

*Required fields are shown with yellow backgrounds and asterisks.*

Page 1 of * <input type="text" value="60"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - <input type="text" value="2014"/> - * <input type="text" value="019"/>
Amendment No. (req. for Amendments *) <input type="text"/>			
Filing by NASDAQ Stock Market Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934			
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>
			Section 19(b)(3)(A) * <input type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>
			Rule
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4)
			<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) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>	
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
<b>Description</b>			
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).			
<input type="text" value="A Proposed Rule Change Relating to the Listing and Trading of the Shares of the First Trust Managed Municipal Fund of First Trust Exchange-Traded Fund III."/>			
<b>Contact Information</b>			
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 * <input type="text" value="Jonathan"/>	Last Name * <input type="text" value="Cayne"/>		
Title * <input type="text" value="Associate General Counsel"/>			
E-mail * <input type="text" value="jonathan.cayne@nasdaqomx.com"/>			
Telephone * <input type="text" value="(301) 978-8493"/>	Fax <input type="text" value="(301) 978-8472"/>		
<b>Signature</b>			
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 <input type="text" value="02/07/2014"/>	<input type="text" value="Executive Vice President and General Counsel"/>		
By <input type="text" value="Edward S. Knight"/>	<input type="text"/>		
(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.			
<input type="button" value="Persona Not Validated - 1383935917270"/>			

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF 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**

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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 Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> The NASDAQ Stock Market LLC (“Nasdaq” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to list and trade the shares of the First Trust Managed Municipal ETF (the “Fund”) of First Trust Exchange-Traded Fund III (the “Trust”) under Nasdaq Rule 5735 (“Managed Fund Shares”).<sup>3</sup> The shares of the Fund are collectively referred to herein as the “Shares.”

(b) and (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange (the “Board”)

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

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

<sup>3</sup> The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR- NASDAQ-2008-039). There are already multiple actively-managed funds listed on the Exchange; see, e.g., Securities Exchange Act Release Nos. 69464 (April 26, 2013), 78 FR 25774 (May 2, 2013) (SR-NASDAQ-2013-036) (order approving listing and trading of First Trust Senior Loan Fund); 68972 (February 22, 2013), 78 FR 13721 (February 28, 2013) (SR-NASDAQ-2012-147) (order approving listing and trading of First Trust High Yield Long/Short ETF); 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR-NASDAQ-2012-004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). Additionally, the Commission has previously approved the listing and trading of a number of actively-managed funds on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. See, e.g., Securities Exchange Act Release Nos. 68870 (February 8, 2013), 78 FR 11245 (February 15, 2013) (SR-NYSEArca-2012-139) (order approving listing and trading of First Trust Preferred Securities and Income ETF); 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR-NYSEArca-2011-21) (order approving listing and trading of WisdomTree Global Real Return Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

on July 17, 2013. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

Questions regarding this rule filing may be directed to Jonathan F. Cayne, Associate General Counsel, The NASDAQ OMX Group at (301) 978-8493 (telephone) or (301) 978-8472 (fax).

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

a. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares<sup>4</sup> on the Exchange. The Fund will be an actively-managed exchange-traded fund ("ETF"). The Shares will be offered by the Trust, which was established as a Massachusetts business trust on January 9, 2008.<sup>5</sup> The Trust is registered with the Commission as an investment

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<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (the "1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>5</sup> The Commission has issued an order, upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. See Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812-13795) (the "Exemptive Relief"). In addition, on December 6, 2012, the staff of the Commission's Division of Investment Management ("Division") issued a no-action letter ("No-Action Letter") relating to the use of derivatives by actively-managed ETFs. See No-Action Letter dated December 6, 2012 from Elizabeth G. Osterman, Associate Director, Office of Exemptive Applications, Division of Investment Management. The No-Action Letter stated that the Division would not

company and has filed a registration statement on Form N-1A (“Registration Statement”) with the Commission.<sup>6</sup> The Fund will be a series of the Trust.

First Trust Advisors L.P. will be the investment adviser (“Adviser”) to the Fund. First Trust Portfolios L.P. (the “Distributor”) will be the principal underwriter and distributor of the Fund’s Shares. Brown Brothers Harriman & Co. (“BBH”) will act as the administrator, accounting agent, custodian and transfer agent to the Fund.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.<sup>7</sup> In addition, paragraph (g) further

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recommend enforcement action to the Commission under applicable provisions of and rules under the 1940 Act if actively-managed ETFs operating in reliance on specified orders (which include the Exemptive Relief) invest in options contracts, futures contracts or swap agreements provided that they comply with certain representations stated in the No-Action Letter.

<sup>6</sup> See Post-Effective Amendment No. 2 to Registration Statement on Form N-1A for the Trust, dated December 20, 2013 (File Nos. 333-176976 and 811-22245). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

<sup>7</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the

requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio. Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer, but it is affiliated with the Distributor, a broker-dealer, and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In addition, personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. In the event (a) the Adviser or any sub-adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Fund currently does not intend to use a sub-adviser.

#### First Trust Managed Municipal ETF

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adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

### Principal Investments

The primary investment objective of the Fund will be to generate current income that is exempt from regular federal income taxes and its secondary objective will be long-term capital appreciation. Under normal market conditions<sup>8</sup>, the Fund will seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in municipal debt securities that pay interest that is exempt from regular federal income taxes (collectively, “Municipal Securities”).<sup>9</sup> Municipal Securities are generally issued by or on behalf of states, territories or possessions of the U.S. and the District of Columbia and their political subdivisions, agencies, authorities and other instrumentalities. The types of Municipal Securities in which the Fund may invest include municipal lease obligations (and certificates of participation in such obligations), municipal general obligation bonds, municipal revenue bonds, municipal notes, municipal cash equivalents, private activity bonds (including without limitation

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<sup>8</sup> The term “under normal market conditions” as used herein includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. For temporary defensive purposes, during the initial invest-up period and during periods of high cash inflows or outflows, the Fund may depart from its principal investment strategies and invest part or all of its assets in short-term debt securities, money market funds and other cash equivalents, or it may hold cash. (See “Other Investments” below.) During such periods, the Fund may not be able to achieve its investment objectives. The Fund may adopt a defensive strategy when the Adviser believes securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

<sup>9</sup> Assuming compliance with the investment requirements and limitations described herein (including the 10% limitation on distressed Municipal Securities described below), the Fund may invest up to 100% of its net assets in Municipal Securities that pay interest that generates income subject to the federal alternative minimum tax.

industrial development bonds), and pre-refunded<sup>10</sup> and escrowed to maturity bonds. In addition, Municipal Securities include securities issued by entities whose underlying assets are municipal bonds (for example, tender option bond (TOB) trusts and custodial receipts trusts). The Fund may invest in Municipal Securities of any maturity.

