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VIA ELECTRONIC MAIL & FEDEX

Ms. Josephine J. Tao
Office of Trading Practices and Processing
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Request of WisdomTree Trust for Exemptive, Interpretive or No-Action Relief from Rule 10b-17 and Rules 101 and 102 of Regulation M promulgated under the Securities Exchange Act of 1934 for an Index-Based ETF

Dear Ms. Tao:

We are writing on behalf of the WisdomTree Trust (the "Trust"), an open-end management investment company organized on December 15, 2005 as a Delaware statutory trust. This letter requests relief with respect to a prospective additional new series, the WisdomTree Balanced Income Fund (the "Fund"), which will be an index-based exchange traded fund ("ETF").

The Trust on behalf of itself, the Fund, and any national securities exchange or national securities association on or through which shares issued by the Fund ("Shares")[1] are listed (with each such market referred to herein as a "Market"),[2] Foreside Fund Services, LLC (the "Distributor") and persons or entities engaging in transactions in Shares, including APs (as defined below), hereby requests, as applicable from the staff of the Division of Trading and Markets ("Staff") of the Securities and Exchange Commission (the "Commission" or the "SEC") exemptive, interpretive or no-action relief from Rule 10b-17 under the Exchange Act and Rules 101 and 102 of Regulation M.

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1 The Trust intends to list the Shares of the Fund described herein on the NYSE Arca, Inc. ("NYSEArca").

2 In the future, the Trust may determine to list Shares on a Market other than NYSEArca. If the Trust lists Shares on a Market other than NYSEArca, Shares will be listed in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Securities Exchange Act of 1934, as amended ("Exchange Act"). If the Shares also trade on a Market pursuant to unlisted trading privileges, such trading will be conducted pursuant to self-regulatory organization rules that have become effective pursuant to Section 19(b) of the Exchange Act.

The Fund will initially issue and redeem Shares in aggregations of not less than 50,000 Shares, although the Fund may later create and redeem Shares in aggregations of not less than 25,000 Shares (a "Creation Unit"). The Trust has filed a post-effective registration statement on Form N-1A with respect to the Fund and intends to list its Shares on NYSEArca pursuant to applicable listing standards.[3] The Trust is overseen by a board of trustees (the "Board") which will maintain the composition requirements of Section 10 of the Investment Company Act of 1940, as amended (the "1940 Act"). The Fund has adopted fundamental policies consistent with the 1940 Act and will be classified as "non-diversified" under the 1940 Act. The Fund intends to maintain the required level of diversification, and otherwise conduct its operations, so as to meet the regulated investment company ("RIC") diversification requirements of the Internal Revenue Code of 1986, as amended (the "Code").

The Trust intends to offer Shares of the Fund. The Fund will seek to provide investment results that closely correspond, before fees and expenses, to the performance of the WisdomTree Balanced Income Index (the "Index"), which as described more fully below, is designed to provide a balanced exposure to global equities and fixed income, including developed and emerging markets. The Index is comprised of ETFs or the underlying equities of an ETF with approximately 60% allocation to equities and 40% allocation to fixed income. The ETFs comprising the Index, which may include WisdomTree ETFs and non-WisdomTree ETFs must trade on a U.S. national securities exchange and are reconstituted and rebalanced annually to a 60% equity exposure and a 40% fixed income exposure. The fixed income exposure includes government bonds, mortgage-backed securities and other mortgage-related products. A quarterly rebalance will occur to the extent such exposures deviate by greater than two percent (2%) in order to maintain an approximate 60% equity and 40% fixed income exposure. The Fund expects to operate as a fund-of-funds and invest in ETFs comprising the Index (each, an "Underlying ETF").[4] Accordingly, the Fund will operate as an "ETF of ETFs." Except to the extent that the Fund operates as an ETF of ETFs, the Fund will operate in a manner similar to the Underlying ETFs.

The SEC and its Staff have issued in the past relief similar to that requested herein to index-based and actively managed ETFs operating as ETFs of ETFs (the "Prior ETFs of ETFs").[5] The only ETFs in

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[3] Post-Effective Amendment No. 595 to Registration Statement on Form N-1A for the Trust (July 27, 2017) (File Nos. 333-132380 and 811-21864) ("Registration Statement").

[4] To the extent the Index concentrates (i.e. holds 25% or more of its total asset) in the securities of a particular industry or group of industries, the Fund will concentrate its investments to approximately the same extent as the Index.

