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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2017 - * 128
Amendment No. (req. for Amendments *)

Filing by The Nasdaq Stock Market LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☑	☐	☐	☑	☐	☐

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐

Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

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

Proposed rule change to list and trade the shares of the Western Asset Total Return ETF under Nasdaq Rule 5735.

Contact Information

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

First Name * Jonathan
Last Name * Cayne
Title * Principal Associate General Counsel
E-mail * Jonathan.Cayne@nasdaq.com
Telephone * (301) 978-8493
Fax

Signature

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

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

Date 12/05/2017

By Edward S. Knight

(Name *)

(Title *)

Executive Vice President and General Counsel

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.

edward.knight@nasdaq.com

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	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 * Add Remove View	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 * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications Add Remove View Exhibit Sent As Paper Document ☐	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.
Exhibit 3 - Form, Report, or Questionnaire Add Remove View 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 Add Remove View	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 Add Remove View	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 Add Remove View	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"),[1] and Rule 19b-4 thereunder,[2] The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to list and trade the shares of the Western Asset Total Return ETF (the "Fund"), a series of Legg Mason ETF Investment Trust (the "Trust") under Nasdaq Rule 5735 ("Managed Fund Shares").[3] The shares of the Fund are collectively referred to herein as the "Shares."

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 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. 80946 (June 15, 2017), 82 FR 28126 (June 20, 2017) (SR-NASDAQ-2017-039) (order approving listing and trading of Guggenheim Limited Duration ETF); 78592 (August 16, 2016), 81 FR 56729 (August 22, 2016) (SR-NASDAQ-2016-061) (order approving listing and trading of First Trust Equity Market Neutral ETF); 78443 (July 29, 2016), 81 FR 51517 (August 4, 2016) (SR-NASDAQ-2016-064) (order approving listing and trading of First Trust Strategic Mortgage REIT ETF); 71913 (April 9, 2014), 79 FR 21333 (April 15, 2014) (SR-NASDAQ-2014-019) (order approving listing and trading of First Trust Managed Municipal ETF); 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); 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); see also filings for similar ETFs listed on other national securities exchanges Securities Exchange Act Release Nos. 80657 (May 11, 2017) 82 FR 22702 (May 17, 2017) (SR-NYSE Arca-2017-09) (order approving listing and trading of Janus Short Duration Income ETF); 79683 (December 23, 2016), 81 FR 96539 (December 30, 2016) (SR-NYSEArca-2016-82) (order approving listing and trading of JPMorgan Diversified Event Driven ETF); 77904 (May 25, 2016), 81 FR 35101 (SR-NYSE Arca-2016-17) (order approving listing and trading of JPMorgan Diversified Alternative ETF); 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). The Exchange

(b) Not applicable.

(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 on September 19, 2017. Exchange staff will advise the Board of Directors of the Exchange of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Jonathan F. Cayne
Principal Associate General Counsel
Nasdaq, Inc.
(301) 978-8493

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[4] on the

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believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

4 A Managed Fund Share is a security that represents an interest in an investment company registered as an investment company 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 objective 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 exchange-traded fund ("ETF") that is actively managed. The Shares will be offered by the Trust, which was established as a Maryland statutory trust on June 8, 2015.[5] The Exchange notes that other actively-managed, broad market fixed-income ETFs have been previously approved by the SEC prior to the adoption of "generic" listing standards for actively-managed ETFs.[6] The Trust is registered with the Commission as an investment company under the 1940 Act and has filed a registration statement on Form N-1A ("Registration Statement") with the Commission with respect to the Fund.[7] The Fund will be a series of the Trust. The Fund intends to qualify each year

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5 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. 32391 (December 13, 2016) (File No. 812-14547) (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.

6 See, e.g., Securities Exchange Act Release Nos. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR-NYSEArca-2015-73) (granting approval for the listing of shares of the Guggenheim Total Return Bond ETF); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR-NYSEArca-2011-95) (granting approval for the listing of shares of the PIMCO Total Return Exchange Traded Fund (now known as the PIMCO Active Bond Exchange-Traded Fund)); and 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR-NYSEArca-2013-122) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund); see also infra note 59.

7 See Post-Effective Amendment No. 27 to the Registration Statement on Form N-1A for the Trust (File Nos. 333-206784 and 811-23096) as filed on August 8, 2017. The Fund is referred to in the Registration Statement as the Western Asset Core Plus Opportunities ETF, but the Registration Statement will be updated to reflect the name of the Fund as Western Asset Total Return ETF and to

as a regulated investment company ("RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended.

Legg Mason Partners Fund Advisor, LLC will be the investment manager ("Manager") to the Fund. Western Asset Management Company will serve as the sub-adviser to the Fund (the "Sub-Adviser")[8] and Western Asset Management Company Limited in London ("Western Asset London"), Western Asset Management Company Pte. Ltd. in Singapore ("Western Asset Singapore") and Western Asset Management Company Ltd in Japan ("Western Asset Japan") will each serve as the sub-sub-advisers to the Fund (collectively, the "Sub-Sub-Advisers" and each, a "Sub-Sub-Adviser").[9] Hereinafter, references to "Sub-Adviser" or "Sub-Advisers" include the Sub-Adviser and each applicable Sub-Sub-Adviser. Legg Mason Investor Services, LLC (the "Distributor") will be the distributor of the Fund's Shares. The Manager, each of the

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incorporate other changes. The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

8 The Sub-Adviser is responsible for the day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings. The Manager has ongoing oversight responsibility.

9 Each of the Sub-Sub-Advisers provides advisory services to the Fund relating to the Fund's investments. Sub-Sub-Advisers advise primarily on instruments traded in the region in which the Sub-Sub-Adviser is located, but they may advise on portfolio instruments held by the Fund that are traded in other regions. Western Asset London generally advises on the Fund's portfolio holdings in non-U.S. and non-Asian investment instruments and currencies (including through ETFs and derivative instruments that provide exposure to those instruments and currencies); Western Asset Japan generally advises on the Fund's portfolio holdings in Japanese investment instruments and currencies (including through ETFs and derivative instruments that provide exposure to those instruments and currencies); and Western Asset Singapore generally advises on the Fund's portfolio holdings in non-Japan, Asian investment instruments and currencies (including through ETFs and derivative instruments that provide exposure to those instruments and currencies).

Sub-Advisers and the Distributor are wholly-owned subsidiaries of Legg Mason, Inc. ("Legg Mason"). An entity that is not affiliated with Legg Mason, and which is named in the Registration Statement, 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 and maintain 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.[10] In addition, paragraph (g) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the investment company's portfolio.

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[10] An investment adviser to an investment company is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Manager and the Sub-Advisers and their related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. Rule 204A-1 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.

Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment and maintenance of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable investment company's portfolio, not an underlying benchmark index, as is the case with index-based funds. None of the Manager or any of the Sub-Advisers is a broker-dealer, but each is affiliated with the Distributor, a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning proposed changes to the composition and/or changes to the portfolio prior to implementation.

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 Manager or any of the Sub-Advisers registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new manager or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning proposed changes to the composition and/or changes to the portfolio prior to implementation and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Western Asset Total Return ETF

Principal Investments

The investment objective of the Fund will be to seek to maximize total return, consistent with prudent investment management and liquidity needs, by investing to maintain a dollar weighted average effective duration within 35% of the average duration of the U.S. bond market as a whole (generally a range of 2.5 to 7 years) as estimated by the Sub-Adviser.[11] Under normal market conditions,[12] the Fund will seek to achieve its investment objective by investing at least 80% of its net assets in a portfolio comprised of U.S. or foreign fixed income securities; U.S. or foreign Debt (as defined below herein); [13]

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11 The dollar-weighted average effective duration of the Fund may fall outside of its expected range due to market movements. If this happens, the Sub-Advisers will take action to bring the Fund's dollar-weighted average effective duration back within its expected range within a reasonable period of time.

12 The term "under normal market conditions" has the meaning set forth in Nasdaq Rule 5735(c)(5). The Fund may vary from ordinary parameters on a temporary basis, including for defensive purposes, during the initial invest-up period (i.e., the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (i.e., rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods). In those situations, the Fund may depart from its principal investment strategies and may, for example, hold a higher than normal proportion of its assets in cash and cash equivalents. During such periods, the Fund may not be able to achieve its investment objective. The Fund may also adopt a defensive strategy when the Manager or any Sub-Adviser believes securities, Debt and other instruments in which the Fund normally invests have elevated risks due to political or economic factors, heightened market volatility or in other extraordinary circumstances that do not constitute "normal market conditions".

13 As noted below, the Fund will not invest more than 30% of its total assets in fixed income or equity securities or Debt of non-U.S. issuers or more than 25% of its total assets directly in non-U.S. dollar denominated fixed income or equity securities or Debt. As a result, although the Fund does intend to invest in foreign instruments described above, the size of such investments will be limited. See infra "Investment Restrictions".

derivatives[14] and ETFs[15] that provide exposure to such U.S. or foreign fixed income securities, Debt or other Principal Investments (defined below), or, in the case of

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14 Derivatives will include: (i) swaps and security-based swaps, futures, options, options on futures, and swaptions that are traded on an exchange, trading facility, swap execution facility or alternative trading system (A) that is a member of the Intermarket Surveillance Group ("ISG"), which includes all U.S. national securities exchanges and futures exchanges, (B) that is subject to a comprehensive surveillance sharing agreement with the Exchange, or (C) that is not an ISG member and with which the Exchange does not have a comprehensive surveillance sharing agreement ("Exchange-Traded Derivatives"); and (ii) swaps and security-based swaps, options, options on futures, swaptions, forwards and similar instruments that are traded in the over-the-counter market and are either centrally cleared or cleared bilaterally ("OTC Derivatives"), as further described below. For the purposes of describing the scope of the Fund's potential investments in derivatives, the terms "swaps" and "security-based swaps" shall have the meanings set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010) ("Dodd-Frank") and regulations thereunder. The terms "exchange-traded" and "exchange-listed", when used with respect to swaps or security-based swaps, shall include swaps and security-based swaps that are executed on swap execution facilities and security-based swap execution facilities, which are subject to central clearing. For purposes of the 80% principal investments measure, the Fund will value derivatives based on the mark-to-market value or exposure of such derivatives. This approach is consistent with the valuation methodology for asset coverage purposes in Rule 18f-4 under the 1940 Act proposed by the Commission. See Investment Company Act Release No. 31933 (December 11, 2015); 80 FR 80884 (December 28, 2015) (the "Derivatives Rule Proposing Release"); see also infra note 74. Not more than 10% of the net assets of the Fund will be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

15 The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depositary Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). The Fund will not invest in ETFs that are not registered as investment companies under the 1940 Act. The ETFs held by the Fund will invest in fixed income securities, Debt and money-market instruments to which the Fund seeks exposure. All such ETFs will trade in markets that are members of the ISG or exchanges that are parties to a comprehensive surveillance sharing agreement with the Exchange. The Fund will not invest in leveraged ETFs, inverse ETFs, or inverse leveraged ETFs. Other fixed-income funds have been approved to include ETFs in their 80% principal investment category. See, e.g., Securities Exchange Act Release No. 80946 (June 15, 2017), 82 FR 28126 (June 20, 2017) (SR-NASDAQ-

derivatives, that are used to risk manage exposures to such instruments or to enhance returns, such as through covered call strategies; U.S. or foreign equity securities of any type acquired in reorganizations of issuers of fixed income securities or Debt held by the Fund ("Work Out Securities");[16] U.S. or foreign non-convertible preferred securities (other than trust preferred securities, which the Fund may invest in but which are treated as fixed income securities[17]) ("Non-Convertible Preferred Securities");[18] warrants[19] on U.S. or foreign fixed income securities; warrants on U.S. or foreign equity securities that are attached to, accompany or are purchased alongside investments in U.S. or foreign fixed income securities issued by the issuer of the warrants ("Equity-Related

2017-039) (approving fund seeking to meet its investment objective of having at least 80% of net assets invested in a portfolio of debt instruments in part through investments in ETFs that invest substantially all of their assets in such debt instruments).

16 Work Out Securities will generally be traded in the OTC market or may be listed on an exchange that may or may not be an ISG member.

17 See Nasdaq Rule 5735(b)(1)(B).

18 Non-convertible preferred stock, such as that comprising the Non-Convertible Preferred Securities, provide holders with a fixed or variable distribution and a status upon bankruptcy of the issuer that is subordinated to debt holders but preferred over common shareholders. Non-Convertible Preferred Securities may be listed on either an ISG member exchange (or an exchange with which the Exchange has a comprehensive surveillance sharing agreement) or a non-ISG member exchange or be unlisted and trade in the over-the-counter market.

19 Warrants are securities that provide the holder with the right to purchase specified securities of the issuer of the warrants at a specified exercise price until the expiration date of the warrant. The Fund may hold warrants that provide the right to purchase fixed income securities or equity securities, and such warrants may be traded in the OTC market or may be listed on an exchange, including an exchange that is not an ISG member. The Fund expects that most of the warrants it holds will be attached to related fixed income securities.

Warrants”);[20] cash and cash equivalents;[21] and foreign currencies (together, the “Principal Investments” and the equity elements of the Principal Investments, which consist of Work Out Securities, ETFs that provide exposure to fixed income securities, Debt or other Principal Investments, Equity-Related Warrants and Non-Convertible Preferred Securities, are referred to as the “Principal Investment Equities”).[22]

The Manager or Sub-Advisers (as applicable) may select from any of the following types of fixed income securities: (i) U.S. or foreign corporate debt securities, including notes, bonds, debentures, trust preferred securities, and commercial paper

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20 The Fund’s interests in Equity-Related Warrants are similar to the Fund’s interest in Work Out Securities in that they reflect interests in equity securities that are held solely in connection with investments in fixed income securities.

21 Cash equivalents consist of the following, all of which have maturities of less than three months: U.S. government securities; certificates of deposit issued against funds deposited in a bank or savings and loan association; bankers’ acceptances (which are short-term credit instruments used to finance commercial transactions); repurchase agreements and reverse repurchase agreements; and 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). Cash equivalents also consist of money market funds registered under the 1940 Act and money market funds that are not registered under the 1940 Act but that comply with Rule 2a-7 under the 1940 Act (together, “Money Market Funds”), money market ETFs and commercial paper, which are short-term unsecured promissory notes, having maturities of 360 days or less. The Exchange notes that, while the Fund treats commercial paper with maturities of three months or greater as cash equivalents for the purposes of the 80% principal investments measure, the Fund will apply the definition of cash equivalents in Nasdaq Rule 5735(b)(1)(C) (which is limited to instruments with maturities of less than three months) for purposes of compliance with Nasdaq Rule 5735(b)(1) and will comply with the applicable requirements of Nasdaq Rule 5735(b)(1) with respect to all commercial paper held by the Fund. Investments in cash equivalents that are Money Market Funds will be made in accordance with Rule 12d1-1 under the 1940 Act.

22 The Manager and Sub-Advisers will manage the Fund to ensure that the weight of Non-Convertible Preferred Securities and Work Out Securities (which are generally traded solely in the over-the-counter market) together do not exceed 30% of the Fund’s net assets.

issued by corporations, trusts, limited partnerships, limited liability companies and other types of non-governmental legal entities; (ii) U.S. government securities, including obligations of, or guaranteed by, the U.S. government, its agencies or government-sponsored entities; (iii) sovereign debt securities, which include fixed income securities issued by governments, agencies or instrumentalities and their political subdivisions, securities issued by government-owned, controlled or sponsored entities, interests in entities organized and operated for the purpose of restructuring the investment instruments issued by such entities, Brady Bonds,[23] and fixed income securities issued by supranational entities such as the World Bank;[24] (iv) U.S. or foreign mortgage-backed securities ("MBS"), which are securities that represent direct or indirect participations in, or are collateralized by and payable from, mortgage loans secured by real property and which may be issued by private issuers, by government-sponsored entities such as Fannie Mae (formally known as the Federal National Mortgage Association) or Freddie Mac (formally known as the Federal Home Loan Mortgage Corporation) or by agencies of the U.S. government, such as the Government National Mortgage Association ("Ginnie Mae");[25] (v) U.S. or foreign asset-backed securities ("ABS"), which represent

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[23] Brady Bonds are debt securities issued under the framework of the Brady Plan as a means for debtor nations to restructure their outstanding external indebtedness.

[24] A supranational entity is a bank, commission or company established or financially supported by the national governments of one or more countries to promote reconstruction or development.

[25] MBS include collateralized mortgage obligations ("CMOs"), which are debt obligations collateralized by mortgage loans or mortgage pass-through securities. Typically, CMOs are collateralized by Ginnie Mae, Fannie Mae or Freddie Mac Certificates, but may also be collateralized by whole loans or pass-through securities issued by private issuers (i.e., issuers other than government agencies or government-sponsored entities) (referred to as "Mortgage Assets"). Payments of principal and of interest on the Mortgage Assets, and any reinvestment income

participations in, or are secured by and payable from, assets such as installment sales or loan contracts, leases, credit card receivables and other categories of receivables other than real estate;[26] (vi) municipal securities, which include general obligation bonds, revenue bonds, housing authority bonds, private activity bonds, industrial development bonds, residual interest bonds, tender option bonds, tax and revenue anticipation notes, bond anticipation notes, tax-exempt commercial paper, municipal leases, participation certificates and custodial receipts; (vii) zero coupon securities, which are securities that pay no interest during the life of the obligation but are issued at prices below their stated maturity value; (viii) pay-in-kind securities, which have a stated coupon, but the interest is generally paid in the form of obligations of the same type as the underlying pay-in-kind securities (e.g., bonds) rather than in cash; (ix) deferred interest securities, which are obligations that generally provide for a period of delay before the regular payment of interest begins and are issued at a significant discount from face value; (x) U.S. or foreign structured notes and indexed securities, including securities that have demand, tender or

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thereon, provide the funds to pay debt service on the CMOs. In a CMO, a series of bonds or certificates is issued in multiple classes. Each class of CMOs, often referred to as a "tranche" of securities, is issued at a specified fixed or floating coupon rate and has a stated maturity or final distribution date.

[26] ABS include collateralized debt obligations ("CDOs"). CDOs include collateralized bond obligations ("CBOs"), collateralized loan obligations ("CLOs") and other similarly structured securities. A CBO is a trust or other special purpose entity that is typically backed by a diversified pool of fixed income securities (which may include high risk, below investment grade securities). A CLO is a trust or other special purpose entity that is typically collateralized by a pool of loans, which may also include, among others, domestic and non-U.S. senior secured loans, senior unsecured loans, and subordinated corporate loans, including loans that may be rated below investment grade or equivalent unrated loans, as well as loans that rank senior to the borrower's traditional debt obligations. Like CMOs, CDOs generally issue separate series or "tranches" of securities, which vary with respect to risk and yield.

put features, or interest rate reset features; and (xi) U.S. or foreign inflation-indexed or inflation-protected securities, which are fixed income securities that are structured to provide protection against inflation and whose principal value or coupon is periodically adjusted according to the rate of inflation and which include, among others, U.S. Treasury Inflation Protected Securities. The securities may pay fixed, variable or floating rates of interest or, in the case of instruments such as zero coupon bonds, do not pay current interest but are issued at a discount from their face values. MBS and ABS in which the Fund will invest make periodic payments of interest and/or principal on underlying pools of mortgages, government securities or, in the case of ABS, loans, leases and receivables other than real estate. The Fund may also invest in stripped ABS or MBS, which represent the right to receive either payments of principal or payments of interest on real estate receivables, in the case of MBS, or non-real estate receivables, in the case of ABS.

Investments by the Fund in debt instruments ("Debt") that may be deemed not to be "securities", as defined in the Act, are comprised primarily of the following: (i) U.S. or foreign bank loans and participations in bank loans; (ii) U.S. or foreign loans by non-bank lenders and participations in such loans; (iii) U.S. or foreign loans on real estate secured by mortgages and participations (without guarantees by a government-sponsored entity ("GSE")); and (iv) participations in U.S. or foreign loans and/or other extensions of credit, such as guarantees, made by governmental entities or financial institutions. Debt may be partially or fully secured by collateral supporting the payment of interest and principal, or unsecured and/or subordinated to other instruments. Debt may relate to financings for highly-leveraged borrowers. The Fund may acquire an interest in Debt by purchasing participations in and/or assignments of portions of loans from third parties or by investing in pools of loans, such as collateralized debt obligations.