The Fund will invest at least 65% of its net assets in investment grade securities, which are securities that are rated at the time of investment in one of the four highest credit quality categories by at least one nationally recognized statistical rating organization rating that security or, if unrated, determined by the Adviser to be of comparable quality.<sup>11</sup> The Fund will consider pre-refunded or escrowed to maturity bonds, regardless of rating, to be investment grade securities. The Fund may invest up to

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<sup>10</sup> A pre-refunded municipal bond is a municipal bond that has been refunded to a call date on or before the final maturity of principal and remains outstanding in the municipal market. The payment of principal and interest of the pre-refunded municipal bonds held by the Fund will be funded from securities in a designated escrow account that holds U.S. Treasury securities or other obligations of the U.S. government (including its agencies and instrumentalities). As the payment of principal and interest is generated from securities held in a designated escrow account, the pledge of the municipality has been fulfilled and the original pledge of revenue by the municipality is no longer in place. The escrow account securities pledged to pay the principal and interest of the pre-refunded municipal bond do not guarantee the price movement of the bond before maturity. Investment in pre-refunded municipal bonds held by the Fund may subject the Fund to interest rate risk, market risk and credit risk. In addition, while a secondary market exists for pre-refunded municipal bonds, if the Fund sells pre-refunded municipal bonds prior to maturity, the price received may be more or less than the original cost, depending on market conditions at the time of sale.

<sup>11</sup> Comparable quality of unrated securities will be determined by the Adviser based on fundamental credit analysis of the unrated security and comparable rated securities. On a best efforts basis, the Adviser will attempt to make a rating determination based on publicly available data. In making a “comparable quality” determination, the Adviser may consider, for example, whether the issuer of the security has issued other rated securities, the nature and provisions of the relevant security, whether the obligations under the relevant security are guaranteed by another entity and the rating of such guarantor (if any), relevant cash flows, macroeconomic analysis, and/or sector or industry analysis.

35% of its net assets in securities that are, at the time of investment, rated below investment grade (or securities that are unrated and determined by the Adviser to be of comparable quality), commonly referred to as “high yield” or “junk” bonds. If, subsequent to purchase by the Fund, a security held by the Fund experiences a decline in credit quality and falls below investment grade, the Fund may continue to hold the security and it will not count toward the 35% investment limitation.

#### Investments in Derivatives

To pursue its investment objectives, the Fund may invest in interest rate swaps,<sup>12</sup> options, exchange-listed options on futures contracts, futures contracts and forward contracts. The use of these derivative transactions may allow the Fund to obtain net long or short exposures to selected interest rates or durations and/or to gain exposure to Municipal Securities. These derivatives may also be used to hedge risks, including interest rate risks and credit risks, associated with the Fund’s other portfolio investments.

The Fund generally expects that no more than 20% of the value of the Fund’s net assets will be invested in derivative instruments; however, there will be no limitation on the Fund’s investments in derivative instruments to be used by the Fund solely for hedging purposes.<sup>13</sup> The Fund will only enter into transactions in derivative instruments

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<sup>12</sup> To the extent practicable, the Fund will invest in swaps cleared through the facilities of a centralized clearing house.

<sup>13</sup> The Fund will limit its direct investments in futures, options on futures and swaps to the extent necessary for the Adviser to claim the exclusion from regulation as a “commodity pool operator” with respect to the Fund under Rule 4.5 promulgated by the Commodity Futures Trading Commission (“CFTC”), as such rule may be amended from time to time. Under Rule 4.5 as currently in effect, the Fund will limit its trading activity in futures, options on futures and swaps (excluding activity for “bona fide hedging purposes,” as defined by the CFTC) such that it will meet one of the following tests: (i) aggregate initial margin and premiums required to establish its futures, options on futures and swap positions will not

with counterparties that the Adviser reasonably believes are capable of performing under the applicable contract.<sup>14</sup> The Fund's investments in derivative instruments will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of an index.

#### Other Investments

Under normal market conditions, the Fund will invest substantially all of its assets to meet its investment objectives as described above. In addition, the Fund may invest its assets as generally described below.

The Fund may invest up to 10% of its net assets in taxable municipal securities. In addition, the Fund may invest up to 10% of its net assets in distressed Municipal Securities.<sup>15</sup> The Fund may also invest up to 10% of its net assets in short-term debt securities, money market funds and other cash equivalents, or it may hold cash. The

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exceed 5% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions; or (ii) aggregate net notional value of its futures, options on futures and swap positions will not exceed 100% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions.

<sup>14</sup> The Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's analysis will evaluate each approved counterparty using various methods of analysis and may consider the Adviser's past experience with the counterparty, its known disciplinary history and its share of market participation.

<sup>15</sup> Distressed Municipal Securities are Municipal Securities that are currently in default and not expected to pay the current coupon. If, subsequent to purchase by the Fund, a Municipal Security held by the Fund becomes distressed, the Fund may continue to hold the Municipal Security and it will not count toward the 10% limit.

percentage of the Fund invested in such holdings will vary and will depend on several factors, including market conditions.