[5] See Securities Exchange Act Release Nos. 79159 (October 26, 2016) (Premier Capital Frontier Advantage Diversified Tactical ETF); 78332 (July 14, 2016)(Janus Detroit Street Trust et al.); July 13, 2016 (PowerShares DWA Momentum & Low Volatility Rotation et al.); 77942 (May 27, 2016) (SPDR Dorsey Wright Fixed Income Allocation ETF); 77779 (May 6, 2016) (Index IQ ETF Trust et al.); 77747 (May 30, 2016)(J.P. Morgan Exchange-Traded Fund Trust); 77380 (March 16, 2016) (Dorsey Wright Dynamic Focus 5 ETF et al.); 77328 (March 9, 2016) (PowerShares DWA Tactical Multi-Asset Income Portfolio); 76494 (November 20, 2015) (FlexShares Trust); 76397 (November 9, 2015) (FlexShares Trust): 76193 (October 19, 2015)(DBX ETF Trust); 73298 (March 5, 2014) (ProShares Morningstar Alternatives Solutions ETF); 71652 (March 5, 2014) (Global X Funds); 69831 (June 21, 2013) (ALPS ETF Trust); and 68549 (December 18, 2012) (ALPS ETF Trust). See, also, e.g., letter from Josephine J. Tao, Assistant Director, Division of Trading and Markets to Kathleen Moriarty, Katten Muchin Rosenman LLP (March 25, 2009); letter from Josephine J. Tao, Assistant Director, Division of Trading and Markets to W. John McGuire, Morgan Lewis & Bockius LLP (September 14, 2009); letter from Josephine J. Tao Assistant Director, Division of Trading and Markets to Richard F. Morris, WisdomTree Asset Management (December 23, 2009); and letter from Joseph Furey, Acting Co-Chief Counsel, Division of Trading and Markets to W. John McGuire, Morgan, Lewis & Bockius (June 16, 2011).

which the Fund will invest will be organized in the United States, registered under the 1940 Act, and listed on a national securities exchange. The Fund will operate in a manner similar to the Prior ETFs of ETFs. For example, the Fund will disclose its portfolio holdings on a daily basis and information about the prices of the securities and other instruments held by the Fund will be readily available from a variety of sources. We therefore do not believe the Fund raises any new issues that have not already been addressed by the Commission and its Staff.

The SEC and its Staff have also issued class exemptive relief similar to that requested herein to index-based ETFs listed and traded on a national securities exchange which meet specified conditions ("Prior ETFs").[6] The Fund is an index-based ETF and thus could rely on such prior class relief if it met the conditions precedent to such relief. However, the Trust is concerned that the Fund may not be able to rely on applicable class relief because the Index, whose performance the Fund seeks to replicate will not include twenty Component Securities. The Fund will meet each of the other conditions enumerated in applicable class relief letters.[7] In all other material respects, the Trust will operate in the same manner as the Prior ETFs.

The Fund, Its Investment Objectives and Underlying Index

The Fund will be sub-advised by Mellon Capital Management ("Sub-Adviser"). The Fund's investment objective is to seek investment results that correspond generally to the price and yield performance, before the Fund's fees and expenses, of the Index.

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[6] See Securities Exchange Act Release No. 68995 (February 27, 2013), 78 FR 14376 (March 5, 2013) (order granting limited exemptions from Exchange Act Rule 10b-17 and Rules 101 and 102 of Regulation M to ALPS ETF and U.S. Equity High Volatility Fund); letter from Josephine J. Tao, Assistant Director, Division of Market Regulation to Domenick Pugliese, Esq., Paul Hastings, Janofsky and Walker LLP (June 27, 2007) ("Combination ETF Relief Letter"); letter from James A. Brigagliano, Associate Director, Division of Market Regulation to Benjamin J. Haskin, Esq., Wilkie Farr and Gallagher (April 9, 2007); letter from James A. Brigagliano, Acting Associate Director, Division of Market Regulation, SEC to Stuart M. Strauss, Esq. Clifford Chance US LLP (October 24, 2006) ("Equity ETF Class Relief Letter"); and letter from Catherine McGuire, Esq., Chief Counsel, Division of Market Regulation to the Securities Industry Association Derivative Products Committee (November 21, 2005) (the "SIA Letter").

[7] See Equity ETF Class Relief Letter, footnote 6, supra. The five conditions for class relief for index-based ETFs from Rule 10b-17 and Rules 101 and 102 of Regulation M (the "Enumerated Conditions") are the following: (1) The ETF Shares are issued by an open-end investment company or unit investment trust registered with the Commission under the 1940 Act; (2) The ETF consists of a basket of twenty or more Component Securities (as defined in the applicable letters), with no one Component Security constituting more than 25% of the total value of the ETF; (3) At least 70% of the ETF must be comprised of Component Securities that meet the minimum public float and minimum average daily trading volume thresholds under the "actively-traded securities" definition found in Regulation M for excepted securities during each of the previous two months of trading prior to the formation of the relevant ETF; provided, however, that if the ETF has 200 or more Component Securities, then 50% of the Component Securities must meet the actively-traded securities thresholds; (4) ETF Shares are to be issued and redeemed in Creation Unit aggregations of 50,000 shares or such other amount where the value of a Creation Unit is at least $1 million at the time of issuance; and (5) the ETF must be managed to track a particular index all the components of which have publicly available last sale trade information. The intra-day proxy value of the ETF per share and the value of the "benchmark" index must be publicly disseminated by a major market data vendor throughout the trading day. Id. As stated above, the Fund will meet each of the above requirements for class relief, other than the requirement that the ETF contain twenty or more Component Securities. As also stated above, although the Fund will initially issue and redeem Shares in aggregations of not less than 50,000 Shares, the Fund under certain circumstances may later create and redeem Shares in aggregations of not less than 25,000 Shares.