With respect to fixed income securities and Debt, the Fund may invest in restricted instruments, such as Rule 144A and Regulation S securities, which are subject to resale restrictions that limit purchasers to qualified institutional buyers, as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act") or non-U.S. persons, within the meaning of Regulation S under the Securities Act.

The Fund will use derivatives to obtain exposure to fixed income securities and Debt that are Principal Investments (in the same way that the Fund obtains exposure to Principal Investments through investments in other ETFs), and to risk manage its holdings, including interest rate and duration risk.[27] Derivatives that the Fund may enter into include: over-the-counter deliverable and non-deliverable foreign exchange forward contracts; exchange-listed futures contracts on securities (including Treasury Securities and foreign government securities), commodities, indices, interest rates, financial rates and currencies; exchange-listed or over-the-counter options or swaptions (i.e., options to enter into a swap) on securities, commodities, indices, interest rates, financial rates, currencies and futures contracts; and exchange-listed or over-the-counter swaps (including total return swaps) on securities, commodities, indices, interest rates, financial rates, currencies and debt and credit default swaps on single names, baskets and indices

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[27] These uses are limited to the following: (i) to obtain exposure to underlying securities, Debt or currencies; (ii) to mitigate risks linked to the portfolio, including risks due to fluctuations in securities prices, investment-related risks, interest rates, currency rates or credit-worthiness of an issuer; (iii) to change the effective duration of its portfolio; and (iv) to enhance returns, such as through covered calls. The Fund will not use derivatives to seek leveraged returns. See "The Fund's Use of Derivatives," infra.

(both as protection seller and as protection buyer). As a result of the Fund's use of derivatives and to serve as collateral, the Fund may also hold significant amounts of Treasury Securities, cash and cash equivalents and, in the case of derivatives that are payable in a foreign currency, the foreign currency in which the derivatives are payable.

The Fund may, without limitation, enter into repurchase arrangements (which will have maturities of less than three months) and borrowing and reverse repurchase arrangements, purchase and sale contracts, buybacks and dollar rolls[28] and spot currency transactions. The Fund may also, subject to required margin and without limitation, purchase securities and other instruments under when-issued, delayed delivery, to be announced or forward commitment transactions, where the securities or instruments will not be delivered or paid for immediately. To the extent required under applicable federal securities laws (including the 1940 Act), rules, and interpretations thereof, the Fund will "set aside" liquid assets or engage in other measures to "cover" open positions held in connection with the foregoing types of transactions, as well as derivative transactions.

Other Investments

Under normal market conditions, the Fund will seek its investment objective by investing at least 80% of its net assets in a portfolio of the Principal Investments. The Fund may invest its remaining assets exclusively in: (i) exchange-listed or over-the

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[28] In a forward roll transaction (also referred to as a mortgage dollar roll), the Fund sells a MBS while simultaneously agreeing to purchase a similar security from the same party (the counterparty) on a specified future date at a lower fixed price. During the roll period, the Fund forgoes principal and interest paid on the securities. The Fund is compensated by the difference between the current sales price and the forward price for the future purchase, as well as by the interest earned on the cash proceeds of the initial sale. The Fund may enter into a forward roll transaction with the intention of entering into an offsetting transaction whereby, rather than accepting delivery of the security on the specified date, the Fund sells the security and agrees to repurchase a similar security at a later time.

counter convertible fixed income securities; and (ii) OTC Derivatives and Exchange-Traded Derivatives that either reference instruments other than the Fund's Principal Investments or are not used to risk manage the Fund's holdings;[29] and (iii) cash equivalent instruments.[30] The Fund may also take a temporary defensive position and hold a significant portion of its assets in cash and cash equivalents.[31]

The Fund's Use of Derivatives

The Fund proposes to invest in the types of derivatives described in the "Principal Investments" and "Other Investments" sections above. Exchange-Traded Derivatives will primarily be traded on exchanges that are ISG members or exchanges with which the Exchange has a comprehensive surveillance sharing agreement. The Fund may, however, invest up to 10% of the net assets of the Fund in Exchange-Traded Derivatives whose principal market is not a member of ISG or a market with which the Exchange has a comprehensive surveillance sharing agreement. For purposes of this 10% limit, the

29 Investments in OTC Derivatives and Exchange-Traded Derivatives will also be subject to the limitations described in the "The Fund's Use of Derivatives" section below.

30 Investments in cash equivalents that are Money Market Funds will be made in accordance with Rule 12d1-1 under the 1940 Act and any applicable exemptive orders.

31 As described above, the Fund may vary from ordinary parameters on a temporary basis, including for defensive purposes, during the initial invest-up period (i.e., the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (i.e., rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods). In those situations, the Fund may depart from its principal investment strategies and may, for example, hold a higher than normal proportion of its assets in cash and cash equivalents. During such periods, the Fund may not be able to achieve its investment objective.

weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

The Fund will limit the weight of its investments in OTC Derivatives to 10% of the net assets of the Fund, with the exception of Interest Rate Derivatives[32] and Currency Derivatives[33] (together, "Interest Rate and Currency Derivatives") entered into with broker-dealers, banks and other financial intermediaries. Investments in Interest Rate and Currency Derivatives (whether the instruments are Exchange-Traded Derivatives or OTC Derivatives) will not be subject to a limit. For purposes of this 10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value or exposure of such OTC Derivatives. The mark-to-market methodology is consistent with the methodology proposed by the SEC in proposed Rule 18f-4 for the

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32 "Interest Rate Derivatives" are comprised of interest rate swaps, swaptions (i.e., options on interest rate swaps), rate options and other similar derivatives, and may be Exchange-Traded Derivatives or OTC Derivatives. As reflected in statistics compiled by the Bank for International Settlements, as of June 30, 2017 there were approximately $416 trillion (notional amount) of total interest rate contracts outstanding in the over-the-counter markets alone. Interest Rate Derivatives also trade on trading platforms that are not ISG members. As reflected by the statistics, the market is wide, deep and liquid. See https://www.bis.org/statistics/d7.pdf (accessed November 2017).

33 "Currency Derivatives" are comprised of deliverable forwards, which are agreements between the contracting parties to exchange a specified amount of currency at a specified future time at a specified rate, non-deliverable forwards, which are agreements to pay the difference between the exchange rates specified for two currencies at a future date, swaps and options on currencies, and similar currency or foreign exchange derivatives. As reflected in statistics compiled by the Bank for International Settlements, as of June 30, 2017 there were approximately $77 trillion (notional amount) of Currency Derivatives outstanding in the over-the-counter markets alone. Currency Derivatives also trade on trading platforms that are not ISG members. As reflected by the statistics, the market is wide, deep and liquid. See https://www.bis.org/statistics/d6.pdf (accessed November 2017).

purposes of asset coverage requirements[34] and in keeping with disclosures regarding compliance with Section 18 of the 1940 Act made by other registered investment companies and reviewed by the SEC staff for a number of years.[35] In that regard, the SEC expressly noted in the Derivatives Rule Proposing Release that reliance on a mark-to-market valuation of a derivatives position for purposes of calculating the required coverage amount "would generally correspond to the amount of the fund's liability with respect to the derivatives transaction" and, therefore, be consistent with the appropriate valuation of the derivatives transaction.[36] The mark-to-market value is also the measure of "exposure" on which collateral posting is based under the Master Agreement published by the International Swaps and Derivatives Association, Inc. ("ISDA"), which is the predominant agreement used to trade derivatives.[37] This value measures gain and loss to the Fund of the Fund's derivatives position on a daily basis, as well as on a net basis across all transactions covered by a master netting agreement and, as a result, accurately

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34 See Derivatives Rule Proposing Release at 157-158; see also infra note 74.

35 See Derivatives Rule Proposing Release at n.58, citing Comment Letter on SEC Concept Release (November 7, 2011) (File No. S7-33-11), Davis Polk & Wardwell LLP, available at http://www.sec.gov/comments/s7-33-11/s73311-49.pdf ("[F]und registration statements indicate that, in recent years, the Staff has not objected to the adoption by funds of policies that require segregation of the mark-to-market value, rather than the notional amount . . . [for asset segregation purposes].").

36 Id.

37 The Credit Support Annex to the ISDA Master Agreement bases the collateral amount owed by a party to a derivatives contract, or that party's "exposure", by reference to the replacement value of the party's net positions. Replacement value, which has the same meaning as "mark-to-market" value, is the amount owed by a party at a point in time determined based on the net termination payment due under the outstanding transaction.

reflects the actual economic exposure of the Fund to the counterparty on the derivative (as compared to notional amount, which may overstate or understate economic risk).

The Fund may choose not to make use of derivatives.

Generally, derivatives are financial contracts whose value depends upon, or is derived from, the value of an underlying asset, reference rate or index, and may relate to stocks, bonds, interest rates, currencies or currency exchange rates, commodities, and related indexes. The Fund may, but is not required to, use derivative instruments for risk management purposes or as part of its investment strategies. The Fund may also engage in derivative transactions to hedge against fluctuations in securities prices, interest rates or currency rates, to change the effective duration of its portfolio, to manage investment risks linked to the portfolio and/or as a substitute for the purchase or sale of securities or currencies. In addition, the Fund may use derivatives to enhance returns, but will not use derivatives to leverage returns or to seek performance that is the multiple or inverse multiple of a benchmark. The Fund will enter into derivatives only with counterparties that the Fund reasonably believes are financially and operationally able to perform the contract or instrument, and the Fund will collect collateral from the counterparty in accordance with credit considerations and margining requirements under applicable law.[38]

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[38] The Fund will seek, where practicable, to trade with counterparties whose financial status is such that the risk of default is reduced. The Sub-Advisers will monitor the financial standing of counterparties on an ongoing basis. This monitoring may include reliance on information provided by credit agencies or of credit analysts employed by the Sub-Advisers. The analysis may include earnings updates, the counterparty's reputation, past experience with the dealer, market levels for the counterparty's debt and equity, credit default swap levels for the counterparty's debt, the liquidity provided by the counterparty and its share of market participation.

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. The Fund may use derivative instruments as a substitute for taking a position in the underlying asset and/or as part of a strategy designed to reduce exposure to other risks, such as interest rate or currency risk. The Fund may also use derivatives instruments to enhance returns. To limit the potential risk (including leveraging risk) associated with such transactions, the Fund will segregate or "earmark" assets determined to be liquid by the Manager and/or the Sub-Advisers in accordance with procedures established by the Trust's Board of Trustees (the "Board") and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that transactions of the Fund, including the Fund's use of derivatives, may give rise to additional leverage, causing the Fund to be more volatile than if it had not been leveraged. Because the markets for securities or Debt, or the securities themselves or Debt, may be unavailable, cost prohibitive or tax-inefficient as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure.

The Manager and the Sub-Advisers believe that derivatives can be an economically attractive substitute for an underlying physical security or Debt that the Fund would otherwise purchase. For example, the Fund could purchase futures contracts on Treasury Securities instead of investing directly in Treasury Securities or could sell credit default protection on a corporate bond instead of buying a physical bond. Economic benefits include potentially lower transactions costs, attractive relative valuation of a derivative versus a physical bond (e.g., differences in yields) or economic exposure without incurring transfer or similar taxes.

The Manager and the Sub-Advisers further believe that derivatives can be used as a more liquid means of adjusting portfolio duration, as well as targeting specific areas of yield curve exposure, with potentially lower transaction costs than the underlying securities or Debt (e.g., interest rate swaps may have lower transaction costs than the physical bonds). Similarly money market futures can be used to gain exposure to short-term interest rates in order to express views on anticipated changes in central bank policy rates. In addition, derivatives can be used to protect client assets through selectively hedging downside (or "tail risks") in the Fund.

The Fund also can use derivatives to increase or decrease credit exposure. Index credit default swaps can be used to gain exposure to a basket of credit risk by "selling protection" against default or other credit events, or to hedge broad market credit risk by "buying protection." Single name credit default swaps can be used to allow the Fund to increase or decrease exposure to specific issuers, saving investor capital through lower trading costs. The Fund can use total return swap contracts to obtain the total return of a reference asset or index in exchange for paying financing costs. A total return swap may be more efficient than buying underlying securities or Debt, potentially lowering transaction costs.

The Fund expects to manage foreign currency exchange rate risk by entering into Currency Derivatives.

The Sub-Advisers may use option strategies to meet the Fund's investment objectives. Option purchases and sales can also be used to hedge specific exposures in the portfolio and can provide access to return streams available to long-term investors such as the persistent difference between implied and realized volatility. Option strategies can generate income or improve execution prices (e.g., covered calls).

Investment Restrictions

The Fund may invest up to 30% of its assets in Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities. The Fund will not invest in equity securities other than Principal Investment Equities. Principal Investment Equities consist of (i) Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities, which are subject to the 30% limit noted above and (ii) shares of ETFs that provide exposure to fixed income securities, Debt or other Principal Investments, which are subject to no limits.

While the Fund will invest principally in fixed income securities and Debt that are, at the time of purchase, investment grade, the Fund may invest up to 30% of its net assets in below investment grade fixed income securities and Debt. For these purposes, "investment grade" is defined as investments with a rating at the time of purchase in one of the four highest rating categories of at least one nationally recognized statistical ratings organization ("NRSRO") (e.g., BBB- or higher by S&P Global Ratings ("S&P"), and/or Fitch Ratings ("Fitch"), or Baa3 or higher by Moody's Investors Service, Inc. ("Moody's")).[39] Unrated fixed income securities or Debt may be considered investment

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[39] For the avoidance of doubt, if a security is rated by multiple NRSROs and receives different ratings, the Fund will treat the security as being rated in the highest rating category received from any one NRSRO.

grade if, at the time of purchase, and under normal market conditions, the applicable Sub-Adviser determines that such securities are of comparable quality based on a fundamental credit analysis of the unrated security or Debt instrument and comparable NRSRO-rated securities.

The Fund may invest in fixed income or equity securities and Debt issued by both U.S. and non-U.S. issuers (including issuers in emerging markets), but the Fund will not invest more than 30% of its total assets directly in fixed income or equity securities or Debt of non-U.S. issuers or more than 25% of its total assets directly in non-U.S. dollar denominated fixed income or equity securities or Debt. For purposes of these 30% and 25% concentration limits only, derivatives, warrants and ETFs traded on U.S. exchanges that provide indirect exposure to fixed income or equity securities or Debt (as applicable) of non-U.S. issuers or to fixed income or equity securities or Debt (as applicable) denominated in currencies other than U.S. dollars will not be counted by the Fund in calculating its holdings in non-U.S. issuers or in non-U.S. dollar denominated securities or Debt.

The Fund may invest a substantial portion of its net assets in ABS and MBS, but it will not invest more than 30% of the fixed income portion of the Fund's portfolio[40] in non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities ("Private ABS/MBS").[41]

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[40] The Exchange notes that the terms "fixed income weight of the portfolio" and "weight of the fixed income portion of the portfolio" are used synonymously in Nasdaq Rule 5735.

[41] For purposes of this requirement, the weight of the Fund's exposure to Private ABS/MBS referenced in derivatives held by the Fund shall be calculated based on the mark-to-market value or exposure of such derivatives.

The Fund may not concentrate its investments (i.e., invest more than 25% of the value of its total assets) in securities of issuers in any one industry. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities.[42]

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 Manager or the Sub-Advisers.[43] 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 securities or other illiquid assets. Illiquid securities and other illiquid assets include those subject to contractual or other restrictions on resale and other instruments or assets that lack readily available markets as determined in accordance with Commission staff guidance.[44]

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42 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).

43 In reaching liquidity decisions, the Manager or Sub-Advisers (as applicable) 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).

44 Long-standing Commission guidelines have required investment companies to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), FN 34; see also Investment Company Act Release Nos. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement

As noted in the Use of Derivatives section above, the Fund's investments in derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage or leverage returns (although derivatives have embedded leverage). Although the Fund will be permitted to borrow as permitted under the 1940 Act, it will not be operated as a "leveraged ETF," (i.e., it will not be operated in a manner designed to seek a multiple or inverse multiple of the performance of an underlying reference index). The Fund may engage in frequent and active trading of portfolio securities, Debt, and derivatives to achieve its investment objective.

Under normal market conditions, the Fund will satisfy the following requirements, on a continuous basis measured at the time of purchase: (i) component securities that in the aggregate account for at least 75% of the fixed income weight of the Fund's portfolio each shall have a minimum original principal amount outstanding of $100 million or more; (ii) no fixed income security held in the portfolio (excluding U.S. Treasury Securities and GSE Securities)[45] will represent more than 30% of the fixed income weight of the Fund's portfolio, and the five most heavily weighted portfolio securities (excluding Treasury Securities and GSE Securities) will not in the aggregate

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Regarding "Restricted Securities"); and 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). The Commission also recently adopted Rule 22e-4 under the 1940 Act, which requires that each registered open-end management investment company, including ETFs but not including money market mutual funds, to establish a liquidity risk management program that includes limitations on illiquid investments. See Investment Company Act Release No. 32315 (October 13, 2016), 81 FR 82142 (November 18, 2016). Under Rule 22e-4, a fund's portfolio security is illiquid if it cannot be sold or disposed of in current market conditions in seven calendar days or less without the sale or disposition significantly changing the market value of the investment. See 17 CFR 270.22e-4(a)(8).

45 The terms "Treasury Securities" and "GSE Securities" have the meanings set forth in Nasdaq Rule 5735(b)(1)(B).

account for more than 65% of the fixed income weight of the Fund's portfolio; (iii) the Fund's portfolio (excluding exempted securities) will include a minimum of 13 non-affiliated issuers; (iv) at least 75% of the investments in securities issued by emerging market issuers shall have a minimum original principal amount outstanding of $200 million or more; and (v) at least 75% of investments in bank loans or corporate loan assets[46] shall be in senior loans with an initial deal size of $100 million or greater.[47]

In addition, the Fund will impose the limits described in the following section, which are alternative limits to the "generic" listing requirements of Nasdaq Rule 5735(b)(1).

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the Fund will not meet all of the "generic" listing requirements of Nasdaq Rule 5735(b)(1). The Fund will meet all such requirements except the requirements described below,[48] and the Exchange proposes that the Fund will comply with the alternative limits described below.

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46 These include senior loans, syndicated bank loans, junior loans, bridge loans, unfunded commitments, revolvers and participation interests.

47 The Exchange notes that Nasdaq Rule 5735(b)(1)(F) provides that to the extent that derivatives are used to gain exposure to individual fixed income securities or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Nasdaq Rule 5735(b)(1)(B). The Exchange proposes, however, as further described below, that for the purposes of the requirements in this paragraph and any requirements under Nasdaq Rule 5735(b)(1), the Fund will use the mark-to-market value or exposure of its derivatives rather than gross notional value or exposure.

48 The Exchange notes that, while the Fund treats commercial paper with maturities of three months or greater as cash equivalents for the purposes of its 80% principal investments measure, the Fund will comply with the applicable requirements of Nasdaq Rule 5735(b)(1) with respect to all commercial paper held by the Fund. Further, in accordance with Nasdaq Rule 5735(b)(1)(B), to the extent that the Fund holds securities that convert into fixed income securities, the

(i) The Fund will not comply with the requirements in Nasdaq Rule 5735(b)(1) regarding the use of aggregate gross notional value or exposure of derivatives when calculating the weight of such derivatives or the exposure that such derivatives provide to underlying reference assets, including the requirements in Rules 5735(b)(1)(D)(i),[49] 5735(b)(1)(D)(ii),[50] 5735(b)(1)(E)[51] and 5735(b)(1)(F).[52] Instead, the Exchange proposes that for the purposes of any applicable requirements under Nasdaq Rule 5735(b)(1), and any alternative requirements proposed

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fixed income securities into which any such securities are converted shall meet the criteria of Nasdaq Rule 5735(b)(1)(B) after converting.

[49] Nasdaq Rule 5735(b)(1)(D)(i) provides that at least 90% of the weight of the Fund's holdings invested in Exchange-Traded Derivatives will consist of Exchange-Traded Derivatives for which the Exchange may obtain information via the ISG, from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement, and for the purposes of calculating this limitation, the Fund's investment in such Exchange-Traded Derivatives will be calculated as the aggregate gross notional value of such Exchange-Traded Derivatives.

