Value (“IOPV”) methodology; (9) provided information regarding the dissemination of the NAV and the availability of pricing for the EURO STOXX 50 Index (“Index”), VSTOXX, and the Fund’s benchmark; (10) represented that its surveillance procedures are adequate to continue to properly monitor the trading of the Managed Trust Securities that hold futures on VSTOXX (“Futures Contracts”) and/or swaps on VSTOXX in all trading sessions and to deter and detect violations of Exchange rules; (11) clarified where Futures Contracts are listed; (12) clarified the Fund’s primary investment objective; and (13) made certain technical changes. Amendment No. 3 is available on the Commission’s Web site at: <https://www.sec.gov/comments/sr-nysearca-2017-85/nysearca201785-2678502-161479.pdf>.

<sup>7</sup> Additional information regarding the Shares and the Trust, including investment strategies, risks, NAV calculation, creation and redemption procedures, fees, Trust (as defined herein) holdings, and taxes, among other information, is included in Amendment No. 3, *supra* note 7, and the Registration Statement, *infra* note 12.

<sup>8</sup> Managed Trust Security is a security that is registered under the Securities Act of 1933 (15 U.S.C. 77a), as amended (the “Securities Act”), and (1) is issued by a trust that (a) is a commodity pool

governs the listing and trading of Managed Trust Securities on the Exchange. Additionally, the Exchange proposes to list and trade the Shares under the proposed rule.

#### A. Proposed Amendments to NYSE Arca Rule 8.700-E

The Exchange proposes to amend NYSE Arca Rule 8.700-E (c)(1) to add the VSTOXX as a reference asset to the futures contracts and swaps that may be held by trusts that issue Managed Trust Securities.

The VSTOXX is a non-investable index that seeks to measure the volatility of the Index over a future time horizon as implied by the price of option contracts on the Index.<sup>9</sup> It is based on real-time prices of options on the Index listed on the Eurex Exchange (“Eurex”),<sup>10</sup> and is designed to reflect the market expectations of near-term up to long-term volatility by measuring the square root of the implied variances across all options of a given time to expiration. The Index includes 50 stocks that are among the largest free-float market capitalization stocks from 11 Eurozone countries.<sup>11</sup> STOXX Limited (“STOXX”) computes the Index on a real-time basis throughout each trading day, from 3:50 a.m. until 12:30 p.m. Eastern Time. The Index value is widely disseminated by major market data vendors on a real-time basis throughout each trading day.

Futures Contracts are cash settled and trade exclusively on Eurex between the hours of 2:30 a.m. and 5:30 p.m. Eastern

as defined in the Commodity Exchange Act (7 U.S.C. 1), and that is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (b) holds long and/or short positions in exchange-traded futures contracts and/or certain currency forward contracts and/or swaps selected by the trust’s advisor consistent with the trust’s investment objectives, which will only include, exchange-traded futures contracts involving commodities, commodity indices, currencies, currency indices, stock indices, fixed income indices, interest rates and sovereign, private and mortgage or asset backed debt instruments, and/or forward contracts on specified currencies, and/or swaps on stock indices, fixed income indices, commodity indices, commodities, currencies, currency indices, or interest rates, each as disclosed in the trust’s prospectus as such may be amended from time to time, and cash and cash equivalents; and (2) is issued and redeemed continuously in specified aggregate amounts at the next applicable NAV. See NYSE Arca Rule 8.700-E (c)(1).

<sup>9</sup> The VSTOXX does not measure the actual volatility of the Index.

<sup>10</sup> Eurex is a member of the Intermarket Surveillance Group (“ISG”) and, as such, the Exchange may obtain information regarding trading in the futures contracts on VSTOXX listed by Eurex.

<sup>11</sup> The countries are: Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 81373 (August 10, 2017), 82 FR 38973.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 81721, 82 FR 45922 (October 2, 2017) (designating November 11, 2017 as the date by which the Commission will approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change).

