

filed by brokers or dealers that clear transactions or carry customer securities; Part II A, which must be filed by brokers or dealers that do not clear transactions or carry customer securities; and Part II B, which must be filed by specialized broker-dealers registered with the Commission as OTC derivatives dealers;<sup>2</sup> (3) supplemental schedules, which must be filed annually; and (4) a facing page, which must be filed with the annual audited report of financial statements. Under the Rule, a broker or dealer that computes certain of its capital charges in accordance with Appendix E to Exchange Act Rule 15c3-1 must file additional monthly, quarterly, and annual reports with the Commission.

The variation in the size and complexity of brokers and dealers subject to Rule 17a-5 and the differences in the FOCUS Report forms that must be filed under the Rule make it difficult to calculate the cost of compliance. However, we estimate that, on average, each report will require approximately 12 hours. At year-end 2011, the Commission estimates that there were approximately 4,802 brokers or dealers, and that of those firms there were approximately 513 brokers or dealers that clear transactions or carry customer securities. The Commission therefore estimates that approximately 513 firms filed monthly reports, approximately 4,134 firms filed quarterly reports, and approximately 63 firms filed annual reports. In addition, approximately 4,650 firms filed annual audited reports. As a result, there were approximately 27,405 total annual responses ((513 × 12) + (4,134 × 4) + 63 + 4,650 = 27,405). This results in an estimated annual burden of 328,860 hours (27,405 annual responses × 12 hours = 328,860).

In addition, we estimate that approximately 9 brokers or dealers will elect to use Appendix E to Rule 15c3-1 to compute certain of their capital charges (as of September 2012, six brokers or dealers have elected to use Appendix E). We estimate that the average amount of time necessary to prepare and file the additional monthly reports that must be filed by these firms is about 4 hours per month, or approximately 48 hours per year; the average amount of time necessary to prepare and file the additional quarterly reports is about 8 hours per quarter, or approximately 32 hours per year; and the average amount of time necessary to

prepare and file the additional supplemental reports with the annual audit required is approximately 40 hours per year. Consequently, we estimate that the total additional annual burden for these 9 brokers or dealers is approximately 1,080 hours ((48 + 32 + 40) × 9 = 1,080).

The Commission therefore estimates that the total annual burden under Rule 17a-5 is approximately 330,000 hours (328,860 + 1,080 = 329,940, rounded to 330,000).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312 or send an email to [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: February 15, 2013.

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-68934; File No. TP 13-06]**

### Order Extending Temporary Exemptions From Certain Rules of Regulation SHO Related to Hurricane Sandy

February 14, 2013.

On December 12, 2012, the Commission issued an order (the "Order") pursuant to Section 36 of the

Securities Exchange Act of 1934 ("Exchange Act") granting exemptions from certain requirements of Regulation SHO under the Exchange Act<sup>1</sup> in response to the impact of Hurricane Sandy on the Depository Trust & Clearing Corporation vault at 55 Water Street in Manhattan (the "Vault").<sup>2</sup> Specifically, the Order granted exemptions from the "locate," short sale price test, and close-out requirements of Regulation SHO for sales of Vault Securities.<sup>3</sup> The Order specified that, absent further action by the Commission, these exemptions would expire on February 1, 2013.

SIFMA has requested an extension until May 5, 2013, because the process for restoring Vault Securities is not complete at the present time.<sup>4</sup> As a result, SIFMA states that sales of Vault Securities continue to experience settlement delays that have implications for compliance with Regulation SHO. For this reason and the reasons stated in the Order, the Commission finds that extending the Order, pursuant to our authority under Section 36 of the Exchange Act,<sup>5</sup> is appropriate in the public interest, and is consistent with the protection of investors.

*Therefore, it is ordered*, pursuant to Section 36 of the Exchange Act, that the Order is extended until 11:59 p.m. E.D.T. on May 5, 2013.

