STATE STREET GLOBAL ADVISORS

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Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Submitted via email: rule-comments@sec.gov

Re: Exchange-Traded Funds; Release Nos. 33-10515; IC-33140; File No. S7-15-18

Dear Mr. Fields:

State Street Global Advisors appreciates the opportunity to comment on proposed rule 6c-11 (the "**Proposed ETF Rule**"), and applauds the U.S. Securities and Exchange Commission (the "**Commission**") and its Staff for the efforts devoted to developing a thoughtful approach to the Proposed ETF Rule.

Recognized as an industry pioneer, State Street Corporation created the first United States listed exchange-traded fund ("**ETF**") in 1993 (SPDR S&P 500® - Ticker: SPY) and has remained on the forefront of responsible innovation as evidenced by the introduction of many ground-breaking products, including first-to-market launches with gold, international real estate, international fixed income, and sector ETFs. With over $2.7 trillion in assets under management, State Street Global Advisors is the third-largest asset manager and the issuer of the SPDRs family of ETFs.

As explained in further detail below, State Street Global Advisors[1]:

- Supports the adoption of a rule enabling ETFs to operate without the need for exemptive relief from the Investment Company Act of 1940, as amended (the "**1940 Act**");
- Supports the application of the Proposed ETF Rule to open-end management companies, the elimination of the distinction between index-based and actively managed ETFs and the exclusion of leveraged ETF and share class ETFs from the Proposed ETF Rule;

[1] The views expressed in this letter are those of State Street Global Advisors as they pertain to ETFs in the United States, and are not necessarily the same views that State Street Global Advisors might espouse regarding the regulation and operation of ETFs in other jurisdictions.

- Supports the definition of "Redeemable Securities" and recommends an expansion of the definition to include all ETF shares;
- Supports the Commission's proposal to provide exemptions from Section 22(d) of the 1940 Act and Rule 22c-1 thereunder;
- Supports the proposed relief from Sections 17(a)(1) and (2) of the 1940 Act and recommends that the Commission extend the relief to broker-dealer affiliates of an ETF's investment adviser;
- Supports the proposed relief from Section 22(e) of the 1940 Act but recommends that the Commission reconsider the "sunset provision" for delivering redemption proceeds and revise the definition of "foreign investment";
- Agrees that portfolio transparency is an effective (though not the sole) means to facilitate the arbitrage mechanism and generally supports the conditions for reliance on the Proposed ETF Rule, but:
    - Seeks clarification on the "published basket" requirement,
    - Recommends modification of the timing of website posting of baskets relative to accepting creation unit orders,
    - Questions the need for certain website disclosure,
    - Recommends a more practical presentation of portfolio holdings information;
- Agrees with the requirement that ETF shares be listed on a national securities exchange and the determination that the dissemination of the intraday indicative value should not be a condition for reliance on the Proposed ETF Rule, but recommends that a temporary suspension of trading not operate to disallow reliance on the Proposed ETF Rule;
- Supports the proposed governance framework for the use of custom baskets, but recommends that portfolio management decisions be left with portfolio managers and urges the Commission to reconsider the treatment of partial cash and/or cash in lieu baskets;
- Agrees that ETFs should not be required to publish information regarding every basket used by the ETF on each day;
- Urges the Commission to align any new rulemaking on fund of funds arrangements with the effective date of a final ETF rule;
- Makes a number of suggestions regarding the proposed disclosure amendments, including removing:
    - the requirement that an ETF disclose its median bid-ask spread for the most recent fiscal year,
    - the requirement to provide an interactive spread cost calculator,
    - the requirement that any ETF whose premium or discount was greater than two percent for more than seven consecutive trading days post a discussion of the factors that are reasonably believed to have materially contributed to the premium or discount,
    - part of proposed Q&A 3 and all of proposed Q&A 4 and 5; and

- Urges the Commission to consider further action to create a consistent, transparent, and efficient regulatory framework for ETFs.

A. Scope of Proposed Rule 6c-11

1. Organization as Open-End Funds

State Street Global Advisors supports the availability of proposed rule 6c-11 to ETFs that are organized as open-end funds.

