

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="31"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2015"/> - * <input type="text" value="43"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by **BATS Exchange**  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

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

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

BATS Exchange, Inc. proposes to amend Rule 19.3(i).

**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 * <input type="text" value="Anders"/>	Last Name * <input type="text" value="Franzon"/>
Title * <input type="text" value="VP, Associate General Counsel"/>	
E-mail * <input type="text" value="afranzon@bats.com"/>	
Telephone * <input type="text" value="(913) 815-7154"/>	Fax <input type="text" value="(913) 815-7119"/>

**Signature**

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

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

(Title \*)

Date <input type="text" value="06/05/2015"/>	<input type="text" value="VP, Associate General Counsel"/>
By <input type="text" value="Anders Franzon"/>	<input type="text" value="afranzon@bats.com"/>
(Name *)	

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

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

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

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

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Exhibit Sent As Paper Document

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

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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

**Partial Amendment**

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

1. Text of the Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> BATS Exchange, Inc. (the “Exchange” or “BATS”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to allow the listing of options overlying portfolio depository receipts and index fund shares (collectively, “ETFs”) that are listed pursuant to generic listing standards on equities exchanges for series of ETFs based on international or global indexes under which a comprehensive surveillance sharing agreement is not required. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>3</sup>

(a) The text of the proposed rule change is attached as Exhibit 5. Material proposed to be added is underlined. Material proposed to be deleted is enclosed in brackets.

(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 February 11, 2014. Exchange staff will advise the Board of Directors of the Exchange of any action taken pursuant to delegated authority. No other action is necessary for the filing of

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6)(iii).

the rule change.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Eric Swanson  
EVP, General Counsel  
(913) 815-7000

Anders Franzon  
VP, Associate General Counsel  
(913) 815-7154

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

(a) Purpose

The Exchange is proposing to amend Rule 19.3(i) to allow the Exchange's options platform ("BATS Options") to list options overlying ETFs that are listed pursuant to generic listing standards on equities exchanges for series of ETFs based on international or global indexes under which a comprehensive surveillance sharing agreement ("CSSA") is not required.<sup>4</sup> This proposal will enable the Exchange to list and trade options on ETFs without a CSSA provided that the ETF is listed on an equities exchange pursuant to the generic listing standards that do not require a CSSA pursuant to Rule 19b-4(e) of the Exchange Act.<sup>5</sup> Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4, if the Commission has approved, pursuant to Section 19(b) of the Exchange Act, the SRO's trading rules, procedures, and listing standards for the product class that would include

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<sup>4</sup> See, e.g., BATS Rule 14.11(b)(3)(A)(ii); NYSE MKT Rule 1000 Commentary .03(a)(B); NYSE Arca Equities Rule 5.2(j)(3) Commentary .01 (a)(B); and NASDAQ Rule 5705(a)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(e).

the new derivatives securities product and the SRO has a surveillance program for the product class.<sup>6</sup> In other words, the proposal will amend the listing standards to allow the Exchange to list and trade options on ETFs based on international or global indexes to a similar degree that they are allowed to be listed on several equities exchanges.<sup>7</sup>

Currently, BATS Options allows for the listing and trading of options on Fund Shares. Rule 19.3(i)(1)-(3) provide the listings standards for options on Fund Shares with non-U.S. component stocks, such as Fund Shares based on international or global indexes. Rule 19.3(i)(1) requires that any non-U.S. component stocks of an index or portfolio of stocks on which the Fund Shares are based that are not subject to a CSSA do not in the aggregate represent more than 50% of the weight of the index or portfolio. Rule 19.3(i)(2) requires stocks for which the primary market is in any one country that is not subject to a CSSA do not represent 20% or more of the weight of the index. Rule 19.3(i)(3) requires that stocks for which the primary market is in any two countries that are not subject to a CSSA do not represent 33% or more of the weight of the index.

