

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79916; File No. SR-NYSEArca-2017-05)

February 1, 2017

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Shares of the Direxion Daily Crude Oil Bull 3x Shares and Direxion Daily Crude Oil Bear 3x Shares under NYSE Arca Equities Rule 8.200

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 January 23, 2017, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade the shares of the following under NYSE Arca Equities Rule 8.200, Commentary .02 (“Trust Issued Receipts”): Direxion Daily Crude Oil Bull 3x Shares and Direxion Daily Crude Oil Bear 3x Shares. The proposed rule 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.

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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 list and trade shares (“Shares”) of the following under NYSE Arca Equities Rule 8.200, Commentary .02, which governs the listing and trading of Trust Issued Receipts: Direxion Daily Crude Oil Bull 3x Shares and Direxion Daily Crude Oil Bear 3x Shares (each a “Fund” and, collectively, the “Funds”).⁴

Each Fund is a series of the Direxion Shares ETF Trust II (the “Trust”), a Delaware statutory trust.⁵ The Trust and the Funds are managed and controlled by Direxion Asset Management, LLC (the “Sponsor”). The Sponsor is registered as a commodity pool operator (“CPO”) with the Commodity Futures Trading Commission (“CFTC”) and is a member of the National Futures Association (“NFA”).⁶

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

⁵ The Trust is registered under the Securities Act of 1933. On December 14, 2016, the Trust filed with the Commission a registration statement on Form S-1 under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”) relating to the Funds (File No. 333-215091) (the “Registration Statement”). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement.

⁶ The Commission has previously approved listing of Trust Issued Receipts based on oil on the American Stock Exchange (now known as NYSE MKT LLC) and NYSE Arca. See, e.g., Securities Exchange Act Release Nos. 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (SR–Amex–2005–127) (order approving listing and trading of shares of United States Oil Fund, LP); 57188 (January 23, 2008), 73 FR 5607 (January 30, 2008) (SR–

In its capacity as the Custodian for the Funds, Bank of New York Mellon (the “Custodian”) may hold the Funds’ investment assets and cash and cash equivalents pursuant to a custodial agreement. The Custodian is also the transfer agent for the Shares. In addition, in its capacity as Administrator for the Funds, U.S. Bancorp Fund Services, LLC (the “Administrator”) prepares and files certain regulatory filings on behalf of the Funds.

Foreside Fund Services, LLC serves as the distributor of the Shares (the “Distributor”). The Distributor is a broker-dealer registered with the Commission under the Securities Exchange Act of 1934 and a member of the Financial Industry Regulatory Authority (“FINRA”). The Trust offers Shares of the Funds for sale through the Distributor in “Creation Units”, as described below. The Distributor will also assist the Sponsor and administrator with certain functions and duties relating to distribution and marketing.

Direxion Daily Crude Oil Bull 3X Shares

According to the Registration Statement, the investment objective of the Fund is to seek, on a daily basis, investment results that correspond (before fees and expenses) to a multiple three times (3x) of the daily performance of the Bloomberg WTI Crude Oil SubindexSM, a subindex of the Bloomberg Commodity IndexSM (the “Benchmark”).⁷ The Benchmark is intended to reflect the performance of crude oil as measured by the price of West Texas Intermediate crude oil

Amex-2007-70) (order approving listing and trading of shares of United States Heating Oil Fund, LP and United States Gasoline Fund, LP); 61881 (April 9, 2010), 75 FR 20028 (April 16, 2010) (SR-NYSEArca-2010-14) (order approving listing and trading of shares of United States Brent Oil Fund, LP); and 62527 (July 19, 2010), 75 FR 43606 (July 26, 2010) (order approving listing and trading of shares of United States Commodity Index Fund).