[50] Nasdaq Rule 5735(b)(1)(D)(ii) provides that the aggregate gross notional value of Exchange-Traded Derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Fund's portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Fund's portfolio (including gross notional exposures).

[51] Nasdaq Rule 5735(b)(1)(E) provides that on both an initial and continuing basis, no more than 20% of the assets in the Fund may be invested in OTC Derivatives, and for purposes of calculating this limitation, the Fund's investment in OTC Derivatives will be calculated as the aggregate gross notional value of the OTC Derivatives.

[52] Nasdaq Rule 5735(b)(1)(F) provides that to the extent that derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Nasdaq Rules 5735(b)(1)(A) and 5735(b)(1)(B), respectively.

by the Exchange, the Fund will use the mark-to-market value or exposure of its derivatives in calculating the weight of such derivatives or the exposure that such derivatives provide to their reference assets.[53]

(ii) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(B)(v) that Private ABS/MBS in the Fund's portfolio account, in the aggregate, for no more than 20% of the weight of the fixed income portion of the Fund's portfolio. Instead, the Exchange proposes that the Fund will limit its holdings in Private ABS/MBS to no more than 30% of the weight of the fixed income portion of the Fund's portfolio, in order to enable the portfolio to be more diversified and provide the Fund with an opportunity to earn higher returns. For purposes of this requirement, the weight of the Fund's exposure to Private ABS/MBS referenced indirectly through investments in derivatives held by the Fund shall be calculated based on the mark-to-market value or exposure of such derivatives.

(iii) The Fund will not comply with the requirement that at least 90% of the fixed income weight of the Fund's portfolio meet one of the criteria in Nasdaq Rule 5735(b)(1)(B)(iv).[54] Instead, the Exchange proposes that the

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53 Further, as described further below, the Exchange is proposing that the Fund will comply with alternative requirements rather than Rules 5735(b)(1)(D)(i), 5735(b)(1)(D)(ii), and 5735(b)(1)(E).

54 Nasdaq Rule 5735(b)(1)(B)(iv) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the Fund's portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section

fixed income portion of the portfolio other than Private ABS/MBS will comply with the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv), and Private ABS/MBS will comply with such requirement. For purposes of this requirement, the weight of the Fund's exposure to any fixed income securities referenced in derivatives held by the Fund shall be calculated based on the mark-to-market value or exposure of such derivatives.

(iv) The Fund will not comply with the equity requirements in Nasdaq Rules 5735(b)(1)(A)(i) [55] and 5735(b)(1)(A)(ii)[56] with respect to the Fund's

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3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

55 Nasdaq Rule 5735(b)(1)(A)(i) provides that the components stocks of the equity portion of a portfolio that are U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) shall meet the following criteria initially and on a continuing basis: (a) Component stocks (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Exchange Traded Derivative Securities and Linked Securities) each shall have a minimum market value of at least $75 million; (b) Component stocks (excluding Exchange Traded Derivative Securities and Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Exchange Traded Derivative Securities and Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; (c) The most heavily weighted component stock (excluding Exchange Traded Derivative Securities and Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Derivative Securities and Linked Securities) shall not exceed 65% of the equity weight of the portfolio; (d) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares (as defined in Nasdaq Rule 5735), or (ii) one or more series of Exchange Traded Derivative Securities or Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; (e) except as otherwise

investment in Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants. Instead, the Exchange proposes that (i) the Fund's investments in equity securities other than Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants shall comply with the equity requirements in Nasdaq Rule 5735(b)(1)(A)[57] and (ii) the weight of Non-Convertible Preferred Securities, Work Out

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provided, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Act; and (f) American Depositary Receipts ("ADRs") in a portfolio may be exchange-traded or non-exchange-traded; however, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.

56 Nasdaq Rule 5735(b)(1)(A)(ii) provides that the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) shall meet the following criteria initially and on a continuing basis: (a) Non-U.S. Component Stocks each shall have a minimum market value of at least $100 million; (b) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (c) The most heavily weighted Non-U.S. Component stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio; (d) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Exchange Traded Derivative Securities or Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and (e) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

57 These other equities will consist of ETFs (including money market ETFs) that provide exposure to fixed income securities, Debt and other Principal Investments. The weight of such ETFs in the Fund's portfolio shall not be limited.

Securities and Equity-Related Warrants in the Fund's portfolio shall together not exceed 30% of the Fund's net assets.

(v) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(E) that no more than 20% of the assets in the Fund's portfolio may be invested in OTC Derivatives. Instead, the Exchange proposes that there shall be no limit on the Fund's investment in Interest Rate and Currency Derivatives, and the weight of all OTC Derivatives other than Interest Rate and Currency Derivatives shall not exceed 10% of the Fund's net assets. For purposes of this 10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value or exposure of such OTC Derivatives.

(vi) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(i) that at least 90% of the weight of the Fund's holdings in Exchange-Traded Derivatives shall, on both an initial and continuing basis, consist of Exchange-Traded Derivatives for which the Exchange may obtain information via the ISG from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. Instead, the Exchange proposes that no more than 10% of the net assets of the Fund will be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. For purposes of this 10% limit, the weight of such Exchange-Traded

Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

(vii) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(ii) that the aggregate gross notional value of Exchange-Traded Derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Fund's portfolio (including gross notional exposures), and the aggregate gross notional value of Exchange-Traded Derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Fund's portfolio (including gross notional exposures). Instead, the Exchange proposes that the Fund will comply with the concentration requirements in Nasdaq Rule 5735(b)(1)(D)(ii) except with respect to the Fund's investment in futures and options (including options on futures) referencing Eurodollars and sovereign debt issued by the United States (i.e., Treasury Securities) and other "Group of Seven" countries[58] where such futures and options contracts are listed on an exchange that is an ISG member or an exchange with which the Exchange has a comprehensive surveillance sharing agreement ("Eurodollar and G-7 Sovereign Futures and Options"). The Fund's investment in Eurodollar and G-7 Sovereign Futures and Options will not be subject to the concentration limits provided in Nasdaq Rule 5735(b)(1)(D)(ii). For purposes of this requirement, the weight of the

[58] The "Group of Seven" or G-7 countries consist of the United States, Canada, France, Germany, Italy, Japan and the United Kingdom.

applicable Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

The Exchange believes that, notwithstanding that the Fund would expand a limited number of "generic" listing requirements of Nasdaq Rule 5735(b)(1) in order to be able to satisfy its investment objective, the Exchange will be able to appropriately monitor and surveil trading in the underlying investments, including those subject to expanded limits. The Exchange also notes that the parameters around the Fund's portfolio holdings is consistent with the parameters approved by the Commission prior to adoption of "generic" listing requirements for actively-managed ETFs and that the Fund will be well diversified.[59] For these reasons, the Exchange believes that and it is

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59 See, e.g., Securities Exchange Act Release Nos. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR-NYSEArca-2015-73) (granting approval for the listing of shares of the Guggenheim Total Return Bond ETF); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR-NYSEArca-2011-95) (granting approval for the listing of shares of the PIMCO Total Return Exchange Traded Fund (now known as the PIMCO Active Bond Exchange-Traded Fund)); and 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR-NYSEArca-2013-122) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund). The investments of the Guggenheim Total Return Bond ETF include a wide variety of U.S. and foreign fixed income instruments (including Private ABS/MBS), preferred securities, cash equivalents, other ETFs and listed and over-the-counter derivatives. The Commission's approval for the listing of shares of the Guggenheim Total Return Bond ETF did not include many of the conditions imposed by the generic listing standards under Nasdaq Rule 5735; the Commission's approval did not impose limits regarding the total notional size of the ETF's investment in over-the-counter derivatives, did not impose concentration limits on the ETF's investment in listed derivatives and did not require compliance with the same criteria as the fixed income criteria in Nasdaq Rule 5735(b)(1)(B). The order approving investments in derivatives by the PIMCO Total Return Exchange Traded Fund described investments in both over-the-counter and listed derivatives, but did not impose limits regarding the total notional size of the ETF's investments in over-the-counter derivatives, did not impose concentration limits on the ETF's investments in listed derivatives, and did not impose limitations on investments in listed derivatives whose

appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange.

As further described in the "Statutory Basis" section below, deviations from the generic requirements are necessary for the Fund to achieve its investment objective and efficiently manage the risks associated with its investments, and any possible risks have been fully mitigated and addressed through the alternative limits proposed by the Exchange. In addition, many of the changes requested are consistent with previous filings approved by the Commission.[60]

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principal market is not a member of ISG or is a market with which its listing exchange does not have a comprehensive surveillance sharing agreement.

60 See, e.g., Securities Exchange Act Release Nos. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR-NYSEArca-2017-09) (approving up to 50% of the fund's assets (calculated on the basis of aggregate gross notional value) to be invested in over-the-counter derivatives that are used to reduce currency, interest rate, or credit risk arising from the fund's investments, including forwards, over-the-counter options, and over-the-counter swaps); 78592 (August 16, 2016), 81 FR 56729 (August 22, 2016) (SR-NASDAQ-2016-061) (approving investment of up to 20% of the fund's net assets in, among other things, non-exchange-traded equity securities acquired in conjunction with the fund's event-driven strategy, including securities acquired by the fund as a result of certain corporate events including reorganizations); 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR-NYSEArca-2015-73) (permitting (i) investments in over-the-counter and listed derivatives without imposing limits on the total notional size of the ETF's investments in over-the-counter derivatives and without imposing concentration limits on the ETF's investments in listed derivatives and (ii) permitting investments in a wide variety of fixed income instruments without compliance with the same criteria as the fixed income criteria in Nasdaq Rule 5735(b)(1)(B)); 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR-NYSEArca-2013-122) (permitting investments in both over-the-counter and listed derivatives, but without imposing limits regarding the total notional size of the ETF's investments in over-the-counter derivatives, without imposing concentration limits on the ETF's investments in listed derivatives, and without imposing limitations on investments in listed derivatives whose principal market is not a member of ISG or is a market with which its listing exchange does not have a comprehensive surveillance sharing agreement); and 69061 (March 7, 2013), 78 FR 15990 (March 13, 2013) (SR-NYSEArca-2013-01) (approving investments in non-agency commercial MBS and non-agency residential MBS

Net Asset Value

The Fund's administrator will calculate the Fund's net asset value ("NAV") per Share as of the close of regular trading (normally 4:00 p.m., Eastern time ("E.T.")) on each day the New York Stock Exchange is open for business. NAV per Share will be calculated for the Fund by taking the value 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 (although creations and redemptions will be processed using a price denominated to the fifth decimal point, meaning that rounding to the nearest cent may result in different prices in certain circumstances).

Impact on Arbitrage Mechanism

The Manager and the Sub-Advisers believe there will be minimal, if any, impact on the arbitrage mechanism for the Fund as a result of its use of derivatives. The Manager and the Sub-Advisers understand that market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Manager and the Sub-Advisers believe that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Manager and the Sub-Advisers do not believe that there will be any significant impact on the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible

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without a fixed limit but consistent with the fund's objective of investing up to 80% of its assets in investment grade fixed-income securities).

for in-kind transfer, they will typically be substituted with a "cash in lieu" amount when the Fund processes purchases or redemptions of creation units in-kind.

Creation and Redemption of Shares

The Fund will issue Shares of the Fund at NAV only with authorized participants ("APs") and only in aggregations of at least 50,000 shares (each aggregation is called a "Creation Unit") or multiples thereof, on a continuous basis through the Distributor, without a sales load, at the NAV next determined after receipt, on any Business Day, of an order in proper form. A "Business Day" is defined as any day that the Trust is open for business, including as required by Section 22(e) of the Act.

The consideration for purchase of Creation Units of the Fund consists of an "in-kind" deposit of a designated portfolio of securities and/or instruments that will conform pro rata to the holdings of the Fund (except in the circumstances described in the Fund's Statement of Additional Information (the "SAI")) (the "Deposit Securities") and/or an amount of cash. If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Securities or Redemption Securities (defined below) exchanged for the Creation Unit, the party conveying the instruments with the lower value will pay to the other an amount in cash equal to that difference (the "Cash Component"). Together, the Deposit Securities and the Cash Component will constitute the "Fund Deposit," which will represent the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Deposit Securities and the securities and/or instruments that will be delivered in an in-kind transfer in a redemption ("Redemption Securities") will be identical. Purchases and redemptions of Creation

Units may be made in whole or in part on a cash basis, rather than in-kind, only under the circumstances described in the Fund's SAI.

To be eligible to place orders with respect to creations and redemptions of Creation Units, an entity must have executed an agreement with the Distributor, subject to acceptance by the transfer agent, with respect to creations and redemptions of Creation Units. Each such entity (an AP) must be (i) a broker-dealer or other participant in the clearing process through the continuous net settlement system of the National Securities Clearing Corporation ("NSCC") or (ii) a Depository Trust Company participant.

When the Fund permits Creation Units to be issued principally or partially in-kind, the Fund will cause to be published, through the NSCC, on each Business Day, prior to the opening of trading on the Exchange (currently, 9:30 a.m. E.T.), the identity and the required number of each Deposit Security and the amount of the Cash Component (if any) to be included in the current Fund Deposit (based on information at the end of the previous Business Day).

All orders to create Creation Units must be received by the Distributor within a one-hour window after the closing time of the regular trading session on the Exchange ("Closing Time") (ordinarily between 4:00 p.m. E.T. and 5:00 p.m. E.T.) on the date such order is placed in order to receive the NAV on the next Business Day immediately following the date the order was placed.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form on a Business Day and only through an AP. The Fund will not redeem Shares in amounts less than a Creation Unit (except the

Fund may redeem shares in amounts less than a Creation Unit in the event the Fund is being liquidated).

When the Fund permits Creation Units to be redeemed principally or partially in-kind, the Fund will cause to be published, through the NSCC, immediately prior to the opening of business on the Exchange (currently, 9:30 a.m., E.T.) on each Business Day, the identity of the Redemption Securities and/or an amount of cash that will be applicable to redemption requests received in proper form on that day. The Redemption Securities will be identical to the Deposit Securities.

In order to redeem Creation Units of the Fund, an AP must submit an order to redeem for one or more Creation Units. All such orders must be received by the Distributor within a one-hour window after the Closing Time (ordinarily between 4:00 p.m. E.T. and 5:00 p.m. E.T.) in order to receive the NAV on the next Business Day immediately following the date the order was placed.

Availability of Information

The Fund's website (www.leggmason.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"),[61] and a calculation of the premium and discount of the

[61] 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

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[62] 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.[63] The Fund's disclosure of derivative positions in the Disclosed Portfolio will include sufficient information for market participants to use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's website the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding), the identity of the security or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any;

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the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

62 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., E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m., E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m., E.T.).

63 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.

effective date, if any; market value of the holding; and percentage weighting of the holding in the Fund's portfolio.[64] 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 Information LLC proprietary index data service,[65] 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 provided by a dealer who makes a market in those instruments. 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.

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64 See Nasdaq Rule 5735(c)(2).

65 Currently, the Nasdaq Global Index Data Service ("GIDS") is the Nasdaq 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 indexes, listed ETFs, or third-party partner indexes and ETFs.

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. 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. 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 ("CTA") plans for the Shares and for the following U.S. securities, to the extent that they are exchange-listed securities: Work Out Securities, Non-Convertible Preferred Securities, Equity-Related Warrants, fixed income securities and ETFs. Price information for U.S. exchange-listed options will be available via the Options Price Reporting Authority and for other U.S. exchange-listed derivative instruments will be available from the applicable listing exchange and from major market data vendors. Price information for restricted securities, including Regulation S and Rule 144A instruments, will be available from major market data vendors. Money Market Funds are typically priced once each Business Day and their prices will be available through the applicable fund's website or from major market data vendors.

Intraday executable price quotations from broker-dealers and trading platforms, as well as closing or last traded price information (as applicable), on exchange-listed securities, equities traded in the over-the-counter market, Exchange-Traded Derivatives, OTC Derivatives, Debt and fixed income securities, and warrants on fixed income securities are generally available. The price information is available from major broker-dealer firms or feeds from market data vendors, exchanges, automated quotation systems, published or other public sources, or online information services. Additionally, the Trade Reporting and Compliance Engine ("TRACE") of the Financial Industry Regulatory Authority ("FINRA") will be a source of price information for corporate bonds, privately-issued securities, MBS and ABS, to the extent transactions in such securities are reported to TRACE.[66] Intraday and other price information related to U.S. government securities, Money Market Funds, and other cash equivalents that are traded over-the-counter also will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by APs and other investors. Electronic Municipal Market Access ("EMMA") will be a source of price information for municipal bonds. Pricing for repurchase transaction and reverse repurchase agreements entered into by the Fund are not publicly reported. Prices are determined by negotiation at the time of entry with counterparty brokers, dealers and banks.

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. Investors will also be able to obtain the 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, except the SAI, which is filed at least annually. 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.

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66 Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year.

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and continued listing, the Fund must be in compliance with Rule 10A-3[67] 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 Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

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[67] 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., E.T. 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.[68] 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 and the exchange-listed securities and instruments held by the Fund

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68 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.

(including ETFs, exchange-listed equities, exchange-listed options, futures contracts and exchange-listed swaps) with other markets and other entities that are members of ISG and with which the Exchange has comprehensive surveillance sharing agreements,[69] and FINRA and the Exchange both may obtain information regarding trading in the Shares, the exchange-listed securities, derivatives and other instruments held by the Fund from markets and other entities that are members of ISG, which include securities and futures exchanges and swap execution facilities, or with which the Exchange has in place a comprehensive surveillance sharing agreement.[70] 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 and, with respect to municipal securities, EMMA.

All of the Fund's net assets that are invested in equity securities other than Work Out Securities that are exchange-listed (including Non-Convertible-Preferred Securities and Equity-Related Warrants that are exchange-listed, and ETFs) will be invested in securities 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.

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69 For a list of the current members of ISG, see 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.

70 As noted above, no more than 10% of the net assets of the Fund may be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or a market with which the Exchange has a comprehensive surveillance sharing agreement.

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 and the Disclosed Portfolio 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. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

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.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

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 the Exchange and FINRA, on behalf of the Exchange, which are designed to deter and detect violations of Exchange rules and applicable federal securities laws and are adequate to properly monitor trading in the Shares in all trading sessions. The Manager and the Sub-Advisers are affiliated with a broker-dealer and have implemented, and will maintain, a fire wall with respect to its 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 an investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the investment company's portfolio.

The Fund's investments, including derivatives, will be consistent with the Fund's investment objectives, applicable legal requirements[71] and will not be used to enhance leverage (although derivatives may have embedded leverage). Although the Fund will be permitted to borrow as permitted under the 1940 Act, it will not be operated as a "leveraged ETF," i.e., it will not be operated in a manner designed to seek leveraged returns or a multiple or inverse multiple of the performance of an underlying reference index.[72] The Fund may engage in frequent and active trading of portfolio investments to achieve its investment objective.

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[71] As noted above, the Fund will limit its investments in illiquid securities or other illiquid assets to an aggregate amount of 15% of its net assets (calculated at the time of investment), as required by the Commission.

[72] As noted above, the Fund will not invest in leveraged, inverse or inverse leveraged ETFs.

