

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="36"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2020"/> - * <input type="text" value="84"/> Amendment No. (req. for Amendments *) <input type="text" value="1"/>
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Filing by NYSE Arca, Inc.
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Last Name *

Title *

E-mail *

Telephone * Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date Associate General Counsel

By

(Name *)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) proposes to amend NYSE Arca Rule 8.900-E to adopt generic listing standards for Managed Portfolio Shares. This Amendment No. 1 to SR-NYSEArca-2020-84 replaces SR-NYSEArca-2020-84 as originally filed and supersedes such filing in its entirety.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the proposed rule change is attached as Exhibit 5.

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Michael Cavalier
Counsel
NYSE Group, Inc.
(212) 656-2474

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

- (a) Purpose

The Exchange proposes to amend NYSE Arca Rule 8.900-E to adopt generic listing standards for Managed Portfolio Shares. Under the Exchange’s current rules, a proposed rule change must be filed with the Securities and Exchange

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Commission (“SEC” or “Commission”) for the listing and trading of each new series of Managed Portfolio Shares. The Exchange believes that it is appropriate to codify certain rules within Rule 8.900-E that would generally reduce the need for such proposed rule changes, which would create greater efficiency and promote uniform standards in the listing process.

Background

Rule 8.900-E sets forth certain rules related to the listing and trading of Managed Portfolio Shares.³

The Commission has previously approved listing and trading of series of Managed Portfolio Shares on the Exchange under NYSE Arca Rule 8.900-E and on other national securities exchanges under substantially equivalent listing rules.⁴ Currently, three series of Managed Portfolio Shares are listed and traded on the Cboe BZX Exchange, Inc.⁵

Rule 8.900-E(b)(1) provides that the Exchange will file separate proposals under Section 19(b) of the Act before the listing and trading of a series of Managed Portfolio Shares. The rule further provides that all statements or representations contained in such rule filing regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the

³ See Securities Exchange Act Release No. 88648 (April 15, 2020), 85 FR 22200 (April 21, 2020) (SR-NYSEArca-2020-32) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a New NYSE Arca Rule 8.900-E).

⁴ See Securities Exchange Act Release Nos. 89633 (August 25, 2020), 85 FR 53868 (August 31, 2020) (SR-NYSEArca-2020-48) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of Gabelli ETFs under Rule 8.900-E) (the “Gabelli Approval Order”); 88247 (February 20, 2020), 85 FR 11137 (February 26, 2020) (SR-CboeBZX-2019-102) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3 thereto, to List and Trade Shares of the ClearBridge Focus Value ETF under BZX Rule 14.11(k)) (“ClearBridge Approval Order”); 88175 (February 12, 2020), 85 FR 9494 (February 19, 2020) (SR-CboeBZX-2019-057) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2 thereto, to List and Trade Shares of the American Century Focused Dynamic Growth ETF and American Century Focused Large Cap Value ETF under BZX Rule 14.11(k)) (“American Century Approval Order”, together with the Gabelli Approval Order, ClearBridge Approval Order and American Century Approval Order, the “Approval Orders”).

⁵ See ClearBridge Approval Order and American Century Approval Order, referenced in note 4, supra.

applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Key Features of Managed Portfolio Shares

While each series of Managed Portfolio Shares will be actively managed and, to that extent, will be similar, for example, to Managed Fund Shares (as defined in Rule 8.600-E),⁶ Managed Portfolio Shares differ from Managed Fund Shares in the following important respects.⁷ First, in contrast to Managed Fund Shares, which require a “Disclosed Portfolio” to be disseminated at least once daily,⁸ the

⁶ The Commission approved a proposed rule change to adopt rules permitting the listing and trading of Managed Fund Shares. See Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR-NYSEArca-2008-25) (Order Granting Accelerated Approval of Rules Permitting the Listing and Trading of Managed Fund Shares, Trading Hours and Halts, Listing Fees Applicable To Managed Fund Shares). The Commission has also previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under Rule 8.600-E. See, e.g., Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust; 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR-NYSEArca-2010-118) (order approving Exchange listing and trading of the SiM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF).

⁷ Rule 8.900-E(c)(1) defines the term “Managed Portfolio Share” as a security that (a) represents an interest in an investment company registered under the Investment Company Act of 1940 (“Investment Company”) organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies; (b) is issued in a Creation Unit, or multiples thereof, in return for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value and delivered to the Authorized Participant (as defined in the Investment Company’s Form N-1A filed with the Commission) through a Confidential Account; (c) when aggregated into a Redemption Unit, or multiples thereof, may be redeemed for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value delivered to the Confidential Account for the benefit of the Authorized Participant; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

⁸ NYSE Arca Rule 8.600-E(c)(2) defines the term “Disclosed Portfolio” as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company’s calculation of net

portfolio for a series of Managed Portfolio Shares will be disclosed quarterly in accordance with normal disclosure requirements otherwise applicable to open-end investment companies registered under the Investment Company Act of 1940 (“1940 Act”).⁹ The composition of the portfolio of a series of Managed Portfolio Shares would not be available at commencement of Exchange listing and/or trading. Second, in connection with the creation and redemption of shares in “Creation Unit” or “Redemption Unit” size, the delivery of any portfolio securities in kind will be effected through a “Confidential Account” for the benefit of the creating or redeeming Authorized Participant (“AP”) without disclosing the identity of such securities to the AP.¹⁰

For each series of Managed Portfolio Shares, an estimated value -- the Verified Intraday Indicative Value or “VIIV”-- that reflects an estimated intraday value of a fund’s portfolio will be disseminated.¹¹ Specifically, the VIIV will be based

asset value at the end of the business day. NYSE Arca Rule 8.600-E(d)(2)(B)(i) requires that the Disclosed Portfolio be disseminated at least once daily and be made available to all market participants at the same time.