Short-term debt securities, which do not include Municipal Securities, are securities from issuers having a long-term debt rating of at least A by Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc. ("S&P Ratings"), Moody's Investors Service, Inc. ("Moody's") or Fitch Ratings ("Fitch") and having a maturity of one year or less. The use of temporary investments will not be a part of a principal investment strategy of the Fund.

Short-term debt securities are defined to include, without limitation, the following: (1) fixed rate and floating rate U.S. government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements,<sup>16</sup> which involve purchases of debt securities; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and (6) commercial paper, which is short-term unsecured promissory notes. The Fund may only invest in commercial paper rated A-1 or higher by S&P Ratings, Prime-1 or higher by

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<sup>16</sup> The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust ("Trust Board"). The Adviser will review and monitor the creditworthiness of such institutions. The Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

Moody's or F1 or higher by Fitch.

The Fund may invest up to 20% of its net assets in the securities of other investment companies, including money market funds, closed-end funds, open-end funds and other ETFs.<sup>17</sup>

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, in accordance with Commission guidance.<sup>18</sup> The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net

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<sup>17</sup> An ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. Many ETFs are designed to track the performance of a securities index, including industry, sector, country and region indexes. ETFs included in the Fund will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by other ETFs and their sponsors from the Commission. In addition, the Fund may invest in the securities of certain other investment companies in excess of the limits imposed under the 1940 Act pursuant to an exemptive order that the Trust has obtained from the Commission. See Investment Company Act Release No. 30377 (February 5, 2013) (File No. 812-13895). The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depository Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (e.g., 2X or -3X) ETFs.

<sup>18</sup> In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction does not apply to (a) Municipal Securities issued by governments or political subdivisions of governments, (b) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or (c) securities of other investment companies.<sup>19</sup>

The Fund intends to qualify each year as a regulated investment company (“RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended.

#### Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at net asset value (“NAV”)<sup>20</sup> only in large blocks of Shares (“Creation Units”) in transactions with authorized participants, generally including broker-dealers and large institutional investors (“Authorized Participants”). Creation Units will consist of 50,000 Shares. As described in the Registration Statement and consistent with the Exemptive Relief, the Fund will issue and redeem Creation Units in exchange for an in-kind portfolio of instruments or, under certain circumstances, cash in lieu of such instruments or a

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<sup>19</sup> See Form N-1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. See, e.g., Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

<sup>20</sup> The NAV of the Fund’s Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4:00 p.m., Eastern time (the “NAV Calculation Time”). NAV per Share will be calculated by dividing the Fund’s net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating the Fund’s NAV, see the Registration Statement.

combination of instruments and cash (the “Creation Basket”). In addition, if there is a difference between the NAV attributable to a Creation Unit and the market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will pay to the other an amount in cash equal to the difference (referred to as the “Cash Component”).

Creations and redemptions must be made by an Authorized Participant or through a firm that is either a member of the National Securities Clearing Corporation (“NSCC”) or a Depository Trust Company participant, that, in each case, must have executed an agreement that has been agreed to by the Distributor and BBH with respect to creations and redemptions of Creation Units. All standard orders to create Creation Units must be received by the transfer agent no later than the closing time of the regular trading session on the New York Stock Exchange (ordinarily 4:00 p.m., Eastern time) (the “Closing Time”), in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares as next determined on such date after receipt of the order in proper form. Shares may be redeemed only in Creation Units at their NAV next determined after receipt, not later than the Closing Time, of a redemption request in proper form by the Fund through the transfer agent and only on a business day.

The Fund’s custodian, through the NSCC, will make available on each business day, prior to the opening of business of the Exchange, the list of the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Component (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following business day.

#### Net Asset Value

The Fund's NAV will be determined as of the close of trading (normally 4:00 p.m., Eastern time) on each day the New York Stock Exchange is open for business. NAV will be calculated for the Fund by taking the market price of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, and dividing such amount by the total number of Shares outstanding. The result, rounded to the nearest cent, will be the NAV per Share. All valuations will be subject to review by the Trust Board or its delegate.

The Fund's investments will be valued daily at market value or, in the absence of market value with respect to any investment, at fair value, in each case in accordance with valuation procedures (which may be revised from time to time) adopted by the Trust Board ("Valuation Procedures") and in accordance with the 1940 Act. A market valuation generally means a valuation (i) obtained from an exchange, an independent pricing service ("Pricing Service"), or a major market maker (or dealer) or (ii) based on a price quotation or other equivalent indication of value supplied by an exchange, a Pricing Service, or a major market maker (or dealer). The information summarized below is based on the Valuation Procedures as currently in effect; however, as noted above, the Valuation Procedures are amended from time to time and, therefore, such information is subject to change.

Certain securities in which the Fund may invest will not be listed on any securities exchange or board of trade. Such securities will typically be bought and sold by institutional investors in individually negotiated private transactions that function in many respects like an over-the-counter secondary market, although typically no formal market makers will exist. Certain securities, particularly debt securities, will have few or

no trades, or trade infrequently, and information regarding a specific security may not be widely available or may be incomplete. Accordingly, determinations of the fair value of debt securities may be based on infrequent and dated information. Because there is less reliable, objective data available, elements of judgment may play a greater role in valuation of debt securities than for other types of securities. Typically, debt securities (other than those described in the next sentence) will be valued using information provided by a Pricing Service. Debt securities having a remaining maturity of 60 days or less when purchased will be valued at cost adjusted for amortization of premiums and accretion of discounts.

Equity securities (including ETFs and closed-end funds) listed on any exchange other than the Exchange will be valued at the last sale price on the business day as of which such value is being determined. Equity securities (including ETFs and closed-end funds) listed on the Exchange will be valued at the official closing price on the business day as of which such value is being determined. If there has been no sale on such day, or no official closing price in the case of securities traded on the Exchange, the securities will be valued using fair value pricing, as described below. Equity securities traded on more than one securities exchange will be valued at the last sale price or official closing price, as applicable, on the business day as of which such value is being determined at the close of the exchange representing the principal market for such securities. Non-fixed income securities traded in the over-the-counter market will be valued at the midpoint between the bid and the asked price, if available, and otherwise at the closing bid prices. Registered open-end management investment companies (other than ETFs, which will be valued as described above) will be valued at their net asset values as reported by such

registered open-end management investment companies to Pricing Services.