The Exchange believes that, notwithstanding that the Fund would not meet all of the "generic" listing requirements of Nasdaq Rule 5735(b)(1), the Fund will not be subject to manipulation, the investments of the Fund will be able to be monitored and surveilled by the Exchange and risks will be mitigated by alternative limits imposed by the Exchange. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein. Deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a cost-effective manner that maximizes investors' returns and to manage the risks associated with its investments, and the Exchange proposes that the Fund will be required to comply with alternative requirements that are customized to address the objectives of Section 6(b)(5) of the Act, as described herein. Further, the strategy and investments of the Fund are substantially similar to those of other ETFs previously approved by the Commission, which have operated safely and without disrupting the market for several years.[73]

The Fund will not comply with the requirements in Nasdaq Rule 5735(b)(1) regarding the use of aggregate gross notional value or exposure of derivatives when calculating the weight of such derivatives or the exposure that such derivatives provide to underlying reference assets, including the requirements in Rules 5735(b)(1)(D)(i), 5735(b)(1)(D)(ii), 5735(b)(1)(E) and 5735(b)(1)(F). Instead, the Exchange proposes that for the purposes of any applicable requirements under Nasdaq Rule 5735(b)(1), and any

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73 See, e.g., Securities Exchange Act Release Nos. 66321 (February 3, 2012) (granting approval for the listing of shares of the PIMCO Total Return Exchange Traded Fund); 72666 (July 24, 2014) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund); and 76719 (December 21, 2015) (granting approval for the listing of shares of the Guggenheim Total Return Bond ETF).

alternative requirements proposed by the Exchange, the Fund will use the mark-to-market value or exposure of its derivatives in calculating the weight of such derivatives or the exposure that such derivatives provide to their reference assets. The Exchange believes that this alternative requirement is appropriate because the mark-to-market value or exposure is a more accurate measurement of the actual exposure incurred by the Fund in connection with a derivatives position.[74]

The Fund will not meet the requirement in Nasdaq Rule 5735(b)(1)(B)(v) that Private ABS/MBS in the Fund's portfolio account, in the aggregate, for no more than 20% of the weight of the fixed income portion of the Fund's portfolio. However, the Fund will limit the holdings in Private ABS/MBS to 30% of the weight of the fixed income portion of the Fund's portfolio.[75] The Exchange believes that this limitation on the Fund's investment in Private ABS/MBS, which is consistent with a similar limitation

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[74] As previously noted, the mark-to-market approach is consistent with the valuation methodology for derivatives for asset coverage purposes advocated by the Commission in proposed Rule 18f-4 under the 1940 Act. See Derivatives Rule Proposing Release. In a white paper published by staff of the Division of Economic and Risk Analysis of the SEC ("DERA") in connection with the proposal of Rule 18f-4 under the 1940 Act, the staff of DERA noted that a derivative's notional amount does not accurately reflect the risk of the derivative. See Daniel Deli, Paul Hanouna, Christof Stahel, Yue Tang and William Yost, Use of Derivatives by Registered Investment Companies (December 2015) at 10 ("On the other hand, there are drawbacks to using notional amounts. First, because of differences in expected volatilities of the underlying assets, notional amounts of derivatives across different underlying asset generally do not represent the same unit of risk. For example, the level of risk associated with a $100 million notional of a S&P500 index futures is not equivalent to the level of risk of a $100 million notional of interest rate swaps, currency forwards or commodity futures.").

[75] For purposes of this requirement, the weight of the Fund's exposure to Private ABS/MBS referenced in derivatives shall be calculated based on the mark-to-market value or exposure of such derivatives.

in a previous filing for the listing of an ETF approved by the Commission,[76] is appropriate to provide the Fund with sufficient flexibility to invest in Private ABS/MBS, while still imposing a reasonable limit on such investments, consistent with the mandate in Section 6(b) of the Act to facilitate transactions in securities while protecting investors and the public interest. Private ABS/MBS held by the Fund are expected to provide investors with: (i) diversification as compared to a portfolio more heavily weighted towards agency and GSE ABS and MBS ("Government ABS/MBS"), municipal securities and investment grade corporate debt; (ii) the potential for higher returns; and (iii) reasonable liquidity. Although the higher threshold will include a broader spectrum of credit quality among the issuers, this moderately increased risk can be appropriately addressed through disclosure and substantially mitigated through the careful credit monitoring performed by the Sub-Adviser. In addition, current economic conditions, which include robust growth and economic strength, are significant mitigants to the risk of credit deterioration. The Sub-Adviser seeks to maximize the Fund's investments in Private ABS/MBS during economic periods, such as that currently experienced in the U.S., of robust growth. To the extent that the economy were to weaken, the Sub-Adviser would re-evaluate the level at which the Fund seeks to invest in Private ABS/MBS. Given the benefits provided, including, most importantly, the opportunity for a fixed income investor to diversify the portfolio across fixed income classes and earn marginally greater returns, together with the protections of credit monitoring and liquidity

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76 See Securities Exchange Act Release No. 69061 (March 7, 2013), 78 FR 15990 (March 13, 2013) (SR-NYSEArca-2013-01) (approving investments in non-agency commercial MBS and non-agency residential MBS without a fixed limit but consistent with the fund's objective of investing up to 80% of its assets in investment grade fixed-income securities).

management provided by the Sub-Adviser, the Exchange believes that a 30% limit, rather than the 20% limit used by the generic listing standard, is appropriate.

Private ABS/MBS include a number of different types of securitized debt products, including credit card debt, student loans, auto debt and residential and commercial mortgage debt. Investment in a variety of sectors, rather than simply residential mortgages comprising Government ABS/MBS, reduces concentration and diversifies sources of risk. Private ABS/MBS held by the Fund will be generally liquid instruments.[77] The Sub-Adviser will be able to trade out of the instruments that do not satisfy Fund credit and other criteria. U.S. Private ABS/MBS are trade-reported through TRACE,[78] and the Sub-Adviser and the Fund will maintain liquidity policies and procedures pursuant to which the Sub-Adviser will monitor the liquidity of the Fund's

77 The Sub-Adviser, using data from TRACE, compiled weekly trading data for Private ABS/MBS over a period of three years. A chart summarizing this data, which is available at https://www.leggmason.com/content/dam/legg-mason/documents/en/regulatory-documents/letters-and-notices/abs-mbs-trading-activity.pdf, shows that Private ABS/MBS experienced regular and reasonable liquidity over the prior three-year period. During that time period the weekly trading activity for non-agency, non-GSE residential MBS ranged from approximately $16 billion to $48 billion (including both investment grade and non-investment grade), the weekly trading activity for non-agency, non-GSE commercial MBS has ranged from approximately $21 billion to $50 billion (including both investment grade and non-investment grade), and the weekly trading activity for non-agency, non-GSE ABS (other than MBS) ranged from approximately $17 billion to $35 billion (including both investment grade and non-investment grade).

78 Although foreign Private ABS/MBS are not trade-reported through TRACE, foreign Private ABS/MBS, as of the date of this application, are expected to constitute a very small percentage of the Fund's net assets. Based on the Fund's strategy and current market conditions, foreign Private ABS/MBS, as of the date of this application, are expected to constitute approximately 1% of the Fund's net assets, but that percentage could change in the future.

Private ABS/MBS investments and continuously manage any associated risks.[79] The instruments are cleared through The Depository Trust Company.

The Fund carries out its own credit analysis of Private ABS/MBS issuers[80] and conducts an extensive analysis of the features of the proposed investments. The features that the Fund looks for in selecting Private ABS/MBS include good credit quality, liquidity, bankruptcy remoteness, lower prepayment risk, overcollateralization, excess spread, amortization, professional servicing for and reporting to investors, and diversity of payers within each underlying pool. The Sub-Adviser regularly monitors the credit quality of the issuers of Private ABS/MBS for compliance with the credit quality, liquidity and other investment requirements.

The Fund will not meet the requirement that at least 90% of the fixed income weight of the Fund's portfolio meet one of the criteria in Nasdaq Rule 5735(b)(1)(B)(iv)[81] because some Private ABS/MBS cannot satisfy the criteria in Nasdaq

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79 As part of these policies and procedures, the Sub-Adviser rates the liquidity of the Fund's investments (including Private ABS/MBS) using data on bid-ask spreads on the investments and haircut requirements for the investment when they are delivered in connection with repurchase agreements.

80 The Sub-Adviser has a fixed-income investment team that maintains and updates credit opinions on all Private ABS/MBS investments made by the team on an ongoing basis. This research allows the investment team to form a comprehensive view of the collateral pool associated with an investment. The team works with legal professionals as well to understand and track the legal documents associated with each distinct deal structure.

81 Nasdaq Rule 5735(b)(1)(B)(iv) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the Fund's portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section

Rule 5735(b)(1)(B)(iv).[82] The Exchange proposes, in the alternative, to require the Fund to ensure that the investments in the fixed income portion of the Fund's portfolio other than Private ABS/MBS comply with the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv).[83] The Exchange believes that this alternative limitation is appropriate because Nasdaq Rule 5735(b)(1)(B)(iv) does not appear to be designed for structured finance vehicles such as Private ABS/MBS, and the overall weight of Private ABS/MBS held by the Fund will be limited to 30% of the fixed income portion of the Fund's portfolio, as described above. As discussed above, although Private ABS/MBS will be excluded for the purposes of compliance with Nasdaq Rule 5735(b)(1)(B)(iv), the Fund's portfolio is consistent with the statutory standard as a result of the diversification provided by the investments, the benefits related to the opportunity for higher returns, and the Sub-Adviser's selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards and relies on the higher investment levels in these instruments during periods of U.S. economic strength.

The Fund will not meet the equity requirements in Nasdaq Rule 5735(b)(1)(A) with respect to Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants, but will satisfy these requirements with respect to the ETFs in which

3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

82 Private ABS/MBS are generally issued by special purpose vehicles, so the criteria in Nasdaq Rule 5735(b)(1)(B)(iv) regarding an issuer's market capitalization and the remaining principal amount of an issuer's securities are typically unavailable with respect to Private ABS/MBS, even though such Private ABS/MBS may own significant assets.

83 For purposes of this requirement, the weight of the Fund's exposure to any fixed income securities referenced in derivatives shall be calculated based on the mark-to-market value or exposure of such derivatives.

the Fund will invest.[84] In order to reflect this deviation, the Exchange proposes that (i) the Fund's investments in equity securities other than Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants shall comply with the equity requirements in Nasdaq Rule 5735(b)(1)(A)[85] and (ii) the weight of Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities in the Fund's portfolio shall together not exceed 30% of the Fund's net assets. The Exchange believes that these alternative limitations are appropriate in light of the fact that the Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities are providing debt-oriented exposures or are received in connection with the Fund's previous investment in Debt or fixed income securities, and all of the other equity securities held by the Fund will comply with the requirements of Nasdaq Rule 5735(b)(1)(A).

The Fund will not meet the requirement in Nasdaq Rule 5735(b)(1)(E) that no more than 20% of the assets in the Fund's portfolio may be invested in OTC Derivatives. The Fund proposes that no limit be placed on Interest Rate and Currency Derivatives, which are necessary and appropriate to allow the Manager and Sub-Advisers to risk manage the Fund, but that the weight of all other OTC Derivatives (e.g., credit default swaps) be limited to 10% of the net assets in the Fund's portfolio. For purposes of this

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84 Nasdaq Rule 5735(b)(1)(A)(i)(e) generally requires the U.S. equity securities to be listed on a national securities exchange. The Exchange notes that shares of Money Market Funds are not considered equity securities for the purposes of Nasdaq Rule 5735(b)(1)(A), and that there is no limitation on the percentage of the Fund's portfolio invested in shares of Money Market Funds, in accordance with Nasdaq Rule 5735(b)(1)(C)(i).

85 These other equities will consist of ETFs (including money market ETFs) that provide exposure to fixed income securities and Debt. The weight of such ETFs in the Fund's portfolio shall not be limited.

10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value or exposure of such OTC Derivatives. The Exchange believes that this alternative requirement, which is generally consistent with the requirement in a previous filing for the listing of an ETF approved by the Commission,[86] is appropriate in light of the fact that Interest Rate and Currency Derivatives are among the most liquid investment instruments (including not only derivatives but also securities) in the market[87] (and are even more liquid than most non-government or government-guaranteed securities). Based on the data compiled by the Sub-Adviser in respect to its liquidity policy, these derivatives are among the most liquid investments traded. In addition, most Interest Rate Derivatives traded by the Fund are centrally cleared by regulated clearing firms, and Interest Rate and Currency Derivatives are subject to trade reporting,[88] and other robust regulation.[89] Given the size of the trading market and the

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86 See Securities Exchange Act Release No. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR-NYSEArca-2017-09) (approving up to 50% of the fund's assets (calculated on the basis of aggregate gross notional value) to be invested in OTC derivatives that are used to reduce currency, interest rate, or credit risk arising from the fund's investments, including forwards, OTC options, and OTC swaps).

87 Trading in foreign exchange markets averaged $5.1 trillion per day in April 2016, and 67% of this trading activity was in derivatives contracts such as currency or foreign exchange forwards, options and swaps (with the other 33% consisting of spot transactions). See Bank for International Settlements, Triennal Central Bank Survey, Foreign Exchange Turnover in April 2016, available at http://www.bis.org/publ/rpfx16fx.pdf (accessed November 2017). Trading in OTC interest rate derivatives averaged $2.7 trillion per day in April 2016. See Bank for International Settlements, Triennal Central Bank Survey, OTC Interest Rate Derivatives Turnover in April 2016, available at http://www.bis.org/publ/rpfx16ir.pdf (accessed November 2017).

88 Transactions in Interest Rate Derivatives are required to be reported to a swap data repository pursuant to rules issued by the Commodity Futures Trading Commission ("CFTC"). See 17 CFR Parts 43, 45 and 46.

regulatory oversight of the markets, the Exchange believes that Interest Rate and Currency Derivatives are not readily subject to manipulation. The Exchange also believes that allowing the Fund to risk manage its portfolio through the use of Interest Rate and Currency Derivatives without limit is necessary to allow the Fund to achieve its investment objective and protect investors.

The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(i) that at least 90% of the weight of the Fund's holdings in Exchange-Traded Derivatives shall, on both an initial and continuing basis, consist of Exchange-Traded Derivatives for which the Exchange may obtain information via the ISG from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. Instead, the Exchange proposes that no more than 10% of the net assets of the Fund will be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.[90] The Exchange believes that this alternative limitation is appropriate because the overall limit on Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement will still be low relative to the overall size of the Fund.

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89 Interest Rate Derivatives are comprehensively regulated as swaps under the Dodd-Frank Act and regulations issued thereunder by the CFTC and other federal financial regulators. See, e.g., 17 CFR Part 23 (capital and margin requirements for swap dealers, business conduct standards for swap dealers, and swap documentation requirements); 17 CFR Part 50 (clearing requirements for swaps).

90 For purposes of this 10% limit, the weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

The Fund will not meet the requirement in Nasdaq Rule 5735(b)(1)(D)(ii) that the aggregate gross notional value of Exchange-Traded Derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Fund's portfolio (including gross notional exposures), and the aggregate gross notional value of Exchange-Traded Derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Fund's portfolio (including gross notional exposures) because the Fund may maintain significant positions in Eurodollar and G-7 Sovereign Futures and Options. The Manager has indicated that obtaining exposure to these investments through futures contracts is often the most cost efficient method to achieve such exposure. The Exchange notes that Eurodollar and G-7 Sovereign Futures and Options are highly liquid investments[91] and are not subject to the same concentration

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[91] See CME Group, Interest Rate Futures Liquidity Metrics Reach New Highs (October 6, 2017), available at http://www.cmegroup.com/education/interest-rates-liquidity-metrics-reach-new-highs.html (accessed November 2017) (providing statistics regarding liquidity and open interest in futures and options on Eurodollars and Treasury Securities, including that during the first three quarters of 2017, Eurodollar futures and options traded through CME Group had an average daily open interest of approximately 53 million contracts and futures and options on Treasury Securities had an average daily open interest of approximately 15 million contracts); The Montreal Exchange, Statistics for Interest Rate Derivatives, Index Derivatives and Equity Derivatives (September 2017), available at https://www.m-x.ca/f_stat_en/1709_stats_en.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures and options on Canadian sovereign debt, including that, as of September 2017, the open interest in futures and options on Canadian sovereign debt traded on The Montreal Exchange was approximately 560,000 contracts); Eurex Exchange, Benchmark Fixed Income Derivatives, available at https://www.eurexchange.com/blob/115654/4c51e4b8bc77355475b3b6f46afc0ef1/data/factsheet_eurex_benchmark_fixed_income_derivatives.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures and options on German sovereign debt, including that, as of July 2015, the open interest in futures and options on German sovereign debt traded on Eurex was approximately 6,000,000 contracts); Eurex Exchange, Eurex Exchange Euro-BTP Futures, Italian Government Bond Futures, available at

risks as Exchange-Traded Derivatives referencing other assets because of such liquidity. Further, the Exchange notes that the significantly diminished risk of Treasury Securities is reflected in their exclusion from the concentration requirements applicable to fixed income securities in Nasdaq Rule 5735(b)(1)(B)(ii). The Exchange proposes that the Fund will comply with the concentration requirements in Nasdaq Rule 5735(b)(1)(D)(ii) except with respect to the Fund's investment in Eurodollar and G-7 Sovereign Futures

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http://www.eurexchange.com/blob/115624/6a1281939d15ddbab960af40da6f11dc/data/factsheet_eurex_euro_btp_futures_on_italian_government_bonds.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures on Italian sovereign debt, including that the open interest peaks in 2017 for futures on long-term and short-term Italian sovereign debt traded on Eurex was approximately 450,000 and 270,000 contracts, respectively); Eurex Exchange, Euro-OAT Derivatives, French Government Bond Futures and Options, available at http://www.eurexchange.com/blob/115652/48198ec577f7b3b0ac44d4c5a39ed0de/data/factsheet_eurex_euro_oat_futures_on_french_government_bonds.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures on French sovereign debt, including that, as of July 2017, the open interest in futures on long-term French sovereign debt traded on Eurex was approximately 600,000 contracts); Intercontinental Exchange, Growing Liquidity in Gilt Futures, available at https://www.theice.com/publicdocs/futures/Gilt_Futures_Overview.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures on British sovereign debt, including that, as of the third quarter of 2014, the open interest in futures on long-term British sovereign debt traded on the Intercontinental Exchange was approximately 400,000 contracts); Osaka Exchange, Japanese Government Bond Futures & Options, available at http://www.jpx.co.jp/english/derivatives/products/jgb/jgb-futures/tvdivq0000003n94-att/JGB_FUT_OP_E.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures and options on Japanese sovereign debt, including that as of July 2016, the open interest in futures on 10-year Japanese sovereign debt traded on the Osaka Exchange was approximately 80,000 contracts). The Exchange also notes that the Commission has previously granted exemptions under the Act to facilitate the trading of futures on sovereign debt issued each of the Group of Seven countries (among other countries) and that such exemptions were based in part on the Commission's assessment of the sufficiency of the credit ratings and liquidity of such sovereign debt. See 17 CFR 240.3a12-8; Securities Exchange Act Release No. 41453 (May 26, 1999).

and Options.[92] The Exchange believes that this alternative limitation is appropriate to provide the Fund with sufficient flexibility and because of the highly liquid and transparent nature of Eurodollar and G-7 Sovereign Futures and Options. Further, as described above, no more than 10% of the net assets of the Fund will be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

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 every day that the Fund is traded, 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 Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange’s Regular Market Session. On each Business Day, before commencement of trading in the Shares in the Regular Market Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio of the Fund 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 conditionally available on a real-time basis throughout the

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92 For purposes of this requirement, the weight of the applicable derivatives will be calculated based on the mark-to-market value or exposure of such derivatives.

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 CTA plans for the Shares and for the following U.S. exchange-listed securities: common stocks, preferred securities and ETFs. Intraday executable price quotations, as well as closing price information, on exchange-listed securities (including ETFs), equities traded in the over-the-counter market, Exchange-Traded Derivatives, OTC Derivatives, Debt, fixed income securities and other assets not traded on an exchange will be available from major broker-dealer firms or market data vendors or from the exchange on which they are traded, as applicable, as well as from automated quotation systems, published or other public sources, or online information services. Additionally, FINRA's TRACE will be a source of price information for corporate bonds, privately-issued securities, MBS and ABS (including Private ABS/MBS) to the extent transactions in such securities are reported to TRACE, and EMMA will be a source of price information for municipal securities. Intraday and closing price information related to U.S. government securities, Money Market Funds, and other cash equivalents held by the Fund also will be available through subscription services, such as ICE Data Services, BAML PriceServe, Bloomberg, Markit and Thomson Reuters, which can be accessed by APs 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. Moreover, 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. Trading in the 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 ETF that will enhance competition among market participants, to the benefit of investors and the marketplace.