We note that the Proposed ETF Rule does not include within its scope ETFs structured as unit investment trusts ("**UITs**"). While we acknowledge the Commission's rationale for excluding UITs from the Proposed ETF Rule, we note with particularity the statements in the proposing release indicating that the earliest ETFs were organized as UITs and that the UIT ETFs represent a significant amount of assets within the ETF industry. It is with this information in mind that State Street Global Advisors respectfully requests that the SEC reiterate in a final rule release that UIT ETFs are, and will continue to be, from both a regulatory and marketplace perspective, ETFs, in spite of the fact that they would not be permitted to rely on proposed rule 6c-11.

2. Index-Based ETFs and Actively-Managed ETFs

State Street Global Advisors agrees that index-based and actively-managed ETFs that comply with the Proposed ETF Rule's conditions function similarly with respect to operational matters, despite different investment objectives or strategies, and would not present significantly different concerns under the provisions of the 1940 Act from which the Proposed ETF Rule grants relief. The regulatory regime governing open-end mutual funds makes no meaningful distinction between index-based and actively-managed strategies, and we believe that the same should be true for ETFs. Information concerning an ETF's investment objective and the investment strategy employed in furtherance of seeking the ETF's investment objective will be clearly set forth in the ETF's offering documents, allowing investors to make informed investment decisions based off of clear disclosure.

The Proposed ETF Rule should not include any particular requirements relating to index-based ETFs seeking to track an index provided by an affiliate. Again, the regulatory regime governing open-end mutual funds considers no special requirements for affiliated index providers, and we believe that the same should be true for ETFs. In any case, current regulatory requirements, exchange listing standards, and industry best practices effectively require a heightened set of requirements associated with affiliated index providers, designed to address concerns regarding the potential ability of an affiliated person to manipulate the index to the benefit or detriment of the ETF, including a "firewall" between the portfolio management staff and the employees responsible for index composition changes.

3. *Leveraged ETFs and Share Class ETFs*

State Street Global Advisors agrees that the Proposed ETF Rule should not capture ETFs which seek to exceed the performance of a market index by a specified multiple or to provide returns that have an inverse relationship to the performance of a market index, over a fixed period of time ("leveraged ETFs") or are structured as a share class of a fund that issues multiple classes of shares representing interests in the same portfolio ("share class ETFs"). Leveraged ETFs and share class ETFs present issues which are appropriately addressed through means other than the Proposed ETF Rule.

However, we note that the Proposed ETF Rule does not, and we believe that it should not, preclude or otherwise limit the use of certain derivative instruments by an ETF relying on the Proposed ETF Rule. ETFs, like other investment companies, may use certain derivative instruments for a variety of purposes, such as the efficient equitization of cash, gaining exposure to difficult to obtain investments, and currency hedging.

B. Exemptive Relief under Proposed Rule 6c-11

1. *Treatment of ETF Shares as "Redeemable Securities"*

State Street Global Advisors supports the classification of ETF shares as "redeemable securities." Such treatment will allow ETFs relying on the Proposed ETF Rule to meet the definition of open-end funds and to obtain necessary exemptions from Regulation M and certain provisions of the Securities Exchange Act of 1934, as amended ("1934 Act"). The Commission should consider all ETF shares, not just those relying on Rule 6c-11, to be "redeemable securities" to the extent that such ETF shares are issued and trade in the same manner as ETF shares operating pursuant to Rule 6c-11.

2. *Trading of ETF Shares at Market-Determined Prices*

We support the Commission's proposal to provide exemptions from Section 22(d) of the Investment Company Act and Rule 22c-1. Such exemptions allow trading of ETF shares at market-determined prices that may be different from the ETF's net asset value ("**NAV**").

The ability of investors to transact ETFs at market-determined prices throughout the course of the trading day is one of the cardinal benefits of the

ETF structure, providing market participants with a method to increase or decrease exposure to asset classes or strategies throughout the trading day in reaction to developing market events or changing investment views.

3. *Affiliated Transactions*

We support the proposed relief from Sections 17(a)(1) and (2) to permit in-kind creation and redemption transactions involving persons who are first- or second-tier affiliates of an ETF by reason of holding with the power to vote 5 percent or more of (i) the ETF's shares; or (ii) any investment company that is an affiliated person of the ETF.