Exchange-traded options and futures contracts will be valued at the closing price in the market where such contracts are principally traded. Over-the-counter futures contracts and options will be valued at the midpoint between the bid and the asked price, if available, and otherwise at the closing bid prices.

Interest rate swaps will be valued using a Pricing Service or, if the Pricing Service does not provide a value, the Adviser's pricing committee will then attempt to obtain one or more quotes provided by the selling dealer or financial institution and will value the swaps accordingly.

Certain securities may not be able to be priced by pre-established pricing methods. Such securities may be valued by the Trust Board or its delegate at fair value. The use of fair value pricing by the Fund will be governed by the Valuation Procedures and conducted in accordance with the provisions of the 1940 Act. Valuing the Fund's securities using fair value pricing will result in using prices for those securities that may differ from current market valuations or official closing prices on the applicable exchange.

#### Availability of Information

The Fund's website ([www.ftportfolios.com](http://www.ftportfolios.com)), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The website will include the Shares' ticker, Cusip and exchange information along with additional quantitative information updated on a daily basis, including, for the Fund: (1) daily trading volume, the prior business day's reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such

NAV (the “Bid/Ask Price”),<sup>21</sup> and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Regular Market Session<sup>22</sup> on the Exchange, the Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets (the “Disclosed Portfolio” as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund’s calculation of NAV at the end of the business day.<sup>23</sup> The Disclosed Portfolio will include, as applicable, the names, quantities, percentage weightings and market values of the portfolio securities and other assets held by the Fund. The website information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the “Intraday Indicative Value,” that reflects an estimated intraday value of the Fund’s Disclosed Portfolio, will be disseminated. Moreover, the Intraday Indicative Value,

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<sup>21</sup> The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund’s NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

<sup>22</sup> See Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., Eastern time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m., Eastern time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m., Eastern time).

<sup>23</sup> Under accounting procedures to be followed by the Fund, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T+1”). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

available on the NASDAQ OMX Information LLC proprietary index data service,<sup>24</sup> will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. The Intraday Indicative Value will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the Intraday Indicative Value and the market price may occur. This should not be viewed as a "real time" update of the NAV per Share of the Fund, which is calculated only once a day.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Investors will also be able to obtain the Fund's Statement of Additional Information ("SAI"), the Fund's annual and semi-annual reports (together, "Shareholder Reports"), and its Form N-CSR and Form N-SAR, filed twice a year. The Fund's SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission's website at [www.sec.gov](http://www.sec.gov). Information regarding market price and trading volume of the Shares will be continually available on a real-time

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<sup>24</sup> Currently, the NASDAQ OMX Global Index Data Service ("GIDS") is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs.

basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. One source of price information for Municipal Securities is the Electronic Municipal Market Access ("EMMA") of the Municipal Securities Rulemaking Board ("MSRB").<sup>25</sup> Additionally, the MSRB offers trade data subscription services that permit subscribers to obtain information about municipal securities transactions. Quotation information from brokers and dealers or Pricing Services will also be available for fixed income securities generally. Intraday executable price information for fixed income securities, equity securities and derivatives will be available from major broker-dealer firms and major market data vendors. For exchange-traded assets, intraday price information will also be available directly from the applicable listing exchanges. Intraday price information will also generally be available through subscription services, such as Bloomberg, Markit, and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions and taxes will be included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change will

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<sup>25</sup> A source of price information for other types of fixed income securities is the Trade Reporting and Compliance Engine ("TRACE") of the Financial Industry Regulatory Authority ("FINRA").

be defined in the Registration Statement.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A-3<sup>26</sup> under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

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 the Fund. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the securities and/or the other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

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<sup>26</sup> See 17 CFR 240.10A-3.

### Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m., Eastern time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is \$0.01.

### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>27</sup> The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

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.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the

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<sup>27</sup> FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

Intermarket Surveillance Group (“ISG”),<sup>28</sup> and FINRA may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE.

At least 90% of the Fund’s net assets that are invested in exchange-traded futures and exchange-traded options (in the aggregate) will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

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

#### Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares

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<sup>28</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org). The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's website.

b. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating

transactions in securities, and 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 in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.

The Adviser is not a broker-dealer, but it is affiliated with a broker-dealer and is required to implement a “fire wall” with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund’s portfolio. In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the open-end fund’s portfolio.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the

Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. At least 90% of the Fund's net assets that are invested in exchange-traded futures and exchange-traded options (in the aggregate) will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The primary investment objective of the Fund will be to generate current income that is exempt from regular federal income taxes and its secondary objective will be long-term capital appreciation. Under normal market conditions, the Fund will seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in Municipal Securities. The Fund will invest at least 65% of its net assets in investment grade securities. The Fund may invest up to 10% of its net assets in taxable municipal securities and up to 10% of its net assets in distressed Municipal Securities. The Fund generally expects that no more than 20% of the value of the Fund's net assets will be invested in derivative instruments; however, there will be no limitation on the Fund's investments in derivative instruments to be used by the Fund solely for hedging purposes. The Fund's investments in derivatives will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of an index. Also, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, in accordance with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain

adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund's investments will be valued daily at market value or, in the absence of market value with respect to any investment, at fair value, in each case in accordance with the Valuation Procedures and in accordance with the 1940 Act.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information

for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. One source of price information for Municipal Securities is the MSRB's EMMA. Additionally, the MSRB offers trade data subscription services that permit subscribers to obtain information about municipal securities transactions. Quotation information from brokers and dealers or Pricing Services will also be available for fixed income securities generally. Intraday executable price information for fixed income securities, equity securities and derivatives will be available from major broker-dealer firms and major market data vendors. For exchange-traded assets, intraday price information will also be available directly from the applicable listing exchanges. Intraday price information will also generally be available through subscription services, such as Bloomberg, Markit, and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

The Fund's website will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of ISG and FINRA may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Furthermore, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

4. 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 purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of any 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

Not applicable.

