



## Information Circular 08-147

**Date:** November 3, 2008

**Re: First Trust NASDAQ-100 Equal Weight Index Fund**

BATS Exchange, Inc. ("BATS") commenced operating as a national securities exchange for trading non-BATS listed securities on October 24, 2008. As a result, in the near future the following ETF will be traded by BATS as an exchange on an unlisted trading privileges (UTP) basis for the first time:

Exchange-Traded Fund	Symbol
First Trust NASDAQ-100 Equal Weight Index Fund	QQEW

### **Background Information on the Fund**

As more fully explained in the Registration Statement (No. 811-21774) for the Trust, the Trust is an investment company consisting of separate exchange traded index funds, including the Fund noted above. The Fund in the Trust is an "index fund" and is an open-end management investment company, registered under the Investment Company Act of 1940 (the "1940 Act").

The investment objective of the First Trust NASDAQ-100 Equal Weight Index Fund is to replicate as closely as possible, before expenses, the price and the yield of the NASDAQ-100 Equal Weight Index<sup>SM</sup>.

First Trust Advisors, L.P. ("Adviser") serves as investment adviser and portfolio manager of the Fund. First Trust Portfolios, L.P., is the distributor for the Fund ("Distributor"). The Bank of New York is the administrator, custodian and fund accounting and transfer agent for the Fund ("Custodian").

As described more fully in the Trust's prospectus and statement of additional information ("SAI"), the Fund offers and issues shares ("Shares") at their net asset value ("NAV") only in aggregations of 50,000 Shares (each, a "Creation Unit"), generally in exchange for a basket of equity securities included in the underlying index, together with the deposit of a specified cash payment. The Shares described in this bulletin have been approved for trading on BATS. **The Shares will trade on BATS at market prices that may differ from the Shares' NAV. The Shares are redeemable only in Creation Unit aggregations, and, generally, in exchange for portfolio securities and a specified cash payment. Except when aggregated in Creation Units, the Shares may not be redeemed with the Fund.**

Dividends from net investment income, if any, are declared and paid semi-annually. The Fund distributes its net realized capital gains, if any, to shareholders annually.

The Depository Trust Company ("DTC") serves as securities depository for the Shares, which are held only in book-entry form; stock certificates will not be issued. DTC, or its nominee, is the record or registered owner of all outstanding Shares of the Fund. The Fund calculates NAV once each business day as of the regularly scheduled close of normal trading of the New York Stock Exchange (the "NYSE") (normally, 4:00 p.m. Eastern Standard Time) every day that the NYSE is open for business (a "Business Day"). The NAV is available from the Distributor and is also available to National Securities Clearing Corporation ("NSCC") participants through data made available from NSCC.

## **Continuous Offering**

The method by which Creation Units of shares are created and traded may raise certain issues under applicable securities laws. Because new Creation Units of shares may be issued and sold by the Fund on an ongoing basis, at any point a “distribution,” as such term is used in the Securities Act of 1933, as amended (the “Securities Act”), may occur. Broker-dealers and other persons are cautioned that some activities on their part may, depending on the circumstances, result in their being deemed participants in a distribution in a manner which could render them statutory underwriters and subject them to the prospectus-delivery requirement and liability provisions of the Securities Act.

For example, a broker-dealer firm or its client may be deemed a statutory underwriter if it takes Creation Units after placing an order with the Distributor, breaks them down into constituent Shares, and sells such Shares directly to customers, or if it chooses to couple the creation of a supply of new Shares with an active selling effort involving solicitation of secondary market demand for Shares. A determination of whether one is an underwriter for purposes of the Securities Act must take into account all the facts and circumstances pertaining to the activities of the broker-dealer or its client in the particular case, and the examples mentioned above should not be considered a complete description of all the activities that could lead to a categorization as an underwriter.

Broker-dealer firms should also note that dealers who are not “underwriters” but are effecting transactions in Shares, whether or not participating in the distribution of Shares, are generally required to deliver a prospectus. This is because the prospectus-delivery exemption in Section 4(3) of the Securities Act is not available in respect of such transactions as a result of Section 24(d) of the 1940 Act.

