

the beginning of the trading day following the interruption. In addition, the Web site disclosure of the portfolio composition of each Fund will occur at the same time as the disclosure by the Sponsor of the portfolio composition to authorized participants so that all market participants are provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public Web site as well as in electronic files provided to authorized purchasers. Accordingly, each investor will have access to the current portfolio composition of the Funds through each Fund's Web site. The Exchange may halt trading in the Units if trading is not occurring in the underlying futures contracts or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.<sup>21</sup> In addition, the Exchange represents that the Sponsor, SummerHaven Indexing and SummerHaven are not affiliated with a broker-dealer and are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the underlying index levels or the Funds' portfolios. Lastly, the trading of the Units will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on ETP Holders<sup>22</sup> acting as registered Market Makers<sup>23</sup> in Trust Issued Receipts to facilitate surveillance.

The Exchange has represented that the Units are deemed to be equity securities, thus rendering trading in the Units subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Funds will be subject to the criteria in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto for initial and continued listing of the Units.

(2) The Exchange has appropriate rules to facilitate transactions in the Units during all trading sessions.

(3) The Exchange's surveillance procedures are adequate to properly

monitor Exchange trading of the Units in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) With respect to the Funds' futures contracts traded on exchanges, not more than 10% of the weight of such futures contracts in the aggregate shall consist of components whose principal trading market is not a member of the Intermarket Surveillance Group or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

(5) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Units. Specifically, the Information Bulletin will discuss the following: (a) The risks involved in trading the Units during the Opening and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (b) the procedures for purchases and redemptions of Units in creation baskets and redemption baskets (and that Units are not individually redeemable); (c) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Units; (d) how information regarding the IFV is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Units prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(6) A minimum of 100,000 Units for each Fund will be outstanding as of the start of trading on the Exchange.

(7) With respect to application of Rule 10A-3<sup>24</sup> under the Act, the Trust relies on the exception contained in Rule 10A-3(c)(7).<sup>25</sup>

This approval order is based on the Exchange's representations.<sup>26</sup>

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>27</sup> and the rules and

regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>28</sup> that the proposed rule change (SR-NYSEArca-2011-63) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2011-27698 Filed 10-25-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65599; File No. SR-FINRA-2011-043]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change To Amend FINRA Rule 0160 (Definitions in FINRA By-Laws)

October 20, 2011.

#### I. Introduction

On August 31, 2011, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers ("NASD")) filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend FINRA Rule 1060 (Definitions in FINRA By-Laws). The proposed rule change was published for comment in the **Federal Register** on September 16, 2011.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

FINRA is proposing to amend FINRA Rule 0160 (Definitions in FINRA By-Laws). As part of the process of developing the new consolidated rulebook ("Consolidated FINRA Rulebook"),<sup>4</sup> the proposed rule change

<sup>21</sup> With respect to trading halts, the Exchange may consider other relevant factors in exercising its discretion to halt or suspend trading in the Units of the Funds. Trading in the Units of the Funds will be subject to halts caused by extraordinary market volatility pursuant to the Exchange's circuit breaker rules in NYSE Arca Equities Rule 7.12. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Units inadvisable.

<sup>22</sup> See NYSE Arca Equities Rule 1.1(n) (defining ETP Holder).

<sup>23</sup> See NYSE Arca Equities Rule 1.1(u) (defining Market Maker).

<sup>24</sup> 17 CFR 240.10A-3.

<sup>25</sup> 17 CFR 240.10A-3(c)(7).

<sup>26</sup> The Commission notes that it does not regulate the market for futures in which the Fund plans to take positions, which is the responsibility of the Commodity Futures Trading Commission ("CFTC"). The CFTC has the authority to set limits on the positions that any person may take in futures. These limits may be directly set by the CFTC or by the markets on which the futures are traded. The Commission has no role in establishing position limits on futures, even though such limits could impact an exchange-traded product that is under the jurisdiction of the Commission.

<sup>27</sup> 15 U.S.C. 78f(b)(5).

<sup>28</sup> 15 U.S.C. 78s(b)(2).

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

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

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

<sup>3</sup> See Securities Exchange Act Release No. 65313 (September 12, 2011), 76 FR 57784 ("Notice").

<sup>4</sup> The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE

will amend FINRA Rule 0160. The proposed rule change will transfer certain defined terms from NASD Rule 0120 (Definitions) to FINRA Rule 0160, subject to certain amendments, as well as add new defined terms to reflect the conventions of the Consolidated FINRA Rulebook.<sup>5</sup> The proposed rule change will also eliminate as unnecessary or duplicative certain definitions contained in NASD Rule 0120. In addition, the proposed rule change will eliminate NASD Rule 0120 from the current FINRA rulebook.<sup>6</sup>

The proposed rule change will also transfer certain terms with either no or minor substantive changes to FINRA Rule 0160, as well as make minor and conforming changes to NASD Rule 0120(f)(2) and (f)(3) and FINRA Rule 0160(b)(3)(B) and (3)(C). The proposed rule change will also add defined terms to FINRA Rule 0160 because such terms are used throughout the Consolidated FINRA Rulebook.<sup>7</sup> Although the proposed rule change will not incorporate certain defined terms in NASD Rule 0120, FINRA represents that this will not eliminate any substantive FINRA requirements.<sup>8</sup>

FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following this Commission approval. The effective date will be no later than 150 days following this Commission approval.