The Index tracks the value of a passive investment strategy which consists of investments in ETFs, with approximately a 60% allocation to equities and a 40% allocation to fixed income. The ETFs comprising the Index, which may include WisdomTree ETFs and non-WisdomTree ETFs, must trade on a U.S. national securities exchange and are reconstituted and rebalanced annually to approximately a 60% equity exposure and a 40% fixed income exposure. The fixed income exposure includes government bonds, corporate bonds, mortgage-backed securities and other mortgage-related products. A quarterly rebalance will occur to the extent such exposures deviate by greater than two percent (2%) in order to maintain an approximate 60% equity/40% fixed income exposure. Under normal circumstances:[8] (1) the Fund will invest at least 80% of its assets in underlying ETFs comprising the Index that are liquid securities; and (2) the underlying ETFs comprising the Index will meet all conditions set forth in a relevant class relief letter, will have received individual relief from the Commission, or will be able to rely upon individual relief even though they are not named parties (for example, a no-action letter).

To seek its investment objective, the Fund initially will invest in a combination of two or more of the following ETFs:

Name	**ETF Type**	**Ticker Symbol**	**Underlying Index/ Benchmark of Underlying ETF**
WisdomTree U.S. LargeCap Dividend Fund	U.S. Equity	DLN	WisdomTree U.S. LargeCap Dividend Index
WisdomTree U.S. High Dividend Fund	U.S. Equity	DHS	WisdomTree U.S. High Dividend Index
WisdomTree Dynamic Currency Hedged International Equity Fund	Non-U.S. Equity	DDWM	WisdomTree Dynamic Currency Hedged International Equity Index
WisdomTree International High Dividend Fund	Non-U.S. Equity	DTH	WisdomTree High Dividend Index
WisdomTree Emerging Markets Dividend Fund	Non-U.S. Equity	DVEM	WisdomTree Emerging Markets Dividend Index

[8] The term "under normal circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. In response to adverse market, economic, political, or other conditions the Fund reserves the right to invest in U.S. government securities, other money market instruments (as defined below), and cash, without limitation, as determined by the Adviser or Sub-Adviser. In the event the Fund engages in these temporary defensive strategies that are inconsistent with its investment strategies, the Fund's ability to achieve its investment objectives may be limited.

Name	ETF Type	Ticker Symbol	Underlying Index/ Benchmark of Underlying ETF
WisdomTree Barclays Yield Enhanced U.S. Aggregate Bond Fund	Fixed Income	AGGY	Bloomberg Barclays U.S. Aggregate Enhanced Yield Index
WisdomTree Fundamental U.S. Corporate Bond Fund	Fixed Income	WFIG	WisdomTree Fundamental U.S. Corporate Bond Index
WisdomTree Interest Rate Hedged High Yield Bond Fund	Fixed Income	HYZD	BofA Merrill Lynch 0-5 Year U.S. High Yield Constrained, Zero Duration Index
WisdomTree Emerging Markets Local Debt Fund	Fixed Income	ELD	N/A
iShares 20+ Year Treasury Bond Fund ETF	Fixed Income	TLT	ICE U.S. Treasury 20+ Year Bond Index
iShares MBS ETF	Fixed Income	MBB	Bloomberg Barclays U.S. MBS Index

Sales of Fund Shares

The Distributor, a registered broker-dealer and a member of the Financial Industry Regulatory Authority ("FINRA") will serve as the distributor for the Fund.[9] State Street Bank and Trust Company will be the administrator ("Administrator"), custodian ("Custodian") and transfer agent ("Transfer Agent") for the Fund. According to the Registration Statement, the Fund will issue and redeem Shares on a continuous basis at net asset value ("NAV"), only in large blocks of Shares (Creation Units), in transactions with Authorized Participants (defined below).

In order to defray the transaction expenses, including brokerage costs, which will be incurred by the Fund when investors purchase or redeem Creation Units, the Fund will impose purchase or redemption transaction fees ("Transaction Fees") to be borne only by such purchasers or redeemers. The Transaction

[9] The Commission has issued an order, as subsequently amended, granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act"). See Investment Company Act Release No. 28850 (January 29, 2009) (File No. 812-13650) ("Exemptive Order"). Investments made by the Fund will comply with the conditions in the Exemptive Order.

