overreaching. Applicants note that sales and redemptions of shares of the Underlying Funds will be at the net asset values of such Underlying Funds. In addition, applicants represent that the proposed transactions will be consistent with the policies of each Fund involved and the general purposes of the Act.

Applicants’ Conditions
Applicants agree that any order granting the requested relief will be subject to the following conditions:
1. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.
2. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of an Investing Fund, including a majority of the trustees who are not interested persons, as defined in section 2(a)(19) of the Act, of the Underlying Fund, will find that advisory fees, if any, charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund’s advisory contract. Such finding, and the basis upon which it was made, will be recorded fully in the minute books of the Investing Fund.
3. Each Investing Fund and each Underlying Fund will be part of the same “group of investment companies,” as defined in section 12(d)(1)(G)(ii) of the Act.
4. No Underlying Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions; or (c) invests in a Cayman Subsidiary that is a wholly-owned and controlled subsidiary of the Underlying Fund as described in the application. Further, no Cayman Subsidiary will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act other than money market funds that comply with rule 2a–7 for short-term cash management.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.
Kevin M. O’Neill, Deputy Secretary.
[FR Doc. 2013–00434 Filed 1–10–13; 8:45 am]

SEcurities and exChange comMISSION
[Investment Company Act Release No. 30341; File No. 812–13984]
Fidelity Commonwealth Trust, et al.; Notice of Application
January 7, 2013.
AGENCY: Securities and Exchange Commission (“Commission”).
ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(I) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY: Summary of Application: Applicants request an order that would permit (a) Certain open-end management investment companies or series thereof to issue shares (“Shares”) redeemable in large aggregations only (“Creation Units”); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to perform creations and redemptions of Shares in-kind in a master-feeder structure.

Applicants: Fidelity Commonwealth Trust (the “Trust”), Fidelity Management & Research Company (the “Adviser”), and Fidelity Distributors Corporation (the “Distributor”).
DATES: Filing Dates: The application was filed on December 1, 2011, and

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing.Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 31, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, 82 Devonshire Street, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel at (202) 551–6817, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or an applicant using the Company name box, at http://www.sec.gov/search/search.htm or by calling (202) 551–8000.

Applicants’ Representations
1. The Trust is registered under the Act as an open-end management investment company and is organized as a Massachusetts business trust. The Trust initially will offer one Fund (defined below) identified in the application (“Current Fund”), whose performance will correspond to the price and yield performance, before fees and expenses, of a specified securities index (“Underlying Index”).

2. Applicants request that the order apply to the Current Fund and any additional series of the Trust and any other open-end management investment company or series thereof that may be created in the future (“Future Funds”) and that tracks an Underlying Index. Any Future Fund will be (a) advised by the Adviser, or an entity controlling, controlled by, or common control with the Adviser (included in the term “Adviser”) and (b) comply with the terms and conditions of the application. The Current Fund and any Future Funds together are the “Funds.”

3. Certain of the Funds will be based on Underlying Indexes which will be comprised of equity and/or fixed income securities issued by domestic issuers or non-domestic issuers meeting the requirements for trading in U.S. markets (“Domestic Indexes”). Other Funds will be based on Underlying Indexes which will be comprised of foreign and domestic or solely foreign equity and/or fixed income securities (“Foreign Indexes”). Funds which track Domestic Indexes are referred to as “Domestic Funds” and Funds which track Foreign Indexes are referred to as “Foreign Funds.” Underlying Indexes that include both long and short positions in securities are referred to as “Long/Short Indexes.” Funds based on Long/Short Indexes are “Long/Short Funds.” Underlying Indexes that use a 130/30 investment strategy are referred to as “130/30 Indexes.” Funds based on 130/30 Indexes are “130/30 Funds.”

4. An Adviser registered as an investment adviser under the Investment Advisers Act of 1940 (the “Advisers Act”) will serve as investment adviser to the Funds. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-adviser to a Fund (each, a “Sub-Adviser”). Each Sub-Adviser will be registered or not subject to registration under the Advisers Act. The Distributor is a broker-dealer registered under the Securities Exchange Act of 1934 (the “Exchange Act”) and will act as the principal underwriter and distributor for the Funds.