As noted in the proposing release, the above categories of affiliates are treated in the same manner as are non-affiliates when transacting directly with ETFs in creation unit sizes. No opportunity is presented for such affiliates to transact in a way that would harm the ETF or its shareholders, as all purchases and redemptions of creation units are at the ETF's next-calculated NAV and transacted securities are valued in the same way as the ETF's NAV is calculated.

The relief should be expanded to encompass other affiliates, including broker-dealers that are affiliated with an ETF's adviser. Frequently, financial institutions advising ETFs have broker-dealer affiliates that may be interested in transacting with the ETF at market terms. Transactions with broker-dealers that are affiliated with an ETF's investment adviser would be conducted with the benefit of multiple layers of protections for the ETF, including the fiduciary duty of the ETF's investment adviser and federal securities laws and applicable regulations prohibiting manipulative practices. Any custom basket transactions would be effected in accordance with the ETF's custom basket policies and procedures.

4. *Additional Time for Delivering Redemption Proceeds*

We support the proposed relief from Section 22(e) of the Investment Company Act to permit an ETF to delay satisfaction of a redemption request for more than seven days if local market holidays and/or extended market delivery cycles prevent timely delivery of the foreign investment included in the ETF's basket. As proposed, an ETF would be required to deliver foreign investments as soon as practicable, but no later than 15 days after the tender to the ETF.

We are concerned, however, that the proposed sunset provision for this relief does not sufficiently take into account the possibility that the movement toward shorter settlement times may not progress at a pace which would render relief from Section 22(e) unnecessary in ten years. Rather than include a sunset provision for an arbitrary period of time, we recommend that the Commission extend the relief indefinitely and subsequently revisit the need for such relief following actual shortening of settlement cycles due to technological innovation and changes in market infrastructures and operations.

Additionally, we suggest that the Commission modify the proposed definition of “foreign investment” to remove the language “and for which there is no established United States public trading market.” Defining “foreign investment” as any security, asset or other position of the ETF issued by a foreign issuer for which there is no established U.S. public trading market may operate to subvert the intent of the Section 22(e) relief that the Proposed ETF Rule seeks to offer. The definition does not capture foreign issuers that issue stock on U.S. public trading markets, which stock may represent an entirely different security than the local offering. Many indices tracked by ETFs include the more liquid foreign (local) security, as opposed to the frequently less liquid U.S. issue. In an attempt to closely track its index, an ETF will generally hold the local security, the performance and characteristics of which may differ significantly from the U.S. issue. Thus, an ETF holding the appropriate local security, which may need to rely on the Section 22(e) relief, would be unable to rely on such relief to the extent that the issuer has listed a separate security on a U.S. market.

C. Conditions for Reliance on Proposed Rule 6c-11

1. *Issuance and Redemption of Shares*

State Street Global Advisors supports the conditions associated with issuance and redemption of shares. We agree that the long-standing requirement for an ETF to issue (and redeem) “creation units” to (and from) authorized participants in exchange for baskets and a cash balancing amount (if any) promotes orderly primary market activity and an efficient arbitrage mechanism. We support the proposed definitions of “authorized participant” and “creation unit.” In particular, we support the absence of a specified minimum creation unit size in the Proposed ETF Rule. This will give an ETF’s investment adviser the flexibility to establish an appropriate creation unit size, helping to ensure that the ETF more closely tracks its index while also helping to facilitate effective trading. A creation unit size that is too large for a particular ETF can increase the cost of carry incurred by market makers and may ultimately operate to increase transaction costs for investors. Conversely, a creation unit size that is too small can negatively impact the ETF’s ability to closely track its index and may ultimately increase the ETF’s tracking difference against the benchmark. The ETF’s investment adviser is best positioned to establish the appropriate threshold.

We agree that an ETF generally may suspend the issuance of creation units only for a limited time and only in certain circumstances; however, we ask the Commission to clarify that those instances should be in the sole discretion of the ETF's investment adviser, operating at all times according to its fiduciary duty to act in the best interests of the ETF under the circumstances.