⁷ According to the Registration Statement, the Bloomberg WTI Crude Oil SubindexSM is a “rolling index,” which means that the Index does not take physical possession of any commodities. See also note 8, *infra*.

futures contracts traded on the New York Mercantile Exchange (the “NYMEX,” which is part of the Chicago Mercantile Exchange (“CME”)), including the impact of rolling,⁸ without regard to income earned on cash positions. The Fund will not be directly linked to the “spot” price of crude oil. The Fund does not seek to achieve its investment objective over a period greater than a single trading day.⁹

Direxion Daily Crude Oil Bear 3X Shares

According to the Registration Statement, the investment objective of the Fund is to seek, on a daily basis, investment results that correspond (before fees and expenses) to three times (3x) the inverse of the performance of the Benchmark which, as noted, is intended to reflect the performance of crude oil as measured by the price of West Texas Intermediate crude oil futures contracts traded on the NYMEX. The Fund will not be directly linked to the “spot” price of crude oil. The Fund does not seek to achieve its investment objective over a period greater than a single trading day.¹⁰

Investment Strategies of the Funds

In seeking to achieve the Funds’ investment objectives, the Sponsor will utilize a mathematical approach to determine the type, quantity and mix of investment positions that the

⁸ According to the Registration Statement, futures contracts held by the Funds near expiration are generally closed out and replaced by contracts with a later expiration as required by the Bloomberg WTI Crude Oil SubindexSM. This process is referred to as “rolling.” The Funds do not intend to hold futures contracts through expiration, but instead to “roll” their respective positions.

⁹ According to the Registration Statement, a single trading day is measured from the time a Fund calculates its NAV to the time of a Fund’s next NAV calculation.

¹⁰ According to the Registration Statement, the return of a Fund for a period longer than a single trading day is the result of its return for each day compounded over the period and thus will usually differ from a Fund’s multiple times the return of the Benchmark for the same period.

Sponsor believes, in combination, should produce daily returns consistent with the Funds' respective objectives. The Sponsor would rely on a pre-determined model to generate orders that result in repositioning the Funds' investments in accordance with their respective investment objectives.

The Funds will seek to achieve their investment objectives by investing, under normal market conditions,¹¹ substantially all of its assets in oil futures contracts traded in the U.S. and listed options on such contracts (together, the "Futures Contracts"). The Funds' investments in Futures Contracts will be used to produce economically "leveraged" or "inverse leveraged" investment results for the Funds.

In the event position or accountability limits are reached with respect to Futures Contracts, each Fund may obtain exposure to the Benchmark through investment in swap transactions and forward contracts referencing such Benchmark or other benchmarks the Sponsor believes should be closely correlated to the performance of each Fund's benchmark such as the Energy Select Sector Index or the S&P Oil & Gas Exploration & Production Select Industry Index (the "Financial Instruments"). To the extent that the Trust invests in Financial Instruments, it would first make use of exchange-traded Financial Instruments, if available. If an investment in exchange-traded Financial Instruments is unavailable, then the Trust would invest in Financial Instruments that clear through derivatives clearing organizations that satisfy the Trust's criteria, if available. If an investment in cleared Financial Instruments is unavailable, then the Trust would invest in other Financial Instruments, including uncleared Financial Instruments

¹¹ The term "normal market conditions" includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (e.g., systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

in the over-the-counter (“OTC”) market. The Funds may also invest in Financial Instruments if the market for a specific futures contract experiences emergencies (e.g., natural disaster, terrorist attack or an act of God) or disruptions (e.g., a trading halt or a flash crash) that prevent or make it impractical for a Fund to obtain the appropriate amount of investment exposure using Futures Contracts.

The Funds will invest such that each Fund’s exposure to the Benchmark will consist substantially of Futures Contracts. The Funds’ remaining net assets, which may be substantial, may be invested in cash or cash equivalents and/or U.S. Treasury securities or other high credit quality, short-term fixed-income or similar securities (such as shares of money market funds and collateralized repurchase agreements) for direct investment or as collateral for the Funds’ investments.

The Funds do not intend to hold Futures Contracts through expiration, but instead to “roll” their respective positions. When the market for these contracts is such that the prices are higher in the more distant delivery months than in the nearer delivery months, the sale during the course of the “rolling process” of the more nearby contract would take place at a price that is lower than the price of the more distant contract. This pattern of higher futures prices for longer expiration Futures Contracts is referred to as “contango.” Alternatively, when the market for these contracts is such that the prices are higher in the nearer months than in the more distant months, the sale during the course of the “rolling process” of the more nearby contract would take place at a price that is higher than the price of the more distant contract. This pattern of higher futures prices for shorter expiration futures contracts is referred to as “backwardation.” The presence of contango in certain Futures Contracts at the time of rolling could adversely affect a Fund with long positions, and positively affect a Fund with short positions. Similarly,

the presence of backwardation in certain futures contracts at the time of rolling such contracts could adversely affect a Fund with short positions and positively affect a Fund with long positions.