The Exchange notes that the Commission has previously approved generic listing standards pursuant to Rule 19b-4(e) of the Exchange Act for ETFs based on indexes that

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<sup>6</sup> When relying on Rule 19b-4(e), the SRO must submit Form 19b-4(e) to the Commission within five business days after the SRO begins trading the new derivative securities products. See Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

<sup>7</sup> See BATS Rules 14.11(b)(3)(A)(ii); NYSE MKT Rule 1000 Commentary .03(a)(B); NYSE Arca Equities Rule 5.2(j)(3) Commentary .01 (a)(B); and NASDAQ Rule 5705(a)(3)(A)(ii). See also Securities Exchange Act Release Nos. 54739 (November 9, 2006), 71 FR 66993 (SR-Amex-2006-78); 55269 (February 9, 2007), 72 FR 7490 (February 15, 2007) (SR-NASDAQ-2006-050); 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR-NYSEArca-2006-86)

consist of stocks listed on U.S. exchanges.<sup>8</sup> In general, the criteria for the underlying component stocks in the international and global indexes are similar to those for the domestic indexes, but with modifications as appropriate for the issues and risks associated with non-U.S. stocks. In addition, the Commission has previously approved the listing and trading of ETFs based on international indexes – those based on non-U.S. component stocks – as well as global indexes – those based on non-U.S. and U.S. component stocks.<sup>9</sup>

In approving ETFs for equities exchange trading, the Commission thoroughly considered the structure of the ETFs, their usefulness to investors and to the markets, and SRO rules that govern their trading. The Exchange believes that allowing the listing of options overlying ETFs that are listed pursuant to the generic listing standards on equities exchanges for ETFs based on international and global indexes and applying Rule 19b-4(e) should fulfill the intended objective of that Rule by allowing options on those ETFs that have satisfied the generic listing standards to commence trading, without the need for the public comment period and Commission approval. The proposed rule has the potential to reduce the time frame for bringing options on ETFs to market, thereby reducing the burdens on issuers and other market participants. The failure of a particular

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<sup>8</sup> See Commentary .03 to Amex Rule 1000 and Commentary .02 to Amex Rule 1000A. See also Securities Exchange Act Release No. 42787 (May 15, 2000), 65 FR 33598 (May 24, 2000).

<sup>9</sup> See, e.g., Securities Exchange Act Release Nos. 50189 (August 12, 2004), 69 FR 51723 (August 20, 2004) (approving the listing and trading of certain Vanguard International Equity Index Funds); 44700 (August 14, 2001), 66 FR 43927 (August 21, 2001) (approving the listing and trading of series of the iShares Trust based on certain S&P global indexes).

ETF to comply with the generic listing standards under Rule 19b-4(e) would not, however, preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2),<sup>10</sup> requesting Commission approval to list and trade options on a particular ETF.

Options on ETFs listed pursuant to these generic standards for international and global indexes would be traded, in all other respects, under the Exchange's existing trading rules and procedures that apply to options on ETFs and would be covered under the Exchange's surveillance program for options on ETFs.

Pursuant to the proposed rule, the Exchange may list and trade options on an ETF without a CSSA provided that the ETF is listed pursuant to generic listing standards for series of ETFs based on international or global indexes under which a comprehensive surveillance agreement is not required. The Exchange believes that these generic listing standards are intended to ensure that stocks with substantial market capitalization and trading volume account for a substantial portion of the weight of an index or portfolio.

The Exchange believes that this proposed listing standard for options on ETFs is reasonable for international and global indexes, and, when applied in conjunction with the other listing requirements,<sup>11</sup> will result in options overlying ETFs that are sufficiently broad-based in scope and not readily susceptible to manipulation. The Exchange also believes that allowing the Exchange to list options overlying ETFs that are listed on equities exchanges pursuant to generic standards for series of portfolio depositary

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<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> All of the other listing criteria under the Exchange's rules will continue to apply to any options listed pursuant to the proposed rule change.

receipts or index fund shares<sup>12</sup> based on international or global indexes under which a CSSA is not required, will result in options overlying ETFs that are adequately diversified in weighting for any single security or small group of securities to significantly reduce concerns that trading in options overlying ETFs based on international or global indexes could become a surrogate for trading in unregistered securities.