2. Listing on a National Securities Exchange

We support the requirement that ETF shares be listed on a national securities exchange. We request clarification, however, on the circumstances under which an ETF would lose its ability to rely on the Proposed ETF Rule based on action by an exchange. Due to the sometimes ephemeral nature of trading suspensions, we suggest that the Commission clarify that losing the ability to rely on the Proposed ETF Rule be predicated upon delisting only, rather than suspension of trading privileges.

3. Intraday Indicative Value

We agree with the determination that the dissemination of the intraday indicative value ("**IIV**") should not be a condition for reliance on the Proposed ETF Rule.

In concept, the IIV should provide market participants with a reliable reference price that accurately represents the value per share of an ETF's portfolio holdings throughout the course of the trading day. In reality, however, the IIV often does not reflect the true value of an ETF for a variety of reasons: dissemination delays, stale price information for underlying holdings, and inconsistent calculation methodologies. As noted in the proposing release, market makers typically calculate the "fair value" of ETF shares in real time using their own proprietary models, not relying on the IIV. The current regulatory mandate for calculation of IIVs is confusing to the marketplace, and reduces, rather than increases, ETF transparency. To the extent there is market demand for information similar to the IIV by market participants absent a regulatory mandate, we expect industry-led solutions will be available, perhaps as part of a broader discussion around market price validation. We strongly agree with the Commission that the IIV should not be mandated as a regulatory requirement under the proposed rule.

We note, however, that the elimination of the requirement to make available an IIV under the 1940 Act will not relieve ETFs of the obligation to provide an IIV under the 1934 Act or certain requirements of listing exchanges, effectively mooting the positive impact of the Commission's proposed rule with respect to IIVs. We urge the Commission to harmonize the regulatory requirement for IIVs applicable to ETFs across the various regulatory regimes.

4. Portfolio Holdings

State Street Global Advisors agrees with the requirement that ETFs provide transparency of portfolio holdings, and agrees that portfolio transparency is an effective (though not the sole) means to facilitate the arbitrage mechanism.

We recommend, however, that the Commission modify the proposed condition whereby ETFs would need to disclose portfolio holdings before accepting creation or redemption orders. The Proposed ETF Rule appears to require that an ETF's basket and portfolio holdings must be published on its website before it accepts creation and redemption orders. We are concerned that the practical effect of such a requirement is that authorized participants may curtail transacting in certain ETFs, which could result in dislocations in those ETFs. As explained in further detail below, current practice, by which authorized participants transact creation and redemption orders in advance of the posting of an ETF's portfolio holdings, has been effective and should not be altered.

Currently, certain ETFs impose early cut-off times for orders to purchase or redeem creation units. ETFs that invest in global markets and transact fully or partially in cash for the purchase or redemption of creation units may impose order cut-offs that occur on the previous business day (commonly referred to as T-1 orders). T-1 orders (for the next business day's NAV) are generally accepted between 4:00 p.m. and 5:30 p.m. EST, with the "order window" opening immediately following the ETF's NAV calculation time on T-1.

This vital operational mechanism allows the investment manager to effectively manage the ETF's portfolio and align the execution time of underlying security transactions in global markets with the NAV calculation of the order. The ability to align portfolio transactions with NAV calculation operates to minimize costs for ETF shareholders and reduce tracking difference between the performance of the ETF and the index.

Currently, industry practice has been such that an ETF's basket and portfolio holdings for the next business day are not published before accepting T-1 orders. The publication of next day's basket and holdings is dependent on the availability of finalized global market data and the completion of numerous operational processes both at the investment manager and administrator/custodian (*e.g.*, compliance reviews, transaction processing, pricing and audit of daily NAV calculation, etc.). Generally, the availability of required finalized data and completion of operational processes coalesces around the National Securities Clearing Corporation primary basket publication deadline of 8:00 p.m. EST.