The temporary exemptions granted in the Order and extended herein are subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, persons relying on this order are directed to the anti-fraud and anti-

<sup>1</sup> 17 CFR 242.200 *et seq.*

<sup>2</sup> Order Granting Exemptions from Certain Rules of Regulation SHO Related to Hurricane Sandy, Exchange Act Release No. 68419 (Dec. 12, 2012), 77 FR 74891 (Dec. 18, 2012).

<sup>3</sup> The Order defines "Vault Securities" as owned securities, represented by physical certificates held in the Vault at the time Hurricane Sandy made landfall and whose settlement depends on the delivery of such physical certificates (or documentation with equivalent effect).

<sup>4</sup> See Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated February 14, 2013. SIFMA informally contacted Commission staff on January 31, 2013, to discuss the possibility of extending the temporary exemption.

<sup>5</sup> Subject to certain exceptions, Section 36 of the Exchange Act authorizes the Commission, by rule, regulation, or order, to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors. 15 U.S.C. 78mm.

<sup>2</sup> Part II B of Form X-17A-5 must be filed by OTC derivatives dealers under Exchange Act Rule 17a-12 and is subject to a separate PRA filing (OMB Control Number 3235-0498).

manipulation provisions of the federal securities laws, particularly Section 10(b) of the Exchange Act,<sup>6</sup> and Rule 10b-5 thereunder.<sup>7</sup> Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2013-03899 Filed 2-20-13; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68930; File No. SR-NYSEArca-2013-14]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Listing and Trading of Shares of the Cambria Shareholder Yield ETF Pursuant to NYSE Arca Equities Rule 8.600

February 14, 2013.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on January 31, 2013, 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 and II below, which Items have been prepared by the self-regulatory organization. On February 13, 2013, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>4</sup> 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 the following under NYSE Arca Equities Rule 8.600 ("Managed Fund Shares"): Cambria Shareholder Yield

ETF. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://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 list and trade shares ("Shares") of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares<sup>5</sup> on the Exchange: Cambria Shareholder Yield ETF (the "Fund").<sup>6</sup> The Shares of the Fund will be offered by Cambria ETF Trust (the "Trust"). The Trust will be registered with the Securities and Exchange Commission ("Commission") as an open-end management investment company.<sup>7</sup> Cambria Investment

<sup>5</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>6</sup> The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. See, e.g., Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR-NYSEArca-2009-55) (order approving listing and trading of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR-NYSEArca-2010-79) (order approving listing and trading of Cambria Global Tactical ETF).

<sup>7</sup> The Trust will be registered under the 1940 Act. On July 6, 2012, the Trust filed an amendment to

Management, L.P. will serve as the investment adviser to the Fund (the "Adviser"). SEI Investments Distribution Co. (the "Distributor") will be the principal underwriter and distributor of the Fund's Shares. SEI Investments Global Funds Services (the "Administrator") will serve as administrator for the Fund. Brown Brothers Harriman & Co. will serve as the custodian and transfer agent for the Fund ("Custodian" and "Transfer Agent,") respectively.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition of and/or changes to such investment company portfolio. Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.<sup>8</sup> Commentary

the Trust's registration statement on Form N-1A under the Securities Act of 1933 (the "1933 Act") (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333-180879 and 811-22704) (the "Registration Statement"). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. The Trust filed an Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812-13959), dated November 13, 2012 ("Exemptive Application"). The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 30340 (January 4, 2013) ("Exemptive Order"). Investments made by the Fund will comply with the conditions set forth in the Exemptive Application and the Exemptive Order.

<sup>8</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their

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

<sup>2</sup> 17 CFR 240.10b-5.

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

<sup>4</sup> 15 U.S.C.78s(b)(1).

<sup>5</sup> 15 U.S.C. 78a.

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

<sup>7</sup> In Amendment No. 1, the Exchange: (1) made technical changes to the proposed rule change to clarify how the net asset value of the Cambria Shareholder Yield ETF would be calculated; and (2) stated that quotation and last-sale information for many securities held by the Cambria Shareholder Yield ETF would be available via the Consolidated Tape Association high speed line.