5. A Fund may operate as a feeder fund in a master-feeder structure (“Feeder Fund”). Applicants request that the order permit the Feeder Funds to acquire securities of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund ("Master Fund") beyond the limitation in section 12(d)(1)(A) and permit the Master Funds, and any principal underwriter for the Master Fund, to sell shares of the Master Funds to the Feeder Funds beyond the limitations in section 12(d)(1)(B) (“Master-Feeder Relief”). Applicants may structure certain Feeder Funds to generate economies of scale and incur lower overhead costs. There would be no ability by Fund shareholders to exchange Shares of Feeder Funds for shares of another feeder series of the Master Fund.

6. Each Fund will hold certain securities and other instruments (“Portfolio Securities”) selected to correspond to the performance of its Underlying Index. Except with respect to Affiliated Index Funds (defined below), no entity that creates, compiles, sponsors or maintains an Underlying Index (“Index Provider”) will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, a Fund, the Adviser, any Sub-adviser, or promoter of a Fund, or of the Distributor.

7. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in substantially all of the Component Securities in its Underlying Index in the same approximate proportions as in the Underlying Index. A Fund using a representative sampling strategy will hold some, but may not hold all, of the Component Securities of its Underlying Index. Applicants state that use of the representative sampling strategy may prevent a Fund from tracking the performance of its Underlying Index with the same degree of accuracy as would a Fund that invests in every Component Security of the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5 percent.

8. Each Fund will issue, on a continuous basis, Creation Units, which

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1 All entities that currently intend to rely on the order have been named as applicants. Any other entities that currently intend to rely on the order have been named as applicants.

2 Applicants request that the order also apply to any other open-end management investment company or series thereof that may be created in the future (“Future Funds”). Any Future Fund will be (a) advised by the Adviser, or an entity controlling, controlled by, or common control with the Adviser (included in the term “Adviser”) and (b) comply with the terms and conditions of the application. The Current Fund and any Future Funds together are the “Funds.”

3 Operating in a master-feeder structure could also impose costs on a Feeder Fund and reduce its tax efficiency. The Feeder Fund’s Board will weigh the potential disadvantages against the benefits of economies of scale and other benefits of operating within a master-feeder structure. In a master-feeder structure, the Master Fund—rather than the Feeder Fund—would generally invest the portfolio in compliance with the Order.

4 Applicants request that each Fund will invest at least 80% of its total assets in the component securities that comprise its Underlying Index (“Component Securities”) or, as applicable, depositary receipts or TBA Transactions (as defined below) representing Component Securities. Each Fund also may invest up to 20% of its total assets (the “20% Asset Basket”) in a broad variety of other instruments, including securities not included in its Underlying Index, which the Adviser believes will help the Fund track its Underlying Index.
will typically consist of at least 25,000 Shares and have an initial price per Share of $25 to $100. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into an agreement with the Distributor ("Authorized Participant"). The Distributor will be responsible for delivering the Fund’s prospectus to those persons acquiring Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares. An Authorized Participant must be either (a) a “Participating Party,” (i.e., a broker-dealer or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation ("NSCC"), a clearing house registered with the Commission, or (b) a participant in the Depository Trust Company ("DTC," and such participant, "DTC Participant"), which, in either case, has signed a “Participant Agreement” with the Distributor.

9. The Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments ("Deposit Instruments"), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments ("Redemption Instruments"). Any on any given Business Day the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in a Fund’s portfolio (including cash positions), except: (a) in the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; (c) “to be announced” transactions (“TBA Transactions”), short positions, derivatives and other positions that cannot be transferred in kind will be excluded from the Deposit Instruments and the Redemption Instruments; to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund’s portfolio; or (e) for temporary periods, to effect changes in the Fund’s portfolio as a result of the rebalancing of its Underlying Index (any such change, a “Rebalancing”). If there is a difference between the net asset value ("NAV") attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the “Balancing Amount”).

10. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Balancing Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC; or (ii) in the case of Foreign Funds, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind. Each Business Day, before the open of trading on a national securities exchange, as defined in section 2(a)(26) of the Act ("Exchange") on which Shares are listed ("Listing Exchange"), each Fund will cause to be published through the NSCC two lists of the estimated Balancing Amount (if any), for that day. The list of Deposit Instruments and the list of Redemption Instruments will apply until new lists are announced on the following Business Day, and there will be no intra-
day changes to the lists except to correct errors in the published lists.