Fee is designed to cover the custodial and other costs incurred by the Fund in effecting trades. The Fund's Transaction Fees will be fully disclosed in the Fund's prospectus ("Prospectus") and the method of calculating these Transaction Fees will be fully disclosed in the statement of additional information ("SAI") of the Fund. Transaction fees will be limited to amounts that have been determined by WisdomTree Asset Management, Inc. (the "Adviser") to be appropriate. In all cases, Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities.

The consideration for purchase of a Creation Unit of the Fund generally will consist of either (i) the in-kind deposit of a designated portfolio of securities (the "Deposit Securities") per Creation Unit and the "Cash Component" (defined below), computed as described below or (ii) the cash value of the Deposit Securities ("Deposit Cash") and the "Cash Component," computed as described below. While the Fund does not expect to invest in derivatives as part of its principal investment strategy, to the extent that the Fund may invest in derivatives and because non-exchange traded derivatives and certain listed derivatives are not currently eligible for in-kind transfer, they will be substituted with an amount of cash of equal value (i.e., Deposit Cash) when the Fund processes purchases of Creation Units in-kind.

Fund creations may be either physical or for cash, or a combination thereof, at the Fund's discretion. When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities that would otherwise be provided by an in-kind purchase. Together, the Deposit Securities or Deposit Cash, as applicable, and the Cash Component constitute the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Cash Component is an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities or Deposit Cash, as applicable. The Cash Component serves the function of compensating for any difference between the NAV per Creation Unit and the market value of the Deposit Securities or Deposit Cash, as applicable.

When Fund creations include physical delivery of securities, a portfolio composition file, to be sent via the National Securities Clearing Corporation ("NSCC"), will be made available on each Business Day, prior to the opening of business on NYSEArca (currently 9:30 a.m. ET) containing a list of the names and the required amount of each security in the Deposit Securities to be included in the current Fund Deposit for the Fund (based on information about the Fund's portfolio at the end of the previous Business Day). In addition, on each Business Day, the estimated Cash Component, effective through and including the previous Business Day, will be made available through NSCC.

The Fund Deposit will be applicable for purchases of Creation Units of the Fund until such time as the next-announced Fund Deposit is made available. In addition, the composition of the Deposit Securities may change as, among other things, corporate actions and investment decisions by the Adviser are implemented for the Fund's portfolio.

All purchase orders must be placed by an "Authorized Participant." An Authorized Participant must be either a broker-dealer or other participant in the Continuous Net Settlement System ("Clearing Process") of the NSCC or a participant in The Depository Trust Company ("DTC") with access to the DTC system, and must execute an agreement with the Distributor that governs transactions in the Fund's Creation

Units. In-kind portions of purchase orders will be processed though the Clearing Process when it is available.

For an order involving a Creation Unit to be effectuated at the Fund's NAV on a particular day, it must be received by the Distributor by or before the deadline for such order ("Order Cut-Off Time"). The Order Cut-Off Time for creation and redemption orders for the Fund will be by 4:00 p.m. ET. Orders for creations or redemptions of Creation Units for cash generally must be submitted by 4:00 p.m. ET. A standard creation or redemption transaction fee (as applicable) will be imposed to offset transfer and other transaction costs that may be incurred by the Fund. Creation Units may be purchased through orders placed by the Distributor through an "Authorized Participant" which is either (1) a "participating party," i.e., a broker-dealer or other participant in the Shares Clearing Process through the Continuous Net Settlement System of the NSCC, a clearing agency that is registered with the Commission, or (2) a DTC Participant, which in either case has executed an agreement with the Trust, the Distributor and the Transfer Agent, with respect to creations and redemptions of Creation Units (i.e., a Participant Agreement).

The Distributor may reject any order to purchase Shares that is not submitted in proper form. In addition, the Fund may reject a purchase transmitted to it by the Distributor if (1) the purchaser or group of purchasers, upon obtaining the Shares ordered, would own 80% or more of the outstanding Shares of the Fund; (2) the required Deposit Cash is not delivered; (3) the acceptance of the Deposit Cash would have certain adverse tax consequences, such as causing the Fund to no longer meet the requirements of a RIC under the Code; (4) the acceptance of the Deposit Cash would, in the opinion of the Trust, be unlawful, as in the case of a purchaser who was banned from trading in securities; (5) the acceptance of the Deposit Cash would otherwise, in the opinion of the Trust or the Distributor, have an adverse effect on the Trust or the rights of the beneficial owners; or (6) there exist circumstances outside the control of the Fund that make it impossible to process purchases of Shares for all practical purposes. Examples of such circumstances include: acts of God or public service or utility problems such as fires, floods, extreme weather conditions and power outages resulting in telephone, telecopy and computer failure, market conditions or activities causing trading halts; systems failures involving computer or other information systems affecting the Fund, the Adviser, the Distributor, the Custodian, NSCC or any other participant in the purchase process, and similar extraordinary events.