As such, a 4:00 p.m. EST publication deadline for next day's basket and holdings is currently not feasible operationally. Additionally, we believe that delaying the acceptance of T-1 orders until after 8:00 p.m. EST is not a solution. This would cause negative impacts across the ETF ecosystem and disrupt operational workflows for authorized participants, distributors, administrators/custodians and investment managers. Eliminating the ability to accept T-1 orders would impair the investment manager's ability to effectively manage the ETF portfolio and negatively impact investor performance by increasing the ETF's tracking difference. Additionally, as slippage costs that would be incurred by the ETF are passed back to market makers, it may cause harm to ETF shareholders through widened bid-ask spreads and increased transaction costs.

We recommend that the Commission remove the following language from Proposed Rule 6(c)-11(c)(1)(i): "and before the exchange-traded fund starts accepting orders for the purchase or redemption of creation units" and replace it with a requirement that ETFs publish portfolio holdings as soon as practicable, but in no event later than the opening of the U.S. trading markets (typically, 9:30 am Eastern time).

We urge the Commission to recognize in a final rule that the current arbitrage mechanism does, and will continue to, function efficiently for T-1 orders because of the authorized participants' sophisticated capabilities to effectively synthesize supplemental and historical data that is made publicly available for each ETF. Appropriate resolution of this issue will be crucial to the success of the Proposed ETF Rule, and State Street Global Advisors would be pleased to have the opportunity to have further discussions on this topic if it would be useful to the Commission.

Additionally, we believe the requirement to present portfolio holdings in the manner prescribed within Article 12 of Regulation S-X requirements are not practical for making daily holdings disclosures for ETFs (particularly with the daily disclosure of appreciation/depreciation information that is currently made available at fund reporting periods). State Street Global Advisors recommends that the following portfolio holdings information be supplied in a standard file format with comma-separated value containing disclosure of the following required data points:

- Ticker symbol;
- Security identifier;
- Description of the holding;
- With respect to holdings in derivatives, the identity of the security, commodity, index or other asset upon which the derivative is based;

- The strike price for any options;
- The quantity of each security or other asset held as measured by:
    1. Par value,
    2. Notional value,
    3. Number of shares,
    4. Number of contracts, and
    5. And number of units;
- Maturity date;
- Coupon rate;
- Effective date;
- Market value; and
- Percentage weighting of the holding in the portfolio.

5. *Baskets*

We support the expansion of the use of custom baskets subject to written policies and procedures governing their construction under the Proposed ETF Rule. Such expansion will harmonize the conditions and requirements for basket composition across all ETFs operating in reliance on proposed rule 6c-11, eliminating differences that have allowed some ETFs to operate with greater efficiency than others.

We support the proposed requirement that an ETF's policies and procedures include the titles or roles of employees who review each custom basket. We note, however, that an ETF's portfolio management team will generally be in a better position to assess the merits of a particular custom basket than will any other functional group. To the extent that custom baskets are formulated pursuant to Rule 38a-1 policies and procedures, there will be monitoring and testing of processes to ensure that custom baskets are constructed in accordance with such policies and procedures. We believe that it would be a mistake to attempt to insert non-portfolio management personnel into what is indisputably a portfolio management function.

While we support the proposed requirements to publish portfolio holdings and baskets, we suggest that the Commission clarify the difference between the disclosure of portfolio holdings on the one hand and basket composition on the other, where the portfolio holdings would include all positions held by the ETF, while the basket would be comprised of the securities offered/required for delivery/receipt in that day's creation/redemption activity, plus assets substituted for cash and balancing cash amounts on a per-Creation Unit basis. We recommend that the requirement for a published basket allow for a either a *pro rata* slice of the portfolio holdings or a representation of the securities

determined by the portfolio manager to most efficiently allow for the management of the ETF in pursuit of its investment objective.
State Street Global Advisors does not support the proposed treatment of partial cash and/or cash in lieu baskets as custom baskets. The decision to substitute securities for cash in lieu in the best interest of the ETF should be governed by the portfolio manager's standard basket construction process.

