

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) leads Federal agencies in shaping human resources management systems to effectively recruit, develop, manage and retain a high quality and diverse workforce. Performance measurement surveys are valuable tools to gather information from our customers so we can design and implement new ways to improve our performance to meet their needs. This collection request includes surveys that we currently use or plan to use during the next three years to measure our performance in providing services to meet our customer needs. The survey instruments include direct mail, telephone contact, focus groups and Web exit surveys. Our customers include the general public, Federal benefit recipients, Federal agencies and Federal employees. We estimate 272,100 performance measurement surveys will be completed in the next 3 years. The time estimate varies from 15 minutes to 20 minutes to complete. The estimated burden is 75,575 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,
Director.

[FR Doc. 2014-04525 Filed 2-27-14; 8:45 am]

BILLING CODE 6325-47-P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Program Services Evaluation Surveys, OMB Control No. 3206-0252

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an information collection request (ICR) 3206-0252, Program Services Evaluation Surveys. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104-106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on December 26, 2013 at 78 FR 78416 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until March 31, 2014. This process is conducted in accordance with 5 CFR 1320.1.

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SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) leads Federal agencies in shaping human resources management systems to effectively recruit, develop, manage and retain a high quality and diverse workforce. Program services evaluation surveys are valuable tools to gather information from our customers so we can design and implement new ways to improve our programs to meet their needs. This collection request includes surveys that we currently use or plan to use during the next three years to measure our ability to deliver program services to meet our customer needs. The survey instruments include direct mail, telephone contact, focus groups and Web exit surveys. Our customers include the general public, Federal benefit recipients, Federal agencies and Federal employees. We estimate 12,300 program services evaluation surveys will be completed in the next 3 years. The time estimate varies from 1 minute to 40 minutes to complete. The estimated burden is 3,755 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,
Director.

[FR Doc. 2014-04524 Filed 2-27-14; 8:45 am]

BILLING CODE 6325-47-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30924; 812-14229]

Cohen & Steers Capital Management, Inc., et al.; Notice of Application

February 24, 2014.

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 ("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)(j) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Cohen & Steers Capital Management, Inc. ("Cohen & Steers" or "Adviser"), Cohen & Steers ETF Trust (the "Trust"), and Cohen & Steers Securities, LLC (the "Distributor").

SUMMARY: *Summary of Application:* Applicants request an order that

permits: (a) Actively-managed series of certain open-end management investment companies 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 from 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; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

DATES: Filing Dates: The application was filed on October 30, 2013 and amended on January 31, 2014.

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 March 20, 2014, 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: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. Applicants: 280 Park Avenue, 10th Floor, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 551-6868 or Daniele Marchesani, Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel's Office).

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 for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

Applicants' Representations

1. The Trust is registered as an open-end management investment company under the Act and is a statutory trust

organized under the laws of Maryland. Applicants seek relief to create and operate a series of the Trust with an actively managed investment portfolio (the "Initial Fund"). The investment strategy and objectives of the Initial Fund will conform to description of the Funds (as defined below).

2. Cohen & Steers, a New York corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and will serve as investment adviser to the Initial Fund. The Adviser may in the future retain one or more sub-advisers (each a "Sub-Adviser") to manage the portfolios of the Funds (as defined below). Any Sub-Adviser will be registered or not subject to registration under the Advisers Act. The Distributor, a Delaware limited liability company, is a registered broker-dealer ("Broker") under the Securities Exchange Act of 1934 ("Exchange Act") and will act as the distributor and principal underwriter of the Funds.

