

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁸ and paragraph (f)(2) of Rule 19b-4¹⁹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

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-Phlx-2010-94 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-Phlx-2010-94. 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 Web site 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 a.m. and 3 p.m. Copies of such 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 publicly available. All submissions should refer to File Number SR-Phlx-2010-94 and should be submitted on or before August 5, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62471; File No. SR-NYSEArca-2010-64]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Arca, Inc. Relating to Listing of the Wilshire Micro-Cap ETF

July 8, 2010.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on July 1, 2010, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to list and trade shares of the Wilshire Micro-Cap ETF under NYSE Arca Equities Rule 5.2(j)(3). The text of the proposed rule

change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

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

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

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

1. Purpose

The Exchange proposes to list and trade the Shares of the Wilshire Micro-Cap ETF (the "Fund") under NYSE Arca Equities Rule 5.2(j)(3), the Exchange's listing standards for Investment Company Units ("Units").⁴ The Fund is a series of the Claymore Exchange-Traded Fund Trust.

The Fund seeks investment results that correspond generally to the performance, before the Fund's fees and expenses, of the Wilshire US Micro-Cap IndexSM (the "Wilshire Micro-Cap" or the "Index").⁵

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet all of the "generic" listing requirements of Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of ICUs based on US indexes. The Index meets all such requirements except for those set forth in Commentary .01(a)(A)(1)⁶ and

⁴ An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). See NYSE Arca Equities Rule 5.2(j)(3)(A).

⁵ See the Claymore Exchange-Traded Fund Trust's registration statement on Form N-1A, dated May 18, 2010 (File Nos. 333-134551; 811-21906) ("Registration Statement"). Statements herein regarding the Fund, the Shares and the Wilshire US Micro-Cap Index are based on the Registration Statement.

⁶ Commentary .01(a)(A)(1) to NYSE Arca Equities Rule 5.2(j)(3) provides that component stocks (excluding Units and securities defined in Section 2 of Rule 8, collectively, "Derivative Securities

¹⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁹ 17 CFR 240.19b-4(f)(2).

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

.01(a)(A)(5).⁷ Specifically, as of April 21, 2010, 76.93% of the weight of the Index components have a market capitalization greater than \$75 million. In addition, as of April 21, 2010, the Index included 201 non-NMS stocks out of a total of approximately 1,564 components in the Index. Thus, non-NMS stocks comprised approximately 12.8% of the number of stocks in the Index. Stocks comprising 97.3% of the weight of the Index were NMS stocks.⁸

According to the Registration Statement, the Fund, using a low cost "passive" or "indexing" investment approach, will seek to replicate, before the Fund's fees and expenses, the performance of the Wilshire Micro-Cap. The Wilshire Micro-Cap is a rules-based index comprised of approximately 1,564 securities of micro-capitalization companies as of March 31, 2010, as defined by Wilshire Associates Incorporated ("Wilshire" or the "Index Provider"). The Wilshire Micro-Cap is designed to represent micro-sized companies and is a subset of the Wilshire 5000 Total Market IndexSM (the "Wilshire 5000"). The Wilshire Micro-Cap represents a float-adjusted, market capitalization-weighted index of the issues ranked below 2500 by market capitalization of the Wilshire 5000.

The Exchange represents that: (1) Except for Commentary .01(a)(A)(1) and .01(a)(A)(5) to NYSE Arca Equities Rule 5.2(j)(3), the Shares of the Fund currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to Units shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A-3⁹ under the Act for the initial and continued listing of the Shares. In addition, the Exchange represents that the Shares will comply with all other requirements applicable to Units including, but not limited to, requirements relating to the

Products") that in the aggregate account for at least 90% of the weight of the index or portfolio (excluding such Derivative Securities Products) each shall have a minimum market value of at least \$75 million.

⁷ Commentary .01(a)(A)(5) to NYSE Arca Equities Rule 5.2(j)(3) provides that all securities in the index or portfolio shall be US Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934 (17 U.S.C. 78a) ("Act"). NYSE Arca Equities Rule 5.2(j)(3) defines the term "US Component Stock" as an equity security that is registered under Sections 12(b) or 12(g) of the Act or an American Depositary Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

⁸ Non-NMS stocks are traded either on the OTC Bulletin Board or the Pink OTC Markets.

⁹ 17 CFR 240.10A-3.

dissemination of key information such as the value of the Index and Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, and Information Bulletin to ETP Holders, as set forth in Exchange rules applicable to Units and prior Commission orders approving the generic listing rules applicable to the listing and trading of Units.¹⁰

The Exchange believes that, notwithstanding the fact that the Index does not meet certain generic listing criteria in NYSE Arca Equities Rule 5.2(j)(3), Commentary .01, the Index is sufficiently broad-based, and the Index stocks are sufficiently liquid to deter potential manipulation. As of June 9, 2010, the average market capitalization of Index stocks was \$82.52 million, 62.82% of the Index weight was comprised of stocks with a global monthly trading volume of greater than one million shares, and 77.82% of the Index weight was comprised of stocks with a global monthly trading volume of greater than 500,000 shares. The average global monthly trading volume for Index stocks for the period December 2009 through May 2010 ranged from 3.7 million to 9.7 million shares. In addition, as of April 21, 2010, stocks comprising only 2.7% of the Index weight were non-NMS stocks.

Detailed descriptions of the Fund, the Index, procedures for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, risks, and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement or on the Web site for the Fund (<http://www.claymore.com>), as applicable.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)¹¹ of the Act, in general, and furthers the objectives of Section 6(b)(5),¹² 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

¹⁰ See, e.g., Securities Exchange Act Release No. 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR-PCX-2001-14) (order approving generic listing standards for Units and Portfolio Depositary Receipts); Securities Exchange Act Release No. 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR-PCX-98-29) (order approving rules for listing and trading of Units).