## **Creation and Redemption of Creation Unit Aggregations**

The Fund will issue and redeem Shares only in Creation Units (50,000 Shares per Creation Unit). The Fund will issue Shares through the Distributor, without a sales load, on a continuous basis at their NAV next determined after an order to purchase Shares is received in proper form on any Business Day. In order to purchase Creation Units of the Fund, an investor must generally deposit a designated portfolio of equity securities constituting a substantial replication, or a representation, of the stocks included in the relevant index (“Deposit Securities”) and a cash amount (“Cash Component” and together with the Deposit Securities, the “Fund Deposit”). The Advisor, through NSCC, makes available on each Business Day, prior to 9:30 a.m. Eastern Standard Time, a list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous Business Day) for each Fund. The Cash Component represents the difference between the NAV of a Creation Unit and the market value of the Deposit.

Orders must be placed in proper form by or through either (i) a “Participating Party”, i.e., a broker-dealer or other participant in the clearing process of the Continuous Net Settlement System of the NSCC; or (ii) a participant of the DTC, that, in either case, has entered into an agreement with the Trust and Distributor, with respect to creations and redemptions of Creation Units. All orders must be placed for one or more whole Creation Units and must be received by the Fund in proper form no later than the close of regular trading on the American Stock Exchange (ordinarily 4:00 p.m. Eastern Standard Time) on the date the order is placed (the “Transmittal Date”) in order for the purchaser to receive the NAV per share determined on the Transmittal Date.

Shares may be redeemed only in Creation Units at their NAV next determined after a redemption request is received in proper form and only on a Business Day. The Fund, through the facilities of the NSCC, makes available on each Business Day, prior to 9:30 a.m. Eastern Standard Time, a list of the names and the number of shares of a Fund’s portfolio securities that will be applicable that day to redemption requests in proper form (“Fund Securities”). Fund Securities received on redemption may not be identical to Deposit Securities, which are applicable to creations of Creation Units. Unless cash redemptions are available or specified for a particular Fund, the redemption proceeds consist of the Fund Securities, plus cash in an amount equal to the difference between the NAV of the Shares being redeemed as next

determined after receipt by the Custodian of a redemption request in proper form, and the value of the Fund Securities.

The Trust's prospectus and SAI describe additional procedures and requirements that apply to creation and redemptions of Shares. Fund transaction fees apply to creations and redemptions and are set forth in the prospectus.

## **Investment Risks**

BATS Members are referred to the prospectus for the Trust for a description of risks associated with an investment in Shares. These risks include tracking error risk that may result from factors such as the fees and expenses of the Fund, imperfect correlation between the Fund and the relevant index, rounding of share prices and changes to the relevant index and regulatory policies, which may affect the ability to achieve close correlation with the indices. **The returns for a Fund therefore may deviate from those of the relevant index. In addition, as noted in the prospectus, the Shares may trade below, at or above NAV. The NAV of the Shares will fluctuate with changes in the market value of the Funds' holdings. The market prices of the Shares will fluctuate in accordance with the changes in the Fund's NAV as well as the supply and demand for the Shares.**

## **Exchange Rules Applicable to Trading in the Shares**

Trading in the Shares on BATS is subject to BATS equity trading rules.

## **Trading Hours**

The values of the indexes underlying the Shares are disseminated to data vendors every 15 seconds. The Shares will trade on BATS between 8:00 a.m. and 4:00 p.m. ET. Please note that trading in the Securities during the Exchange's pre-opening session may result in additional trading risks which include: (1) that the current underlying indicative value may not be updated during the pre-opening session, (2) the indicative value may not be updated during the pre-opening session, (3) lower liquidity in the pre-opening session may impact pricing, (5) higher volatility in the pre-opening session may impact pricing, (6) wider spreads may occur in the pre-opening session, and (7) because the indicative value is not calculated or widely disseminated during the pre-opening session, an investor who is unable calculate an implied value for the Securities in that session may be at a disadvantage to market professionals.

## **Suitability**

Trading in the Shares on BATS will be subject to applicable suitability rules.

## **Trading Halts**

BATS will halt trading in the Shares of a Fund in accordance with BATS Rule 14.1(c)(4). The grounds for a halt under BATS Rule 14.1(c)(4) include a halt by the primary market because the intraday indicative value of the Fund and/or the value of its underlying index are not being disseminated as required, or a halt for other regulatory reasons. In addition, BATS will stop trading the Shares of a Fund if the primary market de-lists the Fund.