Distributor

The Distributor will not distribute Shares in less than Creation Units, and it will not maintain a secondary market in the Shares. The Distributor may enter into selected dealer agreements with other broker-dealers or other qualified financial institutions for the sale of Creation Units of Shares ("Soliciting Dealers"). Such Soliciting Dealers may also be participants in DTC.

Redemption of Shares

Beneficial owners of Shares must accumulate enough Shares to constitute a Creation Unit in order to redeem through the Fund. Creation Units will be continuously redeemable at the NAV next determined after receipt of a request for redemption by the Fund. Redemption proceeds for a Creation Unit will be paid either in-kind or in cash or a combination thereof, as determined by the Trust. 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 p.m. ET. The NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding. The Trust will redeem Shares of the Fund on any Business Day. Consistent with the provisions of Section 22(e) of the 1940 Act and Rule 22e-2 under the 1940 Act, the right to redeem will not be suspended, nor payment upon redemption delayed, except as provided by Section 22(e) of the 1940 Act. Redemption requests must be received by 4:00 p.m. ET to be redeemed that day. A redeeming investor will pay a Transaction Fee calculated in the same manner as a Transaction Fee payable in connection with the purchase of a Creation Unit.

Settlement and Clearing

The Deposit Cash will settle via free delivery through the Federal Reserve System. The Shares will settle through DTC. The Custodian will instruct the movement of the Shares only upon validation that the Deposit Cash has settled correctly.

DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC participants. Shares will be registered in book-entry form only, which records will be kept by DTC.

Shares of the Fund will clear and settle through DTC and cash will clear and settle through the Federal Reserve System. The Fund will issue Creation Units of Shares and the Custodian will deliver the Shares to the Authorized Participants through DTC. DTC will then credit the Authorized Participant's DTC account. The clearance and settlement of redemption transactions essentially reverses the process described above. After the Fund has received a redemption request in proper form and the Authorized Participant transfers Creation Units to the Custodian through DTC, the Fund will cause the Custodian to initiate procedures to transfer the requisite amount of cash (the "Redemption Cash"). On T+2, assuming the Custodian has verified receipt of the Creation Units; the Custodian will transfer the Redemption Cash through the Federal Reserve System.

Shares of the Fund will be debited or credited by the Custodian directly to the DTC Accounts of the Authorized Participants.

The Depository Trust Company

DTC serves as securities depository for the Shares. (The Shares may be held only in book-entry form; stock certificates will not be issued.) DTC, or its nominee, is the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or its participants (i.e., securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations), some of whom (and/or their representatives) own DTC. Beneficial owners of Shares are not entitled to have Shares registered in their names, and will not receive or be entitled to receive physical delivery of certificates.

Accordingly, to exercise any rights of a holder of Shares, each beneficial owner must rely on the procedures of (i) DTC; (ii) DTC Participants; and (iii) brokers, dealers, banks and trust companies that clear through or maintain a custodial relationship with a DTC Participant, either directly or indirectly, through which such beneficial owner holds its interests.

Availability of Information

On each Business Day,[10] before commencement of trading in Shares in the Core Trading Session on NYEArca, the Fund will disclose on its website ("Website") the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding), the identity of the security, or other asset or instrument underlying the holding, if any; for ETFs, quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The website and information will be publicly available at no charge. The intra-day indicative value of the Index will be publicly disseminated every 15 seconds through the facilities of the Consolidated Tape Association ("CTA").As discussed above, the names and required number of shares of the Deposit Securities and Fund Shares to be tendered in connection with the issuance or redemption, respectively, of Shares or Creation Units will be made available on each Business Day prior to the opening of trading.

The prices of the Fund's portfolio securities ("Portfolio Securities") will be readily available from, as applicable, the relevant listing Market, other Markets, automated quotation systems, and other sources, such as independent pricing services.

In order to provide current Share pricing information for the Fund for use by investors, professionals and persons wishing to created or redeem Shares, (i) NYSEArca (or such other Market as the Shares are in the future listed) will disseminate continuously on a 15 second delay throughout the trading day, through the facilities of the CTA, the last sale price of the Shares and (ii) NYSEArca (or other listing Market), market data vendors or other information provides will disseminate, every 15 seconds throughout the trading day, a calculation of the intraday indicative value of a Share. Comparing these two figures will allow an investor to determine whether, and to what extent, Shares are selling at a premium or discount to NAV.