12. For the Long/Short Funds and 130/30 Funds, the Adviser will provide full portfolio holdings disclosure on a daily basis on the Funds’ publicly available Web site (“Web site”) and will develop an “IVV File,” which it will use to disclose the Funds’ full portfolio holdings, including short positions. Before the opening of business on each Business Day, the Trust, Adviser or other third party, will make the IVV File available by email upon request. Applicants state that given either the IVV File or the Web site disclosure, anyone will be able to know in real time the intraday value of the Long/Short Funds and 130/30 Funds. With respect to the Long/Short Funds and 130/30 Funds, the investment characteristics of any financial instruments and short positions used to achieve short and long exposures will be described in sufficient detail for market participants to understand the principal investment strategies of the Funds and to permit informed trading of their Shares.

13. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (“Market Maker”) and maintain a market in Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/ask market. Shares sold in the secondary market will be subject to customary brokerage commissions and charges.

14. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers also may purchase Creation Units for use in market-making activities. Applicants expect that secondary market purchasers of Shares will include both institutional investors and retail investors. Applicants expect that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option to continually purchase or redeem Creation Units at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

15. Shares will not be individually redeemable. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption orders must be placed by or through an Authorized Participant.

16. An investor purchasing or redeeming a Creation Unit from a Fund may be charged a fee (“Transaction Fee”) to protect existing shareholders of the Funds from the dilutive costs associated with the purchase and redemption of Creation Units. With respect to Feeder Funds, the Transaction Fee would be paid indirectly to the Master Fund.

17. Neither the Trust nor any Fund will be advised or otherwise held out as a traditional open-end investment company or a mutual fund. Instead, each Fund will be marketed as an “exchange traded fund (“ETF”). All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and that the owners of Shares may purchase or redeem Shares from the Fund in Creation Units. The same approach will be followed in the shareholder reports issued or circulated in connection with the Shares. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to shareholders.

18. Applicants also request that the order allow them to offer Funds for which an affiliated person of the Adviser will serve as the Index Provider (“Affiliated Index Fund”). The Index Provider to an Affiliated Index Fund (“Affiliated Index Provider”) will create a proprietary, rules based methodology (“Rules-Based Process”) to create Underlying Indexes for use by the Affiliated Index Funds and other investors (an “Affiliated Index”). The Affiliated Index Provider, as owner of the Underlying Indexes and all related intellectual property related thereto, will license the use of the Affiliated Indexes, their names and other related intellectual property to the Adviser for use in connection with the Affiliated Index Funds, or their respective Master Funds. The licenses for the Affiliated Index Funds, or their respective Master Funds will state that the Adviser must provide the use of the Affiliated Indexes and related intellectual property at no cost to the Trust and the Affiliated Index Funds, or their respective Master Funds.

19. Applicants contend that the potential conflicts of interest arising from the fact that the Affiliated Index Provider will be an “affiliated person” of the Adviser will not have any impact on the operation of the Affiliated Index Funds because the Affiliated Index Funds will be transparent, and the Affiliated Index Provider, the Adviser, any Sub-Adviser and the Affiliated Index Funds each will adopt policies and procedures to address any potential conflicts of interest (“Policies and Procedures”). The Affiliated Index Provider will publish in the public domain, including on its Web site and/or the Affiliated Index Funds’ Web site, all of the rules that govern the construction and maintenance of each of its Affiliated Indexes. Applicants believe that this public disclosure will prevent the Adviser from possessing any advantage over other market participants by virtue of its affiliation with the Affiliated Index Provider, the owner of the Affiliated Indexes. Applicants note that the identity and weightings of the securities of any Affiliated Index will be

15 The information on the Web site will be the same as that disclosed to Authorized Participants in the IVV File, except that (a) the information provided on the Web site will be formatted to be reader-friendly and (b) the current value of the Deposit Instruments and any short positions, on a per individual Share basis.

16 Shares of each Fund’s shares by a Feeder Fund only if it requires the same payment for equivalent purchases or redemptions by any other feeder fund. Thus, for example, a Master Fund may require payment of a Transaction Fee to a Feeder Fund for transactions for 20,000 or more shares so long as it requires payment of the same Transaction Fee by all feeder funds for transactions involving 20,000 or more shares.