Time.<sup>12</sup> The value of these futures contracts is 100 Euros per index point of the underlying, and it is traded to two decimal places with a minimum price change of 0.05 points (equivalent to a value of 5 Euros). The daily settlement price of these futures contracts is determined during the closing auctions. The last trading day and final settlement day is 30 calendar days prior to the third Friday of the expiration month of the underlying options, which is usually the Wednesday prior to the second to last Friday of the respective maturity month. Information regarding the VSTOXX and the overlying futures can be found on STOXX's Web site and the Eurex Web site, respectively.

### B. The Listing and Trading of the Shares

The Exchange proposes to list and trade the Shares under proposed NYSE Arca Rule 8.700–E. The Fund will be a commodity pool that is a series of the ProShares Trust II (“Trust”).<sup>13</sup> The Fund's sponsor, ProShare Capital Management LLC (“Sponsor”), is registered as a commodity pool operator and is affiliated with a Financial Industry Regulatory Authority (“FINRA”)–registered broker-dealer. Brown Brothers Harriman & Co. will be the administrator, custodian and transfer agent of the Fund and the Shares. SEI Investments Distribution Co. (“SEI”) will be the distributor for the Shares. The Fund's primary investment objective will be to provide long exposure to lead-month Futures Contracts, and the Fund will use the Futures Contracts as a performance benchmark (“Benchmark”). The Fund will be actively managed and will have a secondary investment objective to outperform the Benchmark by actively managing the “rolling” of its Futures Contracts.<sup>14</sup>

Under normal market conditions,<sup>15</sup> the Fund generally will seek to remain fully invested at all times in lead-month Futures Contracts in a manner consistent with its investment objectives without regard to market conditions, trends, or direction.<sup>16</sup> The Fund will

invest the remainder of its un-invested assets in high-quality, short-term debt instruments that have terms-to-maturity of less than 397 days, such as U.S. government securities and repurchase agreements (“Money Market Instruments”).

Under limited circumstances, the Fund also may invest in swap contracts (“Swap Contracts”) that reference the Benchmark. In the event position price or accountability limits are reached with respect to lead month Futures Contracts, the Sponsor may, in its commercially reasonable judgment, cause the Fund to invest in Swap Contracts.<sup>17</sup> The Fund may also invest in Swap Contracts if the market for a specific Futures Contract experiences an emergency (e.g., natural disaster, terrorist attack or an act of God) or disruption (e.g., a trading halt or a flash crash) which, in the Sponsor's commercially reasonable judgment, prevent, or otherwise make it impractical, for the Fund to obtain the appropriate amount of investment exposure to the affected Futures Contracts.

The Fund will also hold cash or cash equivalents, such as 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), for direct investment, as collateral for its futures and Swap Contracts, or pending investment in Futures Contracts and Swap Contracts. The Fund may invest up to 100% of its assets in any of these types of cash or cash equivalent securities.

### III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act<sup>18</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>19</sup> In particular, the Commission finds that the proposal is consistent with Section

6(b)(5) of the Act,<sup>20</sup> 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 regulating, clearing, settling, processing information with respect to, and 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 also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,<sup>21</sup> 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.

#### A. Exchange's Proposal To Amend Rule 8.700–E<sup>22</sup>

With respect to the proposal to amend NYSE Arca Rule 8.700–E (c)(1) to add the VSTOXX as a reference asset to the futures contracts and swaps that may be held by trusts that issue Managed Trust Securities, the Commission notes that VSTOXX is included as a reference asset for Futures-Linked Securities,<sup>23</sup> and notwithstanding the addition of VSTOXX as a reference asset, the existing initial and continued listing criteria applicable to Managed Trust Securities would continue to apply. These continued listing standards require, among other things, that: (1) The Disclosed Portfolio (as defined in NYSE Arca Rule 8.700–E (c)(2)) be disseminated at least daily and to all market participants at the same time; (2) an Intraday Indicative Value be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Exchange's Core Trading Session; and (3) following the initial 12-month period after the commencement of trading of an issue of Managed Trust Securities, (a) the trust must have 50,000 or more

<sup>12</sup> See Amendment No. 3, *supra* note 7, at 7, n.10, and 5.

<sup>13</sup> On May 12, 2017, the Trust filed with the Commission a registration statement on Form S–1 under the Securities Act relating to the Fund (File No. 333–217962) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement.