The Exchange believes that ETFs based on international and global indexes that have been listed pursuant to the generic standards are sufficiently broad-based enough as to make options overlying such ETFs not susceptible instruments for manipulation. The Exchange believes that the threat of manipulation is sufficiently mitigated for underlying ETFs that have been listed on equities exchanges pursuant to generic listing standards for series of portfolio depositary receipts or index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required and for the overlying options, that the Exchange does not see the need for CSSA to be in place before listing and trading options on such ETFs. The Exchange notes that its proposal does not replace the need for a CSSA as provided in the current rule. The provisions of the current rule, including the need for a CSSA, remain materially unchanged in the proposed rule and will continue to apply to options on ETFs that are not listed on an equities exchange pursuant to generic listing standards for series of portfolio

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<sup>12</sup> The Exchange notes that the proposed rule text differs slightly from that of other exchanges in order to make clear that the rule applies to ETFs that have been listed on equities exchanges pursuant to generic listing standards for series of “portfolio depositary receipts or index fund shares” rather than “portfolio depositary receipts and index fund shares.” Such difference does not represent a substantive difference from the rules of other Exchanges. See *infra* note 15.

depository receipts or index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. Instead, the proposed rule adds an additional listing mechanism for certain qualifying options on ETFs to be listed on the Exchange.

Finally, the Exchange is also proposing to make several non-substantive changes to the rule text in order to make it easier to read and understand. Specifically, the Exchange is proposing to move paragraph (4) to become paragraph (1), to renumber each of paragraphs (1), (2), (3), (5), and (6) to (B), (C), (D), (E), and (F), respectively, and to make clear that each of the proposed newly numbered paragraphs (B), (C), (D), (E), and (F) apply to the series of Fund Shares that do not meet the criteria proposed in proposed new paragraph (A).

(b) Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>13</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act<sup>14</sup> because 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, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rules have the

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<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

potential to reduce the time frame for bringing options on ETFs to market, thereby reducing the burdens on issuers and other market participants. The Exchange also believes that enabling the listing and trading of options on ETFs pursuant to this new listing standard will benefit investors by providing them with valuable risk management tools. The Exchange notes that its proposal does not replace the need for a CSSA as provided in the current rule. The provisions of the current rule, including the need for a comprehensive surveillance sharing agreement, remain materially unchanged in the proposed rule and will continue to apply to options on ETFs that are not listed on an equities exchange pursuant to generic listing standards for series of portfolio depositary receipts or index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. Instead, the proposed rule adds an additional listing mechanism for certain qualifying options on ETFs to be listed on the Exchange in a manner that 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, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange also believes that the proposed non-substantive organizational changes are reasonable, fair, and equitable because they are designed to make the rule easier to comprehend. As noted above, the proposed non-substantive changes do not change the need for a CSSA as provided in the current rule. The provisions of the current rule, including the need for a CSSA, remain materially unchanged in the proposed rule and will continue to apply to options on ETFs that are not listed on an equities exchange

pursuant to generic listing standards for series of portfolio depositary receipts or index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. These non-substantive changes to the rules are intended to make the rules clearer and less confusing for participants and investors and to eliminate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

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. To the contrary, the proposed rule change is a competitive change that is substantially similar to recent rule changes filed by the MIAX Options Exchange ("MIAX"), NASDAQ OMX PHLX, LLC ("Phlx"), and International Stock Exchange LLC ("ISE").<sup>15</sup> Furthermore, the Exchange believes this proposed rule change will benefit investors by providing additional methods to trade options on ETFs, and by providing them with valuable risk management tools. Specifically, the Exchange believes that market participants on the Exchange would benefit from the introduction and availability of options on ETFs in a manner that is similar to equities exchanges and will provide investors with a venue on which to trade options on these products. For all the reasons stated above, the Exchange does not believe that the proposed rule changes will

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<sup>15</sup> See Securities Exchange Act Release Nos. 74509 (March 13, 2015), 80 FR 14425 (March 19, 2015) (SR-MIAX-2015-04); 74553 (March 20, 2015), 80 FR 16072 (March 26, 2015) (SR-Phlx-2015-27); and 74832 (April 29, 2015), 80 FR 25738 (May 5, 2015) (SR-ISE-2015-16).

impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

6. Extension of Time Period for Commission Action

Not applicable.