⁹ Form N-PORT requires reporting of a fund’s complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund’s Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund’s SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission’s website at www.sec.gov.

¹⁰ NYSE Arca Rule 8.900-E(c)(4) defines the term “Confidential Account” as “an account owned by an Authorized Participant and held with an AP Representative on behalf of the Authorized Participant. The account will be established and governed by contractual agreement between the AP Representative and the Authorized Participant solely for the purposes of creation and redemption, while keeping confidential the Creation Basket constituents of each series of Managed Portfolio Shares, including from the Authorized Participant. The books and records of the Confidential Account will be maintained by the AP Representative on behalf of the Authorized Participant.” NYSE Arca Rule 8.900-E(c)(3) defines the term “AP Representative” as “an unaffiliated broker-dealer, with which an Authorized Participant has signed an agreement to establish a Confidential Account for the benefit of such Authorized Participant, that will deliver or receive, on behalf of the Authorized Participant, all consideration to or from the Investment Company in a creation or redemption. An AP Representative will not be permitted to disclose the Creation Basket to any person, including the Authorized Participants.”

¹¹ Rule 8.900-E(c)(2) defines the term “Verified Intraday Indicative Value (“VIIV”) as the indicative value of a Managed Portfolio Share based on all of the holdings

upon all of a series' holdings as of the close of the prior business day and, for corporate actions, based on the applicable holdings as of the opening of business on the current business day. The VIIV will be widely disseminated by the "Reporting Authority" and/or one or more major market data vendors in one second intervals during the Exchange's Core Trading Session and will be disseminated to all market participants at the same time. The dissemination of the VIIV will allow investors to determine the estimated intra-day value of the underlying portfolio of a series of Managed Portfolio Shares and will provide a close estimate of that value throughout the trading day.

In addition, Rule 8.900-E currently provides criteria that Managed Portfolio Shares must satisfy for initial and continued listing on the Exchange, including, for example, that a minimum number of Managed Portfolio Shares are required to be outstanding at the time of commencement of trading on the Exchange. However, the current process for listing and trading new series of Managed Portfolio Shares on the Exchange requires that the Exchange submit a proposed rule change with the Commission. In this regard, as noted above, Rule 8.900-E(b)(1) specifies that the Exchange will file separate proposals under Section 19(b) of the Act before listing and trading of shares of a series of Managed Portfolio Shares.

Proposed Changes to Rule 8.900-E

The Exchange proposes to amend Rule 8.900-E(b) to specify that the Exchange may approve Managed Portfolio Shares for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to SEC Rule 19b-4(e) under the Act, which pertains to derivative securities products ("SEC Rule 19b-4(e)").¹² SEC Rule 19b-4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4,¹³ if the

of a series of Managed Portfolio Shares as of the close of business on the prior business day and, for corporate actions, based on the applicable holdings as of the opening of business on the current business day, priced and disseminated in one second intervals during the Core Trading Session by the Reporting Authority.

¹² 17 CFR 240.19b-4(e). As provided under SEC Rule 19b-4(e), the term "new derivative securities product" means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument.

¹³ 17 CFR 240.19b-4(c)(1). As provided under SEC Rule 19b-4(c)(1), a stated policy, practice, or interpretation of the SRO shall be deemed to be a proposed rule change unless it is reasonably and fairly implied by an existing rule of the SRO.

Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. This is the current method pursuant to which "passive" ETFs are listed under NYSE Arca Rule 5.2-E(j)(3), actively-managed ETFs are listed under NYSE Arca Rule 8.600-E, and Exchange-Traded Fund Shares are listed under NYSE Arca Rule 5.2-E(j)(8).

The Exchange would also specify in Rule 8.900-E(b) that components of a series of Managed Portfolio Shares listed pursuant to Rule 19b-4(e) shall satisfy the criteria set forth in Rule 8.900-E and proposed Commentary .01 thereto upon initial listing and on a continual basis. The Exchange will file separate proposals under Section 19(b) of the Act before the listing and trading of a series of Managed Portfolio Shares with components that do not satisfy the criteria set forth in proposed Commentary .01 or components other than those specified in Commentary .01(a). For example, if the components of a series of Managed Portfolio Shares included a security or asset that is not specified in proposed Commentary .01(a), the Exchange would file a separate proposed rule change.

Proposed Commentary .01(a) provides that the portfolio holdings for a series of Managed Portfolio Shares listed pursuant to Rule 19b-4(e) shall include only the following:

- (1) U.S. exchange-traded securities that are common stocks; preferred stocks; American Depositary Receipts; and real estate investment trusts;
- (2) U.S. exchange-traded funds that are listed under the following rules: Investment Company Units (Rule 5.2-E(j)(3)); Exchange-Traded Fund Shares (Rule 5.2-E(j)(8)); Portfolio Depositary Receipts (Rule 8.100-E); Managed Fund Shares (Rule 8.600-E); Active Proxy Portfolio Shares (Rule 8.601-E); and Managed Portfolio Shares (Rule 8.900-E);
- (3) Equity Gold Shares (Rule 5.2-E(j)(5))
- (4) Index-Linked Securities (Rule 5.2-E(j)(6));
- (5) Commodity-Based Trust Shares (Rule 8.201-E);
- (6) Currency Trust Shares (Rule 8.202-E);
- (7) the following securities, which are required to be organized as commodity pools: Commodity Index Trust Shares (Rule 8.203-E); Commodity Futures Trust Shares (Rule 8.204-E); Trust Units (Rule 8.500-E); and Managed Trust Securities (Rule 8.700-E);
- (8) the following securities if organized as commodity pools: Trust Issued Receipts (Rule 8.200-E) and Partnership Units (Rule 8.300-E);
- (9) U.S. exchange-traded futures that trade contemporaneously with shares of a series of Managed Portfolio Shares in the Exchange's Core Trading Session; and
- (10) Cash and cash equivalents. Cash equivalents are the following: short-term U.S. Treasury securities, government money market funds, and repurchase agreements.