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

1. Completed notice of proposed rule change for publication in the Federal Register.

**EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-NASDAQ-2014-019)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the Shares of the First Trust Managed Municipal Fund of First Trust Exchange-Traded Fund III

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 7, 2014, The NASDAQ Stock Market LLC (“Nasdaq” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in in Items I, II, and III below, which Items have been prepared by Nasdaq. 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

Nasdaq proposes to list and trade the shares of the First Trust Managed Municipal ETF (the “Fund”) of First Trust Exchange-Traded Fund III (the “Trust”) under Nasdaq Rule 5735 (“Managed Fund Shares”).<sup>3</sup> The shares of the Fund are collectively

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

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

<sup>3</sup> The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR- NASDAQ-2008-039). There are already multiple actively-managed funds listed on the Exchange; see, e.g., Securities Exchange Act Release Nos. 69464 (April 26, 2013), 78 FR 25774 (May 2, 2013) (SR-NASDAQ-2013-036) (order approving listing and trading of First Trust Senior Loan Fund); 68972 (February 22, 2013), 78 FR 13721 (February 28, 2013) (SR-NASDAQ-2012-147) (order approving listing and trading of First Trust High Yield Long/Short ETF); 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR-NASDAQ-2012-004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). Additionally, the Commission has previously approved the listing and trading of a number of actively-managed funds on NYSE Arca, Inc. pursuant to Rule 8.600 of

referred to herein as the “Shares.”

The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at Nasdaq’s principal office, 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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares<sup>4</sup> on the

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that exchange. See, e.g., Securities Exchange Act Release Nos. 68870 (February 8, 2013), 78 FR 11245 (February 15, 2013) (SR-NYSEArca-2012-139) (order approving listing and trading of First Trust Preferred Securities and Income ETF); 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR-NYSEArca-2011-21) (order approving listing and trading of WisdomTree Global Real Return Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (the “1940 Act”) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

Exchange. The Fund will be an actively-managed exchange-traded fund (“ETF”). The Shares will be offered by the Trust, which was established as a Massachusetts business trust on January 9, 2008.<sup>5</sup> The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N-1A (“Registration Statement”) with the Commission.<sup>6</sup> The Fund will be a series of the Trust.

First Trust Advisors L.P. will be the investment adviser (“Adviser”) to the Fund. First Trust Portfolios L.P. (the “Distributor”) will be the principal underwriter and distributor of the Fund’s Shares. Brown Brothers Harriman & Co. (“BBH”) will act as the administrator, accounting agent, custodian and transfer agent to the Fund.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or

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<sup>5</sup> The Commission has issued an order, upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. See Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812-13795) (the “Exemptive Relief”). In addition, on December 6, 2012, the staff of the Commission’s Division of Investment Management (“Division”) issued a no-action letter (“No-Action Letter”) relating to the use of derivatives by actively-managed ETFs. See No-Action Letter dated December 6, 2012 from Elizabeth G. Osterman, Associate Director, Office of Exemptive Applications, Division of Investment Management. The No-Action Letter stated that the Division would not recommend enforcement action to the Commission under applicable provisions of and rules under the 1940 Act if actively-managed ETFs operating in reliance on specified orders (which include the Exemptive Relief) invest in options contracts, futures contracts or swap agreements provided that they comply with certain representations stated in the No-Action Letter.

<sup>6</sup> See Post-Effective Amendment No. 2 to Registration Statement on Form N-1A for the Trust, dated December 20, 2013 (File Nos. 333-176976 and 811-22245). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

changes to such investment company portfolio.<sup>7</sup> In addition, paragraph (g) further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio. Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer, but it is affiliated with the Distributor, a broker-dealer, and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In addition, personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. In the

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<sup>7</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

event (a) the Adviser or any sub-adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Fund currently does not intend to use a sub-adviser.

#### First Trust Managed Municipal ETF

##### Principal Investments

The primary investment objective of the Fund will be to generate current income that is exempt from regular federal income taxes and its secondary objective will be long-term capital appreciation. Under normal market conditions<sup>8</sup>, the Fund will seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in municipal debt securities that pay interest that is exempt from

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<sup>8</sup> The term “under normal market conditions” as used herein includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. For temporary defensive purposes, during the initial invest-up period and during periods of high cash inflows or outflows, the Fund may depart from its principal investment strategies and invest part or all of its assets in short-term debt securities, money market funds and other cash equivalents, or it may hold cash. (See “Other Investments” below.) During such periods, the Fund may not be able to achieve its investment objectives. The Fund may adopt a defensive strategy when the Adviser believes securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

regular federal income taxes (collectively, “Municipal Securities”).<sup>9</sup> Municipal Securities are generally issued by or on behalf of states, territories or possessions of the U.S. and the District of Columbia and their political subdivisions, agencies, authorities and other instrumentalities. The types of Municipal Securities in which the Fund may invest include municipal lease obligations (and certificates of participation in such obligations), municipal general obligation bonds, municipal revenue bonds, municipal notes, municipal cash equivalents, private activity bonds (including without limitation industrial development bonds), and pre-refunded<sup>10</sup> and escrowed to maturity bonds. In addition, Municipal Securities include securities issued by entities whose underlying assets are municipal bonds (for example, tender option bond (TOB) trusts and custodial receipts trusts). The Fund may invest in Municipal Securities of any maturity.

The Fund will invest at least 65% of its net assets in investment grade securities,

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<sup>9</sup> Assuming compliance with the investment requirements and limitations described herein (including the 10% limitation on distressed Municipal Securities described below), the Fund may invest up to 100% of its net assets in Municipal Securities that pay interest that generates income subject to the federal alternative minimum tax.