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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>16</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>17</sup> The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission.<sup>18</sup>

The Exchange believes that the proposed rule change does not significantly affect

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

the protection of investors or the public interest and does not impose any significant burden on competition. The rule change is being proposed as a competitive response to similar filings by other options exchanges.<sup>19</sup> The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest because this proposal allows the Exchange, similarly to other markets, to list and trade options overlying ETFs that are listed pursuant to generic listing standards on equities exchanges for portfolio depositary receipts or index fund shares based on international or global indexes. This is beneficial to the Exchange and its traders, investors, and market participants in general. The Exchange believes that the proposal is pro-competitive because the Exchange would be able to provide traders, investors, and market participants the opportunity to more effectively tailor their trading, investing and hedging needs, consistent with listing rules already adopted by other options exchanges. As such, the Exchange believes that the proposed rule change does not raise any new or unique regulatory issues not already considered by the Exchange and, accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>20</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>21</sup>

The Exchange respectfully requests that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and operative upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act<sup>22</sup> and

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<sup>19</sup> See supra note 15.

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4.

<sup>22</sup> 15 U.S.C. 78s(b)(3)(A).

paragraph (f)(6) of Rule 19b-4 thereunder.<sup>23</sup> Waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the BATS to immediately list options on certain ETFs that are currently permitted to be listed by MIAX, Phlx, and ISE without a CSSA. Waiver of the operative delay would allow the Exchange to list and trade certain ETF options on the same bases as other options markets, which would be beneficial to market participants and would help to eliminate the potential for investor confusion.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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

The proposed rule change is based on the rules of MIAX, Phlx, and ISE.<sup>24</sup>

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

Not applicable.

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

Not applicable.

11. Exhibits

Exhibit 1: Completed Notice of the Proposed Rule Change for publication in the Federal Register.

Exhibit 2–4: Not applicable.

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<sup>23</sup> 17 CFR 240.19b-4(f)(6).

<sup>24</sup> See supra note 15.

Exhibit 5: Text of Proposed Rule Change

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-BATS-2015-43)

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 19.3(i) of BATS Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on \_\_\_\_\_, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. 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 filed a proposal to allow the listing of options overlying portfolio depositary receipts and index fund shares (collectively, “ETFs”) that are listed pursuant to generic listing standards on equities exchanges for series of ETFs based on international or global indexes under which a comprehensive surveillance sharing agreement is not required.

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

The text of the proposed rule change is available at the Exchange's website at [www.batstrading.com](http://www.batstrading.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 parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 19.3(i) to allow the Exchange's options platform ("BATS Options") to list options overlying ETFs that are listed pursuant to generic listing standards on equities exchanges for series of ETFs based on international or global indexes under which a comprehensive surveillance sharing agreement ("CSSA") is not required.<sup>5</sup> This proposal will enable the Exchange to list and trade options on ETFs without a CSSA provided that the ETF is listed on an equities exchange pursuant to the generic listing standards that do not require a CSSA pursuant to

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<sup>5</sup> See, e.g., BATS Rule 14.11(b)(3)(A)(ii); NYSE MKT Rule 1000 Commentary .03(a)(B); NYSE Arca Equities Rule 5.2(j)(3) Commentary .01 (a)(B); and NASDAQ Rule 5705(a)(3)(A)(ii).

Rule 19b-4(e) of the Exchange Act.<sup>6</sup> Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (“SRO”) shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4, if the Commission has approved, pursuant to Section 19(b) of the Exchange Act, the SRO’s trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product and the SRO has a surveillance program for the product class.<sup>7</sup> In other words, the proposal will amend the listing standards to allow the Exchange to list and trade options on ETFs based on international or global indexes to a similar degree that they are allowed to be listed on several equities exchanges.<sup>8</sup>

Currently, BATS Options allows for the listing and trading of options on Fund Shares. Rule 19.3(i)(1)-(3) provide the listings standards for options on Fund Shares with non-U.S. component stocks, such as Fund Shares based on international or global indexes. Rule 19.3(i)(1) requires that any non-U.S. component stocks of an index or portfolio of stocks on which the Fund Shares are based that are not subject to a CSSA do not in the aggregate represent more than 50% of the weight of the index or portfolio.

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<sup>6</sup> 17 CFR 240.19b-4(e).