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 ETF 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. <u>Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)</u>

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. <u>Exhibits</u>

    1. Notice of proposed rule change for publication in the <u>Federal Register</u>.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-NASDAQ-2017-128)

December __, 2017

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change List and Trade the Shares of the Western Asset Total Return ETF

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on December 5, 2017, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade the shares of the Western Asset Total Return ETF (the "Fund"), a series of Legg Mason ETF Investment Trust (the "Trust") under Nasdaq Rule 5735 ("Managed Fund Shares").[3] The shares of the Fund are collectively referred to herein as the "Shares."

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 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. 80946 (June 15, 2017), 82 FR 28126 (June 20, 2017) (SR-NASDAQ-2017-039) (order approving listing and trading of Guggenheim Limited Duration ETF); 78592 (August 16, 2016), 81 FR 56729 (August 22, 2016) (SR-NASDAQ-2016-061)

The text of the proposed rule change is available on the Exchange's Website at http://nasdaq.cchwallstreet.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

(order approving listing and trading of First Trust Equity Market Neutral ETF); 78443 (July 29, 2016), 81 FR 51517 (August 4, 2016) (SR-NASDAQ-2016-064) (order approving listing and trading of First Trust Strategic Mortgage REIT ETF); 71913 (April 9, 2014), 79 FR 21333 (April 15, 2014) (SR-NASDAQ-2014-019) (order approving listing and trading of First Trust Managed Municipal ETF); 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); 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); see also filings for similar ETFs listed on other national securities exchanges Securities Exchange Act Release Nos. 80657 (May 11, 2017) 82 FR 22702 (May 17, 2017) (SR-NYSE Arca-2017-09) (order approving listing and trading of Janus Short Duration Income ETF); 79683 (December 23, 2016), 81 FR 96539 (December 30, 2016) (SR-NYSEArca-2016-82) (order approving listing and trading of JPMorgan Diversified Event Driven ETF); 77904 (May 25, 2016), 81 FR 35101 (SR-NYSE Arca-2016-17) (order approving listing and trading of JPMorgan Diversified Alternative ETF); 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). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

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[4] on the Exchange. The Fund will be an exchange-traded fund ("ETF") that is actively managed. The Shares will be offered by the Trust, which was established as a Maryland statutory trust on June 8, 2015.[5] The Exchange notes that other actively-managed, broad market fixed-income ETFs have been previously approved by the SEC prior to the adoption of

4 A Managed Fund Share is a security that represents an interest in an investment company registered as an investment company 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 objective 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.

5 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. 32391 (December 13, 2016) (File No. 812-14547) (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.

"generic" listing standards for actively-managed ETFs.[6] The Trust is registered with the Commission as an investment company under the 1940 Act and has filed a registration statement on Form N-1A ("Registration Statement") with the Commission with respect to the Fund.[7] The Fund will be a series of the Trust. 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.

Legg Mason Partners Fund Advisor, LLC will be the investment manager ("Manager") to the Fund. Western Asset Management Company will serve as the sub-adviser to the Fund (the "Sub-Adviser")[8] and Western Asset Management Company Limited in London ("Western Asset London"), Western Asset Management Company Pte. Ltd. in Singapore ("Western Asset Singapore") and Western Asset Management Company Ltd in Japan ("Western Asset Japan") will each serve as the sub-sub-advisers

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6 See, e.g., Securities Exchange Act Release Nos. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR-NYSEArca-2015-73) (granting approval for the listing of shares of the Guggenheim Total Return Bond ETF); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR-NYSEArca-2011-95) (granting approval for the listing of shares of the PIMCO Total Return Exchange Traded Fund (now known as the PIMCO Active Bond Exchange-Traded Fund)); and 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR-NYSEArca-2013-122) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund); see also infra note 59.

7 See Post-Effective Amendment No. 27 to the Registration Statement on Form N-1A for the Trust (File Nos. 333-206784 and 811-23096) as filed on August 8, 2017. The Fund is referred to in the Registration Statement as the Western Asset Core Plus Opportunities ETF, but the Registration Statement will be updated to reflect the name of the Fund as Western Asset Total Return ETF and to incorporate other changes. The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

8 The Sub-Adviser is responsible for the day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings. The Manager has ongoing oversight responsibility.

to the Fund (collectively, the "Sub-Sub-Advisers" and each, a "Sub-Sub-Adviser").[9] Hereinafter, references to "Sub-Adviser" or "Sub-Advisers" include the Sub-Adviser and each applicable Sub-Sub-Adviser. Legg Mason Investor Services, LLC (the "Distributor") will be the distributor of the Fund's Shares. The Manager, each of the Sub-Advisers and the Distributor are wholly-owned subsidiaries of Legg Mason, Inc. ("Legg Mason"). An entity that is not affiliated with Legg Mason, and which is named in the Registration Statement, 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 and maintain 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.[10] In addition,

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9 Each of the Sub-Sub-Advisers provides advisory services to the Fund relating to the Fund's investments. Sub-Sub-Advisers advise primarily on instruments traded in the region in which the Sub-Sub-Adviser is located, but they may advise on portfolio instruments held by the Fund that are traded in other regions. Western Asset London generally advises on the Fund's portfolio holdings in non-U.S. and non-Asian investment instruments and currencies (including through ETFs and derivative instruments that provide exposure to those instruments and currencies); Western Asset Japan generally advises on the Fund's portfolio holdings in Japanese investment instruments and currencies (including through ETFs and derivative instruments that provide exposure to those instruments and currencies); and Western Asset Singapore generally advises on the Fund's portfolio holdings in non-Japan, Asian investment instruments and currencies (including through ETFs and derivative instruments that provide exposure to those instruments and currencies).

10 An investment adviser to an investment company is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Manager and the Sub-Advisers and their related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. Rule 204A-1 requires investment advisers to adopt a code of ethics that reflects

paragraph (g) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the investment company's portfolio.

Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment and maintenance of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable investment company's portfolio, not an underlying benchmark index, as is the case with index-based funds. None of the Manager or any of the Sub-Advisers is a broker-dealer, but each is affiliated with the Distributor, a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning proposed changes to the composition and/or changes to the portfolio prior to implementation.

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 Manager or

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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.

any of the Sub-Advisers registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new manager or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning proposed changes to the composition and/or changes to the portfolio prior to implementation and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Western Asset Total Return ETF

Principal Investments

The investment objective of the Fund will be to seek to maximize total return, consistent with prudent investment management and liquidity needs, by investing to maintain a dollar weighted average effective duration within 35% of the average duration of the U.S. bond market as a whole (generally a range of 2.5 to 7 years) as estimated by the Sub-Adviser.[11] Under normal market conditions,[12] the Fund will seek to achieve its

[11] The dollar-weighted average effective duration of the Fund may fall outside of its expected range due to market movements. If this happens, the Sub-Advisers will take action to bring the Fund's dollar-weighted average effective duration back within its expected range within a reasonable period of time.

[12] The term "under normal market conditions" has the meaning set forth in Nasdaq Rule 5735(c)(5). The Fund may vary from ordinary parameters on a temporary basis, including for defensive purposes, during the initial invest-up period (i.e., the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (i.e., rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods). In those situations, the Fund may depart from its principal investment strategies and may, for example, hold a higher than normal proportion of its assets in cash and cash equivalents. During such periods, the Fund may not be able to achieve its investment objective. The Fund may also

investment objective by investing at least 80% of its net assets in a portfolio comprised of U.S. or foreign fixed income securities; U.S. or foreign Debt (as defined below herein); [13] derivatives[14] and ETFs[15] that provide exposure to such U.S. or foreign fixed income

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adopt a defensive strategy when the Manager or any Sub-Adviser believes securities, Debt and other instruments in which the Fund normally invests have elevated risks due to political or economic factors, heightened market volatility or in other extraordinary circumstances that do not constitute "normal market conditions".

13 As noted below, the Fund will not invest more than 30% of its total assets in fixed income or equity securities or Debt of non-U.S. issuers or more than 25% of its total assets directly in non-U.S. dollar denominated fixed income or equity securities or Debt. As a result, although the Fund does intend to invest in foreign instruments described above, the size of such investments will be limited. See infra "Investment Restrictions".

14 Derivatives will include: (i) swaps and security-based swaps, futures, options, options on futures, and swaptions that are traded on an exchange, trading facility, swap execution facility or alternative trading system (A) that is a member of the Intermarket Surveillance Group ("ISG"), which includes all U.S. national securities exchanges and futures exchanges, (B) that is subject to a comprehensive surveillance sharing agreement with the Exchange, or (C) that is not an ISG member and with which the Exchange does not have a comprehensive surveillance sharing agreement ("Exchange-Traded Derivatives"); and (ii) swaps and security-based swaps, options, options on futures, swaptions, forwards and similar instruments that are traded in the over-the-counter market and are either centrally cleared or cleared bilaterally ("OTC Derivatives"), as further described below. For the purposes of describing the scope of the Fund's potential investments in derivatives, the terms "swaps" and "security-based swaps" shall have the meanings set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010) ("Dodd-Frank") and regulations thereunder. The terms "exchange-traded" and "exchange-listed", when used with respect to swaps or security-based swaps, shall include swaps and security-based swaps that are executed on swap execution facilities and security-based swap execution facilities, which are subject to central clearing. For purposes of the 80% principal investments measure, the Fund will value derivatives based on the mark-to-market value or exposure of such derivatives. This approach is consistent with the valuation methodology for asset coverage purposes in Rule 18f-4 under the 1940 Act proposed by the Commission. See Investment Company Act Release No. 31933 (December 11, 2015); 80 FR 80884 (December 28, 2015) (the "Derivatives Rule Proposing Release"); see also infra note 74. Not more than 10% of the net assets of the Fund will be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or

securities, Debt or other Principal Investments (defined below), or, in the case of derivatives, that are used to risk manage exposures to such instruments or to enhance returns, such as through covered call strategies; U.S. or foreign equity securities of any type acquired in reorganizations of issuers of fixed income securities or Debt held by the Fund ("Work Out Securities");[16] U.S. or foreign non-convertible preferred securities (other than trust preferred securities, which the Fund may invest in but which are treated as fixed income securities[17]) ("Non-Convertible Preferred Securities");[18] warrants[19] on

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is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

15 The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depositary Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). The Fund will not invest in ETFs that are not registered as investment companies under the 1940 Act. The ETFs held by the Fund will invest in fixed income securities, Debt and money-market instruments to which the Fund seeks exposure. All such ETFs will trade in markets that are members of the ISG or exchanges that are parties to a comprehensive surveillance sharing agreement with the Exchange. The Fund will not invest in leveraged ETFs, inverse ETFs, or inverse leveraged ETFs. Other fixed-income funds have been approved to include ETFs in their 80% principal investment category. See, e.g., Securities Exchange Act Release No. 80946 (June 15, 2017), 82 FR 28126 (June 20, 2017) (SR-NASDAQ-2017-039) (approving fund seeking to meet its investment objective of having at least 80% of net assets invested in a portfolio of debt instruments in part through investments in ETFs that invest substantially all of their assets in such debt instruments).

16 Work Out Securities will generally be traded in the OTC market or may be listed on an exchange that may or may not be an ISG member.

17 See Nasdaq Rule 5735(b)(1)(B).

18 Non-convertible preferred stock, such as that comprising the Non-Convertible Preferred Securities, provide holders with a fixed or variable distribution and a status upon bankruptcy of the issuer that is subordinated to debt holders but preferred over common shareholders. Non-Convertible Preferred Securities may be listed on either an ISG member exchange (or an exchange with which the Exchange has a comprehensive surveillance sharing agreement) or a non-ISG member exchange or be unlisted and trade in the over-the-counter market.

U.S. or foreign fixed income securities; warrants on U.S. or foreign equity securities that are attached to, accompany or are purchased alongside investments in U.S. or foreign fixed income securities issued by the issuer of the warrants ("Equity-Related Warrants");[20] cash and cash equivalents;[21] and foreign currencies (together, the "Principal Investments" and the equity elements of the Principal Investments, which consist of Work Out Securities, ETFs that provide exposure to fixed income securities,

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19 Warrants are securities that provide the holder with the right to purchase specified securities of the issuer of the warrants at a specified exercise price until the expiration date of the warrant. The Fund may hold warrants that provide the right to purchase fixed income securities or equity securities, and such warrants may be traded in the OTC market or may be listed on an exchange, including an exchange that is not an ISG member. The Fund expects that most of the warrants it holds will be attached to related fixed income securities.

20 The Fund's interests in Equity-Related Warrants are similar to the Fund's interest in Work Out Securities in that they reflect interests in equity securities that are held solely in connection with investments in fixed income securities.

21 Cash equivalents consist of the following, all of which have maturities of less than three months: U.S. government securities; certificates of deposit issued against funds deposited in a bank or savings and loan association; bankers' acceptances (which are short-term credit instruments used to finance commercial transactions); repurchase agreements and reverse repurchase agreements; and 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). Cash equivalents also consist of money market funds registered under the 1940 Act and money market funds that are not registered under the 1940 Act but that comply with Rule 2a-7 under the 1940 Act (together, "Money Market Funds"), money market ETFs and commercial paper, which are short-term unsecured promissory notes, having maturities of 360 days or less. The Exchange notes that, while the Fund treats commercial paper with maturities of three months or greater as cash equivalents for the purposes of the 80% principal investments measure, the Fund will apply the definition of cash equivalents in Nasdaq Rule 5735(b)(1)(C) (which is limited to instruments with maturities of less than three months) for purposes of compliance with Nasdaq Rule 5735(b)(1) and will comply with the applicable requirements of Nasdaq Rule 5735(b)(1) with respect to all commercial paper held by the Fund. Investments in cash equivalents that are Money Market Funds will be made in accordance with Rule 12d1-1 under the 1940 Act.

Debt or other Principal Investments, Equity-Related Warrants and Non-Convertible Preferred Securities, are referred to as the "Principal Investment Equities").[22]

The Manager or Sub-Advisers (as applicable) may select from any of the following types of fixed income securities: (i) U.S. or foreign corporate debt securities, including notes, bonds, debentures, trust preferred securities, and commercial paper issued by corporations, trusts, limited partnerships, limited liability companies and other types of non-governmental legal entities; (ii) U.S. government securities, including obligations of, or guaranteed by, the U.S. government, its agencies or government-sponsored entities; (iii) sovereign debt securities, which include fixed income securities issued by governments, agencies or instrumentalities and their political subdivisions, securities issued by government-owned, controlled or sponsored entities, interests in entities organized and operated for the purpose of restructuring the investment instruments issued by such entities, Brady Bonds,[23] and fixed income securities issued by supranational entities such as the World Bank;[24] (iv) U.S. or foreign mortgage-backed securities ("MBS"), which are securities that represent direct or indirect participations in, or are collateralized by and payable from, mortgage loans secured by real property and which may be issued by private issuers, by government-sponsored entities such as Fannie

22 The Manager and Sub-Advisers will manage the Fund to ensure that the weight of Non-Convertible Preferred Securities and Work Out Securities (which are generally traded solely in the over-the-counter market) together do not exceed 30% of the Fund's net assets.

23 Brady Bonds are debt securities issued under the framework of the Brady Plan as a means for debtor nations to restructure their outstanding external indebtedness.

24 A supranational entity is a bank, commission or company established or financially supported by the national governments of one or more countries to promote reconstruction or development.

Mae (formally known as the Federal National Mortgage Association) or Freddie Mac (formally known as the Federal Home Loan Mortgage Corporation) or by agencies of the U.S. government, such as the Government National Mortgage Association ("Ginnie Mae");[25] (v) U.S. or foreign asset-backed securities ("ABS"), which represent participations in, or are secured by and payable from, assets such as installment sales or loan contracts, leases, credit card receivables and other categories of receivables other than real estate;[26] (vi) municipal securities, which include general obligation bonds, revenue bonds, housing authority bonds, private activity bonds, industrial development bonds, residual interest bonds, tender option bonds, tax and revenue anticipation notes, bond anticipation notes, tax-exempt commercial paper, municipal leases, participation certificates and custodial receipts; (vii) zero coupon securities, which are securities that

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[25] MBS include collateralized mortgage obligations ("CMOs"), which are debt obligations collateralized by mortgage loans or mortgage pass-through securities. Typically, CMOs are collateralized by Ginnie Mae, Fannie Mae or Freddie Mac Certificates, but may also be collateralized by whole loans or pass-through securities issued by private issuers (i.e., issuers other than government agencies or government-sponsored entities) (referred to as "Mortgage Assets"). Payments of principal and of interest on the Mortgage Assets, and any reinvestment income thereon, provide the funds to pay debt service on the CMOs. In a CMO, a series of bonds or certificates is issued in multiple classes. Each class of CMOs, often referred to as a "tranche" of securities, is issued at a specified fixed or floating coupon rate and has a stated maturity or final distribution date.

[26] ABS include collateralized debt obligations ("CDOs"). CDOs include collateralized bond obligations ("CBOs"), collateralized loan obligations ("CLOs") and other similarly structured securities. A CBO is a trust or other special purpose entity that is typically backed by a diversified pool of fixed income securities (which may include high risk, below investment grade securities). A CLO is a trust or other special purpose entity that is typically collateralized by a pool of loans, which may also include, among others, domestic and non-U.S. senior secured loans, senior unsecured loans, and subordinated corporate loans, including loans that may be rated below investment grade or equivalent unrated loans, as well as loans that rank senior to the borrower's traditional debt obligations. Like CMOs, CDOs generally issue separate series or "tranches" of securities, which vary with respect to risk and yield.

pay no interest during the life of the obligation but are issued at prices below their stated maturity value; (viii) pay-in-kind securities, which have a stated coupon, but the interest is generally paid in the form of obligations of the same type as the underlying pay-in-kind securities (e.g., bonds) rather than in cash; (ix) deferred interest securities, which are obligations that generally provide for a period of delay before the regular payment of interest begins and are issued at a significant discount from face value; (x) U.S. or foreign structured notes and indexed securities, including securities that have demand, tender or put features, or interest rate reset features; and (xi) U.S. or foreign inflation-indexed or inflation-protected securities, which are fixed income securities that are structured to provide protection against inflation and whose principal value or coupon is periodically adjusted according to the rate of inflation and which include, among others, U.S. Treasury Inflation Protected Securities. The securities may pay fixed, variable or floating rates of interest or, in the case of instruments such as zero coupon bonds, do not pay current interest but are issued at a discount from their face values. MBS and ABS in which the Fund will invest make periodic payments of interest and/or principal on underlying pools of mortgages, government securities or, in the case of ABS, loans, leases and receivables other than real estate. The Fund may also invest in stripped ABS or MBS, which represent the right to receive either payments of principal or payments of interest on real estate receivables, in the case of MBS, or non-real estate receivables, in the case of ABS.

Investments by the Fund in debt instruments ("Debt") that may be deemed not to be "securities", as defined in the Act, are comprised primarily of the following: (i) U.S. or foreign bank loans and participations in bank loans; (ii) U.S. or foreign loans by non-bank lenders and participations in such loans; (iii) U.S. or foreign loans on real estate secured by mortgages and participations (without guarantees by a government-sponsored entity ("GSE")); and (iv) participations in U.S. or foreign loans and/or other extensions of credit, such as guarantees, made by governmental entities or financial institutions. Debt may be partially or fully secured by collateral supporting the payment of interest and principal, or unsecured and/or subordinated to other instruments. Debt may relate to financings for highly-leveraged borrowers. The Fund may acquire an interest in Debt by purchasing participations in and/or assignments of portions of loans from third parties or by investing in pools of loans, such as collateralized debt obligations.

With respect to fixed income securities and Debt, the Fund may invest in restricted instruments, such as Rule 144A and Regulation S securities, which are subject to resale restrictions that limit purchasers to qualified institutional buyers, as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act") or non-U.S. persons, within the meaning of Regulation S under the Securities Act.