<sup>10</sup> A pre-refunded municipal bond is a municipal bond that has been refunded to a call date on or before the final maturity of principal and remains outstanding in the municipal market. The payment of principal and interest of the pre-refunded municipal bonds held by the Fund will be funded from securities in a designated escrow account that holds U.S. Treasury securities or other obligations of the U.S. government (including its agencies and instrumentalities). As the payment of principal and interest is generated from securities held in a designated escrow account, the pledge of the municipality has been fulfilled and the original pledge of revenue by the municipality is no longer in place. The escrow account securities pledged to pay the principal and interest of the pre-refunded municipal bond do not guarantee the price movement of the bond before maturity. Investment in pre-refunded municipal bonds held by the Fund may subject the Fund to interest rate risk, market risk and credit risk. In addition, while a secondary market exists for pre-refunded municipal bonds, if the Fund sells pre-refunded municipal bonds prior to maturity, the price received may be more or less than the original cost, depending on market conditions at the time of sale.

which are securities that are rated at the time of investment in one of the four highest credit quality categories by at least one nationally recognized statistical rating organization rating that security or, if unrated, determined by the Adviser to be of comparable quality.<sup>11</sup> The Fund will consider pre-refunded or escrowed to maturity bonds, regardless of rating, to be investment grade securities. The Fund may invest up to 35% of its net assets in securities that are, at the time of investment, rated below investment grade (or securities that are unrated and determined by the Adviser to be of comparable quality), commonly referred to as “high yield” or “junk” bonds. If, subsequent to purchase by the Fund, a security held by the Fund experiences a decline in credit quality and falls below investment grade, the Fund may continue to hold the security and it will not count toward the 35% investment limitation.

#### Investments in Derivatives

To pursue its investment objectives, the Fund may invest in interest rate swaps,<sup>12</sup> options, exchange-listed options on futures contracts, futures contracts and forward contracts. The use of these derivative transactions may allow the Fund to obtain net long or short exposures to selected interest rates or durations and/or to gain exposure to Municipal Securities. These derivatives may also be used to hedge risks, including

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<sup>11</sup> Comparable quality of unrated securities will be determined by the Adviser based on fundamental credit analysis of the unrated security and comparable rated securities. On a best efforts basis, the Adviser will attempt to make a rating determination based on publicly available data. In making a “comparable quality” determination, the Adviser may consider, for example, whether the issuer of the security has issued other rated securities, the nature and provisions of the relevant security, whether the obligations under the relevant security are guaranteed by another entity and the rating of such guarantor (if any), relevant cash flows, macroeconomic analysis, and/or sector or industry analysis.

<sup>12</sup> To the extent practicable, the Fund will invest in swaps cleared through the facilities of a centralized clearing house.

interest rate risks and credit risks, associated with the Fund's other portfolio investments.

The Fund generally expects that no more than 20% of the value of the Fund's net assets will be invested in derivative instruments; however, there will be no limitation on the Fund's investments in derivative instruments to be used by the Fund solely for hedging purposes.<sup>13</sup> The Fund will only enter into transactions in derivative instruments with counterparties that the Adviser reasonably believes are capable of performing under the applicable contract.<sup>14</sup> The Fund's investments in derivative instruments will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of an index.

#### Other Investments

Under normal market conditions, the Fund will invest substantially all of its assets

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<sup>13</sup> The Fund will limit its direct investments in futures, options on futures and swaps to the extent necessary for the Adviser to claim the exclusion from regulation as a "commodity pool operator" with respect to the Fund under Rule 4.5 promulgated by the Commodity Futures Trading Commission ("CFTC"), as such rule may be amended from time to time. Under Rule 4.5 as currently in effect, the Fund will limit its trading activity in futures, options on futures and swaps (excluding activity for "bona fide hedging purposes," as defined by the CFTC) such that it will meet one of the following tests: (i) aggregate initial margin and premiums required to establish its futures, options on futures and swap positions will not exceed 5% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions; or (ii) aggregate net notional value of its futures, options on futures and swap positions will not exceed 100% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions.

<sup>14</sup> The Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's analysis will evaluate each approved counterparty using various methods of analysis and may consider the Adviser's past experience with the counterparty, its known disciplinary history and its share of market participation.

to meet its investment objectives as described above. In addition, the Fund may invest its assets as generally described below.

The Fund may invest up to 10% of its net assets in taxable municipal securities. In addition, the Fund may invest up to 10% of its net assets in distressed Municipal Securities.<sup>15</sup> The Fund may also invest up to 10% of its net assets in short-term debt securities, money market funds and other cash equivalents, or it may hold cash. The percentage of the Fund invested in such holdings will vary and will depend on several factors, including market conditions.

Short-term debt securities, which do not include Municipal Securities, are securities from issuers having a long-term debt rating of at least A by Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc. ("S&P Ratings"), Moody's Investors Service, Inc. ("Moody's") or Fitch Ratings ("Fitch") and having a maturity of one year or less. The use of temporary investments will not be a part of a principal investment strategy of the Fund.

Short-term debt securities are defined to include, without limitation, the following: (1) fixed rate and floating rate U.S. government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to

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<sup>15</sup> Distressed Municipal Securities are Municipal Securities that are currently in default and not expected to pay the current coupon. If, subsequent to purchase by the Fund, a Municipal Security held by the Fund becomes distressed, the Fund may continue to hold the Municipal Security and it will not count toward the 10% limit.

finance commercial transactions; (4) repurchase agreements,<sup>16</sup> which involve purchases of debt securities; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and (6) commercial paper, which is short-term unsecured promissory notes. The Fund may only invest in commercial paper rated A-1 or higher by S&P Ratings, Prime-1 or higher by Moody's or F1 or higher by Fitch.