<sup>14</sup> The Fund will not seek to track or outperform either the VSTOXX or the Index, and the performance of the Fund will be very different from the performance of either the VSTOXX Index or the Index.

<sup>15</sup> “Normal market conditions” is defined in NYSE Arca Rule 8.600–E (c)(5).

<sup>16</sup> See Amendment No. 3, *supra* note 7, at 8.

<sup>17</sup> See *id.* The Fund intends to enter into Swap Contracts only with major, global financial institutions; however, there are no limitations on the percentage of its assets the Fund may invest in Swap Contracts with a particular counterparty. The Fund may use various techniques to minimize credit risk. The Fund will seek to mitigate risks in connection with the uncleared OTC swaps by generally requiring that the counterparties for the Fund agree to post collateral for the benefit of the Fund, marked to market daily, subject to certain minimum thresholds.

<sup>18</sup> 15 U.S.C. 78f.

<sup>19</sup> 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).

<sup>20</sup> 17 U.S.C. 78f(b)(5).

<sup>21</sup> 15 U.S.C. 78k–1(a)(1)(C)(iii).

<sup>22</sup> See Securities Exchange Act Release No. 79975 (February 6, 2017), 82 FR 10418 (February 10, 2017) (SR–NYSEArca–2017–08) (adding EURO STOXX 50 Volatility Futures to the definition of Futures Reference Asset in Rule 5.2(j)(6)); Securities Exchange Act Release No. 79069 (October 7, 2016), 81 FR 70714 (October 13, 2016) (SR–BatsBZX–2016–26) (amending Bats BZX Exchange Rule 14.11(d) to add EURO STOXX 50 Volatility Futures to the definition of Futures Reference Asset).

<sup>23</sup> See NYSE Arca Rule 5.2–E (j)(6)(v).

Managed Trust Securities issued and outstanding, (b) the market value of all Managed Trust Securities issued and outstanding must be \$1,000,000 or more, and (c) there must be 50 or more record and/or beneficial holders.<sup>24</sup>

Additionally, the Commission notes that the Exchange has represented that its surveillance procedures are adequate to continue to properly monitor the trading of the Managed Trust Securities that hold Futures Contracts and/or swaps on VSTOXX in all trading sessions and to deter and detect violations of Exchange rules.<sup>25</sup>

*B. Exchange's Proposal To List and Trade the ProShares European Volatility Futures ETF*

The Commission notes 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. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association ("CTA") high-speed line, and the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. In addition, 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.

The Commission 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. The Trust's NAV and the NAV per Share will be calculated and disseminated daily. The Exchange will disseminate for the Trust on a daily basis by means of the CTA high-speed line information with respect to the most recent NAV per Share, and the number of Shares outstanding. The Exchange also will make available on its Web site daily trading volume, closing prices and the NAV per Share. The IOPV for the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On a daily basis, the Trust will disclose on its Web site ([www.Proshares.com](http://www.Proshares.com)) for all of the assets held by the Fund the following information: Name; ticker symbol (if applicable); CUSIP or other identifier (if

applicable); description of the holding; with respect to derivatives, the identity of the security, commodity, index or other underlying asset; the quantity or aggregate amount of the holding as measured by par value, notional value or amount, number of contracts or number of units (if applicable); maturity date; coupon rate (if applicable); effective date or issue date (if applicable); market value; percentage weighting in the Disclosed Portfolio; and expiration date (if applicable). The Trust's Web site will also include the current prospectus of the Trust and additional data relating to NAV and other applicable quantitative information. The Web site information will be publicly available at no charge. Pricing for the Index, VSTOXX, the Benchmark, Swap Contracts, cash equivalents, and Money Market Instruments will be available from major market data vendors. Pricing for Futures Contracts will be available from Eurex.

The Exchange will obtain a representation from the Trust that the NAV and the NAV per Share will be calculated daily and that the NAV, the NAV per Share, and the composition of the Disclosed Portfolio will be made available to all market participants at the same time. Further, trading in the Shares will be subject to NYSE Arca Rules 7.12-E and 8.700-E(e)(2)(D), which set forth circumstances under which trading in the Shares may be halted. 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.<sup>26</sup>

Further, the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.<sup>27</sup> The Exchange represents that it has a general policy prohibiting the distribution of material, non-public information by its employees.