Proposed Commentary .01(b) provides that a series of Managed Portfolio Shares listed pursuant to Rule 19b-4(e) will not hold short positions in securities and other financial instruments referenced in proposed Commentary .01(a)(1)-(10).

Proposed Commentary .01(c) provides that the securities referenced above in proposed Commentary .01(a)(2)-(8) shall include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.

The securities and financial instruments enumerated in proposed Commentary .01 (a) to Rule 8.900-E are consistent with, and limited to, the “permissible investments” for series of Managed Portfolio Shares previously approved by the Commission for Exchange listing and trading, as described in the Approval Orders.¹⁴ Each such series has filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder, and the Commission has issued orders under the 1940 Act granting the exemptions requested in such applications.¹⁵ Such applications made substantially identical representations specifying the instruments that a series of Managed Portfolio Shares is permitted to hold, and a series of Managed Portfolio Shares listed generically pursuant to Commentary .01 would be limited to such holdings on an initial and continued listing basis.¹⁶

The regulatory staff of the Exchange, or the Financial Industry Regulatory Authority, Inc. (“FINRA”), on behalf of the Exchange, will communicate as needed regarding trading in Managed Portfolio Shares, other exchange-traded equity securities and futures contracts with other markets that are members of the Intermarket Surveillance Group (“ISG”), including U.S. exchanges on which the components are traded. In addition, the Exchange may obtain information

¹⁴ See note 4, supra.

¹⁵ See, e.g., Application for exemptive relief (File No. 812-14405) and order granting exemptive relief applicable to the Precidian ETFs Trust under the 1940 Act (Investment Company Act Release No. 33477) (May 20, 2019).

¹⁶ For example, the ClearBridge Approval Order (see note 4, supra) relating to listing of shares of the ClearBridge Focus Value ETF states: “Pursuant to the Exemptive Order, the permissible investments include only the following instruments that trade on a U.S. exchange contemporaneously with the Shares: ETFs and exchange-traded notes, common stocks, preferred stocks, American depositary receipts, real estate investment trusts, commodity pools, metals trusts, currency trusts, and futures for which the reference asset the Fund may invest in directly or, in the case of an index future, based on an index of a type of asset that the Fund could invest in directly; as well as cash and cash equivalents (short-term U.S. Treasury securities, government money market funds and repurchase agreements).”

regarding trading in Managed Portfolio Shares from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the equity securities and futures contracts are traded. Pursuant to Rule 8.900-E(b)(3), an Investment Company's investment adviser will upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily portfolio holdings of each series of Managed Portfolio Shares.

With respect to the proposed amendment to Commentary .01(a)(10) relating to cash and cash equivalents, the enumerated cash equivalents--short-term U.S. Treasury securities, government money market funds, and repurchase agreements--also are included as cash equivalents for purposes of the generic listing criteria applicable to Managed Fund Shares in Commentary .01(c) to Rule 8.600-E. Such instruments are short-term, highly liquid, and of high credit quality, making them less susceptible than other asset classes both to price manipulation and volatility.¹⁷

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Managed Portfolio Shares. In addition, the Exchange believes that the proposed portfolio standards for listing and trading Managed Portfolio Shares are reasonably designed to promote a fair and orderly market for such Managed Portfolio Shares. These proposed standards would also work in conjunction with the existing initial and continued listing criteria related to surveillance procedures and trading guidelines.

In support of this proposal, the Exchange represents that:

- (1) Managed Portfolio Shares listed generically pursuant to Commentary .01 will conform to the initial and continued listing criteria under Rule 8.900-E as it is proposed to be amended and proposed Commentary .01 thereto;
- (2) the Exchange's surveillance procedures are adequate to continue to properly monitor the trading of Managed Portfolio Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which will include Managed Portfolio Shares, to monitor trading in the Managed Portfolio Shares;
- (3) the issuer of a series of Managed Portfolio Shares will be required to comply with Rule 10A-3 under the Act for the initial and

¹⁷ See Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (SR-NYSEArca-2015-110) (amending NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

continued listing of Managed Portfolio Shares, as provided under NYSE Arca Rule 5.3-E.

Prior to listing, pursuant to Rule 8.900-E(b) an issuer would be required to represent to the Exchange that it will notify the Exchange of any failure by a series of Managed Portfolio Shares 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 series of Managed Portfolio Shares is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

All Managed Portfolio Shares listed and/or traded pursuant to Rule 8.900-E (including pursuant to unlisted trading privileges) are subject to all Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that Equity Trading Permit Holders or issuers would have in complying with the proposed change.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would facilitate the listing and trading of additional Managed Portfolio Shares, which would enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that, in view of the Commission's approval of Exchange rules for Managed Portfolio Shares and commencement of Exchange trading of shares of series of Managed Portfolio Shares,²⁰ it is appropriate to codify certain rules within Rule 8.900-E that would generally reduce the need for separate proposed rule changes. The Exchange

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ See notes 3-5, supra.

believes that this would facilitate the listing and trading of additional types of Managed Portfolio Shares that have investment portfolios that are similar to investment portfolios for other exchange-traded funds that have been approved for listing and trading, thereby creating greater efficiencies in the listing process for the Exchange and the Commission.