The Fund will use derivatives to obtain exposure to fixed income securities and Debt that are Principal Investments (in the same way that the Fund obtains exposure to Principal Investments through investments in other ETFs), and to risk manage its holdings, including interest rate and duration risk.[27] Derivatives that the Fund may enter into include: over-the-counter deliverable and non-deliverable foreign exchange forward

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[27] These uses are limited to the following: (i) to obtain exposure to underlying securities, Debt or currencies; (ii) to mitigate risks linked to the portfolio, including risks due to fluctuations in securities prices, investment-related risks, interest rates, currency rates or credit-worthiness of an issuer; (iii) to change the effective duration of its portfolio; and (iv) to enhance returns, such as through covered calls. The Fund will not use derivatives to seek leveraged returns. <u>See</u> "The Fund's Use of Derivatives," <u>infra</u>.

contracts; exchange-listed futures contracts on securities (including Treasury Securities and foreign government securities), commodities, indices, interest rates, financial rates and currencies; exchange-listed or over-the-counter options or swaptions (i.e., options to enter into a swap) on securities, commodities, indices, interest rates, financial rates, currencies and futures contracts; and exchange-listed or over-the-counter swaps (including total return swaps) on securities, commodities, indices, interest rates, financial rates, currencies and debt and credit default swaps on single names, baskets and indices (both as protection seller and as protection buyer). As a result of the Fund's use of derivatives and to serve as collateral, the Fund may also hold significant amounts of Treasury Securities, cash and cash equivalents and, in the case of derivatives that are payable in a foreign currency, the foreign currency in which the derivatives are payable.

The Fund may, without limitation, enter into repurchase arrangements (which will have maturities of less than three months) and borrowing and reverse repurchase arrangements, purchase and sale contracts, buybacks and dollar rolls[28] and spot currency transactions. The Fund may also, subject to required margin and without limitation, purchase securities and other instruments under when-issued, delayed delivery, to be announced or forward commitment transactions, where the securities or instruments will not be delivered or paid for immediately. To the extent required under applicable federal

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28 In a forward roll transaction (also referred to as a mortgage dollar roll), the Fund sells a MBS while simultaneously agreeing to purchase a similar security from the same party (the counterparty) on a specified future date at a lower fixed price. During the roll period, the Fund forgoes principal and interest paid on the securities. The Fund is compensated by the difference between the current sales price and the forward price for the future purchase, as well as by the interest earned on the cash proceeds of the initial sale. The Fund may enter into a forward roll transaction with the intention of entering into an offsetting transaction whereby, rather than accepting delivery of the security on the specified date, the Fund sells the security and agrees to repurchase a similar security at a later time.

securities laws (including the 1940 Act), rules, and interpretations thereof, the Fund will "set aside" liquid assets or engage in other measures to "cover" open positions held in connection with the foregoing types of transactions, as well as derivative transactions.

Other Investments

Under normal market conditions, the Fund will seek its investment objective by investing at least 80% of its net assets in a portfolio of the Principal Investments. The Fund may invest its remaining assets exclusively in: (i) exchange-listed or over-the counter convertible fixed income securities; and (ii) OTC Derivatives and Exchange-Traded Derivatives that either reference instruments other than the Fund's Principal Investments or are not used to risk manage the Fund's holdings;[29] and (iii) cash equivalent instruments.[30] The Fund may also take a temporary defensive position and hold a significant portion of its assets in cash and cash equivalents.[31]

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29 Investments in OTC Derivatives and Exchange-Traded Derivatives will also be subject to the limitations described in the "The Fund's Use of Derivatives" section below.

30 Investments in cash equivalents that are Money Market Funds will be made in accordance with Rule 12d1-1 under the 1940 Act and any applicable exemptive orders.

31 As described above, the Fund may vary from ordinary parameters on a temporary basis, including for defensive purposes, during the initial invest-up period (i.e., the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (i.e., rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods). In those situations, the Fund may depart from its principal investment strategies and may, for example, hold a higher than normal proportion of its assets in cash and cash equivalents. During such periods, the Fund may not be able to achieve its investment objective.

The Fund's Use of Derivatives

The Fund proposes to invest in the types of derivatives described in the "Principal Investments" and "Other Investments" sections above. Exchange-Traded Derivatives will primarily be traded on exchanges that are ISG members or exchanges with which the Exchange has a comprehensive surveillance sharing agreement. The Fund may, however, invest up to 10% of the net assets of the Fund in Exchange-Traded Derivatives whose principal market is not a member of ISG or a market with which the Exchange has a comprehensive surveillance sharing agreement. For purposes of this 10% limit, the weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

The Fund will limit the weight of its investments in OTC Derivatives to 10% of the net assets of the Fund, with the exception of Interest Rate Derivatives[32] and Currency Derivatives[33] (together, "Interest Rate and Currency Derivatives") entered into with

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32 "Interest Rate Derivatives" are comprised of interest rate swaps, swaptions (i.e., options on interest rate swaps), rate options and other similar derivatives, and may be Exchange-Traded Derivatives or OTC Derivatives. As reflected in statistics compiled by the Bank for International Settlements, as of June 30, 2017 there were approximately $416 trillion (notional amount) of total interest rate contracts outstanding in the over-the-counter markets alone. Interest Rate Derivatives also trade on trading platforms that are not ISG members. As reflected by the statistics, the market is wide, deep and liquid. See https://www.bis.org/statistics/d7.pdf (accessed November 2017).

33 "Currency Derivatives" are comprised of deliverable forwards, which are agreements between the contracting parties to exchange a specified amount of currency at a specified future time at a specified rate, non-deliverable forwards, which are agreements to pay the difference between the exchange rates specified for two currencies at a future date, swaps and options on currencies, and similar currency or foreign exchange derivatives. As reflected in statistics compiled by the Bank for International Settlements, as of June 30, 2017 there were approximately $77 trillion (notional amount) of Currency Derivatives outstanding in the over-the-counter markets alone. Currency Derivatives also trade on trading platforms that are not ISG members. As reflected by the statistics, the market is

broker-dealers, banks and other financial intermediaries. Investments in Interest Rate and Currency Derivatives (whether the instruments are Exchange-Traded Derivatives or OTC Derivatives) will not be subject to a limit. For purposes of this 10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value or exposure of such OTC Derivatives. The mark-to-market methodology is consistent with the methodology proposed by the SEC in proposed Rule 18f-4 for the purposes of asset coverage requirements[34] and in keeping with disclosures regarding compliance with Section 18 of the 1940 Act made by other registered investment companies and reviewed by the SEC staff for a number of years.[35] In that regard, the SEC expressly noted in the Derivatives Rule Proposing Release that reliance on a mark-to-market valuation of a derivatives position for purposes of calculating the required coverage amount "would generally correspond to the amount of the fund's liability with respect to the derivatives transaction" and, therefore, be consistent with the appropriate valuation of the derivatives transaction.[36] The mark-to-market value is also the measure of "exposure" on which collateral posting is based under the Master Agreement published by the International Swaps and Derivatives Association, Inc. ("ISDA"), which is the

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wide, deep and liquid. See https://www.bis.org/statistics/d6.pdf (accessed November 2017).

34 See Derivatives Rule Proposing Release at 157-158; see also infra note 74.

35 See Derivatives Rule Proposing Release at n.58, citing Comment Letter on SEC Concept Release (November 7, 2011) (File No. S7-33-11), Davis Polk & Wardwell LLP, available at http://www.sec.gov/comments/s7-33-11/s73311-49.pdf ("[F]und registration statements indicate that, in recent years, the Staff has not objected to the adoption by funds of policies that require segregation of the mark-to-market value, rather than the notional amount . . . [for asset segregation purposes].").

36 Id.

predominant agreement used to trade derivatives.[37] This value measures gain and loss to the Fund of the Fund's derivatives position on a daily basis, as well as on a net basis across all transactions covered by a master netting agreement and, as a result, accurately reflects the actual economic exposure of the Fund to the counterparty on the derivative (as compared to notional amount, which may overstate or understate economic risk).

The Fund may choose not to make use of derivatives.

Generally, derivatives are financial contracts whose value depends upon, or is derived from, the value of an underlying asset, reference rate or index, and may relate to stocks, bonds, interest rates, currencies or currency exchange rates, commodities, and related indexes. The Fund may, but is not required to, use derivative instruments for risk management purposes or as part of its investment strategies. The Fund may also engage in derivative transactions to hedge against fluctuations in securities prices, interest rates or currency rates, to change the effective duration of its portfolio, to manage investment risks linked to the portfolio and/or as a substitute for the purchase or sale of securities or currencies. In addition, the Fund may use derivatives to enhance returns, but will not use derivatives to leverage returns or to seek performance that is the multiple or inverse multiple of a benchmark. The Fund will enter into derivatives only with counterparties that the Fund reasonably believes are financially and operationally able to perform the contract or instrument, and the Fund will collect collateral from the counterparty in

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[37] The Credit Support Annex to the ISDA Master Agreement bases the collateral amount owed by a party to a derivatives contract, or that party's "exposure", by reference to the replacement value of the party's net positions. Replacement value, which has the same meaning as "mark-to-market" value, is the amount owed by a party at a point in time determined based on the net termination payment due under the outstanding transaction.

accordance with credit considerations and margining requirements under applicable law.[38]

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. The Fund may use derivative instruments as a substitute for taking a position in the underlying asset and/or as part of a strategy designed to reduce exposure to other risks, such as interest rate or currency risk. The Fund may also use derivatives instruments to enhance returns. To limit the potential risk (including leveraging risk) associated with such transactions, the Fund will segregate or "earmark" assets determined to be liquid by the Manager and/or the Sub-Advisers in accordance with procedures established by the Trust's Board of Trustees (the "Board") and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that transactions of the Fund, including the Fund's use of derivatives, may give rise to additional leverage, causing the Fund to be more volatile than if it had not been leveraged. Because the markets for securities or Debt, or the

38 The Fund will seek, where practicable, to trade with counterparties whose financial status is such that the risk of default is reduced. The Sub-Advisers will monitor the financial standing of counterparties on an ongoing basis. This monitoring may include reliance on information provided by credit agencies or of credit analysts employed by the Sub-Advisers. The analysis may include earnings updates, the counterparty's reputation, past experience with the dealer, market levels for the counterparty's debt and equity, credit default swap levels for the counterparty's debt, the liquidity provided by the counterparty and its share of market participation.

securities themselves or Debt, may be unavailable, cost prohibitive or tax-inefficient as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure.

The Manager and the Sub-Advisers believe that derivatives can be an economically attractive substitute for an underlying physical security or Debt that the Fund would otherwise purchase. For example, the Fund could purchase futures contracts on Treasury Securities instead of investing directly in Treasury Securities or could sell credit default protection on a corporate bond instead of buying a physical bond. Economic benefits include potentially lower transactions costs, attractive relative valuation of a derivative versus a physical bond (e.g., differences in yields) or economic exposure without incurring transfer or similar taxes.

The Manager and the Sub-Advisers further believe that derivatives can be used as a more liquid means of adjusting portfolio duration, as well as targeting specific areas of yield curve exposure, with potentially lower transaction costs than the underlying securities or Debt (e.g., interest rate swaps may have lower transaction costs than the physical bonds). Similarly money market futures can be used to gain exposure to short-term interest rates in order to express views on anticipated changes in central bank policy rates. In addition, derivatives can be used to protect client assets through selectively hedging downside (or “tail risks”) in the Fund.

The Fund also can use derivatives to increase or decrease credit exposure. Index credit default swaps can be used to gain exposure to a basket of credit risk by “selling protection” against default or other credit events, or to hedge broad market credit risk by “buying protection.” Single name credit default swaps can be used to allow the Fund to increase or decrease exposure to specific issuers, saving investor capital through lower trading costs. The Fund can use total return swap contracts to obtain the total return of a reference asset or index in exchange for paying financing costs. A total return swap may be more efficient than buying underlying securities or Debt, potentially lowering transaction costs.

The Fund expects to manage foreign currency exchange rate risk by entering into Currency Derivatives.

The Sub-Advisers may use option strategies to meet the Fund's investment objectives. Option purchases and sales can also be used to hedge specific exposures in the portfolio and can provide access to return streams available to long-term investors such as the persistent difference between implied and realized volatility. Option strategies can generate income or improve execution prices (e.g., covered calls).

Investment Restrictions

The Fund may invest up to 30% of its assets in Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities. The Fund will not invest in equity securities other than Principal Investment Equities. Principal Investment Equities consist of (i) Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities, which are subject to the 30% limit noted above and (ii) shares of ETFs that provide exposure to fixed income securities, Debt or other Principal Investments, which are subject to no limits.

While the Fund will invest principally in fixed income securities and Debt that are, at the time of purchase, investment grade, the Fund may invest up to 30% of its net assets in below investment grade fixed income securities and Debt. For these purposes, "investment grade" is defined as investments with a rating at the time of purchase in one of the four highest rating categories of at least one nationally recognized statistical ratings organization ("NRSRO") (e.g., BBB- or higher by S&P Global Ratings ("S&P"), and/or Fitch Ratings ("Fitch"), or Baa3 or higher by Moody's Investors Service, Inc. ("Moody's")).[39] Unrated fixed income securities or Debt may be considered investment grade if, at the time of purchase, and under normal market conditions, the applicable Sub-Adviser determines that such securities are of comparable quality based on a fundamental credit analysis of the unrated security or Debt instrument and comparable NRSRO-rated securities.

The Fund may invest in fixed income or equity securities and Debt issued by both U.S. and non-U.S. issuers (including issuers in emerging markets), but the Fund will not invest more than 30% of its total assets directly in fixed income or equity securities or Debt of non-U.S. issuers or more than 25% of its total assets directly in non-U.S. dollar denominated fixed income or equity securities or Debt. For purposes of these 30% and 25% concentration limits only, derivatives, warrants and ETFs traded on U.S. exchanges that provide indirect exposure to fixed income or equity securities or Debt (as applicable) of non-U.S. issuers or to fixed income or equity securities or Debt (as applicable) denominated in currencies other than U.S. dollars will not be counted by the Fund in calculating its holdings in non-U.S. issuers or in non-U.S. dollar denominated securities or Debt.

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39 For the avoidance of doubt, if a security is rated by multiple NRSROs and receives different ratings, the Fund will treat the security as being rated in the highest rating category received from any one NRSRO.

The Fund may invest a substantial portion of its net assets in ABS and MBS, but it will not invest more than 30% of the fixed income portion of the Fund's portfolio[40] in non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities ("Private ABS/MBS").[41]

The Fund may not concentrate its investments (i.e., invest more than 25% of the value of its total assets) in securities of issuers in any one industry. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities.[42]

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 Manager or the Sub-Advisers.[43] 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

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[40] The Exchange notes that the terms "fixed income weight of the portfolio" and "weight of the fixed income portion of the portfolio" are used synonymously in Nasdaq Rule 5735.

[41] For purposes of this requirement, the weight of the Fund's exposure to Private ABS/MBS referenced in derivatives held by the Fund shall be calculated based on the mark-to-market value or exposure of such derivatives.

[42] 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).

[43] In reaching liquidity decisions, the Manager or Sub-Advisers (as applicable) 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).

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 securities or other illiquid assets. Illiquid securities and other illiquid assets include those subject to contractual or other restrictions on resale and other instruments or assets that lack readily available markets as determined in accordance with Commission staff guidance.[44]

As noted in the Use of Derivatives section above, the Fund's investments in derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage or leverage returns (although derivatives have embedded leverage). Although the Fund will be permitted to borrow as permitted under the 1940 Act, it will not be operated as a "leveraged ETF," (i.e., it will not be operated in a manner designed to seek a multiple or inverse multiple of the performance of an underlying reference index). The Fund may engage in frequent and active trading of portfolio securities, Debt, and derivatives to achieve its investment objective.

Under normal market conditions, the Fund will satisfy the following requirements, on a continuous basis measured at the time of purchase: (i) component

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44 Long-standing Commission guidelines have required investment companies to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), FN 34; see also Investment Company Act Release Nos. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); and 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). The Commission also recently adopted Rule 22e-4 under the 1940 Act, which requires that each registered open-end management investment company, including ETFs but not including money market mutual funds, to establish a liquidity risk management program that includes limitations on illiquid investments. See Investment Company Act Release No. 32315 (October 13, 2016), 81 FR 82142 (November 18, 2016). Under Rule 22e-4, a fund's portfolio security is illiquid if it cannot be sold or disposed of in current market conditions in seven calendar days or less without the sale or disposition significantly changing the market value of the investment. See 17 CFR 270.22e-4(a)(8).

securities that in the aggregate account for at least 75% of the fixed income weight of the Fund's portfolio each shall have a minimum original principal amount outstanding of $100 million or more; (ii) no fixed income security held in the portfolio (excluding U.S. Treasury Securities and GSE Securities)[45] will represent more than 30% of the fixed income weight of the Fund's portfolio, and the five most heavily weighted portfolio securities (excluding Treasury Securities and GSE Securities) will not in the aggregate account for more than 65% of the fixed income weight of the Fund's portfolio; (iii) the Fund's portfolio (excluding exempted securities) will include a minimum of 13 non-affiliated issuers; (iv) at least 75% of the investments in securities issued by emerging market issuers shall have a minimum original principal amount outstanding of $200 million or more; and (v) at least 75% of investments in bank loans or corporate loan assets[46] shall be in senior loans with an initial deal size of $100 million or greater.[47]

In addition, the Fund will impose the limits described in the following section, which are alternative limits to the "generic" listing requirements of Nasdaq Rule 5735(b)(1).

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45 The terms "Treasury Securities" and "GSE Securities" have the meanings set forth in Nasdaq Rule 5735(b)(1)(B).

46 These include senior loans, syndicated bank loans, junior loans, bridge loans, unfunded commitments, revolvers and participation interests.

47 The Exchange notes that Nasdaq Rule 5735(b)(1)(F) provides that to the extent that derivatives are used to gain exposure to individual fixed income securities or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Nasdaq Rule 5735(b)(1)(B). The Exchange proposes, however, as further described below, that for the purposes of the requirements in this paragraph and any requirements under Nasdaq Rule 5735(b)(1), the Fund will use the mark-to-market value or exposure of its derivatives rather than gross notional value or exposure.

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the Fund will not meet all of the "generic" listing requirements of Nasdaq Rule 5735(b)(1). The Fund will meet all such requirements except the requirements described below,[48] and the Exchange proposes that the Fund will comply with the alternative limits described below.

(i) The Fund will not comply with the requirements in Nasdaq Rule 5735(b)(1) regarding the use of aggregate gross notional value or exposure of derivatives when calculating the weight of such derivatives or the exposure that such derivatives provide to underlying reference assets, including the requirements in Rules 5735(b)(1)(D)(i),[49] 5735(b)(1)(D)(ii),[50] 5735(b)(1)(E)[51] and 5735(b)(1)(F).[52] Instead, the

48 The Exchange notes that, while the Fund treats commercial paper with maturities of three months or greater as cash equivalents for the purposes of its 80% principal investments measure, the Fund will comply with the applicable requirements of Nasdaq Rule 5735(b)(1) with respect to all commercial paper held by the Fund. Further, in accordance with Nasdaq Rule 5735(b)(1)(B), to the extent that the Fund holds securities that convert into fixed income securities, the fixed income securities into which any such securities are converted shall meet the criteria of Nasdaq Rule 5735(b)(1)(B) after converting.

49 Nasdaq Rule 5735(b)(1)(D)(i) provides that at least 90% of the weight of the Fund's holdings invested in Exchange-Traded Derivatives will consist of Exchange-Traded Derivatives for which the Exchange may obtain information via the ISG, from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement, and for the purposes of calculating this limitation, the Fund's investment in such Exchange-Traded Derivatives will be calculated as the aggregate gross notional value of such Exchange-Traded Derivatives.

50 Nasdaq Rule 5735(b)(1)(D)(ii) provides that the aggregate gross notional value of Exchange-Traded Derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Fund's portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Fund's portfolio (including gross notional exposures).

Exchange proposes that for the purposes of any applicable requirements under Nasdaq Rule 5735(b)(1), and any alternative requirements proposed by the Exchange, the Fund will use the mark-to-market value or exposure of its derivatives in calculating the weight of such derivatives or the exposure that such derivatives provide to their reference assets.[53]

(ii) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(B)(v) that Private ABS/MBS in the Fund's portfolio account, in the aggregate, for no more than 20% of the weight of the fixed income portion of the Fund's portfolio. Instead, the Exchange proposes that the Fund will limit its holdings in Private ABS/MBS to no more than 30% of the weight of the fixed income portion of the Fund's portfolio, in order to enable the portfolio to be more diversified and provide the Fund with an opportunity to earn higher returns. For purposes of this requirement, the weight of the Fund's exposure to Private ABS/MBS referenced indirectly

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51 Nasdaq Rule 5735(b)(1)(E) provides that on both an initial and continuing basis, no more than 20% of the assets in the Fund may be invested in OTC Derivatives, and for purposes of calculating this limitation, the Fund's investment in OTC Derivatives will be calculated as the aggregate gross notional value of the OTC Derivatives.