<sup>7</sup> When relying on Rule 19b-4(e), the SRO must submit Form 19b-4(e) to the Commission within five business days after the SRO begins trading the new derivative securities products. See Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

<sup>8</sup> See BATS Rules 14.11(b)(3)(A)(ii); NYSE MKT Rule 1000 Commentary .03(a)(B); NYSE Arca Equities Rule 5.2(j)(3) Commentary .01 (a)(B); and NASDAQ Rule 5705(a)(3)(A)(ii). See also Securities Exchange Act Release Nos. 54739 (November 9, 2006), 71 FR 66993 (SR-Amex-2006-78); 55269 (February 9, 2007), 72 FR 7490 (February 15, 2007) (SR-NASDAQ-2006-050); 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR-NYSEArca-2006-86)

Rule 19.3(i)(2) requires stocks for which the primary market is in any one country that is not subject to a CSSA do not represent 20% or more of the weight of the index. Rule 19.3(i)(3) requires that stocks for which the primary market is in any two countries that are not subject to a CSSA do not represent 33% or more of the weight of the index.

The Exchange notes that the Commission has previously approved generic listing standards pursuant to Rule 19b-4(e) of the Exchange Act for ETFs based on indexes that consist of stocks listed on U.S. exchanges.<sup>9</sup> In general, the criteria for the underlying component stocks in the international and global indexes are similar to those for the domestic indexes, but with modifications as appropriate for the issues and risks associated with non-U.S. stocks. In addition, the Commission has previously approved the listing and trading of ETFs based on international indexes – those based on non-U.S. component stocks – as well as global indexes – those based on non-U.S. and U.S. component stocks.<sup>10</sup>

In approving ETFs for equities exchange trading, the Commission thoroughly considered the structure of the ETFs, their usefulness to investors and to the markets, and SRO rules that govern their trading. The Exchange believes that allowing the listing of options overlying ETFs that are listed pursuant to the generic listing standards on equities

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<sup>9</sup> See Commentary .03 to Amex Rule 1000 and Commentary .02 to Amex Rule 1000A. See also Securities Exchange Act Release No. 42787 (May 15, 2000), 65 FR 33598 (May 24, 2000).

<sup>10</sup> See, e.g., Securities Exchange Act Release Nos. 50189 (August 12, 2004), 69 FR 51723 (August 20, 2004) (approving the listing and trading of certain Vanguard International Equity Index Funds); 44700 (August 14, 2001), 66 FR 43927 (August 21, 2001) (approving the listing and trading of series of the iShares Trust based on certain S&P global indexes).

exchanges for ETFs based on international and global indexes and applying Rule 19b-4(e) should fulfill the intended objective of that Rule by allowing options on those ETFs that have satisfied the generic listing standards to commence trading, without the need for the public comment period and Commission approval. The proposed rule has the potential to reduce the time frame for bringing options on ETFs to market, thereby reducing the burdens on issuers and other market participants. The failure of a particular ETF to comply with the generic listing standards under Rule 19b-4(e) would not, however, preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2),<sup>11</sup> requesting Commission approval to list and trade options on a particular ETF.

Options on ETFs listed pursuant to these generic standards for international and global indexes would be traded, in all other respects, under the Exchange's existing trading rules and procedures that apply to options on ETFs and would be covered under the Exchange's surveillance program for options on ETFs.

Pursuant to the proposed rule, the Exchange may list and trade options on an ETF without a CSSA provided that the ETF is listed pursuant to generic listing standards for series of ETFs based on international or global indexes under which a comprehensive surveillance agreement is not required. The Exchange believes that these generic listing standards are intended to ensure that stocks with substantial market capitalization and trading volume account for a substantial portion of the weight of an index or portfolio.

The Exchange believes that this proposed listing standard for options on ETFs is

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<sup>11</sup> 15 U.S.C. 78s(b)(2).

reasonable for international and global indexes, and, when applied in conjunction with the other listing requirements,<sup>12</sup> will result in options overlying ETFs that are sufficiently broad-based in scope and not readily susceptible to manipulation. The Exchange also believes that allowing the Exchange to list options overlying ETFs that are listed on equities exchanges pursuant to generic standards for series of portfolio depositary receipts or index fund shares<sup>13</sup> based on international or global indexes under which a CSSA is not required, will result in options overlying ETFs that are adequately diversified in weighting for any single security or small group of securities to significantly reduce concerns that trading in options overlying ETFs based on international or global indexes could become a surrogate for trading in unregistered securities.