State Street Global Advisors supports the Commission's decision not to require ETFs to publish information regarding every basket used by the ETF on each day. We believe that information about custom baskets would not be useful and may be confusing to retail market participants who may mistake the custom basket for the portfolio holdings. We further believe that the posting of information relating to custom basket contents on the ETF's website would be operationally burdensome, and of little to no use to investors. We understand that authorized participants are also unlikely to support a requirement to post information about specific custom baskets. Contents of particular custom baskets could be indicative of an authorized participant's proprietary trading strategy, disclosure of which could lead an authorized participant to curtail transacting custom baskets with the ETF, which could have the effect of reducing operational efficiency, widening bid-ask spreads, and contributing to potentially negative tax consequences and an increase in tracking error for index-based funds.

We seek clarity on the Commission's intent regarding the posting of a "published basket." Specifically, we seek confirmation that the following language in the proposing release, "[t]he proposed rule also would require an ETF to disclose prominently on its website, which is publicly available and free of charge, information regarding a published basket that will apply to orders for the purchase or redemption of creation units each business day" would not operate to require that an ETF be bound to accept any level of purchase or redemption orders based on a single basket, or that an ETF be required to accept or redeem a particular basket, regardless of circumstances.

6. *Website Disclosure*

   a. *Daily NAV, Market Price, and Premiums and Discounts*

State Street Global Advisors supports the proposed requirement for ETFs to post on their websites, on each business day, the ETF's NAV and market price as a condition for reliance on the Proposed ETF Rule. While we do not object to posting daily premiums or discounts, we believe that emphasizing this information is unnecessary and that it can be misleading. For instance, investors may choose to buy ETF shares because of a discount, thinking that they are getting a bargain, when in fact the ETF may be acting as a leading indicator of prices of underlying constituents. Similarly, investors may choose not to buy ETF shares because of a premium, when in fact the NAV is based on stale prices from an earlier close.

b. Bid-Ask Spread Disclosure

While the bid-ask spread is one component in the theoretical cost of ownership of an ETF, we recommend that the Commission remove the requirement for ETFs to disclose the median bid-ask spread for the most recent fiscal year as well as the requirement to provide an interactive spread cost calculator. Instead, proposed rule 6c-11 should require ETFs to provide a narrative disclosure highlighting the effect of transaction costs when trading an ETF in the secondary market.

The proposed new bid-ask spread information, which an ETF would be required to disclose on its website and in its prospectus, may be misinterpreted by investors, giving them false impressions about the expected transaction costs when trading an ETF. While we agree that bid-ask spread information can be useful for estimating the theoretical costs of buying and selling ETF shares, an investor's actual transaction costs can differ significantly based on a variety of factors (*e.g.*, size of trade, prevailing market conditions, time of day, brokerage commissions, price improvement, etc.).

For example, even if bid-ask spreads are constant, the actual transaction costs associated with buying or selling 10 shares of an ETF may differ meaningfully from transaction costs associated with buying or selling 10,000 shares of the same ETF on the same day.

Furthermore, bid-ask spreads are dynamic and can change as a function of many factors. Accordingly, historical bid-ask spreads should not be interpreted as indicative of future bid-ask spreads. A "point of transaction" discussion between an investor and financial intermediary regarding expected transaction costs is more appropriate than pointing investors to historical bid-ask spread information disclosed by ETFs.

Finally, the bid-ask spread disclosure requirements will add to the cost of sponsoring an ETF, which costs are likely to be passed on to the investor. Bid-ask spread data is not owned by ETFs, nor is it only able to be calculated by ETFs.

Rather than require each ETF provider to publish bid-ask spread information as a condition for reliance on the Proposed ETF Rule, we suggest that the Commission modify the Proposed ETF Rule to require that ETFs provide a link on their websites to the Commission's Market Structure Data Downloads website, where bid-ask spread information could be included in the metrics that are published quarterly. The Commission has published security-specific information on bid-ask spreads on this website in the past, using data from its Market Information Data Analytics System.[2] This approach would provide easier access to bid-ask spread information across the full range of U.S. equity securities and would have the added benefit of ensuring consistency and minimizing costs that would otherwise be passed on to ETF shareholders.

c. Historical Information Regarding Premiums and Discounts

We do not support the requirement that any ETF whose premium or discount was greater than two percent for more than seven consecutive trading days to post a discussion of the factors that are reasonably believed to have materially contributed to the premium or discount. Because premiums and discounts are functions of the marketplace, it may not always be possible for the ETF to identify precisely the factors which contributed to the deviation.