The Fund may invest up to 20% of its net assets in the securities of other investment companies, including money market funds, closed-end funds, open-end funds and other ETFs.<sup>17</sup>

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed

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<sup>16</sup> The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust ("Trust Board"). The Adviser will review and monitor the creditworthiness of such institutions. The Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

<sup>17</sup> An ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. Many ETFs are designed to track the performance of a securities index, including industry, sector, country and region indexes. ETFs included in the Fund will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by other ETFs and their sponsors from the Commission. In addition, the Fund may invest in the securities of certain other investment companies in excess of the limits imposed under the 1940 Act pursuant to an exemptive order that the Trust has obtained from the Commission. See Investment Company Act Release No. 30377 (February 5, 2013) (File No. 812-13895). The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depository Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (e.g., 2X or -3X) ETFs.

illiquid by the Adviser, in accordance with Commission guidance.<sup>18</sup> The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction does not apply to (a) Municipal Securities issued by governments or political subdivisions of governments, (b) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or (c) securities of other investment companies.<sup>19</sup>

The Fund intends to qualify each year as a regulated investment company ("RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended.

#### Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at net asset value

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<sup>18</sup> In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (e.g., the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

<sup>19</sup> See Form N-1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. See, e.g., Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

(“NAV”)<sup>20</sup> only in large blocks of Shares (“Creation Units”) in transactions with authorized participants, generally including broker-dealers and large institutional investors (“Authorized Participants”). Creation Units will consist of 50,000 Shares. As described in the Registration Statement and consistent with the Exemptive Relief, the Fund will issue and redeem Creation Units in exchange for an in-kind portfolio of instruments or, under certain circumstances, cash in lieu of such instruments or a combination of instruments and cash (the “Creation Basket”). In addition, if there is a difference between the NAV attributable to a Creation Unit and the market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will pay to the other an amount in cash equal to the difference (referred to as the “Cash Component”).

Creations and redemptions must be made by an Authorized Participant or through a firm that is either a member of the National Securities Clearing Corporation (“NSCC”) or a Depository Trust Company participant, that, in each case, must have executed an agreement that has been agreed to by the Distributor and BBH with respect to creations and redemptions of Creation Units. All standard orders to create Creation Units must be received by the transfer agent no later than the closing time of the regular trading session on the New York Stock Exchange (ordinarily 4:00 p.m., Eastern time) (the “Closing Time”), in each case on the date such order is placed in order for the creation of Creation

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<sup>20</sup> The NAV of the Fund’s Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4:00 p.m., Eastern time (the “NAV Calculation Time”). NAV per Share will be calculated by dividing the Fund’s net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating the Fund’s NAV, see the Registration Statement.

Units to be effected based on the NAV of Shares as next determined on such date after receipt of the order in proper form. Shares may be redeemed only in Creation Units at their NAV next determined after receipt, not later than the Closing Time, of a redemption request in proper form by the Fund through the transfer agent and only on a business day.

The Fund's custodian, through the NSCC, will make available on each business day, prior to the opening of business of the Exchange, the list of the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Component (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following business day.

#### Net Asset Value

The Fund's NAV will be determined as of the close of trading (normally 4:00 p.m., Eastern time) on each day the New York Stock Exchange is open for business. NAV will be calculated for the Fund by taking the market price of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, and dividing such amount by the total number of Shares outstanding. The result, rounded to the nearest cent, will be the NAV per Share. All valuations will be subject to review by the Trust Board or its delegate.

The Fund's investments will be valued daily at market value or, in the absence of market value with respect to any investment, at fair value, in each case in accordance with valuation procedures (which may be revised from time to time) adopted by the Trust Board ("Valuation Procedures") and in accordance with the 1940 Act. A market valuation generally means a valuation (i) obtained from an exchange, an independent pricing service ("Pricing Service"), or a major market maker (or dealer) or (ii) based on a

price quotation or other equivalent indication of value supplied by an exchange, a Pricing Service, or a major market maker (or dealer). The information summarized below is based on the Valuation Procedures as currently in effect; however, as noted above, the Valuation Procedures are amended from time to time and, therefore, such information is subject to change.

Certain securities in which the Fund may invest will not be listed on any securities exchange or board of trade. Such securities will typically be bought and sold by institutional investors in individually negotiated private transactions that function in many respects like an over-the-counter secondary market, although typically no formal market makers will exist. Certain securities, particularly debt securities, will have few or no trades, or trade infrequently, and information regarding a specific security may not be widely available or may be incomplete. Accordingly, determinations of the fair value of debt securities may be based on infrequent and dated information. Because there is less reliable, objective data available, elements of judgment may play a greater role in valuation of debt securities than for other types of securities. Typically, debt securities (other than those described in the next sentence) will be valued using information provided by a Pricing Service. Debt securities having a remaining maturity of 60 days or less when purchased will be valued at cost adjusted for amortization of premiums and accretion of discounts.

Equity securities (including ETFs and closed-end funds) listed on any exchange other than the Exchange will be valued at the last sale price on the business day as of which such value is being determined. Equity securities (including ETFs and closed-end funds) listed on the Exchange will be valued at the official closing price on the business

day as of which such value is being determined. If there has been no sale on such day, or no official closing price in the case of securities traded on the Exchange, the securities will be valued using fair value pricing, as described below. Equity securities traded on more than one securities exchange will be valued at the last sale price or official closing price, as applicable, on the business day as of which such value is being determined at the close of the exchange representing the principal market for such securities. Non-fixed income securities traded in the over-the-counter market will be valued at the midpoint between the bid and the asked price, if available, and otherwise at the closing bid prices. Registered open-end management investment companies (other than ETFs, which will be valued as described above) will be valued at their net asset values as reported by such registered open-end management investment companies to Pricing Services.

Exchange-traded options and futures contracts will be valued at the closing price in the market where such contracts are principally traded. Over-the-counter futures contracts and options will be valued at the midpoint between the bid and the asked price, if available, and otherwise at the closing bid prices.