The Fund's Website will also contain the following information for the Fund: (i) the prior business day's NAV, (ii) closing NAV, (iii) the closing market price, and (iv) Fund holdings. The Website will also display the Fund's prospectus and additional quantitative information that is updated on a daily basis.

The Trading Market; Arbitrage Opportunities

The Shares will be listed and traded on NYSEArca. Shares will be freely tradable on NYSEArca throughout the trading session. The price of Shares trading on NYSEArca will be based on a current bid/offer market. The trading market on NYSEArca affords investors the opportunity to assume and liquidate positions in Shares at their discretion, permitting them to take advantage of prices at any time during the trading day. This combination of intra-day liquidity with the Creation Unit purchase and redemption features creates potential arbitrage opportunities that, in turn, should mitigate pricing

[10] A "Business Day" with respect to the Fund is any day on which the New York Stock Exchange is open for business.

inefficiencies. Historically, this process has been proven to establish efficient pricing with other ETFs, and the Trust expects a close alignment between the market price of the Shares and the Fund's NAV.

The Trust believes that the Fund will provide arbitrage opportunities that will enable market participants to mitigate pricing inefficiencies in a manner comparable to other ETFs, and the Trust believes that the arbitrageurs are expected to take advantage of variation between the Fund's market price rather than (or in addition to) being provided with an opportunity to do so. In order to properly hedge a position held in the Fund, market participants will need to know each ETF held by the Fund and buy or sell those ETFs[11] (depending on whether the investor is holding a long or short position in the Fund). As set forth above under "Availability of Information," above, information to be disseminated to market participants will include, among other items, the applicable information regarding: (i) the identities and amounts of each ETF held by the Fund; and (ii) the value of each of the Fund's ETF positions. This information will enable market participants to hedge their positions in the Fund and mitigate pricing inefficiencies, and the Trust believes that this will occur.

Because ETFs included in the Index are publicly listed and traded, the Trust believes that the information available to the marketplace will provide arbitrage opportunities between the then-current market prices of the Shares relative to the listed components which make up the values of the ETF positions included in the Index. The Trust further believes that these opportunities would be reflected in the information disseminated every 15 seconds during the trading day, and that market participants will be able to act on such arbitrage opportunities by buying or selling the Shares versus buying or selling the listed components which make up the values of the ETF positions included in the Index. The Trust believes these arbitrage opportunities will also achieve the effect of reducing premiums or discounts between the market price and NAV of the Shares, and the Trust believes that arbitrageurs will take advantage of these opportunities. The arbitrage mechanism will be facilitated by the transparency of the Fund's portfolio and the availability of the intra-day indicative value of the liquidity of securities and other assets held by the Fund, the ability to acquire such securities, as well as the arbitrageurs' ability to create workable hedges.

The high degree of historical and expected correlation of NAV and Share prices contrasts with the case of shares of closed-end equity funds which, not having the ability to create and redeem at the fund level, typically trade at a material discount (and occasionally at a premium) to their underlying net asset values. For the reasons set forth above, the Trust does not believe that the trading of the Fund's Shares will affect the spread between the NAV and market price of the Shares to any greater extent than is the case for typical ETFs. The Trust expects that arbitrageurs will take advantage of price variations between the Fund's market price and its NAV.

Rule 101 of Regulation M

Subject to certain enumerated exceptions, Rule 101 of Regulation M prohibits a "distribution participant," in connection with a distribution of securities, from bidding for or purchasing or from attempting to induce any person to bid for or purchase, a "covered security" during the applicable restricted

[11] An investor could also hedge its position in the Fund by utilizing swaps, options or other derivative positions in respect of the equivalent shares of the Underlying ETFs.

period. "Distribution participant" is defined in Rule 100(b) to include an underwriter or prospective underwriter in a particular distribution of securities, or any broker, dealer or other person who has agreed to participate or is participating in such distribution. We note that Rule 100(b) of Regulation M defines "distribution" for purposes of such Rule as an offering of securities, whether or not subject to registration under the Securities Act of 1933, as amended, that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods.

We understand that while broker-dealers that tender Deposit Cash to the Trust through the Distributor in return for Creation Unit(s) of Shares generally will not be part of a syndicate or selling group, and no broker-dealer will receive fees, commissions or other remuneration from the Trust or the Distributor for the sale of Creation Units, under certain circumstances they could be deemed to be an "underwriter" or "distribution participant" as those terms are defined in Rule 100(b).

The Trust respectfully requests that the Commission or Staff grant exemptive, interpretive or no-action relief from Rule 101, as discussed below, to permit persons participating in a distribution of Shares to bid for or purchase, or engage in other secondary market transactions in, such Shares during their participation in such distribution.