19 The Underlying Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be “investment companies” in reliance on section 3(c)(7) or 3(c)(7) of the Act or other pooled investment vehicles for which the Adviser acts as adviser or sub-adviser (“Affiliated Accounts”) as well as other such registered investment companies, separately managed accounts, privately offered funds and other pooled investment vehicles for which it does not act either as adviser or sub-adviser (“Unaffiliated Accounts”). The Affiliated Accounts and the Unaffiliated Accounts (collectively, “Accounts”), like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Index(es) in a representative sample of such constituents of the index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.
readily ascertainable by any third party because the Rules-Based Process will be publicly available.

20. Like other index providers, the Affiliated Index Provider may modify the Rules-Based Process in the future. The Rules-Based Process could be modified, for example, to reflect changes in the underlying market tracked by an Affiliated Index, the way in which the Rules-Based Process takes into account market events or to change the way a corporate action, such as a stock split, is handled. Such changes would not take effect until the Index Personnel (defined below) has given (a) the Calculation Agent (defined below) reasonable prior written notice of such rule changes, and (b) the investing public at least sixty (60) days published notice that such changes will be implemented. Affiliated Indexes may have reconstitution dates and rebalance dates that occur on a periodic basis more frequently than once yearly, but no more frequently than monthly.

21. As owner of the Affiliated Indexes, the Affiliated Index Provider will hire a calculation agent (“Calculation Agent”). The Calculation Agent will determine the number, type, and weight of securities that will comprise each Affiliated Index, will perform all other calculations necessary to determine the proper make-up of the Affiliated Index, including the reconstitutions for such Affiliated Index, and will be solely responsible for all such Affiliated Index maintenance, calculation, dissemination and reconstitutions. The Calculation Agent will not be an affiliated person, as such term is defined in the Act, or an affiliated person of an affiliated person, of the Funds, or their respective Master Funds, the Adviser, any Sub-Adviser, any promoter of a Fund or the Distributor.

22. The Adviser and the Affiliated Index Provider will adopt and implement Policies and Procedures to address any potential conflicts of interest. Among other things, the Policies and Procedures will be designed to limit or prohibit communication between employees of the Affiliated Index Provider and its affiliates who have responsibility for the Affiliated Indexes and the Rules Based Process, as well as those employees of the Affiliated Index Provider and its affiliates appointed to assist such employees in the performance of his/her duties (“Index Personnel”) and other employees of the Affiliated Index Provider. The Index Personnel (a) will not have responsibility for the management of the Affiliated Index Funds, or their respective Master Funds, or the Affiliated Accounts, (b) will be expressly prohibited from sharing this information with any employees of the Adviser or those of any Sub-Adviser, that have responsibility for the management of the Affiliated Index Funds, or their respective Master Funds, or any Affiliated Account until such information is publicly announced, and (c) will be expressly prohibited from sharing or using this non-public information in any way except in connection with the performance of their respective duties. In addition, the Adviser and any Sub-Adviser will adopt and implement, pursuant to rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. Also, the Adviser has adopted a code of ethics pursuant to rule 17–1 under the Act and rule 20A–1 under the Advisers Act (“Code of Ethics”). Any Sub-Adviser will be required to adopt a Code of Ethics and provide the Trust with the certification required by rule 17–1 under the Act. In conclusion, Applicants submit that the Affiliated Index Funds will operate in a manner very similar to the other index-based ETFs which are currently traded.

Applicants’ Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment companies for which the provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an “open-end company” as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer’s current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because the market price of Shares will be disciplined by arbitrage opportunities, investors should be able to buy and sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund’s prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act.

Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally
satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution system of investment company shares by eliminating price competition from non-conttract dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve Trust assets and will not result in dilution of an investment in Shares, and (b) the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because competitive forces will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that the settlement of redemptions for the Foreign Funds will be contingent not only on the settlement cycle of the U.S. securities markets, but also on the delivery cycles in local market for the underlying foreign securities held by the Foreign Funds. Applicants believe that under certain circumstances, the delivery cycles for transferring Portfolio Securities to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 15 calendar days. Applicants therefore request relief from section 22(e) in order to provide for payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local markets where transactions in the Portfolio Securities of each Foreign Fund customarily clear and settle, but in all cases no later than 15 calendar days following the tender of a Creation Unit.22 With respect to Future Funds that are Foreign Funds, applicants seek the same relief from section 22(e) only to the extent that circumstances exist similar to those described in the application.