The Exchange believes that ETFs based on international and global indexes that have been listed pursuant to the generic standards are sufficiently broad-based enough as to make options overlying such ETFs not susceptible instruments for manipulation. The Exchange believes that the threat of manipulation is sufficiently mitigated for underlying ETFs that have been listed on equities exchanges pursuant to generic listing standards for series of portfolio depositary receipts or index fund shares based on international or

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<sup>12</sup> All of the other listing criteria under the Exchange's rules will continue to apply to any options listed pursuant to the proposed rule change.

<sup>13</sup> The Exchange notes that the proposed rule text differs slightly from that of other exchanges in order to make clear that the rule applies to ETFs that have been listed on equities exchanges pursuant to generic listing standards for series of "portfolio depositary receipts or index fund shares" rather than "portfolio depositary receipts and index fund shares." Such difference does not represent a substantive difference from the rules of other Exchanges. See *infra* note 16.

global indexes under which a comprehensive surveillance agreement is not required and for the overlying options, that the Exchange does not see the need for CSSA to be in place before listing and trading options on such ETFs. The Exchange notes that its proposal does not replace the need for a CSSA as provided in the current rule. The provisions of the current rule, including the need for a CSSA, remain materially unchanged in the proposed rule and will continue to apply to options on ETFs that are not listed on an equities exchange pursuant to generic listing standards for series of portfolio depositary receipts or index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. Instead, the proposed rule adds an additional listing mechanism for certain qualifying options on ETFs to be listed on the Exchange.

Finally, the Exchange is also proposing to make several non-substantive changes to the rule text in order to make it easier to read and understand. Specifically, the Exchange is proposing to move paragraph (4) to become paragraph (1), to renumber each of paragraphs (1), (2), (3), (5), and (6) to (B), (C), (D), (E), and (F), respectively, and to make clear that each of the proposed newly numbered paragraphs (B), (C), (D), (E), and (F) apply to the series of Fund Shares that do not meet the criteria proposed in proposed new paragraph (A).

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities

exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>14</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act<sup>15</sup> because 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, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rules have the potential to reduce the time frame for bringing options on ETFs to market, thereby reducing the burdens on issuers and other market participants. The Exchange also believes that enabling the listing and trading of options on ETFs pursuant to this new listing standard will benefit investors by providing them with valuable risk management tools. The Exchange notes that its proposal does not replace the need for a CSSA as provided in the current rule. The provisions of the current rule, including the need for a comprehensive surveillance sharing agreement, remain materially unchanged in the proposed rule and will continue to apply to options on ETFs that are not listed on an equities exchange pursuant to generic listing standards for series of portfolio depository receipts or index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. Instead, the proposed rule adds an additional listing mechanism for certain qualifying options on ETFs to be listed on the Exchange in a manner that is designed to prevent fraudulent and manipulative acts and

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<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> 15 U.S.C. 78f(b)(5).

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange also believes that the proposed non-substantive organizational changes are reasonable, fair, and equitable because they are designed to make the rule easier to comprehend. As noted above, the proposed non-substantive changes do not change the need for a CSSA as provided in the current rule. The provisions of the current rule, including the need for a CSSA, remain materially unchanged in the proposed rule and will continue to apply to options on ETFs that are not listed on an equities exchange pursuant to generic listing standards for series of portfolio depositary receipts or index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. These non-substantive changes to the rules are intended to make the rules clearer and less confusing for participants and investors and to eliminate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

(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. To the contrary, the proposed rule change is a competitive change that is substantially similar to recent rule changes filed by the MIAX Options Exchange ("MIAX"), NASDAQ OMX PHLX, LLC ("Phlx"), and International Stock Exchange

LLC (“ISE”).<sup>16</sup> Furthermore, the Exchange believes this proposed rule change will benefit investors by providing additional methods to trade options on ETFs, and by providing them with valuable risk management tools. Specifically, the Exchange believes that market participants on the Exchange would benefit from the introduction and availability of options on ETFs in a manner that is similar to equities exchanges and will provide investors with a venue on which to trade options on these products. For all the reasons stated above, the Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>17</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>18</sup> The proposed rule change effects a change that (A) does not significantly affect the protection of

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<sup>16</sup> See Securities Exchange Act Release Nos. 74509 (March 13, 2015), 80 FR 14425 (March 19, 2015) (SR-MIAX-2015-04); 74553 (March 20, 2015), 80 FR 16072 (March 26, 2015) (SR-Phlx-2015-27); and 74832 (April 29, 2015), 80 FR 25738 (May 5, 2015) (SR-ISE-2015-16).