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

The Funds do not expect to have leveraged exposure greater than three times (3x) the Funds' net assets. Thus, the maximum margin held at a Future Commission Merchant would not exceed three times the margin requirement for either Fund.

Net Asset Value

According to the Registration Statement, a Fund's per Share NAV will be calculated by taking the current market value of its total assets; subtracting any liabilities; and dividing that total by the total number of outstanding Shares. Each Fund's NAV will be calculated on each Business Day that the New York Stock Exchange LLC ("NYSE") is open. Each Fund will compute its NAVs at 2:30 p.m. Eastern Time ("E.T."), which is the designated closing time of the crude oil futures market on NYMEX,¹² or if the NYSE closes earlier than 2:30 p.m. E.T.,

¹² The normal trading hours of the NYMEX are 10:00 a.m. E.T. to 2:30 p.m. E.T.

each Fund will compute its NAVs at the time the NYSE closes. Each Fund's NAV will be calculated only once each trading day. Each Fund's daily NAV may be found at www.direxioninvestments.com.

In calculating the NAV of a Fund, the settlement value of a Fund's non-exchange traded Financial Instruments will be determined by applying the then-current prices for the applicable reference asset to the terms of such Fund's non-exchange traded Financial Instruments.

However, in the event that an underlying reference asset is not trading due to the operation of daily limits or otherwise, the Sponsor may in its sole discretion choose to fair value the reference asset in order to value a Fund's non-exchange traded Financial Instruments for purposes of the NAV calculation. Such fair value prices would generally be determined based on available inputs about the current value of the underlying reference assets and would be based on principles that the Sponsor deems fair and equitable so long as such principles are consistent with normal industry standards.

Futures Contracts traded on a U.S. exchange will be calculated at their then current market value, which is based upon the settlement or the last traded price before the NAV calculation time, for that particular Futures Contract traded on the applicable exchange on the date with respect to which NAV is being determined; provided, that if a Futures Contract traded on an exchange could not be liquidated on such day, due to the operation of daily limits or other rules of the exchange upon which that position is traded or otherwise, the Sponsor may in its sole discretion choose to determine a fair value price as the basis for determining the market value of such position for such day.

Cash and cash equivalents will be valued on the basis of broker quotes or valuations provided by a third party pricing service.

Collateralized repurchase agreements will be valued based on price quotations or other equivalent indications of value provided by a third-party pricing service.

Indicative Fund Value

In order to provide updated information relating to the Funds for use by investors and market professionals, the Exchange will calculate an updated “Indicative Fund Value” (“IFV”). The IFV will be calculated by using the prior day’s closing net assets of a Fund as a base and updating throughout the Exchange’s Core Trading Session of 9:30 a.m. E.T. to 4:00 p.m. E.T. changes in the value of the Futures Contracts and Financial Instruments held by a Fund.

The IFV will be disseminated on a per Share basis every 15 seconds during the Exchange’s Core Trading Session.

The IFV will be available through on-line information services.

Creation and Redemption of Shares

According to the Registration Statement, each Fund intends to create and redeem Shares in one or more Creation Units.¹³ A creation transaction generally takes place when an Authorized Participant deposits generally a specified amount of cash in exchange for a specified number of Creation Units. Similarly, Shares can be redeemed only in Creation Units for cash. The prices at which creations and redemptions occur would be based on the next calculation of the NAV after an order is received.

Only Authorized Participants may purchase and redeem Creation Units. An Authorized Participant is an entity that has entered into an Authorized Participant Agreement with the Trust and the Sponsor.

¹³ A Creation Unit is a block of 50,000 Shares of a Fund. Except when aggregated in Creation Units, the Shares are not redeemable securities.

Creation Procedures

On any “Business Day”, an Authorized Participant may place an order with the Distributor to create one or more Creation Units. For purposes of processing both purchase and redemption orders, a “Business Day” means any day other than a day when any of the NYSE, NYSE Arca, the Chicago Board Options Exchange, Incorporated (“CBOE”), CBOE Futures Exchange (“CFE”), the Chicago Mercantile Exchange (“CME”) (including the Chicago Board of Trade and NYMEX) or the Intercontinental Exchange (“ICE”) or other exchange material to the valuation or operation of the Funds is closed for regular trading. Purchase orders must be placed by 2:30 p.m. E.T. or earlier if the NYSE closes before the cut-off time.