## **Delivery of a Prospectus**

Pursuant to federal securities laws, investors purchasing Shares must receive a Trust prospectus or prior to or concurrently with the confirmation of a transaction in Shares. The Exchange notes that investors purchasing Shares directly from the Trust should receive a prospectus. BATS Members purchasing from the Trust for resale to investors should deliver a prospectus to such investors. Prospectuses may be obtained from the Distributor at (800) 621-1675 or at the Fund's website at [www.ftportfolios.com](http://www.ftportfolios.com). The SAI

also includes a detailed description of the mechanics for creating or redeeming Shares, and the SAI is also available to any investor upon request from the Fund at (800) 621-1675. The Funds SAI is also available on the Fund's website at [www.ftportfolios.com](http://www.ftportfolios.com).

## **No-Action Relief Under Federal Securities Regulations**

The Securities and Exchange Commission, by letters dated August 17, 2001 and January 3, 2005, has granted exemptive, interpretive and no-action relief from certain rules promulgated under the Securities Exchange Act of 1934, as amended, in connection with secondary market transactions in the shares of certain exchange-traded funds and the creation and redemption of creation units of such funds. The relief is subject to the condition that such transactions in fund shares, any component security, or any related securities are not made for the purpose of creating actual, or apparent, active trading in or raising or otherwise affecting the price of such securities. The Fund qualifies for the relief granted in the letters, which is provided in detail below. BATS Members should refer to the full text of the letters for additional information.

### **Regulation M**

Distribution participants, issuers and selling security holders and their affiliated purchasers generally cannot bid for, purchase, or attempt to induce any person to bid for or purchase, any security that is in distribution until after the applicable restricted period under Rules 101 and 102 of Regulation M. The Commission has granted the following exemptive relief:

- Persons who may be deemed to be participating in a distribution of Shares are permitted to bid for or purchase Shares during their participation in such distribution; and
- Funds may redeem Shares during the continuous offering of the Shares.

The Commission has also confirmed that a redemption of Creation Unit aggregations of Shares and the receipt of component securities in exchange therefor by a participant in a distribution of Shares does not constitute an "attempt to induce any person to bid for or purchase a covered security, during the applicable restricted period" within the meaning of Regulation M, and therefore would not violate Regulation M.

### **Dealer-Manager Purchases During a Tender Offer**

A dealer-manager of a tender offer for a component security may not purchase (or arrange to purchase) the component security until the tender offer expires, as set forth in Rule 14e-5. Dealer-managers may, however, redeem Shares in Creation Unit aggregations for component securities that may include a security subject to the tender offer, and purchase Shares during the tender offer, pursuant to the Commission's grant of relief.

### **Issuer Notice of Certain Actions**

The issuer of the Shares is not required to give notice of certain specified actions (e.g., dividends, stock splits, rights offerings) relating to the Shares pursuant to the Commission's grant of relief from Rule 10b-17.

### **Customer Confirmations for Creations and Redemptions**

Broker-dealers that create or redeem Shares for customers may confirm such transactions without providing the customer with a statement of the identity, price, or number of shares of each individual component security tendered to or delivered by the Fund pursuant to the transaction, notwithstanding Rule 10b-10, pursuant to the Commission's grant of relief. This exemption does not apply to purchases and sales of Shares in the secondary market and is subject to the following conditions:

1. Confirmation statements of creation and redemption transactions in Shares must contain all of the information specified in Rule 10b-10(a) other than identity, price, and number of shares of each component security tendered or received in the transaction.
2. Confirmation statements of creation and redemption transactions in Shares that omit information specified in Rule 10b-10(a) must state that such information will be provided upon request; and
3. All such requests must be fulfilled in a timely manner in accordance with Rule 10b-10(c).

### **Customer Margin**

Broker-dealers may extend or maintain (or arrange for the extension or maintenance of) credit on Shares that have been owned by the persons to whom credit is provided for more than 30 days, in reliance on the Commission's position that it will not recommend enforcement action under Section 11(d)(1) of the Exchange Act if broker-dealers treat Shares, for purposes of the applicable exemption in Rule 11d1-2, as securities issued by a registered open-end investment company as defined in the 1940 Act.

Further, broker-dealers that engage in transactions in Shares exclusively in the secondary market may extend or maintain (or arrange for the extension or maintenance of) credit on Shares, pursuant to the Commission's position that it will not recommend enforcement action under Section 11(d)(1) of the Exchange Act in this instance.

### **Disclosure of Control and Interest in Distribution**

Broker-dealers may execute transactions in Shares without disclosing any control relationship with an issuer of a component security or any participation or interest in a primary or secondary distribution of a component security, pursuant to the Commission's no-action position with respect to Rules 15c1-5 and 15c1-6.

**This Information Circular is not a statutory prospectus. BATS Members should consult the prospectus for a Fund and the Fund's website for relevant information.**

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