Paragraph (c)(4) of Rule 101 exempts from its application, inter alia, redeemable securities issued by an open-end management investment company (as such terms are used in the 1940 Act). The Trust is registered as an open-end management investment company under the 1940 Act. However, the individual Shares are not redeemable except in Creation Unit size aggregations. Due to the redeemability of the Shares in Creation Unit size aggregations, there should be little disparity between the Shares' market price and their NAV per Share. Accordingly, the rationale for exempting redeemable securities of open-end management investment companies from the application of Rule 101 is equally applicable to the Shares. Although redemption is subject to the minimum condition of tendering a Creation Unit, the Trust is intended to function like any other open-end fund continuously offering its shares. It is in recognition of the special nature of such offerings that open-end management investment company and unit investment company securities are exempted under paragraph (c)(4). Without such an exemption, they could not operate as intended. In view of the foregoing, the Trust requests that the Staff confirm that as a result of registration of the Trust as an open-end management investment company and the redeemable nature of the Shares in Creation Unit size aggregations, transactions in the Shares would be exempted from Rule 101 on the basis of the exception contained in paragraph (c)(4) of such Rule.

The purpose of Rule 101 is to prevent persons from conditioning the market to facilitate a distribution. Creation Unit size aggregations of Shares may be created, and Shares in Creation Unit size aggregations may be redeemed for cash at NAV, on any Business Day. Holders of Shares also have the benefit of intra-day secondary market liquidity by virtue of the Exchange listing. Thus, the secondary market price of Shares should not vary substantially from the NAV of Shares of the Fund. Because of the redeemability of Shares in Creation Unit size aggregations, coupled with the open-ended nature of the Fund, any significant disparity between the market price of the Shares and NAV should be eliminated by arbitrage activity. Because their NAV is largely determined based on the market value of the Portfolio Securities, neither the creation nor redemption of Shares, nor purchases or sales of Shares in the secondary market, will impact the NAV, and such transactions should not have a significant impact on the market value of Shares.

In view of the lack of any special financial incentive to create Creation Units, combined with a predictable lack of any meaningful potential for the issuance and the secondary market trading of the Shares to affect significantly Share pricing, application of Rule 101 to a broker- dealer or other person who may be participating in a distribution or broker-dealers or other persons in their creation and redemption activities, in their day-to-day ordinary business of buying and selling securities and the Shares, may undermine the potential beneficial market effect of Share trading.

Rule 102 of Regulation M

The Trust also requests that the Commission or Staff confirm that as a result of registration of the Trust as an open-end management investment company and the redeemable nature of the Shares in Creation Unit size aggregations that, for the reasons previously stated under our request with respect to the exemption under Rule 101(c)(4), transactions in the Shares would be exempted from Rule 102 on the basis of the exception contained in paragraph (d)(4) of such Rule.

Alternatively, the Trust respectfully requests that the Commission grant an exemption under paragraph (e) of Rule 102 to such effect. Application of Rule 102 in this context would not further the anti-manipulative purposes underlying the Rule.

The purpose of Rule 102 is to prevent persons from manipulating the price of a security during a distribution and to protect the integrity of the offering process by prohibiting activities that could artificially influence the market for that particular security. For the reasons described in connection with the requested Rule 101 relief, redemption transactions and secondary market transactions in the Shares are not viable means to manipulate the price of a security in the Fund's portfolio during a distribution of such security. The Trust will redeem the Creation Unit size aggregations of Shares at the NAV of the Shares. Although the Shares will be traded on the secondary market, the Shares may only be redeemed in Creation Unit size aggregations. Thus, The Trust believes that the redemption by the Trust of the Shares at NAV for cash does not involve the abuses that Rule 102 was intended to prevent.

Rule 10b-17

Rule 10b-17 requires an issuer of a class of publicly traded securities to give notice of certain specified actions (e.g., dividends, stock splits, rights offerings) relating to such class of securities in accordance with Rule 10b-17(b). Paragraph (c) of the Rule, however, states that the Rule shall not apply to redeemable securities issued by open-end investment companies and unit investment trusts registered under the 1940 Act. Except for the fact that redemption is subject to the minimum condition of tendering 25,000 Shares, the Trust is intended to function like any other open-end fund continuously offering its shares. In addition, compliance with Rule 10b-17 would be impractical in light of the nature of the Fund. This is because it is not possible for the Trust to accurately project ten days in advance what dividend, if any, would be paid on a particular record date. It is in recognition of the foregoing, that the Division of

Investment Management, by delegated authority, issued an order permitting the Trust to issue shares with limited redeemability while still treating the Trust like any other investment company.[12]

In addition, compliance with Rule 10b-17(b)(l)(v)(a-b) would be impractical in light of the nature of the Fund. This is because it is not possible for the Fund to accurately project ten days in advance what dividend, if any, would be paid on a particular record date. Because of this inability to project the amount of any dividend ten days in advance of a record date, applying the timing requirements of 10b-17(b)(l)(v)(a-b) to the Fund would increase the chances that the Fund would mis-estimate the amount of any such dividend.[13]

The Fund represents that it will comply with the other requirements of Rule 10b-17. The Fund further represents that, as soon as practicable following the end of trading on NYSEArca on the day prior to the ex-date (but not later than the last time at which NYSEArca accepts such information on such date) with respect to any distribution made by the Fund, the Fund will provide notice to the Exchange containing the information required in Rule 10b-17(b)(l)(v)(a-b).