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

mechanisms of a free and open market and a national market system. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

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.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 35 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 self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2010-64 in 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 Number SR–NYSEArca–2010–64. 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 Web site 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 a.m. and 3 p.m. Copies of such 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–NYSEArca–2010–64 and should be submitted on or before August 5, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62476; File No. SR–FINRA–2010–012]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Amend FINRA Rule 8312 (FINRA BrokerCheck Disclosure)

July 8, 2010.

I. Introduction

On March 30, 2010, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“Commission”),

pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder,² a proposed rule change to amend FINRA Rule 8312 (FINRA BrokerCheck Disclosure) to (i) expand the information released through BrokerCheck, both in terms of scope and time; and (ii) establish a formal process to dispute the accuracy of, or update, information disclosed through BrokerCheck. The proposal was published for comment in the **Federal Register** on April 22, 2010.³ The Commission received fourteen comments on the proposal.⁴ FINRA responded to the comments on June 21, 2010.⁵ This order approves the proposed rule change.

II. Description of the Proposal

A. Expansion of Information Released through BrokerCheck

Pursuant to FINRA Rule 8312(b), BrokerCheck is an online application through which the public may obtain information regarding current and former members, associated persons and persons who were associated with a member within the preceding two years. Historic Complaints⁶ regarding such persons are disclosed pursuant to Rule 8312(b) only if: (i) A matter became a Historic Complaint on or after March 19, 2007; (ii) the most recent Historic Complaint or currently reported customer complaint, arbitration or litigation is less than ten years old; and (iii) the person has a total of three or more currently disclosable regulatory actions, currently reported customer complaints, arbitrations or litigations, or Historic Complaints (subject to the limitation that they became Historic Complaints on or after March 19, 2007), or any combination thereof (the “three strikes provision”).⁷ In addition,

pursuant to FINRA Rule 8312(c), BrokerCheck allows the public to obtain certain limited information regarding formerly associated persons, regardless of the time elapsed since they were associated with a member, if they were the subject of any final regulatory action.⁸

In connection with its most recent change to BrokerCheck,⁹ FINRA stated that it would consider whether to provide greater disclosure of information through BrokerCheck.¹⁰ Based on its continued evaluation of the BrokerCheck program, FINRA proposes to (i) expand the BrokerCheck disclosure period for formerly associated persons of a member from two years to ten years and (ii) eliminate the conditions that must be met before Historic Complaints will be displayed in BrokerCheck (*i.e.* the three strikes provision) and, thereby, make publicly available in BrokerCheck all Historic Complaints that were archived after the implementation of Central Registration Depository (“CRD” or “Web CRD”) on August 16, 1999.¹¹

Additionally, FINRA proposes to make publicly available on a permanent basis information regarding formerly associated persons, regardless of the time elapsed since they were associated with a member, if they were convicted of or pled guilty or nolo contendere to a crime;¹² were the subject of a civil injunction in connection with investment-related activity or a civil court finding of involvement in a violation of any investment-related statute or regulation;¹³ or were named as a respondent or defendant in an investment-related, consumer-initiated

⁸ A “final regulatory action” includes any final action of the Commission, Commodity Futures Trading Commission, a Federal banking agency, the National Credit Union Administration, another Federal regulatory agency, a State regulatory agency, a foreign financial regulatory authority, or a self-regulatory organization, including actions that have been appealed. *See* Questions 14C, 14D, and 14E on Form U4, as well as Question 7D of Form U5. *See also* Section 3(a)(39) of the Act.

⁹ *See* Securities Exchange Act Release No. 61002 (November 13, 2009), 74 FR 61193 (November 23, 2009) (SR–FINRA–2009–050).

¹⁰ *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Richard E. Pullano, Associate Vice President and Chief Counsel, FINRA, dated October 15, 2009, in response to comments received regarding Securities Exchange Act Release No. 60462 (August 7, 2009), 74 FR 41470 (August 17, 2009) (SR–FINRA–2009–050); *see also* discussion of comments in Securities Exchange Act Release No. 61002 (November 13, 2009), 74 FR 61193 (November 23, 2009) (SR–FINRA–2009–050).

¹¹ *See* proposed FINRA Rule 8312(b).

¹² *See* Questions 14A(1)(a) and 14B(1)(a) on Form U4, as well as Questions 7C(1) and 7C(3) on Form U5.

¹³ *See* Questions 14H(1)(a) and 14H(1)(b) on Form U4.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ *See* Securities Exchange Act Release No. 61927 (April 16, 2010), 75 FR 21064 (April 22, 2010) (SR–FINRA–2010–012) (“Notice”).

⁴ *See* Exhibit A for a list of comment letters.

⁵ *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Richard E. Pullano, Associate Vice President and Chief Counsel, FINRA, dated June 21, 2010 (“Response Letter”).

⁶ Historic Complaints are customer complaints that were reported on a uniform registration form that are more than two years old and that have not been settled or adjudicated and customer complaints, arbitrations, or litigations that have been settled for an amount less than the specified dollar amount (identified on the customer complaint question) and are therefore no longer reportable on a uniform registration form. *See* FINRA Rule 8312(b)(7).

⁷ *Id.* In addition, if a person meets the three criteria established for disclosing Historic Complaints, only those Historic Complaints that became Historic Complaints after March 19, 2007 will be displayed through BrokerCheck.

¹³ 17 CFR 200.30–3(a)(12).