Interest rate swaps will be valued using a Pricing Service or, if the Pricing Service does not provide a value, the Adviser's pricing committee will then attempt to obtain one or more quotes provided by the selling dealer or financial institution and will value the swaps accordingly.

Certain securities may not be able to be priced by pre-established pricing methods. Such securities may be valued by the Trust Board or its delegate at fair value. The use of fair value pricing by the Fund will be governed by the Valuation Procedures and conducted in accordance with the provisions of the 1940 Act. Valuing the Fund's

securities using fair value pricing will result in using prices for those securities that may differ from current market valuations or official closing prices on the applicable exchange.

#### Availability of Information

The Fund's website ([www.ftportfolios.com](http://www.ftportfolios.com)), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The website will include the Shares' ticker, Cusip and exchange information along with additional quantitative information updated on a daily basis, including, for the Fund: (1) daily trading volume, the prior business day's reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),<sup>21</sup> and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Regular Market Session<sup>22</sup> on the Exchange, the Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets (the "Disclosed Portfolio" as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund's calculation of

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<sup>21</sup> The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

<sup>22</sup> See Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., Eastern time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m., Eastern time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m., Eastern time).

NAV at the end of the business day.<sup>23</sup> The Disclosed Portfolio will include, as applicable, the names, quantities, percentage weightings and market values of the portfolio securities and other assets held by the Fund. The website information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the “Intraday Indicative Value,” that reflects an estimated intraday value of the Fund’s Disclosed Portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,<sup>24</sup> will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. The Intraday Indicative Value will be based on quotes and closing prices from the securities’ local market and may not reflect events that occur subsequent to the local market’s close. Premiums and discounts between the Intraday Indicative Value and the market price may occur. This should not be viewed as a “real time” update of the NAV per Share of the Fund, which is calculated only once a day.

The dissemination of the Intraday Indicative Value, together with the Disclosed

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<sup>23</sup> Under accounting procedures to be followed by the Fund, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T+1”). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

<sup>24</sup> Currently, the NASDAQ OMX Global Index Data Service (“GIDS”) is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs.

Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Investors will also be able to obtain the Fund's Statement of Additional Information ("SAI"), the Fund's annual and semi-annual reports (together, "Shareholder Reports"), and its Form N-CSR and Form N-SAR, filed twice a year. The Fund's SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission's website at [www.sec.gov](http://www.sec.gov). Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. One source of price information for Municipal Securities is the Electronic Municipal Market Access ("EMMA") of the Municipal Securities Rulemaking Board ("MSRB").<sup>25</sup> Additionally, the MSRB offers trade data subscription services that permit subscribers to obtain information about municipal securities transactions. Quotation information from brokers and dealers or Pricing Services will also be available for fixed income securities generally. Intraday

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<sup>25</sup> A source of price information for other types of fixed income securities is the Trade Reporting and Compliance Engine ("TRACE") of the Financial Industry Regulatory Authority ("FINRA").

executable price information for fixed income securities, equity securities and derivatives will be available from major broker-dealer firms and major market data vendors. For exchange-traded assets, intraday price information will also be available directly from the applicable listing exchanges. Intraday price information will also generally be available through subscription services, such as Bloomberg, Markit, and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions and taxes will be included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change will be defined in the Registration Statement.

#### Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A-3<sup>26</sup> under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

#### 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 the Fund. Nasdaq will

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<sup>26</sup> See 17 CFR 240.10A-3.

halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the securities and/or the other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

#### Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m., Eastern time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is \$0.01.

#### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable

federal securities laws.<sup>27</sup> The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

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.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the Intermarket Surveillance Group (“ISG”),<sup>28</sup> and FINRA may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE.

At least 90% of the Fund’s net assets that are invested in exchange-traded futures

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<sup>27</sup> FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

<sup>28</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org). The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

and exchange-traded options (in the aggregate) will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

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

#### Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's website.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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 in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.

The Adviser is not a broker-dealer, but it is affiliated with a broker-dealer and is required to implement a "fire wall" with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio.

In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the open-end fund's portfolio.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. At least 90% of the Fund's net assets that are invested in exchange-traded futures and exchange-traded options (in the aggregate) will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The primary investment objective of the Fund will be to generate current income that is exempt from regular federal income taxes and its secondary objective will be long-term capital appreciation. Under normal market conditions, the Fund will seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in Municipal Securities. The Fund will invest at least 65% of its net assets in investment grade securities. The Fund may invest up to 10% of its net assets in taxable municipal securities and up to 10% of its net assets in distressed Municipal

Securities. The Fund generally expects that no more than 20% of the value of the Fund's net assets will be invested in derivative instruments; however, there will be no limitation on the Fund's investments in derivative instruments to be used by the Fund solely for hedging purposes. The Fund's investments in derivatives will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of an index. Also, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, in accordance with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund's investments will be valued daily at market value or, in the absence of market value with respect to any investment, at fair value, in each case in accordance with the Valuation Procedures and in accordance with the 1940 Act.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market

participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. One source of price information for Municipal Securities is the MSRB's EMMA. Additionally, the MSRB offers trade data subscription services that permit subscribers to obtain information about municipal securities transactions. Quotation information from brokers and dealers or Pricing Services will also be available for fixed income securities generally. Intraday executable price information for fixed income securities, equity securities and derivatives will be available from major broker-dealer firms and major market data vendors. For exchange-traded assets, intraday price information will also be available directly from the applicable listing exchanges. Intraday price information will also generally be available through subscription services, such as Bloomberg, Markit, and Thomson Reuters, which can be

accessed by Authorized Participants and other investors.

The Fund's website will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of ISG and FINRA may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Furthermore, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last

sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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 purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund 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

Written comments were neither solicited nor received.

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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2014-019 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-NASDAQ-2014-019. 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 Nasdaq. 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-NASDAQ-2014-019 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.<sup>29</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>29</sup> 17 CFR 200.30-3(a)(12).