The securities and financial instruments enumerated in proposed Commentary .01 (a)(1)-(10) to Rule 8.900-E are consistent with, and limited to, the “permissible investments” for series of Managed Portfolio Shares previously approved by the Commission for Exchange listing and trading, as described in the Approval Orders.²¹ The Exchange notes that all exchange-traded equity securities held by a series of Managed Portfolio Shares would be listed and traded on a national securities exchange in the United States. Futures contracts held by a series of Managed Portfolio Shares would be traded on a U.S. futures exchange.

With respect to the proposed amendment to Commentary .01(a)(10) relating to cash and cash equivalents, the enumerated cash equivalents--short-term U.S. Treasury securities, government money market funds, and repurchase agreements--also are included as cash equivalents for purposes of the generic listing criteria applicable to Managed Fund Shares in Commentary .01(c) to Rule 8.600-E. Such instruments are short-term, highly liquid, and of high credit quality, making them less susceptible than other asset classes both to price manipulation and volatility.²²

Quotation and last sale information for Managed Portfolio Shares and exchange-traded equities will be available via the Consolidated Tape Association high-speed line or from the exchange on which such securities trade. Price information for futures contracts is available from the exchange on which such futures trade and from major market data vendors. Intraday pricing information for cash equivalents will be available through subscription services and/or pricing services.

The proposed rule change is also designed to protect investors and the public interest because Managed Portfolio Shares listed and traded pursuant to Rule 8.601-E, including pursuant to the proposed portfolio standards, would continue to be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Managed Portfolio Shares. In addition, the Exchange believes that the proposed portfolio standards for listing and trading Managed Portfolio Shares are reasonably designed to promote a fair

²¹ See notes 4 and 16, supra.

²² See note 17, supra.

and orderly market for such Managed Portfolio Shares. These proposed standards would also work in conjunction with the existing initial and continued listing criteria related to surveillance procedures and trading halts.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Managed Portfolio Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 8.900-E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in Managed Portfolio Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, or the regulatory staff of the Exchange, will communicate as needed regarding trading in Managed Portfolio Shares, other exchange-traded equity securities, and futures contracts with other markets that are members of the ISG. In addition, the Exchange may obtain information regarding trading in Managed Portfolio Shares from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the equity securities and futures contracts are traded.

The Exchange also believes that the proposed rule change would fulfill the intended objective of Rule 19b-4(e) under the Act by allowing Managed Portfolio Shares that satisfy the proposed listing standards to be listed and traded without separate Commission approval. However, as proposed, the Exchange would continue to file separate proposed rule changes before the listing and trading of Managed Portfolio Shares that do not satisfy the additional criteria described above.

Prior to listing pursuant to proposed amended Rule 8.900-E and Commentary .01 thereto, an issuer would be required to represent to the Exchange that it will advise the Exchange of any failure by a series of Managed Portfolio Shares 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 series of Managed Portfolio Shares is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

For these reasons, the Exchange believes that the proposal is consistent with the Act.

4. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,²³ the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the

²³ 15 U.S.C. 78f(b)(8).

Exchange believes that the proposed rule change would facilitate the listing and trading of additional types of Managed Portfolio Shares and result in a significantly more efficient process surrounding the listing and trading of Managed Portfolio Shares, which will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that this would reduce the time frame for bringing Managed Portfolio Shares to market, thereby reducing the burdens on issuers and other market participants and promoting competition. In turn, the Exchange believes that the proposed change would make the process for listing Managed Portfolio Shares more competitive by applying uniform listing standards with respect to Managed Portfolio Shares.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of the time period for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Publication in the Federal Register

Exhibit 5 – Text of the Proposed Rule Change

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NYSEARCA-2020-84, Amendment No. 1)

[Date]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending NYSE Arca Rule 8900-E to Adopt Generic Listing Standards for Managed Portfolio Shares

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on October 2, 2020, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend NYSE Arca Rule 8.900-E to adopt generic listing standards for Managed Portfolio Shares. This Amendment No. 1 to SR-NYSEArca-2020-84 replaces SR-NYSEArca-2020-84 as originally filed and supersedes such filing in its entirety. The proposed change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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

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

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

1. Purpose

The Exchange proposes to amend NYSE Arca Rule 8.900-E to adopt generic listing standards for Managed Portfolio Shares. Under the Exchange’s current rules, a proposed rule change must be filed with the Securities and Exchange Commission (“SEC” or “Commission”) for the listing and trading of each new series of Managed Portfolio Shares. The Exchange believes that it is appropriate to codify certain rules within Rule 8.900-E that would generally reduce the need for such proposed rule changes, which would create greater efficiency and promote uniform standards in the listing process.

Background

Rule 8.900-E sets forth certain rules related to the listing and trading of Managed Portfolio Shares.⁴

⁴ See Securities Exchange Act Release No. 88648 (April 15, 2020), 85 FR 22200 (April 21, 2020) (SR-NYSEArca-2020-32) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a New NYSE Arca Rule 8.900-E).