Redemption Procedures

According to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Units mirror the procedures for the creation of Creation Units. On any Business Day, an Authorized Participant may place an order with the Distributor to redeem one or more Creation Units.

The redemption procedures allow Authorized Participants to redeem Creation Units. Individual shareholders may not redeem directly from a Fund. By placing a redemption order, an Authorized Participant agrees to deliver the Creation Units to be redeemed through the Depository Trust Company’s (“DTC”) book entry system to the applicable Fund not later than noon E.T. on the first Business Day immediately following the redemption order date (T+1). The Sponsor reserves the right to extend the deadline for a Fund to receive the Creation Units required for settlement up to the third Business Day following the redemption order date (T+3).

Availability of Information

The NAV for the Funds' Shares will be disseminated daily to all market participants at the same time. The intraday, closing prices, and settlement prices of the Futures Contracts will be readily available from the applicable futures exchange websites, automated quotation systems, published or other public sources, or major market data vendors.

Complete real-time data for the Futures Contracts is available by subscription through on-line information services. ICE Futures U.S. and NYMEX also provide delayed futures and options on futures information on current and past trading sessions and market news free of charge on their respective websites. The specific contract specifications for Futures Contracts would also be available on such websites, as well as other financial informational sources. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association ("CTA"). Quotation information for cash equivalents and OTC swaps may be obtained from brokers and dealers who make markets in such instruments. Quotation information for exchange-traded swaps will be available from the applicable exchange and major market vendors. Intra-day price information for forward contracts will be available from major market data vendors. The IFV will be available through on-line information services.

In addition, the Funds' website, www.direxioninvestments.com, will display the applicable end of day closing NAV. The daily holdings of each Fund will be available on the Funds' website before 9:30 a.m. E.T.¹⁴ Each Fund's total portfolio composition will be disclosed each Business Day that NYSE Arca is open for trading, on the Funds' website. The website

¹⁴ The website disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the composite value of the total portfolio, (ii) the name, percentage weighting, and value of the Futures Contracts and Financial Instruments, (iii) the name and value of each Treasury security and cash equivalent, and (iv) the amount of cash held in each Fund's portfolio.

disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the composite value of the total portfolio, (ii) the name, percentage weighting, and value of the Futures Contracts and Financial Instruments, (iii) the name and value of each Treasury security and cash equivalent, and (iv) the amount of cash held in each Fund's portfolio. The Funds' website will be publicly accessible at no charge. The spot price of oil also is available on a 24-hour basis from major market data vendors.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.¹⁵ Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The Exchange may halt trading during the day in which an interruption to the dissemination of the IFV or the value of the Benchmark occurs. If the interruption to the dissemination of the IFV, the value of the [sic] or the value of the Benchmark persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares

¹⁵ See NYSE Arca Equities Rule 7.12.

will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. in accordance with NYSE Arca Equities Rule 7.34 (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, the minimum price variation (“MPV”) for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.200. The trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit (“ETP”) Holders acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance. The Exchange represents that, for initial and continued listing, each Fund will be in compliance with Rule 10A-3¹⁶ under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange.

Surveillance

The Exchange represents that trading in the Shares of each Fund will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.¹⁷ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all

¹⁶ 17 CFR 240.10A-3.

¹⁷ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain Futures Contracts with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain Futures Contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain Futures Contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (“CSSA”).¹⁸

Not more than 10% of the net assets of a Fund in the aggregate invested in Futures Contracts shall consist of Futures Contracts whose principal market is not a member of the ISG or is a market with which the Exchange does not have a CSSA.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

¹⁸ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of a Fund may trade on markets that are members of ISG or with which the Exchange has in place a CSSA.

All statements and representations made in this filing regarding (a) the description of the portfolios of the Funds or the Benchmark, and (b) limitations on portfolio holdings, reference assets or the Benchmark shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Funds to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) the risks involved in trading the Shares during the Early and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (2) the procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (3) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) how information regarding the IFV is disseminated; (5) that a static IFV will be disseminated, between the close of trading on the ICE Futures U.S. and NYMEX and the close of the NYSE Arca Core Trading Session; (6) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (7) trading information.