3. Applicants request that the order apply to the Initial Fund and any future series of the Trust or of any other future open-end management companies that may utilize active management investment strategies ("Future Funds"). Any Future Fund will (a) be advised by Cohen & Steers or an entity controlling, controlled by, or under common control with Cohen & Steers (each, an "Adviser"), and (b) comply with the terms and conditions of the application.¹ The Initial Fund and Future Funds together are the "Funds".² Each Fund will consist of a portfolio of securities (including fixed income securities and/or equity securities) and/or currencies traded in the U.S. and/or non-U.S. markets and other assets and other investment positions (collectively, "Portfolio Instruments").³ Funds may

¹ Any Adviser to a Future Fund will be registered as an investment adviser under the Advisers Act. All entities that currently intend to rely on the order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

² Applicants further request that the order apply to any future distributor and principal underwriter of the Funds, which would be a registered broker-dealer under the Exchange Act and would comply with the terms and conditions of the Application. The distributor and principal underwriter of any Fund may be an affiliated person of the Adviser and/or Sub-Advisers.

³ If a Fund invests in derivatives, then (a) the board of trustees ("Board") of the Fund will periodically review and approve the Fund's use of derivatives and how the Adviser assesses and manages risk with respect to the Fund's use of derivatives and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

invest in "Depository Receipts".⁴ Each Fund will operate as an actively managed exchange-traded fund ("ETF").

4. Applicants also request that any exemption under section 12(d)(1)(J) of the Act from sections 12(d)(1)(A) and (B) apply to: (i) Any Fund that is currently or subsequently part of the same "group of investment companies" as the Initial Fund within the meaning of section 12(d)(1)(G)(ii) of the Act; (ii) any principal underwriter for the Fund; (iii) any Brokers selling Shares of a Fund to an Investing Fund (as defined below); and (iv) each management investment company or unit investment trust registered under the Act that is not part of the same "group of investment companies" as the Funds within the meaning of section 12(d)(1)(G)(ii) of the Act and that enters into a FOF Participation Agreement (as defined below) with a Fund (such management investment companies, "Investing Management Companies," such unit investment trusts, "Investing Trusts," and Investing Management Companies and Investing Trusts together, "Investing Funds"). Investing Funds do not include the Funds.⁵

5. Applicants anticipate that a Creation Unit will consist of at least 50,000 Shares. Applicants anticipate that the trading price of a Share will range from \$10 to \$100. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into a participant agreement with the Distributor and the transfer agent of the Fund ("Authorized Participant") with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) A Broker or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation ("NSCC"), a clearing agency registered with the Commission and affiliated with the Depository Trust Company ("DTC"), or (b) a participant in the DTC (such participant, "DTC Participant").

6. In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and

⁴ Depository Receipts are typically issued by a financial institution, a "depository", and evidence ownership in a security or pool of securities that have been deposited with the depository. A Fund will not invest in any Depository Receipts that the Adviser or Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated persons of applicants, any Future Fund or any Sub-Adviser will serve as the depository bank for any Depository Receipts held by a Fund.

⁵ An Investing Fund may rely on the order only to invest in Funds and not in any other registered investment company.

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”).⁶ On any given Business Day⁷ 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, and these instruments may be referred to, in the case of either a purchase or redemption, as the “Creation Basket.” In addition, the Creation Basket will correspond pro rata to the positions in a Fund’s portfolio (including cash positions),⁸ 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;⁹ or (c) TBA Transactions,¹⁰ short positions and other positions that cannot be transferred in kind¹¹ will be excluded from the Creation Basket.¹² If there is a difference between NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket 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 “Cash Amount”).

7. 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 Cash 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 Funds holding non-U.S. investment (“Global 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 Global Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.¹³

8. Each Business Day, before the open of trading on a national securities exchange, as defined in section 2(a)(26) of the Act (“Stock Exchange”), on which Shares are listed, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket

except to correct errors in the published Creation Basket. The Stock Exchange will disseminate every 15 seconds throughout the trading day an amount representing, on a per Share basis, the sum of the current value of the Portfolio Instruments that were publicly disclosed prior to the commencement of trading in Shares on the Stock Exchange.