The Commission has previously approved listing and trading of series of Managed Portfolio Shares on the Exchange under NYSE Arca Rule 8.900-E and on other national securities exchanges under substantially equivalent listing rules.⁵ Currently, three series of Managed Portfolio Shares are listed and traded on the Cboe BZX Exchange, Inc.⁶

Rule 8.900-E(b)(1) provides that the Exchange will file separate proposals under Section 19(b) of the Act before the listing and trading of a series of Managed Portfolio Shares. The rule further provides that all statements or representations contained in such rule filing regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

⁵ See Securities Exchange Act Release Nos. 89633 (August 25, 2020), 85 FR 53868 (August 31, 2020) (SR-NYSEArca-2020-48) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of Gabelli ETFs under Rule 8.900-E) (the “Gabelli Approval Order”); 88247 (February 20, 2020), 85 FR 11137 (February 26, 2020) (SR-CboeBZX-2019-102) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3 thereto, to List and Trade Shares of the ClearBridge Focus Value ETF under BZX Rule 14.11(k)) (“ClearBridge Approval Order”); 88175 (February 12, 2020), 85 FR 9494 (February 19, 2020) (SR-CboeBZX-2019-057) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2 thereto, to List and Trade Shares of the American Century Focused Dynamic Growth ETF and American Century Focused Large Cap Value ETF under BZX Rule 14.11(k)) (“American Century Approval Order”, together with the Gabelli Approval Order, ClearBridge Approval Order and American Century Approval Order, the “Approval Orders”).

⁶ See ClearBridge Approval Order and American Century Approval Order, referenced in note 5, supra.

Key Features of Managed Portfolio Shares

While each series of Managed Portfolio Shares will be actively managed and, to that extent, will be similar, for example, to Managed Fund Shares (as defined in Rule 8.600-E),⁷ Managed Portfolio Shares differ from Managed Fund Shares in the following important respects.⁸ First, in contrast to Managed Fund Shares, which require a “Disclosed Portfolio” to be disseminated at least once daily,⁹ the portfolio for a series of

⁷ The Commission approved a proposed rule change to adopt rules permitting the listing and trading of Managed Fund Shares. See Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR-NYSEArca-2008-25) (Order Granting Accelerated Approval of Rules Permitting the Listing and Trading of Managed Fund Shares, Trading Hours and Halts, Listing Fees Applicable To Managed Fund Shares). The Commission has also previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under Rule 8.600-E. See, e.g., Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust; 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR-NYSEArca-2010-118) (order approving Exchange listing and trading of the SiM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF).

⁸ Rule 8.900-E(c)(1) defines the term “Managed Portfolio Share” as a security that (a) represents an interest in an investment company registered under the Investment Company Act of 1940 (“Investment Company”) organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies; (b) is issued in a Creation Unit, or multiples thereof, in return for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value and delivered to the Authorized Participant (as defined in the Investment Company’s Form N-1A filed with the Commission) through a Confidential Account; (c) when aggregated into a Redemption Unit, or multiples thereof, may be redeemed for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value delivered to the Confidential Account for the benefit of the Authorized Participant; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

⁹ NYSE Arca Rule 8.600-E(c)(2) defines the term “Disclosed Portfolio” as the identities and quantities of the securities and other assets held by the Investment

Managed Portfolio Shares will be disclosed quarterly in accordance with normal disclosure requirements otherwise applicable to open-end investment companies registered under the Investment Company Act of 1940 (“1940 Act”).¹⁰ The composition of the portfolio of a series of Managed Portfolio Shares would not be available at commencement of Exchange listing and/or trading. Second, in connection with the creation and redemption of shares in “Creation Unit” or “Redemption Unit” size, the delivery of any portfolio securities in kind will be effected through a “Confidential Account” for the benefit of the creating or redeeming Authorized Participant (“AP”) without disclosing the identity of such securities to the AP.¹¹

Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. NYSE Arca Rule 8.600-E(d)(2)(B)(i) requires that the Disclosed Portfolio be disseminated at least once daily and be made available to all market participants at the same time.

¹⁰ Form N-PORT requires reporting of a fund’s complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund’s Statement of Additional Information, its Shareholder Reports, its Form N-CSR, filed twice a year, and its Form N-CEN, filed annually. A fund’s SAI and Shareholder Reports are available free upon request from the Investment Company, and those documents and the Form N-PORT, Form N-CSR, and Form N-CEN may be viewed on-screen or downloaded from the Commission’s website at www.sec.gov.

¹¹ NYSE Arca Rule 8.900-E(c)(4) defines the term “Confidential Account” as “an account owned by an Authorized Participant and held with an AP Representative on behalf of the Authorized Participant. The account will be established and governed by contractual agreement between the AP Representative and the Authorized Participant solely for the purposes of creation and redemption, while keeping confidential the Creation Basket constituents of each series of Managed Portfolio Shares, including from the Authorized Participant. The books and records of the Confidential Account will be maintained by the AP Representative on behalf of the Authorized Participant.” NYSE Arca Rule 8.900-E(c)(3) defines the term “AP Representative” as “an unaffiliated broker-dealer, with which an Authorized Participant has signed an agreement to establish a Confidential Account for the benefit of such Authorized Participant, that will deliver or receive, on behalf of the Authorized Participant, all consideration to or from the Investment Company in a creation or redemption. An AP Representative will not

For each series of Managed Portfolio Shares, an estimated value -- the Verified Intraday Indicative Value or “VIIV”-- that reflects an estimated intraday value of a fund’s portfolio will be disseminated.¹² Specifically, the VIIV will be based upon all of a series’ holdings as of the close of the prior business day and, for corporate actions, based on the applicable holdings as of the opening of business on the current business day. The VIIV will be widely disseminated by the “Reporting Authority” and/or one or more major market data vendors in one second intervals during the Exchange’s Core Trading Session and will be disseminated to all market participants at the same time. The dissemination of the VIIV will allow investors to determine the estimated intra-day value of the underlying portfolio of a series of Managed Portfolio Shares and will provide a close estimate of that value throughout the trading day.