52 Nasdaq Rule 5735(b)(1)(F) provides that to the extent that derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Nasdaq Rules 5735(b)(1)(A) and 5735(b)(1)(B), respectively.

53 Further, as described further below, the Exchange is proposing that the Fund will comply with alternative requirements rather than Rules 5735(b)(1)(D)(i), 5735(b)(1)(D)(ii), and 5735(b)(1)(E).

through investments in derivatives held by the Fund shall be calculated based on the mark-to-market value or exposure of such derivatives.

(iii) The Fund will not comply with the requirement that at least 90% of the fixed income weight of the Fund's portfolio meet one of the criteria in Nasdaq Rule 5735(b)(1)(B)(iv).[54] Instead, the Exchange proposes that the fixed income portion of the portfolio other than Private ABS/MBS will comply with the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv), and Private ABS/MBS will comply with such requirement. For purposes of this requirement, the weight of the Fund's exposure to any fixed income securities referenced in derivatives held by the Fund shall be calculated based on the mark-to-market value or exposure of such derivatives.

(iv) The Fund will not comply with the equity requirements in Nasdaq Rules 5735(b)(1)(A)(i) [55] and 5735(b)(1)(A)(ii)[56] with respect to the Fund's

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[54] Nasdaq Rule 5735(b)(1)(B)(iv) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the Fund's portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

[55] Nasdaq Rule 5735(b)(1)(A)(i) provides that the components stocks of the equity portion of a portfolio that are U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) shall meet the following criteria initially and on a continuing basis: (a) Component stocks (excluding Exchange Traded Derivative Securities and Linked Securities, as such terms are defined in Nasdaq Rules 5735(c)(6) and 5710, respectively) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Exchange Traded Derivative Securities and Linked Securities) each shall have a minimum market value of at least $75 million; (b) Component stocks (excluding Exchange Traded Derivative Securities

and Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Exchange Traded Derivative Securities and Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; (c) The most heavily weighted component stock (excluding Exchange Traded Derivative Securities and Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Derivative Securities and Linked Securities) shall not exceed 65% of the equity weight of the portfolio; (d) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares (as defined in Nasdaq Rule 5735), or (ii) one or more series of Exchange Traded Derivative Securities or Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; (e) except as otherwise provided, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Act; and (f) American Depositary Receipts ("ADRs") in a portfolio may be exchange-traded or non-exchange-traded; however, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.

[56] Nasdaq Rule 5735(b)(1)(A)(ii) provides that the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks (as such term is defined in Nasdaq Rule 5705) shall meet the following criteria initially and on a continuing basis: (a) Non-U.S. Component Stocks each shall have a minimum market value of at least $100 million; (b) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (c) The most heavily weighted Non-U.S. Component stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio; (d) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Derivative Securities or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Exchange Traded Derivative Securities or Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and (e) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

investment in Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants. Instead, the Exchange proposes that (i) the Fund's investments in equity securities other than Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants shall comply with the equity requirements in Nasdaq Rule 5735(b)(1)(A)[57] and (ii) the weight of Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants in the Fund's portfolio shall together not exceed 30% of the Fund's net assets.

(v) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(E) that no more than 20% of the assets in the Fund's portfolio may be invested in OTC Derivatives. Instead, the Exchange proposes that there shall be no limit on the Fund's investment in Interest Rate and Currency Derivatives, and the weight of all OTC Derivatives other than Interest Rate and Currency Derivatives shall not exceed 10% of the Fund's net assets. For purposes of this 10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value or exposure of such OTC Derivatives.

(vi) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(i) that at least 90% of the weight of the Fund's holdings in Exchange-Traded Derivatives shall, on both an initial and continuing basis, consist of Exchange-Traded Derivatives for which the Exchange

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[57] These other equities will consist of ETFs (including money market ETFs) that provide exposure to fixed income securities, Debt and other Principal Investments. The weight of such ETFs in the Fund's portfolio shall not be limited.

may obtain information via the ISG from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. Instead, the Exchange proposes that no more than 10% of the net assets of the Fund will be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. For purposes of this 10% limit, the weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

(vii) The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(ii) that the aggregate gross notional value of Exchange-Traded Derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Fund's portfolio (including gross notional exposures), and the aggregate gross notional value of Exchange-Traded Derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Fund's portfolio (including gross notional exposures). Instead, the Exchange proposes that the Fund will comply with the concentration requirements in Nasdaq Rule 5735(b)(1)(D)(ii) except with respect to the Fund's investment in futures and options (including options on futures) referencing Eurodollars and sovereign debt issued by the United States (i.e., Treasury Securities) and other "Group of Seven" countries[58] where such futures and options contracts are listed on an exchange that is an ISG member or an exchange with which the Exchange has a comprehensive surveillance sharing agreement ("Eurodollar and G-7 Sovereign Futures and Options"). The Fund's investment in Eurodollar and G-7 Sovereign Futures and Options will not be subject to the concentration limits provided in Nasdaq Rule 5735(b)(1)(D)(ii). For purposes of this requirement, the weight of the applicable Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

The Exchange believes that, notwithstanding that the Fund would expand a limited number of "generic" listing requirements of Nasdaq Rule 5735(b)(1) in order to be able to satisfy its investment objective, the Exchange will be able to appropriately monitor and surveil trading in the underlying investments, including those subject to expanded limits. The Exchange also notes that the parameters around the Fund's portfolio holdings is consistent with the parameters approved by the Commission prior to adoption of "generic" listing requirements for actively-managed ETFs and that the Fund will be well diversified.[59] For these reasons, the Exchange believes that and it is

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58 The "Group of Seven" or G-7 countries consist of the United States, Canada, France, Germany, Italy, Japan and the United Kingdom.

59 See, e.g., Securities Exchange Act Release Nos. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR-NYSEArca-2015-73) (granting approval for the listing of shares of the Guggenheim Total Return Bond ETF); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR-NYSEArca-2011-95) (granting approval for the listing of shares of the PIMCO Total Return Exchange Traded Fund (now known as the PIMCO Active Bond Exchange-Traded Fund)); and 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR-NYSEArca-2013-122) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund). The investments of the Guggenheim Total Return Bond

appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange.

As further described in the "Statutory Basis" section below, deviations from the generic requirements are necessary for the Fund to achieve its investment objective and efficiently manage the risks associated with its investments, and any possible risks have been fully mitigated and addressed through the alternative limits proposed by the Exchange. In addition, many of the changes requested are consistent with previous filings approved by the Commission.[60]

ETF include a wide variety of U.S. and foreign fixed income instruments (including Private ABS/MBS), preferred securities, cash equivalents, other ETFs and listed and over-the-counter derivatives. The Commission's approval for the listing of shares of the Guggenheim Total Return Bond ETF did not include many of the conditions imposed by the generic listing standards under Nasdaq Rule 5735; the Commission's approval did not impose limits regarding the total notional size of the ETF's investment in over-the-counter derivatives, did not impose concentration limits on the ETF's investment in listed derivatives and did not require compliance with the same criteria as the fixed income criteria in Nasdaq Rule 5735(b)(1)(B). The order approving investments in derivatives by the PIMCO Total Return Exchange Traded Fund described investments in both over-the-counter and listed derivatives, but did not impose limits regarding the total notional size of the ETF's investments in over-the-counter derivatives, did not impose concentration limits on the ETF's investments in listed derivatives, and did not impose limitations on investments in listed derivatives whose principal market is not a member of ISG or is a market with which its listing exchange does not have a comprehensive surveillance sharing agreement.

60 See, e.g., Securities Exchange Act Release Nos. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR-NYSEArca-2017-09) (approving up to 50% of the fund's assets (calculated on the basis of aggregate gross notional value) to be invested in over-the-counter derivatives that are used to reduce currency, interest rate, or credit risk arising from the fund's investments, including forwards, over-the-counter options, and over-the-counter swaps); 78592 (August 16, 2016), 81 FR 56729 (August 22, 2016) (SR-NASDAQ-2016-061) (approving investment of up to 20% of the fund's net assets in, among other things, non-exchange-traded equity securities acquired in conjunction with the fund's event-driven strategy, including securities acquired by the fund as a result of certain corporate events including reorganizations); 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (SR-NYSEArca-2015-73) (permitting (i) investments in over-the-

Net Asset Value

The Fund's administrator will calculate the Fund's net asset value ("NAV") per Share as of the close of regular trading (normally 4:00 p.m., Eastern time ("E.T.")) on each day the New York Stock Exchange is open for business. NAV per Share will be calculated for the Fund by taking the value 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 (although creations and redemptions will be processed using a price denominated to the fifth decimal point, meaning that rounding to the nearest cent may result in different prices in certain circumstances).

Impact on Arbitrage Mechanism

The Manager and the Sub-Advisers believe there will be minimal, if any, impact on the arbitrage mechanism for the Fund as a result of its use of derivatives. The Manager and the Sub-Advisers understand that market makers and participants should be

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counter and listed derivatives without imposing limits on the total notional size of the ETF's investments in over-the-counter derivatives and without imposing concentration limits on the ETF's investments in listed derivatives and (ii) permitting investments in a wide variety of fixed income instruments without compliance with the same criteria as the fixed income criteria in Nasdaq Rule 5735(b)(1)(B)); 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR-NYSEArca-2013-122) (permitting investments in both over-the-counter and listed derivatives, but without imposing limits regarding the total notional size of the ETF's investments in over-the-counter derivatives, without imposing concentration limits on the ETF's investments in listed derivatives, and without imposing limitations on investments in listed derivatives whose principal market is not a member of ISG or is a market with which its listing exchange does not have a comprehensive surveillance sharing agreement); and 69061 (March 7, 2013), 78 FR 15990 (March 13, 2013) (SR-NYSEArca-2013-01) (approving investments in non-agency commercial MBS and non-agency residential MBS without a fixed limit but consistent with the fund's objective of investing up to 80% of its assets in investment grade fixed-income securities).

able to value derivatives as long as the positions are disclosed with relevant information. The Manager and the Sub-Advisers believe that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Manager and the Sub-Advisers do not believe that there will be any significant impact on the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible for in-kind transfer, they will typically be substituted with a "cash in lieu" amount when the Fund processes purchases or redemptions of creation units in-kind.

Creation and Redemption of Shares

The Fund will issue Shares of the Fund at NAV only with authorized participants ("APs") and only in aggregations of at least 50,000 shares (each aggregation is called a "Creation Unit") or multiples thereof, on a continuous basis through the Distributor, without a sales load, at the NAV next determined after receipt, on any Business Day, of an order in proper form. A "Business Day" is defined as any day that the Trust is open for business, including as required by Section 22(e) of the Act.

The consideration for purchase of Creation Units of the Fund consists of an "in-kind" deposit of a designated portfolio of securities and/or instruments that will conform pro rata to the holdings of the Fund (except in the circumstances described in the Fund's Statement of Additional Information (the "SAI")) (the "Deposit Securities") and/or an amount of cash. If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Securities or Redemption Securities (defined below) exchanged for the Creation Unit, the party conveying the instruments with the lower value will pay to the other an amount in cash equal to that difference (the "Cash Component"). Together, the Deposit Securities and the Cash Component will constitute the "Fund Deposit," which will represent the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Deposit Securities and the securities and/or instruments that will be delivered in an in-kind transfer in a redemption ("Redemption Securities") will be identical. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in-kind, only under the circumstances described in the Fund's SAI.

To be eligible to place orders with respect to creations and redemptions of Creation Units, an entity must have executed an agreement with the Distributor, subject to acceptance by the transfer agent, with respect to creations and redemptions of Creation Units. Each such entity (an AP) must be (i) a broker-dealer or other participant in the clearing process through the continuous net settlement system of the National Securities Clearing Corporation ("NSCC") or (ii) a Depository Trust Company participant.

When the Fund permits Creation Units to be issued principally or partially in-kind, the Fund will cause to be published, through the NSCC, on each Business Day, prior to the opening of trading on the Exchange (currently, 9:30 a.m. E.T.), the identity and the required number of each Deposit Security and the amount of the Cash Component (if any) to be included in the current Fund Deposit (based on information at the end of the previous Business Day).

All orders to create Creation Units must be received by the Distributor within a one-hour window after the closing time of the regular trading session on the Exchange

("Closing Time") (ordinarily between 4:00 p.m. E.T. and 5:00 p.m. E.T.) on the date such order is placed in order to receive the NAV on the next Business Day immediately following the date the order was placed.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form on a Business Day and only through an AP. The Fund will not redeem Shares in amounts less than a Creation Unit (except the Fund may redeem shares in amounts less than a Creation Unit in the event the Fund is being liquidated).

When the Fund permits Creation Units to be redeemed principally or partially in-kind, the Fund will cause to be published, through the NSCC, immediately prior to the opening of business on the Exchange (currently, 9:30 a.m., E.T.) on each Business Day, the identity of the Redemption Securities and/or an amount of cash that will be applicable to redemption requests received in proper form on that day. The Redemption Securities will be identical to the Deposit Securities.

In order to redeem Creation Units of the Fund, an AP must submit an order to redeem for one or more Creation Units. All such orders must be received by the Distributor within a one-hour window after the Closing Time (ordinarily between 4:00 p.m. E.T. and 5:00 p.m. E.T.) in order to receive the NAV on the next Business Day immediately following the date the order was placed.

Availability of Information

The Fund's website (www.leggmason.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"),[61] 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[62] 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.[63] The Fund's disclosure of derivative positions in the Disclosed Portfolio will include sufficient information for market participants to use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's website the following information regarding each portfolio

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[61] 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.

[62] 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., E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m., E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m., E.T.).

[63] 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.

holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding), the identity of the security or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and percentage weighting of the holding in the Fund's portfolio.[64] 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 Information LLC proprietary index data service,[65] 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 provided by a dealer who makes a market in those instruments. 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.

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64 See Nasdaq Rule 5735(c)(2).

65 Currently, the Nasdaq Global Index Data Service ("GIDS") is the Nasdaq 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 indexes, listed ETFs, or third-party partner indexes and ETFs.

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.

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. 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. 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 ("CTA") plans for the Shares and for the following U.S. securities, to the extent that they are exchange-listed securities: Work Out Securities, Non-Convertible Preferred Securities, Equity-Related Warrants, fixed income securities and ETFs. Price information for U.S. exchange-listed options will be available via the Options Price Reporting Authority and for other U.S. exchange-listed derivative instruments will be available from the applicable listing exchange and from major market data vendors. Price information for restricted securities, including Regulation S and Rule 144A instruments, will be available from major market data vendors. Money Market Funds are typically priced once each Business Day and their prices will be available through the applicable fund's website or from major market data vendors.

Intraday executable price quotations from broker-dealers and trading platforms, as well as closing or last traded price information (as applicable), on exchange-listed securities, equities traded in the over-the-counter market, Exchange-Traded Derivatives, OTC Derivatives, Debt and fixed income securities, and warrants on fixed income securities are generally available. The price information is available from major broker-dealer firms or feeds from market data vendors, exchanges, automated quotation systems, published or other public sources, or online information services. Additionally, the Trade Reporting and Compliance Engine ("TRACE") of the Financial Industry Regulatory Authority ("FINRA") will be a source of price information for corporate bonds, privately-issued securities, MBS and ABS, to the extent transactions in such securities are reported to TRACE.[66] Intraday and other price information related to U.S. government securities, Money Market Funds, and other cash equivalents that are traded over-the-counter also will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by APs and other investors. Electronic Municipal Market Access ("EMMA") will be a source of price information for municipal bonds. Pricing for repurchase transaction and reverse repurchase agreements entered into by the Fund are not publicly reported. Prices are determined by negotiation at the time of entry with counterparty brokers, dealers and banks.

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. Investors will also be able to obtain the 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,

66 Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year.

except the SAI, which is filed at least annually. 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.

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and continued listing, the Fund must be in compliance with Rule 10A-3[67] 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

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67 See 17 CFR 240.10A-3.

Shares also will be subject to Nasdaq 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., E.T. 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.[68] 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.

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68 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.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund (including ETFs, exchange-listed equities, exchange-listed options, futures contracts and exchange-listed swaps) with other markets and other entities that are members of ISG and with which the Exchange has comprehensive surveillance sharing agreements,[69] and FINRA and the Exchange both may obtain information regarding trading in the Shares, the exchange-listed securities, derivatives and other instruments held by the Fund from markets and other entities that are members of ISG, which include securities and futures exchanges and swap execution facilities, or with which the Exchange has in place a comprehensive surveillance sharing agreement.[70] 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 and, with respect to municipal securities, EMMA.

All of the Fund's net assets that are invested in equity securities other than Work Out Securities that are exchange-listed (including Non-Convertible-Preferred Securities and Equity-Related Warrants that are exchange-listed, and ETFs) will be invested in securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

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69 For a list of the current members of ISG, see 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.

70 As noted above, no more than 10% of the net assets of the Fund may be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or a market with which the Exchange has a comprehensive surveillance sharing agreement.

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 and the Disclosed Portfolio 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. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

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.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

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 the Exchange and FINRA, on behalf of the Exchange, which are designed to deter and detect violations of Exchange rules and applicable federal securities laws and are adequate to properly monitor trading in the Shares in all trading sessions. The Manager and the Sub-Advisers are affiliated with a broker-dealer and have implemented, and will maintain, a fire wall with respect to its 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 an investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the investment company's portfolio.

The Fund's investments, including derivatives, will be consistent with the Fund's investment objectives, applicable legal requirements[71] and will not be used to enhance leverage (although derivatives may have embedded leverage). Although the Fund will be permitted to borrow as permitted under the 1940 Act, it will not be operated as a "leveraged ETF," i.e., it will not be operated in a manner designed to seek leveraged returns or a multiple or inverse multiple of the performance of an underlying reference

[71] As noted above, the Fund will limit its investments in illiquid securities or other illiquid assets to an aggregate amount of 15% of its net assets (calculated at the time of investment), as required by the Commission.

index.[72] The Fund may engage in frequent and active trading of portfolio investments to achieve its investment objective.

The Exchange believes that, notwithstanding that the Fund would not meet all of the "generic" listing requirements of Nasdaq Rule 5735(b)(1), the Fund will not be subject to manipulation, the investments of the Fund will be able to be monitored and surveilled by the Exchange and risks will be mitigated by alternative limits imposed by the Exchange. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein. Deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a cost-effective manner that maximizes investors' returns and to manage the risks associated with its investments, and the Exchange proposes that the Fund will be required to comply with alternative requirements that are customized to address the objectives of Section 6(b)(5) of the Act, as described herein. Further, the strategy and investments of the Fund are substantially similar to those of other ETFs previously approved by the Commission, which have operated safely and without disrupting the market for several years.[73]

The Fund will not comply with the requirements in Nasdaq Rule 5735(b)(1) regarding the use of aggregate gross notional value or exposure of derivatives when

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72 As noted above, the Fund will not invest in leveraged, inverse or inverse leveraged ETFs.