9. A Fund may recoup the settlement costs charged by NSCC and DTC by imposing a transaction fee on investors purchasing or redeeming Creation Units (the “Transaction Fee”). The Transaction Fee will be borne only by purchasers and redeemers of Creation Units and will be limited to amounts that have been determined appropriate by the Adviser to defray the transaction expenses that will be incurred by a Fund when an investor purchases or redeems Creation Units.¹⁴ All orders to purchase Creation Units will be placed with the Distributor by or through an Authorized Participant and the Distributor will transmit all purchase orders to the relevant Fund. The Distributor will be responsible for delivering a prospectus (“Prospectus”) to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

10. Shares will be listed and traded at negotiated prices on a Stock Exchange and traded in the secondary market. Applicants expect that Stock Exchange specialists or market makers (“Market Makers”) will be assigned to Shares. The price of Shares trading on the Stock Exchange will be based on a current bid/offer in the secondary market. Transactions involving the purchases and sales of Shares on the Stock Exchange will be subject to customary brokerage commissions and charges.

11. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Specialists or Market Makers, acting in their unique role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.¹⁵ Applicants expect that

¹⁴ Where a Fund permits an in-kind purchaser to deposit cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of buying those particular Deposit Instruments. In all cases, the Transaction Fee will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

¹⁵ If Shares are listed on The NASDAQ Stock Market LLC (“Nasdaq”) or a similar electronic Stock Exchange (including NYSE Arca), one or more

⁶ The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (“Securities Act”). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

⁷ Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a “Business Day”).

⁸ The portfolio used for this purpose will be the same portfolio used to calculate the Fund’s net asset value (“NAV”) for that Business Day.

⁹ A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

¹⁰ A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price.

¹¹ This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

¹² Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Cash Amount (defined below).

¹³ A “custom order” is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

secondary market purchasers of Shares will include both institutional and retail investors.¹⁶ Applicants expect that arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV per Share should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

12. Shares will not be individually redeemable and owners of Shares may acquire those Shares from a Fund, or tender such shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant.

13. Neither the Trust nor any Fund will be marketed or otherwise held out as a “mutual fund.” Instead, each Fund will be marketed as an “actively-managed exchange-traded fund.” In any advertising material where features of obtaining, buying or selling Shares traded on the Stock Exchange are described there will be an appropriate statement to the effect that Shares are not individually redeemable.

14. The Funds’ Web site, which will be publicly available prior to the public offering of Shares, will include a Prospectus and additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day’s NAV and the market closing price or mid-point of the bid/ask spread at the time of the calculation of such NAV (“Bid/Ask Price”), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund (including any short positions held in securities (“Short Positions”)) that will

member firms of that Stock Exchange will act as Market Maker and maintain a market for Shares trading on that Stock Exchange. On Nasdaq, no particular Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Market Maker will be an affiliated person or an affiliated person of an affiliated person, of the Funds, except within the meaning of section 2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

¹⁶ Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

form the basis for the Fund’s calculation of NAV at the end of the Business Day.¹⁷

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 (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 provisions 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 company and the general 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 provision 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 holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer’s current net assets, or the cash equivalent. Because Shares will not be individually redeemable,

¹⁷ Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day will be booked and reflected in NAV on the current Business Day. Accordingly, each Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for its NAV calculation at the end of such Business Day.

applicants request an order that would permit each Fund to redeem Shares in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to 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 the 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 resulting from sales at different prices, and (c) assure an orderly distribution system of investment company shares by eliminating price competition from brokers 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 the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to 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 arbitrage activity should ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

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 settlement of redemptions of Creation Units of Global Funds is contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets in which those Funds invest. Applicants have been advised that, under certain circumstances, the delivery cycles for transferring Portfolio Instruments to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 14 calendar days. Applicants therefore request relief from section 22(e) in order to provide 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 Instruments of each Global Fund customarily clear and settle, but in all cases no later than 14 calendar days following the tender of a Creation Unit.¹⁸

8. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within a maximum of 14 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state each Global Fund's statement of additional information ("SAI") will disclose those local

holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each affected Global Fund. Applicants are not seeking relief from section 22(e) with respect to Global Funds that do not effect redemptions in-kind.

Section 12(d)(1) of the Act

9. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the 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 its 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.