In the proposing release for Rule 10b-17 (the "Proposing Release"),[14] the Commission stated:

> It has been the experience of the Commission and the securities industry that the failure of a publicly held company to provide a timely announcement of the record date with respect to these types of rights has had a misleading and deceptive effect on both the broker-dealer community and the investing public. As a direct result of such failure, purchasers and their brokers may have entered into and settled securities transactions without knowledge of the accrual of such rights and were thus unable to take necessary steps to protect their interests. Further, sellers who have received the benefits of such rights as recordholders on the specified record date after having disposed of their securities, have also disposed of the cash or stock dividends or other rights received as such

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[12] See Exemptive Order, footnote 11, supra.

[13] As an investment company, the Fund is required by the Code to distribute at least 98% of its ordinary income and capital gains during the calendar year. If the Fund declares too small a dividend, it will be charged an excise tax. If it declares too large a dividend, the excess could be considered a return of capital to investors. To avoid an over- or under-distribution of ordinary income, registered investment companies, including the Fund, must estimate: (i) the amount of ordinary income to be earned during the period from the date the dividend is declared to December 31; and (ii) the number of shares that will be outstanding as of the record date. Requiring the Fund to declare the amount of a dividend ten days in advance of the record date would increase the period for estimating ordinary income and the number of outstanding shares, and thus increase the risk of an over- or under-distribution. Requiring the Fund to declare the amount of a dividend ten days in advance of the record date also would increase the chance that the Fund would over- or under-distribute capital gains. Further, unlike ordinary income, the Fund does not have the problem of estimating the aggregate amount of capital gains it will earn between declaration date and year-end, but as noted above, requiring the Fund to declare the amount of a dividend ten days in advance of the record date would increase the chance that the Fund would mis-estimate the number of outstanding shares. This, in turn would increase the chance that the Fund would mis-estimate the per share amount of capital gains it must distribute.

[14] Exchange Act Release No. 9076 (February 17, 1971).

> recordholders without knowledge of possible claims of purchasers of the underlying security to those rights....In many instances, innocent buyers and sellers have suffered losses. In addition, some issuers have made belated declarations of stock splits or dividends with the apparent knowledge that this action would have a manipulative effect on the market for their securities.

We respectfully submit that none of these concerns raised by the Commission in the Proposing Release[15] will be implicated if the requested relief is granted. As set forth above, the Fund will comply with the requirements of Rule 10b-17 except for the timing requirements for notification of the actual amounts of the distributions under Rule 10b-17(b)(l)(v)(a-b). Accordingly, market participants will receive timely notification of the existence and timing of a pending distribution, and will be able to plan their transactions in Fund shares accordingly. As a result, there should be no confusion or opportunity for manipulation regarding parties' rights to receive distributions, which concerns inspired the Commission to propose and adopt Rule 10b-17. Therefore, the requested relief concerning the timing requirements of Rule 10b-17(b)(1)(v)(a-b) is consistent with the purposes underlying the adoption of Rule 10b-17 as outlined in the Proposing Release and Adopting Release. The exemption under paragraph (c) of Rule 10b-17, which covers open-end investment companies with fully redeemable shares, thus should be applicable to the Fund with respect to the timing requirements of Rule 10b-17(b)(I)(v)(a-b).[16]

Conclusion

Based on the foregoing, we respectfully request that the Commission or the Staff grant the relief requested herein. The form of relief requested is similar to those actions that the Commission and the Staff have taken in similar circumstances. Should you have any questions please call me at (202) 778-6422.

Sincerely,

Jack P. Drogin

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[15] The foregoing concerns were largely reiterated by the Commission in the release adopting Rule l0b-17. See Exchange Act Release No. 9192 (June 7, 1971) (the "Adopting Release").

[16] The relief being requested is analytically consistent with the Division of Market Regulation Staff Legal Bulletin No. 9, as revised on September 10, 2010, which stated that, subject to certain conditions, actively managed exchange traded funds ("Active ETFs") could rely on the exceptions in Rules 101(c)(4) and l02(d)(4) of Regulation M under the Exchange Act which are only available to open-end investment companies, notwithstanding the fact that shares of Active ETFs are redeemable only in Creation Units.