Prior to the commencement of trading, the Exchange will inform its ETP Holders of the suitability requirements of NYSE Arca Equities Rule 9.2(a) in an Information Bulletin. Specifically, ETP Holders will be reminded in the Information Bulletin that, in recommending transactions in the Shares, they must have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such ETP Holder, and (2) the customer can evaluate the special characteristics, and is able to bear the financial risks, of an investment in the Shares. In connection with the suitability obligation, the Information Bulletin will also provide that ETP Holders must make reasonable efforts to obtain the following information: (1) The customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such ETP Holder or registered representative in making recommendations to the customer.

Further, the Exchange states that FINRA has implemented increased sales practice and customer margin requirements for FINRA members applicable to inverse, leveraged and inverse leveraged exchange-traded securities (which include the Shares) and options on such securities, as described in FINRA Regulatory Notices 09-31 (June 2009), 09-53 (August 2009), and 09-65 (November 2009) (collectively, "FINRA Regulatory Notices"). ETP Holders that carry customer accounts will be required to follow the FINRA guidance set forth in these notices. As noted above, each Fund will seek, on a daily basis, investment results that correspond (before fees and expenses) to 3x or -3x, respectively, the performance of the Benchmark). Over a period of time in excess of one day, the cumulative percentage increase or decrease in the NAV of the

Shares of a Fund may diverge significantly from a multiple or inverse multiple of the cumulative percentage decrease or increase in the Benchmark due to a compounding effect.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to a Fund. The Information Bulletin will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. In addition, the Information Bulletin will reference that a Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of Futures Contracts traded on U.S. markets.

The Information Bulletin will also disclose the trading hours of the Shares that the NAV for the Shares will be calculated after 2:30 p.m. E.T. each trading day. The Information Bulletin will disclose that information about the Shares will be publicly available on the Funds' website.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)¹⁹ that an exchange have rules that are 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 Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.200. The Exchange has in place surveillance procedures

¹⁹ 15 U.S.C. 78f(b)(5).

that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, and certain Futures Contracts with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain Futures Contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain Futures Contracts from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. Not more than 10% of the net assets of the Fund in the aggregate invested in Futures Contracts shall consist of Futures Contracts whose principal market is not a member of the ISG or is a market with which the Exchange does not have a CSSA. The intraday, closing prices, and settlement prices of the Futures Contracts will be readily available from the applicable futures exchange websites, automated quotation systems, published or other public sources, or major market data vendors website or on-line information services.

Complete real-time data for the Futures Contracts is available by subscription from on-line information services. ICE Futures U.S. and NYMEX also provide delayed futures information on current and past trading sessions and market news free of charge on their websites. The specific contract specifications for Futures Contracts would also be available on such websites, as well as other financial informational sources. Information regarding options will be available from the applicable exchanges or major market data vendors. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. In addition, the Funds' website, will display the applicable end of day closing NAV. Each

Fund's total portfolio composition will be disclosed each Business Day, on the Funds' website. The website disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the composite value of the total portfolio, (ii) the name, percentage weighting, and value of the Futures Contracts and Financial Instruments, (iii) the name and value of each Treasury security and cash equivalent, and (iv) the amount of cash held in each Fund's portfolio.

Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares and of the suitability requirements of NYSE Arca Equities Rule 9.2(a). The Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to a Fund. The Information Bulletin will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. In addition, the Information Bulletin will reference that a Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of Futures Contracts traded on U.S. markets. The Information Bulletin will also disclose the trading hours of the Shares and that the NAV for the Shares will be calculated after 2:30 p.m. E.T. each trading day. The Information Bulletin will disclose that information about the Shares will be publicly available on the Funds' website.

Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable

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 in that it will facilitate the listing and

trading of additional types of Trust Issued Receipts based on oil prices that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

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

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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of additional types of Trust Issued Receipts based on oil prices and that will enhance competition among market participants, to the benefit of investors and the marketplace.

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 within such longer period 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: (a) by order approve or disapprove such 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-2017-05 on the subject line.

PAPER COMMENTS:

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

All submissions should refer to File Number SR-NYSEArca-2017-05. 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 such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that

you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2017-05 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.²⁰

Eduardo A. Aleman
Assistant Secretary

²⁰ 17 CFR 200.30-3(a)(12).