10. Applicants request relief to permit Investing Funds to acquire Shares in excess of the limits in section 12(d)(1)(A) of the Act and to permit the Funds, their principal underwriters and any Broker to sell Shares to Investing Funds in excess of the limits in section 12(d)(1)(B) of the Act. Applicants submit that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

11. Applicants submit that their proposed conditions address any concerns regarding the potential for undue influence. To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting the adviser of an Investing Management Company ("Investing Fund Adviser"), trustee or sponsor of an Investing Trust ("Trustee" or "Sponsor", respectively), any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the

Investing Fund Adviser, the Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor ("Investing Fund's 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 sub-adviser to an Investing Management Company ("Investing Fund Sub-Adviser"), any person controlling, controlled by or under common control with the Investing Fund Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Sub-Adviser or any person controlling, controlled by or under common control with the Investing Fund Sub-Adviser ("Investing Fund's Sub-Advisory Group").

12. Applicants propose a condition to ensure that no Investing Fund or Investing Fund Affiliate¹⁹ (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, trustee, member of an advisory board, Investing Fund Adviser, Investing Fund Sub-Adviser, employee or Sponsor of the Investing Fund, or a person of which any such officer, trustee, member of an advisory board, Investing Fund Adviser, Investing Fund Sub-Adviser, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

13. Applicants propose several conditions to address the potential for layering of fees. Applicants note that the board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("independent

¹⁸ Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that it may otherwise 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.

¹⁹ An "Investing Fund Affiliate" is any Investing Fund Adviser, Investing Fund Sub-Adviser, Sponsor, promoter and principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. "Fund Affiliate" is an investment adviser, promoter, or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

directors or trustees”), will be required to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. Applicants also state that 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 2830.²⁰

14. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring 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 permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

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

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

16. 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 to or purchasing any security from the company. Section 2(a)(3) of the Act defines “affiliated person” to include 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 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 and provides that a control relationship will be presumed where one person owns more than 25% of another person’s voting securities. Each Fund

²⁰ Any reference to NASD Conduct Rule 2830 includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority.

may be deemed to be controlled by an 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 an Adviser (an “Affiliated Fund”).

17. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act to permit in-kind purchases and redemptions of Creation Units by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 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.²¹ Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, certain Investing Funds of which the Funds are affiliated persons or second-tier affiliates.²²

18. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Absent the unusual circumstances discussed in 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 Instruments. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio

²¹ Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of an Investing Fund because an investment adviser to the Funds is also an investment adviser to an Investing Fund.

²² Applicants expect most Investing Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between an Investing Fund 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 an Investing Fund and redemptions of those Shares. The requested relief is intended to also cover the in-kind transactions that may accompany such sales and redemptions.

Instruments currently held by the relevant Funds, and the valuation of the Deposit Instruments and Redemption Instruments will be made in the same manner and on the same terms for all, regardless of the identity of the purchaser or redeemer. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

19. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund meets the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that any consideration paid 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.²³ The FOF Participation Agreement will require any Investing Fund that purchases Creation Units directly from a Fund to represent that the purchase of Creation Units from a Fund by an Investing Fund will be accomplished in compliance with the investment restrictions of the Investing Fund and will be consistent with the investment policies set forth in the Investing Fund’s registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants’ Conditions

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

A. ETF Relief

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on a Stock Exchange.
2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

²³ Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of the Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

3. The Web site 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 Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. The Adviser or any Sub-Adviser, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed exchange-traded funds.

B. Section 12(d)(1) Relief

1. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a 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 Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory 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 Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Adviser or a person controlling, controlled by or under common control with the Investing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Adviser and any Investing Fund 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 an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund 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; (ii) is within the range of consideration that the 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 and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Investing Fund Adviser, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b-1 under the Act) received from a Fund by the Investing Fund Adviser, or Trustee or Sponsor, or an affiliated person of the Investing Fund Adviser, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, or Trustee, or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Adviser will waive fees otherwise payable to the Investing Fund Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Adviser, or an affiliated person of the Investing Fund Sub-Adviser, other than any advisory fees paid to the Investing Fund Sub-Adviser or its affiliated person by the Fund, in connection with the

investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Adviser. In the event that the Investing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund 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 Affiliated Underwriting.

7. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing

Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating 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), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund 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 independent 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 in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. 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.

12. No Fund relying on the section 12(d)(1) relief 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 permitted by exemptive relief from the Commission permitting

the Fund to purchase shares of other investment companies for short-term cash management purposes.

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

[Release No. 34-71607; File No. SR-FINRA-2013-046]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Relating to TRACE Reporting and Dissemination of Transactions in Asset-Backed Securities

February 24, 2014.

I. Introduction

On November 13, 2013, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change relating to TRACE reporting and dissemination of transactions in Asset-Backed Securities.³ The proposed rule change was published for comment in the *Federal Register* on November 26, 2013.⁴ The Commission received one comment on the proposal.⁵ On January 10, 2014, the Commission extended to February 24, 2014, the time period in which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.⁶ On February 14, 2014, FINRA responded to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term "Asset-Backed Security" was previously defined in FINRA Rule 6710(m). As a result of this proposed rule change, the definition has been revised and relocated to FINRA Rule 6710(cc).

⁴ See Securities Exchange Act Release No. 70906 (November 20, 2013), 78 FR 70602 ("Notice").

⁵ See letter to Elizabeth M. Murphy, Secretary, Commission, from Chris Killian, Managing Director, Securitization, SIFMA, dated December 17, 2013 ("SIFMA Letter").

⁶ See Securities Exchange Act Release No. 71287 (January 10, 2014), 79 FR 2924 (January 16, 2014).

the comment⁷ and filed Amendment No. 1 to the proposed rule change.⁸ On February 21, 2014, FINRA submitted a supplemental response to the comment.⁹ The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Amended Proposal

Historically, FINRA has utilized the Trade Reporting and Compliance Engine ("TRACE") to collect from its members and publicly disseminate information on secondary over-the-counter transactions in corporate debt securities, Agency Debt Securities,¹⁰ and certain primary market transactions. For certain other asset types, FINRA utilized TRACE to collect transaction information, but until recently, did not report such information publicly. Recently, however, FINRA began to phase-in dissemination of the transaction information for these previously non-disseminated asset types. In the first two phases, FINRA implemented dissemination of Agency Pass-Through Mortgage-Backed Securities and SBA-Backed ABS.¹¹

⁷ See letter to Elizabeth M. Murphy, Secretary, Commission, from Kathryn M. Moore, Associate General Counsel, FINRA, dated February 14, 2014 ("FINRA Letter I").

⁸ In Amendment No. 1, FINRA revised the types of products that would be included in the definition of "Asset-Backed Security" and that, under the proposal, would be disseminated through TRACE and subject to reduced reporting times. FINRA initially proposed to include in the definition of "Asset-Backed Securities," among other things, collateralized debt obligations, collateralized loan obligations, collateralized bond obligations, and non-agency backed commercial mortgage-backed securities. Amendment No. 1 removes these securities from the defined "Asset-Backed Securities" that would be subject to reduced reporting times and disseminated under the proposal. Amendment No. 1 also makes other minor, technical revisions to the proposal.

⁹ See email to Michael Gaw, Assistant Director, Division of Trading and Markets, Commission, from Kathryn M. Moore, Associate General Counsel, FINRA, dated February 21, 2014 ("FINRA Letter II").

¹⁰ The term "Agency Debt Security" is defined in FINRA Rule 6710(l).

¹¹ On November 12, 2012, FINRA began disseminating transactions in Agency Pass-Through Mortgage-Backed Securities traded TBA. See Securities Exchange Act Release No. 66829 (April 18, 2012), 77 FR 24748 (April 25, 2012) (Order Approving SR-FINRA-2012-020); FINRA's *Regulatory Notice* 12-26 (May 2012) and *Regulatory Notice* 12-48 (November 2012). On July 22, 2013, FINRA began disseminating Agency Pass-Through Mortgage-Backed Securities traded in Specified Pool Transactions and SBA-Backed ABS traded TBA or in Specified Pool Transactions. See Securities Exchange Act Release No. 68084 (October