In support of this proposal, the Exchange has made the following representations:

(1) The Trust will be subject to the criteria in NYSE Arca Rule 8.700-E for initial and continued listing of the Shares.

(2) In the event (a) the Sponsor becomes a broker-dealer or newly

affiliated with a broker-dealer, or (b) any new sponsor becomes affiliated with a broker-dealer, such broker-dealer shall erect and maintain a "fire wall" around the personnel of the sponsor who have access to information concerning changes and adjustments to the Disclosed Portfolio.<sup>28</sup>

(3) Personnel of the Sponsor who make decisions regarding the composition of the Disclosed Portfolio must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Disclosed Portfolio.

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

(5) 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, 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 applicable federal securities laws.<sup>29</sup>

(6) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and Futures Contracts with other markets or 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 Futures Contracts from such markets or entities. In addition, the Exchange may obtain information regarding trading in the Shares and Futures Contracts from markets or other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain Money Market Instruments held by the Fund reported to FINRA's TRACE.

(7) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (a) The procedures for purchases and

<sup>28</sup> The Exchange also states that the Sponsor's Code of Ethics and internal controls are designed to prevent and detect improper exchanges of information concerning the composition and/or changes to the Fund's portfolio.

<sup>29</sup> The Exchange states that FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement, and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

<sup>24</sup> See NYSE Arca Rule 8.700-E(e)(2).

<sup>25</sup> See Amendment No. 3, *supra* note 7, at 6.

<sup>26</sup> These may include: (1) The extent to which trading is not occurring in the underlying futures contracts or swaps; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

<sup>27</sup> See NYSE Arca Rule 8.700-E(e)(2)(B)(ii).

redemptions of Shares (and that Shares are not individually redeemable); (b) NYSE Arca Rule 9.2–E (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; (c) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (d) how information regarding the IOPV and the Disclosed Portfolio is disseminated; (e) the risks involved in trading the Shares during the opening and late trading sessions when an updated IOPV will not be calculated or publicly disseminated; and (f) trading information.

(8) The Exchange represents that, for the initial and continued listing of the Shares, the Trust must be in compliance with NYSE Arca Rule 5.3–E and Rule 10A–3 under the Act.

(9) A minimum of 100,000 Shares will be outstanding at the start of trading on the Exchange.

(10) All statements and representations made in this filing regarding (a) the description of the portfolio of the Fund and Benchmark, (b) limitations on portfolio of the Fund and 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.

(11) In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund 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. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E (m).

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment No. 3.

#### IV. Solicitation of Comments on Amendment No. 3 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 3 are 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](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEArca–2017–85 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–NYSEArca–2017–85. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–85, and should be submitted on or before December 8, 2017.

#### V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 3, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 3 in the **Federal Register**. Amendment No. 3 supplements the proposed rule change by, among other things: (1) Representing that the VSTOXX levels will be widely disseminated by major market data vendors on a real-time basis throughout each trading day; (2) expanding its representation regarding when the Sponsor would erect a “fire wall,” and

representing that the Sponsor will maintain the “fire wall” it implemented regarding access to information concerning the composition and/or changes to the Fund's portfolio; (3) narrowing the list of the Fund's permitted investments to exclude forwards; (4) supplementing its description of the availability of price information for the Fund's permitted investments; (5) providing information regarding the dissemination of the Trust's NAV; and (6) making representations regarding the Exchange's surveillance of Managed Trust Securities. These changes assisted the Commission in evaluating whether the proposal would be consistent with Section 6(b)(5) of the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>30</sup> to approve the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

#### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>31</sup> that the proposed rule change (SR–NYSEArca–2017–85), as modified by Amendment No. 3 be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82065; File No. SR–NASDAQ–2017–117]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Fees at Rule 7036 To Withdraw the Nasdaq Market Analytics Data Package From Sale

November 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on October 31, 2017, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule

<sup>30</sup> 15 U.S.C. 78s(b)(2).

<sup>31</sup> *Id.*

<sup>32</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.