8. Applicants submit that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants state that allowing redemption payments for Creation Units of a Foreign Fund to be made within a maximum of 15 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state the SAI will identify those instances in a given year where, due to local holidays, more than seven days will be needed to deliver redemption proceeds, and will list such holidays and the maximum number of days, but in no case more than 15 calendar days. Applicants are only seeking relief from section 22(e) to the extent that the Foreign Funds effect creations and redemptions of Creation Units in-kind.23

9. With respect to Feeder Funds, only in-kind redemptions may proceed on a delayed basis pursuant to the relief requested from section 22(e). In the event of such an in-kind redemption, the Feeder Fund would make a corresponding redemption from the Master Fund. Applicants do not believe the master-feeder structure would have any impact on the delivery cycle.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter or any other broker or dealer from selling the investment company’s shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company’s voting stock, or if the sale will cause more than 10% of the acquired company’s voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit management investment companies (“Investing Management Companies”) and unit investment trusts (“Investing Trusts”) registered under the Act that are not sponsored or advised by the Adviser and are not part of the same “group of investment companies,” as defined in section 12(d)(1)(G)(ii) of the Act, as the Funds (collectively, “Fund of Funds”) to acquire Shares beyond the limits of section 12(d)(1)(A). In addition, applicants seek relief to permit the Funds, the Distributor, and any broker-dealer that is registered under the Exchange Act to sell Shares of Fund of Funds in excess of the limits of section 12(d)(1)(B).

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the “Fund of Funds Adviser”) and may be sub-advised by one or more investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a “Fund of Funds Sub-Adviser”). Any Fund of Funds Adviser or Fund of Funds Sub-Adviser will be registered or not subject to registration under the Advisers Act. Each Investing Trust will have a sponsor (“Sponsor”).

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in section 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither the Fund of Funds nor any Fund of Funds Affiliate would be able to exert undue influence over the Funds or any Fund Affiliates.24 To limit the control that a

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21 In the past, settlement in certain countries, including Russia, has extended to 15 calendar days.

22 Applicants acknowledge that relief obtained from the requirements of section 22(e) will not affect any obligations applicants may have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

23 The requested exemption from Section 22(e) would only apply to in-kind redemptions by the Feeder Funds and would not apply to in-kind redemptions by other feeder funds.

24 A “Fund of Funds Affiliate” is the Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A “Fund Affiliate” is the investment adviser, promoter, or principal

Continued
Fund of Funds may have over a Fund, applicants propose a condition
prohibiting a Fund of Funds Adviser or a Sponsor, any person controlling,
controlled by, or under common control with the Fund of Funds Adviser or
Sponsor, and any investment company or issuer that would be an investment
company but for section 3(c)(1) or 3(c)(7) of the Act that is advised or
sponsored by the Fund of Funds Adviser or Sponsor, or any person
controlling, controlled by, or under common control with the Fund of
Funds Adviser or Sponsor (“Fund of Funds’ Advisory Group”) from
controlling (individually or in the aggregate) a Fund within the meaning of
section 2(a)(9) of the Act. The same prohibition would apply to any Fund of
Funds Sub-Adviser, any person controlling, controlled by or under
common control with the Fund of Funds Sub-Adviser, and any investment
company or issuer that would be an investment company but for section
3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer)
advised or sponsored by the Fund of Funds Sub-Adviser or any person
controlling, controlled by or under common control with the Fund of
Funds Sub-Adviser (“Fund of Funds Sub-Advisory Group”). Applicants
propose other conditions to limit the potential for undue influence over the
Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to
the extent it is acting in its capacity as an investment adviser to a Fund) will cause
a Fund to purchase a security in an offering of securities during the
existence of an underwriting or selling syndicate of which a principal
underwriter is an Underwriting Affiliate (“Affiliated Underwriting”). An
“Underwriting Affiliate” is a principal underwriter in any underwriting or
selling syndicate that is an officer, director, member of an advisory board,
Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or
Sponsor of the Fund of Funds, or a person of which any such officer,
director, member of an advisory board, Fund of Funds Adviser, Fund of Funds
Sub-Adviser, employee or Sponsor is an affiliated person (except that any person
whose relationship to the Fund is covered by section 10(f) of the Act is not an
Underwriting Affiliate).