D. Effect of Proposed Rule 6c-11 on Prior Orders

We understand that the Commission and its staff are working to develop an additional proposed rulemaking regarding fund of funds investments. We urge the Commission to align the effectiveness of such rulemaking with the ultimate effectiveness of the Proposed ETF Rule to allow for a true streamlining of regulatory requirements.

E. Amendments to Form N-1A

We recommend that the Commission delete Q&A 4 and 5 from Form N-1A along with the last line of Q&A 3 and remove the proposed requirement for an interactive calculator. We agree that investors should have access to information regarding the total cost of ownership associated with investment in an ETF, and that there should be additional disclosure in Form N-1A to help investors understand these costs. However, we have a number of concerns about the proposed amendments to Form N-1A.

The fee information included in an ETF's prospectus represents costs resulting from the management of the ETF. Information regarding bid-ask spreads represents costs of buying and selling the ETF in the marketplace. Including information in an ETF's registration statement effectively renders the ETF liable for such information, which, in the case of historical bid-ask spread data, is likely to be stale and could be misleading to investors and not indicative of their individual trading experience. ETFs and their sponsors do not own this data,

[2] See "Spreads and Depth by Individual Security" (last updated December 2013), available at: https://www.sec.gov/marketstructure/downloads.html.

and should not be made legally responsible for it or be made to present the information as though the ETF or its sponsor sets the bid-ask spread. In order to obtain such information, an ETF or its sponsor would have to contract with a third party data vendor, at a cost. This information is, at best, of limited utility to investors, and, at worst, misleading and not likely to be reflective of actual trading experience. These additional disclosure requirements will add to the cost and risk of sponsoring an ETF, which costs are likely to be passed on to the investor, with no clear benefit to the investor and, instead, a potential harm.

We agree that investors should be made aware of how costs attributable to bid-ask spreads can affect their total cost of ownership and recommend that Form N-1A require ETFs to include a hypothetical example using standard inputs. This approach will highlight the concept for investors without providing potentially misleading information, and encourage investors to converse with their financial advisers regarding the potential costs associated with trading ETFs.

F. Securities Exchange Act Relief

We encourage the Commission to consider ways that the Division of Investment Management and the Division of Trading and Markets can work together to further streamline and harmonize the regulatory requirements that apply to initial and ongoing regulatory requirements for ETFs.

The Commission should rationalize the relief from the Exchange Act sections granted through numerous class relief letters and conform such relief to the requirements of Rule 6c-11. The Commission should take this action through the issuance of a consolidated no-action letter which would be available to any ETF meeting the uniform requirements.

The Commission should further allow the exchanges to amend listing standards applicable to ETFs to harmonize with the requirements of Rule 6c-11, so as not to undermine the Commission's intentions for the requirements of ETFs. For instance, the Commission has recognized the limited utility of providing an IIV and establishing creation unit size minimums for ETFs in the Proposed ETF Rule. As a practical matter, these requirements remain as current exchange listing standards require dissemination of an IIV and require minimum creation unit sizes, thus neutering the express intent of the Commission to eliminate these requirements. Harmonization of exchange listing requirements with the requirements of Rule 6c-11 will provide for a more consistent and uniform regulatory framework for ETFs.

In respect of ETFs ineligible to rely on Rule 6c-11, the Commission should ensure that the Division of Investment Management and Division of Trading and Markets seek to impose uniform conditions on issuers and should ensure that sponsors have the ability to engage directly with staff members. The process to bring a new ETF to market should be streamlined such that the Commission speaks with one voice, and imposes one set of conditions and requirements, on novel product structures.

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State Street Global Advisors appreciates the opportunity to comment on the Proposed ETF Rule. Should you have any questions about this letter, please do not hesitate to contact me.

Sincerely,

James E. Ross
Executive Vice President and Chairman, Global SPDR Business
State Street Global Advisors

cc: The Honorable Jay Clayton
The Honorable Kara M. Stein
The Honorable Robert J. Jackson, Jr.
The Honorable Hester M. Peirce
The Honorable Elad L. Roisman

Dalia Blass
Director, Division of Investment Management