In addition, Rule 8.900-E currently provides criteria that Managed Portfolio Shares must satisfy for initial and continued listing on the Exchange, including, for example, that a minimum number of Managed Portfolio Shares are required to be outstanding at the time of commencement of trading on the Exchange. However, the current process for listing and trading new series of Managed Portfolio Shares on the Exchange requires that the Exchange submit a proposed rule change with the Commission. In this regard, as noted above, Rule 8.900-E(b)(1) specifies that the

be permitted to disclose the Creation Basket to any person, including the Authorized Participants.”

¹² Rule 8.900-E(c)(2) defines the term “Verified Intraday Indicative Value (“VIIV”) as the indicative value of a Managed Portfolio Share based on all of the holdings of a series of Managed Portfolio Shares as of the close of business on the prior business day and, for corporate actions, based on the applicable holdings as of the opening of business on the current business day, priced and disseminated in one second intervals during the Core Trading Session by the Reporting Authority.

Exchange will file separate proposals under Section 19(b) of the Act before listing and trading of shares of a series of Managed Portfolio Shares.

Proposed Changes to Rule 8.900-E

The Exchange proposes to amend Rule 8.900-E(b) to specify that the Exchange may approve Managed Portfolio Shares for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to SEC Rule 19b-4(e) under the Act, which pertains to derivative securities products (“SEC Rule 19b-4(e”).¹³ SEC Rule 19b-4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (“SRO”) is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4,¹⁴ if the Commission has approved, pursuant to section 19(b) of the Act, the SRO’s trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. This is the current method pursuant to which “passive” ETFs are listed under NYSE Arca Rule 5.2-E(j)(3), actively-managed ETFs are listed under NYSE Arca Rule 8.600-E, and Exchange-Traded Fund Shares are listed under NYSE Arca Rule 5.2-E(j)(8).

The Exchange would also specify in Rule 8.900-E(b) that components of a series of Managed Portfolio Shares listed pursuant to Rule 19b-4(e) shall satisfy the criteria set

¹³ 17 CFR 240.19b-4(e). As provided under SEC Rule 19b-4(e), the term “new derivative securities product” means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument.

¹⁴ 17 CFR 240.19b-4(c)(1). As provided under SEC Rule 19b-4(c)(1), a stated policy, practice, or interpretation of the SRO shall be deemed to be a proposed rule change unless it is reasonably and fairly implied by an existing rule of the SRO.

forth in Rule 8.900-E and proposed Commentary .01 thereto upon initial listing and on a continual basis. The Exchange will file separate proposals under Section 19(b) of the Act before the listing and trading of a series of Managed Portfolio Shares with components that do not satisfy the criteria set forth in proposed Commentary .01 or components other than those specified in Commentary .01(a). For example, if the components of a series of Managed Portfolio Shares included a security or asset that is not specified in proposed Commentary .01(a), the Exchange would file a separate proposed rule change.

Proposed Commentary .01(a) provides that the portfolio holdings for a series of Managed Portfolio Shares listed pursuant to Rule 19b-4(e) shall include only the following:

- (1) U.S. exchange-traded securities that are common stocks; preferred stocks; American Depositary Receipts; and real estate investment trusts;
- (2) U.S. exchange-traded funds that are listed under the following rules: Investment Company Units (Rule 5.2-E(j)(3)); Exchange-Traded Fund Shares (Rule 5.2-E(j)(8)); Portfolio Depositary Receipts (Rule 8.100-E); Managed Fund Shares (Rule 8.600-E); Active Proxy Portfolio Shares (Rule 8.601-E); and Managed Portfolio Shares (Rule 8.900-E);
- (3) Equity Gold Shares (Rule 5.2-E(j)(5))
- (4) Index-Linked Securities (Rule 5.2-E(j)(6));
- (5) Commodity-Based Trust Shares (Rule 8.201-E);
- (6) Currency Trust Shares (Rule 8.202-E);
- (7) the following securities, which are required to be organized as commodity pools: Commodity Index Trust Shares (Rule 8.203-E); Commodity

Futures Trust Shares (Rule 8.204-E); Trust Units (Rule 8.500-E); and
Managed Trust Securities (Rule 8.700-E);

(8) the following securities if organized as commodity pools: Trust Issued
Receipts (Rule 8.200-E) and Partnership Units (Rule 8.300-E);

(9) U.S. exchange-traded futures that trade contemporaneously with shares of
a series of Managed Portfolio Shares in the Exchange's Core Trading
Session; and

(10) Cash and cash equivalents. Cash equivalents are the following: short-
term U.S. Treasury securities, government money market funds, and
repurchase agreements.

Proposed Commentary .01(b) provides that a series of Managed Portfolio Shares
listed pursuant to Rule 19b-4(e) will not hold short positions in securities and other
financial instruments referenced in proposed Commentary .01(a)(1)-(10).

Proposed Commentary .01(c) provides that the securities referenced above in
proposed Commentary .01(a)(2)-(8) shall include securities listed on another national
securities exchange pursuant to substantially equivalent listing rules.