15. Applicants do not believe that the proposed arrangement involves
excessive layering of fees. The board of directors or trustees of any Investing
underwriter of a Fund and any person controlling, controlled by or under common control with any of
those entities.

Management Company, including a majority of the disinterested directors or
trustees, will find that the advisory fees charged under the contract are based on
services provided that will be in addition to, rather than duplicative of,
offering of securities during the existence of an underwriting or selling
syndicate of which a principal underwriter is an Underwriting Affiliate (“Affiliated Underwriting”). An
“Underwriting Affiliate” is a principal underwriter in any underwriting or
selling syndicate that is an officer, director, member of an advisory board,
Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or
Sponsor of the Fund of Funds, or a person of which any such officer,
director, member of an advisory board, Fund of Funds Adviser, Fund of Funds
Sub-Adviser, employee or Sponsor is an affiliated person (except that any person
whose relationship to the Fund is covered by section 10(f) of the Act is not an
Underwriting Affiliate).

15. Applicants do not believe that the proposed arrangement involves
excessive layering of fees. The board of directors or trustees of any Investing
underwriter of a Fund and any person controlling, controlled by or under common control with any of
those entities.

16. Applicants submit that the
policies of a company. It also provides
limitations applicable to a fund of funds set
forth in NASD Conduct Rule 2830.25
Applicants submit that the requested 12(d)(1) Relief addresses
concerns over overly complex
structures. Applicants note that a Fund
(or its respective Master Fund) will be
prohibited from acquiring securities of
any investment company or company
rellying on section 3(c)(1) or 3(c)(7) of
the Act in excess of the limits contained in
section 12(d)(1)(A) of the Act, except to
the extent permitted by exemptive
relief from the Commission permitting
the Fund (or its respective Master Fund)
to purchase shares of other investment
companies for short-term cash
management purposes or pursuant to
the Master-Feeder Relief.

17. To ensure that a Fund of Funds is aware of the terms and conditions of the
requested order, the Fund of Fund must enter into an agreement with the
respective Fund (“FOF Participation Agreement”). The FOF Participation Agreement will include an
acknowledgment from the Fund of
Funds that it may rely on the order only
to invest in the Funds and not in any
other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of
Shares by a Fund of Funds. To the extent that a Fund of Funds purchases
Shares in the secondary market, a Fund
would still retain its ability to reject
initial purchases of Shares made in
reliance on the requested order by
declaring to enter into the FOF
Participation Agreement prior to any
investment by a Fund of Funds in
excess of the limits of section
12(d)(1)(A).

19. Applicants also are seeking the
Master-Feeder Relief to permit the
Feeder Funds to perform creations and
redemptions of Shares in-kind in a
master-feeder structure. Applicants
assert that this structure is substantially identical to traditional master-feeder structures permitted pursuant to the
exception provided in section
12(d)(1)(E) of the Act. Section
12(d)(1)(E) provides that the percentage
limitations of sections 12(d)(1)(A) and
(B) will not apply to a security issued
by an investment company (in this case,
the shares of the applicable Master
Fund) if, among other things, that
security is the only investment security
held in the investing fund’s portfolio (in
this case, the Feeder Fund’s portfolio).
Applicants believe the proposed master-
feeder structure complies with section
12(d)(1)(E) because each Feeder Fund
will hold only investment securities issued by its corresponding Master
Fund; however, the Feeder Funds may receive securities other than securities
of its corresponding Master Fund if a
Feeder Fund accepts an in-kind
creation. To the extent that a Feeder
Fund may be deemed to be holding both
shares of the Master Fund and other
securities, applicants request relief from sections 12(d)(1)(A) and
(B). The Feeder Funds would operate in compliance with all other provisions of section
12(d)(1)(E).

Sections 17(a)(1) and (2) of the Act

20. Section 17(a) of the Act generally
prohibits an affiliated person of a registered investment company, or an
affiliated person of such a person (“second-tier affiliate”), from selling any
security or other property to or
acquiring any security or other property from the company. Section 2(a)(3) of
the Act defines “affiliated person” of
another person to include (a) any person
directly or indirectly owning,
controlling or holding with power to
vote 5% or more of the outstanding
voting securities of the other person,
and (c) any person directly or indirectly
controlling, controlled by or under
common control with the other person.
Section 2(a)(9) of the Act defines control
as the power to exercise a controlling
influence over the management or
policies of a company. It also provides
that a control relationship will be
presumed where one person owns more than 25% of a company’s voting securities. The Funds may be deemed to be controlled by the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by the Adviser (an “Affiliated Fund”).