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 C.F.R. 240.19b-4.

investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act.

Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-BATS-2015-43 on the subject line.

Paper Comments:

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

All submissions should refer to File No. SR-BATS-2015-43. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BATS-2015-43 and should be submitted on or before [\_\_\_\_\_21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to

Note: Proposed new language is underlined. Proposed deletions are enclosed in [brackets].

## **Rules of BATS Exchange, Inc.**

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### **CHAPTER XIX. SECURITIES TRADED ON BATS OPTIONS**

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#### **Rule 19.3. Criteria for Underlying Securities**

(a)-(h) (No changes.)

(i) Securities deemed appropriate for options trading shall include shares or other securities (“Fund Shares”), including but not limited to Partnership Units as defined in this Rule, that are principally traded on a national securities exchange and are defined as an “NMS stock” under Rule 600 of Regulation NMS, and that (1) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities, and that hold portfolios of securities comprising or otherwise based on or representing investments in indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities) (“Funds”) and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and indexes, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the “Financial Instruments”), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the “Money Market Instruments”) constituting or otherwise based on or representing an investment in an index or portfolio of securities and/or Financial Instruments and Money Market Instruments, or (2) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and /or non-U.S. currency (“Commodity Pool ETFs”) or (3) represent interests in a trust or similar entity that holds a specified non- U.S. currency or currencies deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust (“Currency Trust Shares”), or (4) represent interests in the SPDR Gold Trust or are issued by the iShares COMEX Gold Trust or iShares Silver Trust; provided that all of the following conditions are met:

(1) The Fund Shares either (A) meet the criteria and standards set forth in paragraphs (a) and (b) of this Rule above; or (B) the Fund Shares are available for creation or redemption each business day in cash or in kind from the investment company, commodity pool or other entity at a price related to net asset value, and the investment company, commodity pool or other entity is obligated to provide that Fund Shares may be created even if some or all of the securities and/or cash required to be deposited have not

been received by the Fund, the unit investment trust or the management investment company, provided the authorized creation participant has undertaken to deliver the securities and/or cash as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund, all as described in the Fund's or unit trust's prospectus; and

(2) The Fund Shares meet the following criteria:

(A) the Fund Shares are listed pursuant to generic listing standards for series of portfolio depositary receipts or index fund shares based on international or global indexes under which a comprehensive surveillance sharing agreement is not required; or

(1)B) any non-U.S. component stocks of the index or portfolio on which the Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;

(2)C) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index;

(3)D) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index; [and]

[(4) the Fund Shares either (A) meet the criteria and standards set forth in paragraphs (a) and (b) of this Rule above; or (B) the Fund Shares are available for creation or redemption each business day in cash or in kind from the investment company, commodity pool or other entity at a price related to net asset value, and the investment company, commodity pool or other entity is obligated to provide that Fund Shares may be created even if some or all of the securities and/or cash required to be deposited have not been received by the Fund, the unit investment trust or the management investment company, provided the authorized creation participant has undertaken to deliver the securities and/or cash as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund, all as described in the Fund's or unit trust's prospectus.]

(5)E) For Commodity Pool ETFs that engage in holding and/or managing portfolios or baskets commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities, options on non-U.S. currency and/or securities, the Exchange has entered into a comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in such commodity futures contracts and/or options on commodity futures contracts on the specified commodities or non-U.S. currency, which are utilized by the national

securities exchange where the underlying Commodity Pool ETFs are listed and traded[.]; and

([6]F) For Currency Trust Shares, the Exchange has entered into a comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in derivatives (options or futures) on the specified non-U.S. currency, which are utilized by the national securities exchange where the underlying Currency Trust Shares are listed and traded.

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delegated authority.<sup>19</sup>

Robert W. Errett  
Deputy Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).