The securities and financial instruments enumerated in proposed Commentary .01
(a) to Rule 8.900-E are consistent with, and limited to, the "permissible investments" for
series of Managed Portfolio Shares previously approved by the Commission for
Exchange listing and trading, as described in the Approval Orders.¹⁵ Each such series has
filed an application for an order under Section 6(c) of the 1940 Act for exemptions from
various provisions of the 1940 Act and rules thereunder, and the Commission has issued

¹⁵ See note 5, supra.

orders under the 1940 Act granting the exemptions requested in such applications.¹⁶

Such applications made substantially identical representations specifying the instruments that a series of Managed Portfolio Shares is permitted to hold, and a series of Managed Portfolio Shares listed generically pursuant to Commentary .01 would be limited to such holdings on an initial and continued listing basis.¹⁷

The regulatory staff of the Exchange, or the Financial Industry Regulatory Authority, Inc. (“FINRA”), on behalf of the Exchange, will communicate as needed regarding trading in Managed Portfolio Shares, other exchange-traded equity securities and futures contracts with other markets that are members of the Intermarket Surveillance Group (“ISG”), including U.S. exchanges on which the components are traded. In addition, the Exchange may obtain information regarding trading in Managed Portfolio Shares from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the equity securities and futures contracts are traded. Pursuant to Rule 8.900-E(b)(3), an Investment Company’s investment adviser will upon request by the Exchange or FINRA, on behalf of the Exchange, make available

¹⁶ See, e.g., Application for exemptive relief (File No. 812-14405) and order granting exemptive relief applicable to the Precidian ETFs Trust under the 1940 Act (Investment Company Act Release No. 33477) (May 20, 2019).

¹⁷ For example, the ClearBridge Approval Order (see note 5, *supra*) relating to listing of shares of the ClearBridge Focus Value ETF states: “Pursuant to the Exemptive Order, the permissible investments include only the following instruments that trade on a U.S. exchange contemporaneously with the Shares: ETFs and exchange-traded notes, common stocks, preferred stocks, American depositary receipts, real estate investment trusts, commodity pools, metals trusts, currency trusts, and futures for which the reference asset the Fund may invest in directly or, in the case of an index future, based on an index of a type of asset that the Fund could invest in directly; as well as cash and cash equivalents (short-term U.S. Treasury securities, government money market funds and repurchase agreements).”

to the Exchange or FINRA the daily portfolio holdings of each series of Managed Portfolio Shares.

With respect to the proposed amendment to Commentary .01(a)(10) relating to cash and cash equivalents, the enumerated cash equivalents--short-term U.S. Treasury securities, government money market funds, and repurchase agreements--also are included as cash equivalents for purposes of the generic listing criteria applicable to Managed Fund Shares in Commentary .01(c) to Rule 8.600-E. Such instruments are short-term, highly liquid, and of high credit quality, making them less susceptible than other asset classes both to price manipulation and volatility.¹⁸

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Managed Portfolio Shares. In addition, the Exchange believes that the proposed portfolio standards for listing and trading Managed Portfolio Shares are reasonably designed to promote a fair and orderly market for such Managed Portfolio Shares. These proposed standards would also work in conjunction with the existing initial and continued listing criteria related to surveillance procedures and trading guidelines.

In support of this proposal, the Exchange represents that:

- (1) Managed Portfolio Shares listed generically pursuant to Commentary .01 will conform to the initial and continued listing criteria under Rule 8.900-E as it is proposed to be amended and proposed Commentary .01 thereto;

¹⁸ See Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (SR-NYSEArca-2015-110) (amending NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

- (2) the Exchange's surveillance procedures are adequate to continue to properly monitor the trading of Managed Portfolio Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which will include Managed Portfolio Shares, to monitor trading in the Managed Portfolio Shares;
- (3) the issuer of a series of Managed Portfolio Shares will be required to comply with Rule 10A-3 under the Act for the initial and continued listing of Managed Portfolio Shares, as provided under NYSE Arca Rule 5.3-E.

Prior to listing, pursuant to Rule 8.900-E(b) an issuer would be required to represent to the Exchange that it will notify the Exchange of any failure by a series of Managed Portfolio Shares 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 series of Managed Portfolio Shares is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

All Managed Portfolio Shares listed and/or traded pursuant to Rule 8.900-E (including pursuant to unlisted trading privileges) are subject to all Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that Equity Trading Permit Holders or issuers would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁰ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would facilitate the listing and trading of additional Managed Portfolio Shares, which would enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that, in view of the Commission's approval of Exchange rules for Managed Portfolio Shares and commencement of Exchange trading of shares of series of Managed Portfolio Shares,²¹ it is appropriate to codify certain rules within Rule 8.900-E that would generally reduce the need for separate proposed rule changes. The Exchange believes that this would facilitate the listing and trading of additional types of Managed Portfolio Shares that have investment portfolios that are

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ See notes 4-6, supra.

similar to investment portfolios for other exchange-traded funds that have been approved for listing and trading, thereby creating greater efficiencies in the listing process for the Exchange and the Commission.

The securities and financial instruments enumerated in proposed Commentary .01(a)(1)-(10) to Rule 8.900-E are consistent with, and limited to, the “permissible investments” for series of Managed Portfolio Shares previously approved by the Commission for Exchange listing and trading, as described in the Approval Orders.²² The Exchange notes that all exchange-traded equity securities held by a series of Managed Portfolio Shares would be listed and traded on a national securities exchange in the United States. Futures contracts held by a series of Managed Portfolio Shares would be traded on a U.S. futures exchange.

With respect to the proposed amendment to Commentary .01(a)(10) relating to cash and cash equivalents, the enumerated cash equivalents--short-term U.S. Treasury securities, government money market funds, and repurchase agreements--also are included as cash equivalents for purposes of the generic listing criteria applicable to Managed Fund Shares in Commentary .01(c) to Rule 8.600-E. Such instruments are short-term, highly liquid, and of high credit quality, making them less susceptible than other asset classes both to price manipulation and volatility.²³

Quotation and last sale information for Managed Portfolio Shares and exchange-traded equities will be available via the Consolidated Tape Association high-speed line or from the exchange on which such securities trade. Price information for futures contracts

²² See notes 5 and 17, supra.