21. Applicants request an exemption from section 17(a) of the Act pursuant to sections 17(b) and 6(c) of the Act to permit persons to effectuate in-kind purchases and redemptions with a Fund when they are affiliated persons or second-tier affiliates of the Fund solely by virtue of one or more of the following: (a) Holding 5% or more, or more than 25%, of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds.

Applicants assert that no useful purpose would be served by prohibiting these types of affiliated persons from acquiring or redeeming Creation Units through in-kind transactions. Except as described in Section II.K.2 of the application, the Deposit Instruments and Redemption Instruments will be the same for all purchasers and redeemers regardless of the their identity. The deposit procedures for both in-kind purchases and in-kind redemptions of Creation Units will be the same for all purchases and redemptions, regardless of size or number. Deposit Instruments and Redemption Instruments will be valued in the same manner as Portfolio Securities are valued for purposes of calculating NAV. Applicants submit that, by using the same standards for valuing Portfolio Securities as are used for calculating in-kind redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such transactions. Applicants also believe that in-kind purchases and redemptions will not result in self-dealing or overreaching of the Fund.

23. Applicants also seek relief from section 17(a) to permit a Fund that is an affiliated person or second-tier affiliate of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.26 Applicants state that the terms of the proposed transactions will be fair and reasonable and will not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund’s registration statement.27 Further, as described in Section II.K.2 of the application, the Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively, and will correspond pro rata to the Fund’s Portfolio Securities, except as described above. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

24. To the extent that a Fund operates in a master-feeder structure, applicants also request relief permitting the Feeder Funds to engage in in-kind creations and redemptions with the applicable Master Fund. Applicants state that the customary section 17(a)(1) and 17(a)(2) relief would not be sufficient to permit such transactions because the Feeder Funds and the applicable Master Fund could also be affiliated by virtue of having the same investment adviser. However, applicants believe that in-kind creations and redemptions between a Feeder Fund and a Master Fund advised by the same investment adviser do not involve “overreaching” by an affiliated person. Such transactions will occur only at the Feeder Fund’s proportionate share of the Master Fund’s net assets, and the distributed securities will be valued in the same manner and at the same NAV used for the purposes of calculating the applicable Master Fund’s NAV. Further, all such transactions will be effected with respect to pro-determined securities and on the same terms with respect to all investors. Finally, such transactions would only occur as a result of, and to effectuate, a creation or redemption transaction between the Feeder Fund and a third-party investor. Applicants believe that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned and that the transactions are consistent with the general purposes of the Act.

Applicants’ Conditions

Applicants agree that any order of the Commission granting the requested ETF Relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief, other than the Section 12(d)(1) relief and the Section 17 relief related to a master-feeder structure, will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the Order, the Shares of such Fund will be listed on an Exchange.

3. No Fund will be advertised or marketed as an open-end investment company or mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemerability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Website for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day’s NAV and the market closing price or the Bid/Ask Price, and a calculation of the premium or discount of the market closing price of the Fund and tender those Shares for redemption to a Fund in Creation Units only.

B. Section 12(d)(1) Relief

Applicants agree that any order of the Commission granting the requested 12(d)(1) Relief will be subject to the following conditions:

1. The members of a Fund of Funds’ Advisory Group will not control (individually or in the aggregate) a Fund (or its respective Master Fund) within the meaning of Section 2(a)(9) of the Act. The members of a Fund of Funds’ Sub-Advisory Group will not control (individually or in the aggregate) a Fund (or its respective Master Fund) within the meaning of Section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds’ Advisory Group or the Fund of Funds’ Sub-Advisory Group also wish to include this acknowledgment.