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,<sup>9</sup> which requires, among other things, that FINRA rules be designed to

Rules apply only to those members of FINRA that are also members of the NYSE. The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice*, March 12, 2008 (Rulebook Consolidation Process). For convenience, the Incorporated NYSE Rules are referred to as the NYSE Rules.

<sup>5</sup> FINRA Rule 0160 would be reorganized so that the defined terms are arranged alphabetically, as amended.

<sup>6</sup> Notwithstanding the proposed transfer of certain defined terms from NASD Rule 0120 to FINRA Rule 0160 in the Consolidated FINRA Rulebook, the defined terms in FINRA Rule 0160 would continue to apply equally to both the Transitional Rulebook and the Consolidated FINRA Rulebook, as applicable. See also Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (Order Approving SR-FINRA-2008-021), discussing "Rules of General Applicability."

<sup>7</sup> See Notice at 57785.

<sup>8</sup> *Id.*

<sup>9</sup> 15 U.S.C. 78o-3(b)(6).

prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change will provide clarity with respect to the defined terms for the Consolidated FINRA Rulebook by transferring certain defined terms from NASD Rule 0120 to FINRA Rule 0160 (subject to certain amendments), adding new defined terms to FINRA Rule 0160 to reflect the conventions of the Consolidated FINRA Rulebook and eliminating as unnecessary or duplicative certain definitions contained in NASD Rule 0120.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-FINRA-2011-043) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2011-27697 Filed 10-25-11; 8:45 am]

**BILLING CODE 8011-01-P**

## DEPARTMENT OF STATE

[Public Notice 7650]

### U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy will hold a public meeting on November 29, 2011, in Santa Monica, CA, in partnership with the RAND Corporation. The meeting will take place at the RAND offices at 1176 Main Street in Santa Monica, CA, in the Forum Auditorium. The meeting will begin at 9 a.m. and end at 3 p.m. (doors open for registration and continental breakfast at 8:30 a.m.).

*The topic is narratives:* what they are, how they are shaped and countered. The conference will delve into the impact on narratives of actions and words (primarily U.S. but also others if lessons for us are clearly articulated), and the impact of environmental factors.

This meeting is open to the public, Members and staff of Congress, the State Department, Defense Department, the media, and other governmental and non-governmental organizations. To request further information, or to request reasonable accommodation,

contact the Commission at (202) 203-7463 or [pdcommission@state.gov](mailto:pdcommission@state.gov). To attend, contact the RAND Corporation by phone at (412) 683-2300 ext 4906 or e-mail to [maria\\_falvo@rand.org](mailto:maria_falvo@rand.org) and provide your full name, citizenship (U.S. citizenship is not required to attend), and institutional/organizational affiliation.

The United States Advisory Commission on Public Diplomacy appraises U.S. Government activities intended to understand, inform, and influence foreign publics. The Advisory Commission may conduct studies, inquiries, and meetings, as it deems necessary. It may assemble and disseminate information and issue reports and other publications, subject to the approval of the Chairperson, in consultation with the Executive Director. The Advisory Commission may undertake foreign travel in pursuit of its studies and coordinate, sponsor, or oversee projects, studies, events, or other activities that it deems desirable and necessary in fulfilling its functions.

The Commission consists of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party. The President designates a member to chair the Commission.

*The current members of the Commission are:* Mr. William Hybl of Colorado, Chairman; Ambassador Lyndon Olson of Texas, Vice Chairman; Ambassador Penne Korth-Peacock of Texas; Ms. Lezlee Westine of Virginia; and, Mr. Sim Farar of California. Two seats on the Commission are currently vacant.

The following individual has been nominated to the Commission but awaits Senate confirmation as of this writing: Anne Wedner of Illinois.

The Advisory Commission was originally established under Section 604 of the United States Information and Exchange Act of 1948, as amended (22 U.S.C. 1469) and Section 8 of Reorganization Plan Numbered 2 of 1977. The U.S. Advisory Commission on Public Diplomacy is authorized by Public Law 101-246 (2009), 22 U.S.C. 6553, and has been further authorized through November 18, 2011. In the absence of subsequent legislation extending the authority for the Commission, this meeting will be cancelled.

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

<sup>11</sup> 17 CFR 200.30-3(a)(12).