²³ See note 18, supra.

is available from the exchange on which such futures trade and from major market data vendors. Intraday pricing information for cash equivalents will be available through subscription services and/or pricing services.

The proposed rule change is also designed to protect investors and the public interest because Managed Portfolio Shares listed and traded pursuant to Rule 8.601-E, including pursuant to the proposed portfolio standards, would continue to be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Managed Portfolio Shares. In addition, the Exchange believes that the proposed portfolio standards for listing and trading Managed Portfolio Shares are reasonably designed to promote a fair and orderly market for such Managed Portfolio Shares. These proposed standards would also work in conjunction with the existing initial and continued listing criteria related to surveillance procedures and trading halts.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Managed Portfolio Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 8.900-E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in Managed Portfolio Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, or the regulatory staff of the Exchange, will communicate as needed regarding trading in Managed Portfolio Shares, other exchange-traded equity

securities, and futures contracts with other markets that are members of the ISG. In addition, the Exchange may obtain information regarding trading in Managed Portfolio Shares from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the equity securities and futures contracts are traded.

The Exchange also believes that the proposed rule change would fulfill the intended objective of Rule 19b-4(e) under the Act by allowing Managed Portfolio Shares that satisfy the proposed listing standards to be listed and traded without separate Commission approval. However, as proposed, the Exchange would continue to file separate proposed rule changes before the listing and trading of Managed Portfolio Shares that do not satisfy the additional criteria described above.

Prior to listing pursuant to proposed amended Rule 8.900-E and Commentary .01 thereto, an issuer would be required to represent to the Exchange that it will advise the Exchange of any failure by a series of Managed Portfolio Shares 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 series of Managed Portfolio Shares is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,²⁴ the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of additional types of Managed Portfolio Shares and result in a significantly more efficient process surrounding the listing and trading of Managed Portfolio Shares, which will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that this would reduce the time frame for bringing Managed Portfolio Shares to market, thereby reducing the burdens on issuers and other market participants and promoting competition. In turn, the Exchange believes that the proposed change would make the process for listing Managed Portfolio Shares more competitive by applying uniform listing standards with respect to Managed Portfolio Shares.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

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

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

²⁴ 15 U.S.C. 78f(b)(8).

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEARCA-2020-84 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-2020-84. This file number should be included on the subject line if e-mail 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 website (<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 website 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-2020-84 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Eduardo A. Aleman
Deputy Secretary

²⁵ 17 CFR 200.30-3(a)(12).

Underlining indicates new text;
[brackets] indicate deletions.

Text of the Proposed Rule Change

Rules of the NYSE Arca, Inc.

* * * * *

Rule 8-E

Trading of Certain Equity Derivatives

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Rule 8.900-E. Managed Portfolio Shares

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(b) Applicability. This Rule is applicable only to Managed Portfolio Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on the Exchange of such securities. Managed Portfolio Shares are included within the definition of "security" or "securities" as such terms are used in the Rules of the Exchange.

1. [The Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before the listing and trading of a series of Managed Portfolio Shares.] The Exchange may approve Managed Portfolio Shares for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934. Components of a series of Managed Portfolio Shares listed pursuant to Rule 19b-4(e) shall satisfy the criteria set forth in this Rule 8.900-E and Commentary .01 thereto upon initial listing and on a continual basis. The Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before the listing and trading of a series of Managed Portfolio Shares with components that do not satisfy the criteria set forth in Commentary .01 to this Rule 8.900-E or components other than those specified in Commentary .01 to this Rule 8.900-E. All statements or representations contained in such rule filing regarding (a) the description of the portfolio or reference

asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Commentary .01

- (a) The portfolio holdings for a series of Managed Portfolio Shares listed pursuant to Rule 19b-4(e) shall include only the following components:
- (1) U.S. exchange-traded securities that are common stocks; preferred stocks; American Depositary Receipts; and real estate investment trusts;
 - (2) U.S. exchange-traded funds that are listed under the following rules: Investment Company Units (Rule 5.2-E(j)(3)); Exchange-Traded Fund Shares (Rule 5.2-E(j)(8)); Portfolio Depositary Receipts (Rule 8.100-E); Managed Fund Shares (Rule 8.600-E); Active Proxy Portfolio Shares (Rule 8.601-E); and Managed Portfolio Shares (Rule 8.900-E);
 - (3) Equity Gold Shares (Rule 5.2-E(j)(5));
 - (4) Index-Linked Securities (Rule 5.2-E(j)(6));
 - (5) Commodity-Based Trust Shares (Rule 8.201-E);
 - (6) Currency Trust Shares (Rule 8.202-E);
 - (7) the following securities, which are required to be organized as commodity pools: Commodity Index Trust Shares (Rule 8.203-E); Commodity Futures Trust Shares (Rule 8.204-E); Trust Units (Rule 8.500-E); and Managed Trust Securities (Rule 8.700-E);
 - (8) the following securities if organized as commodity pools: Trust Issued Receipts (Rule 8.200-E) and Partnership Units (Rule 8.300-E);
 - (9) U.S. exchange-traded futures that trade contemporaneously with shares of a series of Managed Portfolio Shares in the Exchange's Core Trading Session; and
 - (10) Cash and cash equivalents. Cash equivalents are the following: short-term U.S. Treasury securities, government money market funds, and repurchase agreements.
- (b) A series of Managed Portfolio Shares listed pursuant to Rule 19b-4(e) will not hold short positions in securities and other financial instruments referenced in Commentary .01(a)(1)-(10) above.
- (c) The securities referenced in Commentary .01(a)(2)-(8) above shall include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.

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