26 To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and...
Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund’s Shares. This condition does not apply to the Fund of Funds’ Sub-Advisory Group with respect to a Fund (or its respective Master Fund) for which the Fund of Funds’ Sub-Adviser or a person controlling, controlled by or under common control with such investment adviser(s), or any person controlling, controlled by or
under common control with such investment adviser(s).
5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund (or its respective Master Fund) under Rule 12b-1 under the Act) received from a Fund (or its respective Master Fund) by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, Trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund (or its respective Master Fund), in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund (or its respective Master Fund) by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund (or its respective Master Fund), in connection with the investment by the Fund of Funds in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.
6. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund (or its respective Master Fund) or a Fund Affiliate.
3. The board of directors or trustees of an Investing Management Company, including a majority of the non-interested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund (or its respective Master Fund) or Fund Affiliate in connection with any services or transactions.
4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limit in Section 12(d)(1)(A)(i) of the Act, the board of directors (“Board”) of the Fund (or its respective Master Fund), including a majority of the non-interested directors or trustees, will determine that any consideration paid by the Fund (or its respective Master Fund) to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund (or its respective Master Fund); (ii) is within the range of consideration that the Fund (or its respective Master Fund) would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund (or its respective Master Fund) and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).
2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund (or its respective Master Fund) or a Fund Affiliate.
5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund (or its respective Master Fund) under Rule 12b-1 under the Act) received from a Fund (or its respective Master Fund) by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, Trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund (or its respective Master Fund), in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund (or its respective Master Fund) by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund (or its respective Master Fund), in connection with the investment by the Fund of Funds in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.
6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund (or its respective Master Fund)) will cause a Fund (or its respective Master Fund) to purchase a security in any Affiliated Underwriting.
7. The Board of a Fund (or its respective Master Fund), including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund (or its respective Master Fund) in an Affiliated Underwriting. If the Fund of Funds Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.
9. Before investing in a Fund in excess of the limits in Section 12(d)(1)(A), a Fund of Funds and the Trust will execute an FC Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the Order, and agree to fulfill their responsibilities under the Order. At the time of its investment in Shares of a Fund in excess of the limit in Section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The
Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the Order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under Section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the non-interested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund (or its respective Master Fund) in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund (or its respective Master Fund) will acquire securities of an investment company or company relying on Section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in Section 12(d)(1)(A) of the Act, except to the extent (i) the Fund (or its respective Master Fund) acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund (or its respective Master Fund) to acquire securities of one or more investment companies for short-term cash management purposes or (ii) the Fund acquires securities of the Master Fund pursuant to the Master—Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O’Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; NYSE MKT LLC: Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule With Respect to Regulatory Fees Related to the Central Registration Depository, Which Are Collected by the Financial Industry Regulatory Authority, Inc.

January 4, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”) and Rule 19b–4 thereunder, notice is hereby given that, on December 21, 2012, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) 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 amend the NYSE Amex Options Fee Schedule (the “Fee Schedule”) with respect to regulatory fees related to the Central Registration Depository (“CRD system”), which are collected by the Financial Industry Regulatory Authority, Inc. (“FINRA”). The Exchange proposes to implement the fee changes on January 2, 2013. The text of the proposed rule change is available on the Exchange’s Web site at www.nyse.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 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 amend the Fee Schedule with respect to regulatory fees related to the CRD system, which are collected by FINRA. The Exchange proposes to implement the fee changes on January 2, 2013.

Certain of the regulatory fees provided in the Fee Schedule are collected and retained by FINRA via the CRD system for the registration of associated persons of ATP Holders that are not FINRA members (“Non-FINRA ATP Holders”). The Exchange originally adopted fees for use of the CRD system in 2003. FINRA recently amended certain of the fees assessed for use of the CRD system, and those amendments will become effective January 2, 2013. The CRD system fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA ATP Holder. Accordingly, the Exchange is proposing to amend the fees in the Fee Schedule to mirror those assessed by FINRA, which will be implemented concurrently with the amended FINRA fees on January 2, 2013. The proposed changes are as follows:

4 The CRD system is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.


7 The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA ATP Holders when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE Amex Options-only ATP Holders.

8 The Exchange is proposing to delete the current fees and descriptions in their entirety and replace them with the updated fees and descriptions in a separate table that will include all the fees applicable to Non-FINRA ATP Holders, as discussed further below (corresponding footnote in the Fee Schedule would also be designated as “reserved”). In this regard, the Exchange is proposing a new subheading in the “Regulatory Fees” section of the Fee Schedule to differentiate between those fees that are applicable to all ATP Holders and those fees that are applicable only to Non-FINRA ATP Holders. The Exchange notes that