73 See, e.g., Securities Exchange Act Release Nos. 66321 (February 3, 2012) (granting approval for the listing of shares of the PIMCO Total Return Exchange Traded Fund); 72666 (July 24, 2014) (granting approval to the use of derivatives by the PIMCO Total Return Exchange Traded Fund); and 76719 (December 21, 2015) (granting approval for the listing of shares of the Guggenheim Total Return Bond ETF).

calculating the weight of such derivatives or the exposure that such derivatives provide to underlying reference assets, including the requirements in Rules 5735(b)(1)(D)(i), 5735(b)(1)(D)(ii), 5735(b)(1)(E) and 5735(b)(1)(F). Instead, the Exchange proposes that for the purposes of any applicable requirements under Nasdaq Rule 5735(b)(1), and any alternative requirements proposed by the Exchange, the Fund will use the mark-to-market value or exposure of its derivatives in calculating the weight of such derivatives or the exposure that such derivatives provide to their reference assets. The Exchange believes that this alternative requirement is appropriate because the mark-to-market value or exposure is a more accurate measurement of the actual exposure incurred by the Fund in connection with a derivatives position.[74]

The Fund will not meet the requirement in Nasdaq Rule 5735(b)(1)(B)(v) that Private ABS/MBS in the Fund's portfolio account, in the aggregate, for no more than 20% of the weight of the fixed income portion of the Fund's portfolio. However, the Fund will limit the holdings in Private ABS/MBS to 30% of the weight of the fixed

74 As previously noted, the mark-to-market approach is consistent with the valuation methodology for derivatives for asset coverage purposes advocated by the Commission in proposed Rule 18f-4 under the 1940 Act. See Derivatives Rule Proposing Release. In a white paper published by staff of the Division of Economic and Risk Analysis of the SEC ("DERA") in connection with the proposal of Rule 18f-4 under the 1940 Act, the staff of DERA noted that a derivative's notional amount does not accurately reflect the risk of the derivative. See Daniel Deli, Paul Hanouna, Christof Stahel, Yue Tang and William Yost, Use of Derivatives by Registered Investment Companies (December 2015) at 10 ("On the other hand, there are drawbacks to using notional amounts. First, because of differences in expected volatilities of the underlying assets, notional amounts of derivatives across different underlying asset generally do not represent the same unit of risk. For example, the level of risk associated with a $100 million notional of a S&P500 index futures is not equivalent to the level of risk of a $100 million notional of interest rate swaps, currency forwards or commodity futures.").

income portion of the Fund's portfolio.[75] The Exchange believes that this limitation on the Fund's investment in Private ABS/MBS, which is consistent with a similar limitation in a previous filing for the listing of an ETF approved by the Commission,[76] is appropriate to provide the Fund with sufficient flexibility to invest in Private ABS/MBS, while still imposing a reasonable limit on such investments, consistent with the mandate in Section 6(b) of the Act to facilitate transactions in securities while protecting investors and the public interest. Private ABS/MBS held by the Fund are expected to provide investors with: (i) diversification as compared to a portfolio more heavily weighted towards agency and GSE ABS and MBS ("Government ABS/MBS"), municipal securities and investment grade corporate debt; (ii) the potential for higher returns; and (iii) reasonable liquidity. Although the higher threshold will include a broader spectrum of credit quality among the issuers, this moderately increased risk can be appropriately addressed through disclosure and substantially mitigated through the careful credit monitoring performed by the Sub-Adviser. In addition, current economic conditions, which include robust growth and economic strength, are significant mitigants to the risk of credit deterioration. The Sub-Adviser seeks to maximize the Fund's investments in Private ABS/MBS during economic periods, such as that currently experienced in the U.S., of robust growth. To the extent that the economy were to weaken, the Sub-Adviser

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[75] For purposes of this requirement, the weight of the Fund's exposure to Private ABS/MBS referenced in derivatives shall be calculated based on the mark-to-market value or exposure of such derivatives.

[76] See Securities Exchange Act Release No. 69061 (March 7, 2013), 78 FR 15990 (March 13, 2013) (SR-NYSEArca-2013-01) (approving investments in non-agency commercial MBS and non-agency residential MBS without a fixed limit but consistent with the fund's objective of investing up to 80% of its assets in investment grade fixed-income securities).

would re-evaluate the level at which the Fund seeks to invest in Private ABS/MBS. Given the benefits provided, including, most importantly, the opportunity for a fixed income investor to diversify the portfolio across fixed income classes and earn marginally greater returns, together with the protections of credit monitoring and liquidity management provided by the Sub-Adviser, the Exchange believes that a 30% limit, rather than the 20% limit used by the generic listing standard, is appropriate.

Private ABS/MBS include a number of different types of securitized debt products, including credit card debt, student loans, auto debt and residential and commercial mortgage debt. Investment in a variety of sectors, rather than simply residential mortgages comprising Government ABS/MBS, reduces concentration and diversifies sources of risk. Private ABS/MBS held by the Fund will be generally liquid instruments.[77] The Sub-Adviser will be able to trade out of the instruments that do not satisfy Fund credit and other criteria. U.S. Private ABS/MBS are trade-reported through TRACE,[78] and the Sub-Adviser and the Fund will maintain liquidity policies and

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77 The Sub-Adviser, using data from TRACE, compiled weekly trading data for Private ABS/MBS over a period of three years. A chart summarizing this data, which is available at https://www.leggmason.com/content/dam/legg-mason/documents/en/regulatory-documents/letters-and-notices/abs-mbs-trading-activity.pdf, shows that Private ABS/MBS experienced regular and reasonable liquidity over the prior three-year period. During that time period the weekly trading activity for non-agency, non-GSE residential MBS ranged from approximately $16 billion to $48 billion (including both investment grade and non-investment grade), the weekly trading activity for non-agency, non-GSE commercial MBS has ranged from approximately $21 billion to $50 billion (including both investment grade and non-investment grade), and the weekly trading activity for non-agency, non-GSE ABS (other than MBS) ranged from approximately $17 billion to $35 billion (including both investment grade and non-investment grade).

78 Although foreign Private ABS/MBS are not trade-reported through TRACE, foreign Private ABS/MBS, as of the date of this application, are expected to constitute a very small percentage of the Fund’s net assets. Based on the Fund’s

procedures pursuant to which the Sub-Adviser will monitor the liquidity of the Fund's Private ABS/MBS investments and continuously manage any associated risks.[79] The instruments are cleared through The Depository Trust Company.

The Fund carries out its own credit analysis of Private ABS/MBS issuers[80] and conducts an extensive analysis of the features of the proposed investments. The features that the Fund looks for in selecting Private ABS/MBS include good credit quality, liquidity, bankruptcy remoteness, lower prepayment risk, overcollateralization, excess spread, amortization, professional servicing for and reporting to investors, and diversity of payers within each underlying pool. The Sub-Adviser regularly monitors the credit quality of the issuers of Private ABS/MBS for compliance with the credit quality, liquidity and other investment requirements.

The Fund will not meet the requirement that at least 90% of the fixed income weight of the Fund's portfolio meet one of the criteria in Nasdaq Rule 5735(b)(1)(B)(iv)[81] because some Private ABS/MBS cannot satisfy the criteria in Nasdaq

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strategy and current market conditions, foreign Private ABS/MBS, as of the date of this application, are expected to constitute approximately 1% of the Fund's net assets, but that percentage could change in the future.

79 As part of these policies and procedures, the Sub-Adviser rates the liquidity of the Fund's investments (including Private ABS/MBS) using data on bid-ask spreads on the investments and haircut requirements for the investment when they are delivered in connection with repurchase agreements.

80 The Sub-Adviser has a fixed-income investment team that maintains and updates credit opinions on all Private ABS/MBS investments made by the team on an ongoing basis. This research allows the investment team to form a comprehensive view of the collateral pool associated with an investment. The team works with legal professionals as well to understand and track the legal documents associated with each distinct deal structure.

81 Nasdaq Rule 5735(b)(1)(B)(iv) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the Fund's

Rule 5735(b)(1)(B)(iv).[82] The Exchange proposes, in the alternative, to require the Fund to ensure that the investments in the fixed income portion of the Fund's portfolio other than Private ABS/MBS comply with the 90% requirement in Nasdaq Rule 5735(b)(1)(B)(iv).[83] The Exchange believes that this alternative limitation is appropriate because Nasdaq Rule 5735(b)(1)(B)(iv) does not appear to be designed for structured finance vehicles such as Private ABS/MBS, and the overall weight of Private ABS/MBS held by the Fund will be limited to 30% of the fixed income portion of the Fund's portfolio, as described above. As discussed above, although Private ABS/MBS will be excluded for the purposes of compliance with Nasdaq Rule 5735(b)(1)(B)(iv), the Fund's portfolio is consistent with the statutory standard as a result of the diversification provided by the investments, the benefits related to the opportunity for higher returns, and the Sub-Adviser's selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards and relies on the higher investment levels in these instruments during periods of U.S. economic strength.

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portfolio must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

[82] Private ABS/MBS are generally issued by special purpose vehicles, so the criteria in Nasdaq Rule 5735(b)(1)(B)(iv) regarding an issuer's market capitalization and the remaining principal amount of an issuer's securities are typically unavailable with respect to Private ABS/MBS, even though such Private ABS/MBS may own significant assets.

[83] For purposes of this requirement, the weight of the Fund's exposure to any fixed income securities referenced in derivatives shall be calculated based on the mark-to-market value or exposure of such derivatives.

The Fund will not meet the equity requirements in Nasdaq Rule 5735(b)(1)(A) with respect to Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants, but will satisfy these requirements with respect to the ETFs in which the Fund will invest.[84] In order to reflect this deviation, the Exchange proposes that (i) the Fund's investments in equity securities other than Non-Convertible Preferred Securities, Work Out Securities and Equity-Related Warrants shall comply with the equity requirements in Nasdaq Rule 5735(b)(1)(A)[85] and (ii) the weight of Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities in the Fund's portfolio shall together not exceed 30% of the Fund's net assets. The Exchange believes that these alternative limitations are appropriate in light of the fact that the Non-Convertible Preferred Securities, Equity-Related Warrants and Work Out Securities are providing debt-oriented exposures or are received in connection with the Fund's previous investment in Debt or fixed income securities, and all of the other equity securities held by the Fund will comply with the requirements of Nasdaq Rule 5735(b)(1)(A).

The Fund will not meet the requirement in Nasdaq Rule 5735(b)(1)(E) that no more than 20% of the assets in the Fund's portfolio may be invested in OTC Derivatives. The Fund proposes that no limit be placed on Interest Rate and Currency Derivatives,

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84 Nasdaq Rule 5735(b)(1)(A)(i)(e) generally requires the U.S. equity securities to be listed on a national securities exchange. The Exchange notes that shares of Money Market Funds are not considered equity securities for the purposes of Nasdaq Rule 5735(b)(1)(A), and that there is no limitation on the percentage of the Fund's portfolio invested in shares of Money Market Funds, in accordance with Nasdaq Rule 5735(b)(1)(C)(i).

85 These other equities will consist of ETFs (including money market ETFs) that provide exposure to fixed income securities and Debt. The weight of such ETFs in the Fund's portfolio shall not be limited.

which are necessary and appropriate to allow the Manager and Sub-Advisers to risk manage the Fund, but that the weight of all other OTC Derivatives (e.g., credit default swaps) be limited to 10% of the net assets in the Fund's portfolio. For purposes of this 10% limit on OTC Derivatives, the weight of such OTC Derivatives will be calculated based on the mark-to-market value or exposure of such OTC Derivatives. The Exchange believes that this alternative requirement, which is generally consistent with the requirement in a previous filing for the listing of an ETF approved by the Commission,[86] is appropriate in light of the fact that Interest Rate and Currency Derivatives are among the most liquid investment instruments (including not only derivatives but also securities) in the market[87] (and are even more liquid than most non-government or government-guaranteed securities). Based on the data compiled by the Sub-Adviser in respect to its liquidity policy, these derivatives are among the most liquid investments traded. In addition, most Interest Rate Derivatives traded by the Fund are centrally cleared by regulated clearing firms, and Interest Rate and Currency Derivatives are subject to trade

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86 See Securities Exchange Act Release No. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR-NYSEArca-2017-09) (approving up to 50% of the fund's assets (calculated on the basis of aggregate gross notional value) to be invested in OTC derivatives that are used to reduce currency, interest rate, or credit risk arising from the fund's investments, including forwards, OTC options, and OTC swaps).

87 Trading in foreign exchange markets averaged $5.1 trillion per day in April 2016, and 67% of this trading activity was in derivatives contracts such as currency or foreign exchange forwards, options and swaps (with the other 33% consisting of spot transactions). See Bank for International Settlements, Triennal Central Bank Survey, Foreign Exchange Turnover in April 2016, available at http://www.bis.org/publ/rpfx16fx.pdf (accessed November 2017). Trading in OTC interest rate derivatives averaged $2.7 trillion per day in April 2016. See Bank for International Settlements, Triennal Central Bank Survey, OTC Interest Rate Derivatives Turnover in April 2016, available at http://www.bis.org/publ/rpfx16ir.pdf (accessed November 2017).

reporting,[88] and other robust regulation.[89] Given the size of the trading market and the regulatory oversight of the markets, the Exchange believes that Interest Rate and Currency Derivatives are not readily subject to manipulation. The Exchange also believes that allowing the Fund to risk manage its portfolio through the use of Interest Rate and Currency Derivatives without limit is necessary to allow the Fund to achieve its investment objective and protect investors.

The Fund will not comply with the requirement in Nasdaq Rule 5735(b)(1)(D)(i) that at least 90% of the weight of the Fund's holdings in Exchange-Traded Derivatives shall, on both an initial and continuing basis, consist of Exchange-Traded Derivatives for which the Exchange may obtain information via the ISG from other members or affiliates of the ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. Instead, the Exchange proposes that no more than 10% of the net assets of the Fund will be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.[90] The Exchange believes that this alternative limitation is appropriate because the overall limit

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88 Transactions in Interest Rate Derivatives are required to be reported to a swap data repository pursuant to rules issued by the Commodity Futures Trading Commission ("CFTC"). See 17 CFR Parts 43, 45 and 46.

89 Interest Rate Derivatives are comprehensively regulated as swaps under the Dodd-Frank Act and regulations issued thereunder by the CFTC and other federal financial regulators. See, e.g., 17 CFR Part 23 (capital and margin requirements for swap dealers, business conduct standards for swap dealers, and swap documentation requirements); 17 CFR Part 50 (clearing requirements for swaps).

90 For purposes of this 10% limit, the weight of such Exchange-Traded Derivatives will be calculated based on the mark-to-market value or exposure of such Exchange-Traded Derivatives.

on Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement will still be low relative to the overall size of the Fund.

The Fund will not meet the requirement in Nasdaq Rule 5735(b)(1)(D)(ii) that the aggregate gross notional value of Exchange-Traded Derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Fund's portfolio (including gross notional exposures), and the aggregate gross notional value of Exchange-Traded Derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Fund's portfolio (including gross notional exposures) because the Fund may maintain significant positions in Eurodollar and G-7 Sovereign Futures and Options. The Manager has indicated that obtaining exposure to these investments through futures contracts is often the most cost efficient method to achieve such exposure. The Exchange notes that Eurodollar and G-7 Sovereign Futures and Options are highly liquid investments[91] and are not subject to the same concentration

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91 See CME Group, Interest Rate Futures Liquidity Metrics Reach New Highs (October 6, 2017), available at http://www.cmegroup.com/education/interest-rates-liquidity-metrics-reach-new-highs.html (accessed November 2017) (providing statistics regarding liquidity and open interest in futures and options on Eurodollars and Treasury Securities, including that during the first three quarters of 2017, Eurodollar futures and options traded through CME Group had an average daily open interest of approximately 53 million contracts and futures and options on Treasury Securities had an average daily open interest of approximately 15 million contracts); The Montreal Exchange, Statistics for Interest Rate Derivatives, Index Derivatives and Equity Derivatives (September 2017), available at https://www.m-x.ca/f_stat_en/1709_stats_en.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures and options on Canadian sovereign debt, including that, as of September 2017, the open interest in futures and options on Canadian sovereign debt traded on The Montreal Exchange was approximately 560,000 contracts); Eurex Exchange, Benchmark Fixed Income Derivatives, available at https://www.eurexchange.com/blob/115654/4c51e4b8bc77355475b3b6f46afc0ef1

risks as Exchange-Traded Derivatives referencing other assets because of such liquidity. Further, the Exchange notes that the significantly diminished risk of Treasury Securities is reflected in their exclusion from the concentration requirements applicable to fixed

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/data/factsheet_eurex_benchmark_fixed_income_derivatives.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures and options on German sovereign debt, including that, as of July 2015, the open interest in futures and options on German sovereign debt traded on Eurex was approximately 6,000,000 contracts); Eurex Exchange, Eurex Exchange Euro-BTP Futures, Italian Government Bond Futures, available at http://www.eurexchange.com/blob/115624/6a1281939d15ddbab960af40da6f11dc/data/factsheet_eurex_euro_btp_futures_on_italian_government_bonds.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures on Italian sovereign debt, including that the open interest peaks in 2017 for futures on long-term and short-term Italian sovereign debt traded on Eurex was approximately 450,000 and 270,000 contracts, respectively); Eurex Exchange, Euro-OAT Derivatives, French Government Bond Futures and Options, available at http://www.eurexchange.com/blob/115652/48198ec577f7b3b0ac44d4c5a39ed0de/data/factsheet_eurex_euro_oat_futures_on_french_government_bonds.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures on French sovereign debt, including that, as of July 2017, the open interest in futures on long-term French sovereign debt traded on Eurex was approximately 600,000 contracts); Intercontinental Exchange, Growing Liquidity in Gilt Futures, available at https://www.theice.com/publicdocs/futures/Gilt_Futures_Overview.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures on British sovereign debt, including that, as of the third quarter of 2014, the open interest in futures on long-term British sovereign debt traded on the Intercontinental Exchange was approximately 400,000 contracts); Osaka Exchange, Japanese Government Bond Futures & Options, available at http://www.jpx.co.jp/english/derivatives/products/jgb/jgb-futures/tvdivq0000003n94-att/JGB_FUT_OP_E.pdf (accessed November 2017) (providing statistics regarding liquidity and open interest in futures and options on Japanese sovereign debt, including that as of July 2016, the open interest in futures on 10-year Japanese sovereign debt traded on the Osaka Exchange was approximately 80,000 contracts). The Exchange also notes that the Commission has previously granted exemptions under the Act to facilitate the trading of futures on sovereign debt issued each of the Group of Seven countries (among other countries) and that such exemptions were based in part on the Commission's assessment of the sufficiency of the credit ratings and liquidity of such sovereign debt. See 17 CFR 240.3a12-8; Securities Exchange Act Release No. 41453 (May 26, 1999).

income securities in Nasdaq Rule 5735(b)(1)(B)(ii). The Exchange proposes that the Fund will comply with the concentration requirements in Nasdaq Rule 5735(b)(1)(D)(ii) except with respect to the Fund's investment in Eurodollar and G-7 Sovereign Futures and Options.[92] The Exchange believes that this alternative limitation is appropriate to provide the Fund with sufficient flexibility and because of the highly liquid and transparent nature of Eurodollar and G-7 Sovereign Futures and Options. Further, as described above, no more than 10% of the net assets of the Fund will be invested in Exchange-Traded Derivatives whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

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 every day that the Fund is traded, 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 Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Market Session. On each Business Day, before commencement of trading in the Shares in the Regular Market Session on the Exchange, the Fund will disclose on its website the

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92 For purposes of this requirement, the weight of the applicable derivatives will be calculated based on the mark-to-market value or exposure of such derivatives.

Disclosed Portfolio of the Fund 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 conditionally 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 CTA plans for the Shares and for the following U.S. exchange-listed securities: common stocks, preferred securities and ETFs. Intraday executable price quotations, as well as closing price information, on exchange-listed securities (including ETFs), equities traded in the over-the-counter market, Exchange-Traded Derivatives, OTC Derivatives, Debt, fixed income securities and other assets not traded on an exchange will be available from major broker-dealer firms or market data vendors or from the exchange on which they are traded, as applicable, as well as from automated quotation systems, published or other public sources, or online information services. Additionally, FINRA's TRACE will be a source of price information for corporate bonds, privately-issued securities, MBS and ABS (including Private ABS/MBS) to the extent transactions in such securities are reported to TRACE, and EMMA will be a source of price information for municipal securities. Intraday and closing price information related to U.S. government securities, Money Market Funds, and other cash equivalents held by the Fund also will be available through subscription services, such as ICE Data Services, BAML PriceServe, Bloomberg, Markit and Thomson Reuters, which can be accessed by APs 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. Moreover, 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. Trading in the 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 ETF that will enhance competition among market participants, to the benefit of investors and the marketplace.

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 ETF that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

No written comments were either solicited or 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. Please include File Number SR-NASDAQ-2017-128 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2017-128. 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 Web site (http://www.sec.gov/rules/sro.shtml).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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-2017-128 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.[93]

Eduardo A. Aleman
Assistant Secretary

93 17 CFR 200.30-3(a)(12).